

# APCO REPORTS



## ASSOCIATION OF PUBLIC-SAFETY COMMUNICATIONS OFFICIALS INTERNATIONAL, INC.

2040 S. Ridgewood Ave., South Daytona, Florida 32119-8437 U.S.A.

(904) 322-2500 • Fax (904) 322-2501 • (800) 949-APCO

Volume 10 •• 1994 •• Number 8

## Washington Regulatory Panel

### Excerpts From the Discussion at APCO's 60th Conference & Exposition held August 7-11 at Pittsburgh, Pennsylvania • • • PART TWO • • •

CONTINUED FROM APCO REPORTS #7:

**RUDY BACA:** I am absolutely sincere about this. I really do think that you do have acknowledged special needs and concerns because, frankly, our society doesn't function if we don't meet your communications needs; all the rest of it is really irrelevant. If you aren't able to do your job, then if we have HDTV, it really doesn't matter.

I think that what we need to know, and what you all need to think about when you're bringing your concerns to the Commission and up on the Hill is that, essentially, almost everything is on the table now. People are really looking, and trying to line things up in priority: what should be where; what makes most efficient use, and there's new economic models, and there's also old societal needs. I think we have to be very, very flexible in looking at it. And I think that Tom and Ralph have shown the way, frankly. I think this is what they've tried to do through their tenure at the Commission. And I think we've got a Commission that is now approaching spectrum issues and allocation issues in precisely that manner, and not saying, "OK, we can't talk about this anymore, because that's always protected." I think that there's a much more willingness to look at everything, and to try and make some accommodation.

**JOHN LANE:** I might remind the panel that just last week APCO filed, in response to requests from Ralph, its analysis of the spectrum needs of public safety and its recommendations as to the amount and where it should come from.

**RUDY BACA:** Absolutely, an important report.

**BOB GURSS:** Is there any more response on that one? One thing I might throw in on that question is: How do we overcome what several of you mentioned was the auction problem? Auctions are going to help the Treasury, and may or may not be a good way of allocating spectrum among commercial users. Public safety is exempt, as are some other private users. Everyone's acknowledged the problem, but how do we overcome the problem, that is: We say we need spectrum for public safety, and the guys with green eye shades over at Treasury are saying, "We need 'x' dollars,"?

**RALPH HALLER:** I think that's a serious problem.

**JOHN LANE:** Notwithstanding a provision in the statute which says that the Commission can't predicate its decision on auctions purely on the basis of the revenue to be gathered.

**RALPH HALLER:** You have to continue to have a very strong presence, both at the Commission and on the Hill, to let people know how important your communications services are, and what's going to happen to the American people in general if you can't provide those services. Also, as you have new technologies come on, and you need spectrum for those, you need to let the regulators and the lawmakers know what those needs are. You are special. Rudy is absolutely right. And, it's just important that the people in positions to make the decisions about spectrum allocation, of what gets auctioned and what doesn't, are fully aware of your needs. From my perspec-

tive, your needs ought to come first, and commercial needs ought to come second. But, not everyone looks at it that way when there are big-big dollar signs. The best thing I can do at this point is just urge you to keep telling your story to the people who need to hear it.

**BILL GAMBLE:** Tom Stanley mentioned that we're looking at something below 1 GHz. I saw some smiles out there and a few hands come together. But what are your competitors out there? Is the low-earth-orbiting satellite people, those that are below a gigahertz, they're also looking for spectrum. He mentioned also the international implications that come about because of some of these services. They're also looking for an exemption from competitive bidding, as are many of the satellite people. So, just because it's below a gigahertz and just because it's commercial doesn't put it in another kettle over here. We're putting all of this in together. The government agencies have got some of the same requirements, as I said earlier, that you do: the fingerprints, the mugshots. They'll be looking for doing some of these new services just as you will. So we're also looking to see where those needs can be accommodated.

