

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)
)
Amendment of Part 90 of the Commission’s) WP Docket No. 07-100
Rules)

COMMENTS OF APCO INTERNATIONAL

The Association of Public-Safety Communications Officials-International, Inc. (APCO),¹ submits these comments in response to the Further Notice of Proposed Rulemaking (FNPRM) in the above-captioned proceeding.² As APCO explained in a Petition for Reconsideration³ that is pending before the Commission, the new approach to expanding use of the 4.9 GHz band is unlikely to promote public safety or the Commission’s spectrum utilization goals. Continuing with this ill-conceived model for fragmented state-by-state spectrum leasing would be a mistake. Nonetheless, the Commission seeks comment on how to supplement the Order’s radical shift. APCO offers these brief comments to encourage the Commission to examine the impracticality of the Order’s approach and redirect efforts to better serve public safety spectrum needs.

Several elements of the FNPRM demonstrate the ill-conceived nature of the Order. For example, the FNPRM introduces the concept of State Band Managers to coordinate use of the band in each state, but prioritizing public safety use of the spectrum is not required.⁴ The

¹ Founded in 1935, APCO is the nation’s oldest and largest organization of public safety communications professionals. APCO is a non-profit association with over 35,000 members, primarily consisting of state and local government employees who manage and operate public safety communications systems – including 9-1-1 Emergency Communications Centers (ECCs), emergency operations centers, radio networks, and information technology – for law enforcement, fire, emergency medical, and other public safety agencies.

² Amendment of Part 90 of the Commission’s Rules, WP Docket No. 07-100, *Sixth Report and Order and Seventh Further Notice of Proposed Rulemaking*, FCC 20-137 (rel. Oct. 2, 2020) (“Order” and “FNPRM,” respectively).

³ APCO International Petition for Reconsideration, WP Docket No. 07-100 (filed Dec. 29, 2020) (“Petition for Reconsideration”).

⁴ FNPRM at para. 55 (anticipating state deployment based on the policies and procedures it determines are best for its situation, rather than based on individual licensing and interference resolution rules issued by the Commission).

Commission even entertains the possibility that a State Band Manager could deny public safety access or prioritize non-public safety use of the band.⁵ This could result in a framework that permits subjugation and effective elimination of public safety use of 4.9 GHz, even for grandfathered licensees. Compounding the absurdity of permitting public safety users to become secondary to non-public safety in the band, the FNPRM hamstring the potential for effective spectrum sharing because the proposal minimizes consideration of dynamic spectrum sharing, a system that is likely necessary (but not sufficient) for ensuring public safety users will have priority and interference protection from non-public safety users.⁶

The 4.9 GHz Order and proposals in the FNPRM put public safety use of the band at risk, but it's not too late to change course and use 4.9 GHz for the Commission's original goal to ensure "public safety enjoys maximum access to emerging broadband technologies."⁷ Public safety agencies are using the 4.9 GHz band for mission critical operations such as real-time video surveillance, controlling tactical robots, airborne video, and a variety of high-speed public safety data needs. The public safety community repeatedly asked the Commission for reasonable rule changes to help public safety take greater advantage of the band. While an effective approach could include sharing spectrum with non-public safety users (so long as any spectrum sharing solutions are proven to be effective before putting public safety at risk), the Commission is off course. Accordingly, as APCO argued in its Petition for Reconsideration, the Commission must vacate the Order and FNPRM and work with public safety representatives to chart a better path forward.

⁵ *Id.* at para. 56 (asking if a State Band Manager should have authority to deny public safety access or prioritize some operations (such as non-public safety operations conducted pursuant to a lease) over others).

⁶ See FNPRM at paras. 71-72.

⁷ 4.9 GHz Band Transferred from Federal Government Use, WT Docket No. 00-32, *Second Report and Order and Further Notice of Proposed Rulemaking*, 17 FCC Rcd 3955 at para. 1 (rel. Feb. 27, 2002).

Respectfully submitted,

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