

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )  
 )  
National Frequency Coordination, LLC )  
Request to be Certified as a Part 90 )  
Frequency Coordinator and ) WT Docket No. 14-75  
American Association of Railroads Request )  
to be Certified to Coordinate 800/900 MHz Band )  
Business/Industrial/Land Transportation )  
Frequencies )

To: Chief, Wireless Telecommunications Bureau

**COMMENTS  
OF THE  
LAND MOBILE COMMUNICATIONS COUNCIL**

The Land Mobile Communications Council (“LMCC”), in accordance with Section 1.45 of the Federal Communications Commission (“FCC” or “Commission”) rules, respectfully submits its comments in response to the Public Notice seeking comment on the requests from (i) National Frequency Coordination, LLC (“NFC”) to be certified to conduct frequency coordination for Part 90 Private Land Mobile Radio (“PLMR”) Services, and (ii) the Association of American Railroads (“AAR”), which already is certified as a frequency coordination for PLMR frequencies below 512 MHz, to be certified to coordinate PLMR applications in the 800/900 MHz bands.<sup>1</sup>

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<sup>1</sup> Wireless Telecommunications Bureau Seeks Comment on Requests of National Frequency Coordination, LLC to be Certified as a Part 90 Frequency Coordinator and the Association of American Railroads to be Certified to Coordinate 800/900 MHz Band Business/Industrial/Land Transportation Frequencies, *Public Notice*, WT Docket No. 14-75, DA 14-653 (rel. May 14, 2014) (“Public Notice”).

The request from NFC does not contain sufficient information to support approval and, in any event, raises novel issues in the context of Part 90 PLMR frequency coordination that warrant careful FCC scrutiny.<sup>2</sup>

## I INTRODUCTION

LMCC is a non-profit association of organizations representing virtually all users of land mobile radio systems, providers of land mobile services, and manufacturers of land mobile radio equipment. LMCC acts with the consensus, and on behalf of the vast majority of public safety, business, industrial, transportation and private commercial radio users, as well as a diversity of land mobile service providers and equipment manufacturers. Membership includes the following organizations:

- American Association of State Highway and Transportation Officials (AASHTO)\*
- American Automobile Association (AAA)\*\*
- American Petroleum Institute (API)\*\*
- Association of American Railroads (AAR)\*\*
- Association of Public-Safety Communications Officials-International, Inc. (APCO)\*
- Aviation Spectrum Resources, Inc. (ASRI)
- Central Station Alarm Association (CSAA)\*\*
- Energy Telecommunications and Electrical Association (ENTELEC)
- Enterprise Wireless Alliance (EWA)\*\*
- Forest Industries Telecommunications (FIT)\*\*
- Forestry-Conservation Communications Association (FCCA)
- Intelligent Transportation Society of America, Inc. (ITSA)
- International Association of Fire Chiefs (IAFC)\*
- International Municipal Signal Association (IMSA)\*
- MRFAC, Inc. (MRFAC)\*\*
- National Association of State Foresters (NASF)
- PCIA – The Wireless Infrastructure Association (PCIA)\*\*
- Telecommunications Industry Association (TIA)
- Utilities Telecom Council (UTC)\*\*

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<sup>2</sup> The LMCC takes no position on the request from AAR.

The organizations whose names are followed by an asterisk constitute the universe of certified Part 90 frequency coordinators. Those with a double asterisk are certified to coordinate some or all Part 90 PLMR frequencies.