What are the needs? How much spectrum? Where can they be put in the spectrum for the future?

**TOM STANLEY:** I already think you've taken the first major step in this direction, I think probably courtesy of John Lane, by really requiring of the Commission, in the statute of last year, a plan. Asked the Commission pretty much to lay out its ideas for, and identifying the requirements for public safety, and how they might be fulfilled. So I think that, in a sense, is a fairly major public step.

But let me also kind of almost try to lay the burden back on the community here. As commercial mobile development proceeds ahead, it's important that I think public safety kind of makes sure it has a piece of the action in each of these bands. I know it was very difficult at 2 GHz to stop (the competitors). But I think it might have been useful had there been some kind of master plan that suggested when you start allocating spectrum for commercial purposes. It may be useful, in sort of physical juxtaposition to that, but some channels on some basis be reserved for, let's say, public safety. I think it was the TV community, Bob, was it public television that had asked, in a similar way, that say one-quarter of the spectrum be reserved for public interest, public trusteeship?

Well, maybe there should be some kind of notion that before people go, you know, subdividing the next large piece that some part of that be reserved with an eye to public safety, and here's where the hard part comes. If that isn't really developed in a timely way, the great pressures, as Ralph had indicated, and it's really happened in the past, ... the commercial pressures get very, very large. The Commission's rules give extra credit and all kinds of brownie points to people who push for commercial development. It's happened time and time again.

I think perhaps part of a public safety plan that tries to look ahead, that matches sort of the orderly availability of spectrum, together with the commercial development, is kind of a very reasonable plan to start thinking about.

**JOHN LANE:** I might remind the panel that, in the PCS proceeding we did ask for a set-aside, or a reserve for private systems, some of which could and would be used by public safety, and the Commission ignored that request.

**BOB GURSS:** And, put in a little dig. Someone wrote a paragraph in there, and I'm sure it was no one on this table, suggesting

that the private users could purchase, could bid and could enter the auction process and purchase spectrum, which I don't think applies to anyone out here ... who is going to pull out their wallet and start bidding?

**RUDY BACA:** The temptation, all too often, is to run up to the Hill and get an amendment in. That can be accomplished, but what that often does is tie the hands of the Commission that is trying to do something, and perhaps you may have come out with a worse — entities have come out with a worse decision than had the Commission retained the flexibility. I think that we need to be especially aware, however, that auctions have really changed the dynamic. The people — and I think thanks to Ralph's magnificent leadership of this PCS task force — the issues and talks were incredible. They were complex and they were technical, and you had a brand new licensing system that had not been tried before.

There literally were audible gasps when the first bids were announced. \$20 million per channel. People were just amazed. The Commission had projected ... \$60 million total. The amount raised was 10 times that. What was the lowest priced license that went to narrowband?

**RALPH HALLER:** \$37 million.

**RUDY BACA:** That was half of the total that was projected for all of them. You've got Congressional representatives who were quoted as recently as four years ago as saying the Commission will auction spectrum over my dead body now claiming to be the father of auctions. Everyone wants to say, "I raised \$800 million for the government."

The point being, though, that the dynamic is changing, and a step like the report that you've prepared helps everyone think thoroughly and clearly. That's really what we need, rather than just reacting and running to the Commission or the Hill. But, to really think through clearly what your spectrum needs are going to be in 2010, and how commercial development can take place alongside it.

**BOB GURSS:** Tom, you mentioned the wireless 9-1-1 issue. Can you give us some timing of when that might be? Is it going to be in the form of a proposed rulemaking with specific, proposed requirements for cellular, PCS and other users, or more in the nature of an inquiry?

**TOM STANLEY:** An NOI (Notice of Inquiry) is a little too much wool-gathering, I think, at this stage. I think the public expects 9-1-1 to be very similar. I think they'd be shocked if they realized how weak, in a sense, it is in some areas. I think we've got a responsibility and should move to it quickly.

