

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

In the Matter of )  
 )  
Illinois American Water Company ) PS Docket No. 21-32  
Request to Share 800 and 700 MHz Public )  
Safety Frequencies )

**REPLY COMMENTS OF APCO INTERNATIONAL**

The Association of Public-Safety Communications Officials-International, Inc. (APCO),<sup>1</sup> submits these reply comments to the Public Notice seeking comment on a waiver request filed by the Illinois American Water Company (ILAW).<sup>2</sup> ILAW requests a waiver to share use of 800 MHz public safety frequencies and that it be deemed situationally eligible to use 700 MHz public safety frequencies.<sup>3</sup> APCO does not offer a position on whether ILAW has demonstrated that a waiver is warranted or that it should be deemed eligible for the proposed use of 700 MHz frequencies. APCO offers these reply comments to encourage the Bureau to preserve its strict standard for reviewing requests to share public safety spectrum for the present case and future requests.

APCO appreciates the opportunity for public review of ILAW’s request and the Bureau’s work to ensure protections for public safety spectrum are not compromised unless strict criteria are met. As the Bureau has explained, an “applicant seeking a waiver faces a high hurdle and

---

<sup>1</sup> 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.

<sup>2</sup> Public Safety and Homeland Security Bureau Seeks Comment on Illinois American Water Company Request to Share 800 and 700 MHz Public Safety Frequencies, PS Docket No. 21-32, *Public Notice*, DA 21-99 (rel. Feb. 1, 2021).

<sup>3</sup> *Id.* at 1 (citing Illinois American Water Company Request for Waiver of Section 90.179 of the FCC’s Rules and Determination of Eligibility to use 700 MHz Public Safety Frequency Channels, 1, 6-7 (filed Nov. 16, 2020) (amended Dec. 18, 2020)).

must plead with particularity the facts and circumstances that warrant a waiver.”<sup>4</sup> Similarly, for determining a nongovernmental organization’s eligibility to use 700 MHz frequencies under Section 90.523, the Bureau has set a high bar by requiring a detailed showing that, among other things, the organization provides services, the sole or principal purpose of which are to protect the safety of life, health, or property, and that it will use the spectrum solely for transmission of communication essential to providing such services.<sup>5</sup>

Mere assertions that agreement has been reached and shared use of the spectrum would be beneficial are insufficient to meet these standards of review. Public safety agencies depend on reliable, interference-free access to spectrum to protect life and property. With state and local budget constraints and evolving spectrum policies that potentially reduce access or threaten interference to public safety spectrum, agencies face increasing challenges to build and maintain mission critical communications systems. The Commission and Bureau must continue to ensure that adequate public safety spectrum exists and that interference would not be caused to incompatible services.<sup>6</sup> Given the high standards that must be met, applicants seeking waivers and determinations of eligibility to use public safety spectrum must plead facts that support their applications clearly and with particularity.

---

<sup>4</sup> State of Ohio and FirstEnergy Corp. Request for Waiver of Section 90.179 of the Commission’s Rules, *Order*, 31 FCC Rcd 8758, para. 9 (PSSHB 2016) (“FirstEnergy Order”) (citing State of Ohio and Ohio Rural Electric Cooperatives, Inc., *Order*, 24 FCC Rcd 2289 para. 8 n.28 (PSSHB 2009)). *See also* State of Delaware Request for Waiver of Section 90.621(b)(4) of the Commission’s Rules and the Inter-Category Sharing Freeze in the 800 MHz Frequency Band, *Order*, 22 FCC Rcd 1763, para. 4 (PSSHB 2007) (citing *WAIT Radio v. FCC*, 413 F.2d 1153, 1157 (D.C. Cir. 1969), *aff’d*, 459 F.2d 1203 (1973), *cert. denied*, 409 U.S. 1027 (1972) (citing *Rio Grande Family Radio Fellowship, Inc. v. FCC*, 406 F.2d 664 (D.C. Cir. 1968)); *Birach Broad. Corp., Memorandum Opinion and Order*, 18 FCC Rcd 1414, 1415 (2003).).

<sup>5</sup> State of Illinois Request for Waiver of Section 90.179, *Order*, 23 FCC Rcd 437 (PSSHB 2008) (finding that insufficient information had been provided about an entity and its intended use of 700 MHz spectrum such that the Bureau could not find that “the sole or principal purpose of [the entity’s] service is to protect the safety of life, health, or property” or that its operations would be “solely for transmission of communication essential to providing” such services.).

<sup>6</sup> *See* FirstEnergy Order at para. 14 (describing the purpose of 90.179).

Respectfully submitted,

APCO INTERNATIONAL

By:

Jeffrey S. Cohen  
Chief Counsel  
(571) 312-4400 ext. 7005  
[cohenj@apcointl.org](mailto:cohenj@apcointl.org)

Mark S. Reddish  
Senior Counsel  
(571) 312-4400 ext. 7011  
[reddishm@apcointl.org](mailto:reddishm@apcointl.org)

Alison P. Venable  
Government Relations Counsel  
(571) 312-4400 ext. 7004  
[venablea@apcointl.org](mailto:venablea@apcointl.org)

March 18, 2021