## II BACK GROUND OF FREQUENCY COORDINATION

As described in the Public Notice, PLMR frequency coordination is the process whereby a private organization reviews applications for PLMR frequencies prior to their submission to the FCC. Frequency coordinators are required to review applications for completeness and compliance with FCC requirements and then to recommend the most appropriate frequency for the proposed use. The coordination process has been in place since 1958 and was formalized in 1986 when the FCC certified particular entities to fulfill this function.<sup>3</sup> The Commission modified the process again in 1997 to provide for competitive PLMR coordination below 512 MHz when it consolidated multiple Part 90 radio services into the Public Safety and Industrial/Business Pools,<sup>4</sup> and subsequently extended competitive coordination to the 800/900 MHz PLMR bands.<sup>5</sup>

The FCC in 1969 announced general principals applicable to organizations that wish to provide frequency coordination services: Some are descriptive, while others are prescriptive.<sup>6</sup>

When it formalized the frequency coordination process in 1986, the FCC stated the following:

Where more than one entity requested certification, we looked first to ascertain whether the organization was representative of users in the radio service it proposed to coordinate. Second, we examined the overall plan to coordinate

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<sup>3</sup> See Frequency Coordination in the Private Land Mobile Radio Services, *Report and Order*, PR Docket No. 83-737, 103 FCC 2d 1093 (1986) (“Coordination Procedures Order”).

<sup>4</sup> See Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignments Policies of the Private Land Mobile Services, *Second Report and Order*, PR Docket No. 92-253, 12 FCC Rcd 14307 (1997).

<sup>5</sup> See United Telecom Council, *Order*, 16 FCC Rcd 8436 (WTB PSPWD 2001).

<sup>6</sup> See Frequency Coordination in the Industrial Radio Services, 16 FCC 2d 305 (1969).

the service (e.g., how frequency recommendations would be made and whether all applicants would be treated equally). Third, we checked to see if the entity had experience coordinating frequencies in the service involved or any technical expertise in engineering land mobile stations. Finally, we took into consideration whether the entity had nationwide coordination capability, a nationwide data base of users in the service it proposed to coordinate, and whether the data base was automated.<sup>7</sup>

There currently are nine organizations certified by the Commission to coordinate PLMR frequencies. Although not an FCC requirement for certification, each is a not-for-profit trade association that represents one or more PLMR user groups and engages in activities in support of its members that are unrelated to the coordination process. Most have been performing frequency coordination for decades and have developed a deep understanding of the FCC rules and policies as well as PLMR user requirements.

Each organization also is a member of the LMCC, whose By-laws define eligibility for membership as follows:

Article III, Section 1(a) – Any trade or professional association that has, as one of its functions, the representation of licenses of domestic land mobile radio and ancillary systems before regulatory authorities; and

Article III, Section 1(b) – Any trade or professional association that has, as one of its functions, the representation of manufacturers of land mobile radio equipment before regulatory authorities.

In recent years, as the coordination process has grown increasingly complex, the Commission has adopted a number of coordination policies, including technical standards, recommended by the LMCC either by incorporating them into the FCC rules or, frequently, by endorsing them as policies implemented by the coordinators and applicable to the coordination process.<sup>8</sup> This approach has the clear benefit of allowing coordinators to adjust those standards as

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<sup>7</sup> Coordination Procedures Order at ¶ 70 (citation omitted).

<sup>8</sup> Cites

appropriate based on experience and changes in technology without the delays inherent in FCC rule modifications. It works because issues are resolved within the LMCC before being presented to the Commission. While perhaps not an insurmountable obstacle, certification of an entity such as NFC that is not eligible to become a member of the LMCC will present complications that would need to be addressed.

### **III THE NFC CERTIFICATION REQUEST**

The NFC request for certification to coordinate Part 90 PLMR frequencies is replete with declarative statements but largely devoid of the detailed information that is needed to evaluate its assertions. The majority of the document is devoted to what properly would be characterized as marketing materials, not a demonstration of qualifications for certification.

First and foremost, NFC does not even claim to be representative of the PLMR user community, the fundamental FCC criterion for being designated as a frequency coordinator. Absent such a showing, it is not clear on what basis the FCC could grant NFC's request.