**RALPH HALLER:** I'd like to respond to the spectrum issue and auctions, and give you one suggestion to be thinking about in terms of how to counter the economic argument. And that is, I don't quite know how you do this, but this is a kind of thinking that I think will help you prevail: the economic harm to the country if you don't get the spectrum you need. Because, the one thing that sounds good, but often doesn't get you very far is the — I don't know quite how to put it — the public-safety, we-protect-lives, that kind of thing. It is right. It is exactly what you do, but to the extent that you can begin to put a price tag on that, and show that your use of the spectrum is even more valuable to the country than the commercial uses, then I think you begin to have arguments on the same footing as the commercial side. So I just urge you to think about that as you're preparing arguments in the future.

**JOHN LANE:** Without public safety, the economics of the commercial side goes to pot anyway. Public safety is a very important concern.

**RUDY BACA:** Pursuant to that suggestion, it just occurred to me as you were speaking, Ralph: We've got a chief economist. That's his job. He's supposed to look at these things and put a number on it. Why don't you go in to him and talk to him, John, Bob? Why don't you go and say, "Hey look, your job here as chief economist with this Commission is to put a number on the economic cost of public safety, what it brings to the country. Maybe suggest he do a study or something.

**JOHN LANE:** In the statute that was passed a year ago, there's a very unusual provision in it which requires the Chairman of the FCC, and the Assistant Secretary of Commerce, NTIA, to actually meet, not less than biannually, which means they're forced to meet at least twice a year to do, among other things, to conduct joint spectrum planning with respect to the following issues, and number two, the future spectrum requirements for public and private uses including state and local government public safety agencies. I want to ask the panel: When was the last time the Chairman of the FCC and the Assistant Secretary, NTIA, met on this issue?

**BILL GAMBLE:** There have been proposals, there have been agendas prepared. We know that the Chairman has been meeting with the Administrator of NTIA. Spectrum has certainly been part of the discussion, with all the PCS that's been going on. Yes, there's been focus on it. As far as specific focus on this particular issue, I can't respond to it. I don't know of specific agenda items. But I do know they have met. They have discussed spectrum issues.

**JOHN LANE:** Rudy, do you know?

**RUDY BACA:** I will go back to the Chief of Staff, and I will tell him this was a concern that was raised ...

**JOHN LANE:** I think everybody's forgotten about the statutory requirement, of the meaning, and I don't think that bodes well for the future.

**RUDY BACA:** I will remind him. I'll take it back and I'll remind him.

**JOHN POWELL,** University of California. First, a comment to Bill Gamble of NTIA. Bill, if you take the shared federal government spectrum and share it with state and local government, you don't have to worry about the impact of auctions. Secondly, with the recent redefinition of the radio services to where we have I think a pretty clear definition of what is a commercial radio user, we are going to be in a quandary, particularly if we look at, with public safety, the 806-820 band where, potentially, we will have commercial and private users on the same channels. We have some of those channels. Secondly, as an educational institution, we have business channels in the lower bands where potentially, for example, on UHF, we may have commercial users and private users in the same operating area on shared channels. How do you see the rules playing out with respect to interference issues, technical issues that might arise between those two?

**RALPH HALLER:** I think you've raised a very serious point, which we're still pondering right now. When Congress changed the law last August (1993), they did so without regard to any of the technical parameters of the stations. So we are left, in some senses, with a worse patchwork than we had before, at least on channels that are shared — some of the GX channels and such. We're trying to sort that out. That's what the CMRS proceeding

that has to be adopted by the ninth of this month is all about. I think it's just going to have to play itself out.

In a sense, the technical parameters, though, haven't changed. What has changed is the obligations of the licensees. So the fact that you may have on an 800 MHz channel, you may have public safety operating in one area, and you may have an SMR in another area. It doesn't make any difference in terms of 70 miles between transmitters and that kind of thing. The difference is that there are some Title II obligations regarding service to the public that the SMR operator will have as of August 1996, that you as a public-safety operator will never have. On the low bands, in a sense it's very much the same thing. There are obligations — it has much more to do with the obligations to the public of the licensee than it does the technical parameters of the stations between each other and the interference contours. It is something we're looking at and trying to sort out as best we can. It was a much, much clearer world when private systems operated on private radio channels, and commercial systems operated on commercial radio channels. Fortunately, in most cases that's still true. It's mostly just a few of the shared channels where that's going to be something that we'll have to sort out, and perhaps on a case-by-case basis ultimately.

**GARY DAVID GRAY,** County of Orange, California. Two things on the refarming, and I would implore the Commission to try to bring that to some resolution as quickly as possible. It's nigh unto impossible for us to do planning when we don't know what the rules are going to be. Many of us are in a position where we're able to get some 800 MHz channels, and at least there's no pending change on those. That's just a major problem, and that's more of an observation.

The other thing: If we don't have some kind of relief in our major metropolitan areas, we can't last another 10 or 15 years with zero channel relief. We just can't do that. So help, please. Thank you.

**BOB GURSS:** I think one of the real points of Gary's comment is that even some of the most aggressive refarming plans would not solve the mid-term and short-term problems that agencies are facing now and are going to face long before they implement whatever narrowband technology the Commission decides upon.

**NATE McCLURE,** Muskegon, Michigan: My question is to Ralph, and I'm not sure if you can comment on this or not. There had been a number of what, at best, could be called speculative radio license applications filed at 800 MHz. There was a petition for an extension because they hadn't been built, and a doctor asked for an extension. There was an investigation into that whole thing. What's happening on that at this point?

**RALPH HALLER:** At this point, the Bureau has made its recommendation to the Commission. It would be inappropriate for me to tell you what that recommendation is at this point. We were responding to a request by the Federal Trade Commission ... I guess they've had charges filed against them by FTC. We have reviewed the comments and we've made our recommendation, and hopefully the Commission will make a decision on that in the very near future.

**DAVID SWAN,** Peoria, Illinois: For Mr. Haller. At last year's conference, you confided in us the problems of inadequacies your computer system that you have, and how that was going to be one of your big problems in getting the transition into the refarming channel splits. Now, with all the money you've made, are you going to be able to do something toward that computer? What's your status on that one?

**RALPH HALLER:** Well, actually, you know, the money goes to the general Treasury. It helps us and it doesn't help us. The one thing that it does do is it lets Congress know that, to the extent that it desires to give us more money, that there will be money coming back in to replace that. But, the auction money does not specifically go for the FCC budget, except to the extent that we are allowed to reimburse ourselves for the direct cost of the auctions. Having said that, the Commission's budget is looking better than any time since I've been with the Commission.

We are, as of September 30th, finally retiring the Honeywell computer that's now nearly 30 years old. We are going to have local-area networks. Since I talked to you last time, we have new PCs, 486-type PCs on every employee's desk in the Commission, including Gettysburg. Everything is networked together. We have a new series of file servers actually on-line in Gettysburg. We are hiring additional computer staff in Gettysburg. By the first of October, we should be self-contained. I don't want to go into much detail, but the Honeywell computer is actually in Washington. We were gaining access to it in Gettysburg through a leased line. All of that will be gone, and we'll do in-house processing. That's going to allow us to go forward with the electronic filing. It's also going to allow us to have much more flexible software, so that however we change refarming, the software can accommodate it.

I might mention one other thing, too. For those of you who are amateur radio operators, the new, in-house software is going to let us begin the amateur vanity call-sign program this fall. I think we'll probably phase that in with extra class operators first, and then going on down to the other classes. We have tremendous improvements in the computer capacity at Gettysburg. I hope that I am never before you again talking about the inadequacies of our electronics. It's just changed dramatically, and I think it's going to get even better.

**JACK LOCKHART,** University of California. I have a hypothetical question ... You have an agency that has, let's say 13 or 14 high-band channels, and they're oscillating between going to 800 and staying where they are. They have an allocation at 800. What would your recommendation be, and let's not throw money into the equation.

**RALPH HALLER:** Without a lot more details, it's hard to respond to a question like that. Let me just say, generally, that I think that the equipment that's available at 800 typically offers a lot more flexibility in terms of the features you can get on it. That may not be the case in the future as some of that 800 technology moves into highband. It just depends on what you want out of your system. I think a lot of agencies have thought that the move up to 800 MHz was a particularly good move, and have done it. I really haven't heard of any ... so far that regret the move to 800. Without knowing a lot more details, that's about the best answer I can give.

**ERIC BROVIAK,** Geauga County, Ohio. We've heard you talk a lot about you want our input, you want us to do these things. Back when we were doing the NPSFAC channels in my area, we had assigned them all out to various areas of the state and entities that we thought were appropriate. We then ran the plan by the Commission and were told we needed some kind of reserve pool because things would come up, and we needed to see more channels in reserve. Now that we've done that, and had our plan approved and gotten down the road, we find that inter-service sharing is rapidly deleting that pool from us being able to use it.

That seems like a very short-sided approach to what we had thought was a good long-term plan, and kind of getting mixed messages from the FCC on that. Please plan for the long-term. Give us the channels now.

**RALPH HALLER:** You're talking about the take-backs of the lower-band channels that were vacated?

**ERIC BROVIAK:** No. No, 820 once that we put into a pool that we said that we really hadn't originally put into the plan, but then the Commission said, "We think you need a reserve pool," so we reallocated and put some in the reserve pool. And now, the Commission is slowly picking those away from us, giving them to commercial operators.

**RALPH HALLER:** This is an issue that Ali (Shahnam, APCO AFC Director) and I have talked about to some extent, and how to make sure that you have that capacity. We have talked about some options which have been implemented to try and hold some of those channels for you. I would urge you maybe to take that up with Ali as opposed to in this forum.

**CARL GUSE,** State of Wisconsin. I'd like to ask Mr. Gamble to speak to the role and goals of the federal law enforcement wireless users group?

**BILL GAMBLE:** Some of you may be aware that they recently established a federal law enforcement wireless users group, formed by Treasury and Justice. It's recognition that the federal law enforcement users' requirements are very similar. Justice is not totally different from Treasury in that they ought to get together. (The users group) is now fairly well recognized. We're trying to see where it's going. I mentioned Justice and Treasury, but there's a lot of other agencies with law enforcement as part of their mission. But it wasn't limited just to federal ... it also mentioned state and local, and talks specifically about interoperability. Where it leads, I don't really know. But I do know that it's got our interest. We're trying to work with them. ... I can't respond any more on it.

**LYLE GALLAGHER,** Director of Communications, North Dakota. States that border Canada are having serious problems in licensing public-safety frequencies. Could you tell us what the Commission is doing to improve that process, if anything? It's still extremely bad.

**RALPH HALLER:** We have on-going negotiations with Canada. The border issues are tough issues. While we're making some headway, neither Canada nor Mexico has any obligation to go along with anything we propose. We just keep trying to work with them. It is a slow process to go through the coordination. At some point, I would hope that we could ... exchange information ... we would likely be able to grant licenses if we knew the criteria for the other country, so we wouldn't even have to send the license for coordination ... but, we're not there yet. It's just a slow process of continuing to work with those countries. Mexico ... does not even have their database totally in an electronic format. So we can't even exchange a database with them. We have not yet worked out the details with Canada, Although we're much closer there. We'll keep working for you, but I can't give you a date when we're going to have things much better than they are today.

**JOHN LANE:** I want to thank our panel for coming here today and providing us with some pretty frank answers. And I also want to thank the audience for their attention and the contribution that's been made by the various questions. ■