NFC also states that it has extensive experience in spectrum management and frequency coordination and has regionally based coordinators to accommodate local requirements, but does not identify who these individuals are. The LMCC assumes that it is not actually NFC personnel, but persons employed by TrueNet Communications, Inc. ("TrueNet"), which shares NFC's Jacksonville, Florida address, who would perform the coordination functions. The LMCC does not object to a frequency coordinator using the services of an experienced, qualified organization to undertake those tasks with proper management oversight, but it is troubled by NFC's failure to identify TrueNet in the request, which certainly would be read as indicating that NFC itself possesses the qualifications it claimed. If NFC

intends to contract all of its coordination responsibilities to TrueNet, it should make that clear so the FCC can evaluate the qualifications of the organization that actually will be doing the coordination work. And while TrueNet may be highly experienced in spectrum management, the LMCC is not aware that its experience extends to the Part 90 PLMR spectrum, another FCC criterion for certification.

Indeed, NFC seemingly has adopted TrueNet as its alter ego and has confused the capabilities of that company with its own. For example, the LMCC assumes it is TrueNet, not NFC that has “past performances with the public sector specifically with the FCC in different capacity” since NFC was only incorporated on December 11, 2013, just over three months prior to filing the instant request. Similarly, the “our” in “our vast databases of users, both internal and external provide additional knowledge in successful frequency coordination services,” presumably is a reference to TrueNet databases. What is not clear is what either of these claims, taken as true, have to do with performing Part 90 PLMR frequency coordination functions. The LMCC also must conclude that it was TrueNet and not NFC itself that “worked with a manufacturer in the design and manufacturing of Land Mobile Radio’s (sic).” Indeed, it is highly questionable whether a frequency coordinator could, without compromising its neutrality, collaborate with a vendor in designing and manufacturing equipment that could be used by PLMR applicants.

Finally, PLMR frequency coordination requires meticulous attention to the minutia of site-based, frequency-based applications that can includes multiple frequencies, sites, power levels, emissions, and other data relevant to the selection of the best available frequency. If the request is indicative of quality control within the NFC organization, it raises doubts about

NFC's ability to perform coordination satisfactorily. There are numerous typographical and grammatical errors in only a four-page document, much of which appears to have been imported from existing TrueNet materials, including a reference in the Organization Chart to a "Controller" position. The LMCC appreciates that few documents are entirely error-free but this work product is not one that inspires confidence in the preparer's qualifications to work in a field that demands careful attention to detail.

#### **IV NFC'S RELATIONSHIP WITH SMARTCOMM-AFFILIATED ENTITIES**

Consideration of NFC's request for certification as a PLMR frequency coordinator cannot be conducted in a vacuum but also must take into account its relationship with Smartcomm, LLC ("Smartcomm"), Spectrum Network Group, LLC ("SNG"), M2M Spectrum Networks, LLC ("M2M"), and Spectrum Acquisition Group, LLC ("SAG"). Attachment A describes the overlapping ownership interests among these entities as well as other commonalities. This would not be significant for purposes of evaluating the request but for the fact that SNG, on behalf of its subsidiary M2M, has applied for, and has advised the FCC it will continue to apply for, the very frequencies NFC seeks to coordinate. Smartcomm and SAG also are believed to have an economic interest in applications they have marketed and prepared, applications that will require frequency coordination. This represents, at a minimum, the appearance of a conflict of interest that is entirely inconsistent with the historical frequency coordination environment.

The LMCC does not take the position that only not-for-profit trade associations should qualify for certification as frequency coordinators. However, no current coordinator has an economic interest in the applications it processes or in the equipment used by PLMR applicants.

The LMCC submits that a coordinator should not be permitted to have such interests, irrespective of its representations about unbiased, non-discriminatory processing. If economic interests in applications are allowed, the FCC may find that other large licensees will seek to emulate the NFC approach, engage a consultant to process applications in which they have financial interests, and request certification based on representations equivalent to those made by NFC. A coordination process that has worked smoothly for decades in processing hundreds of thousands, even millions, of applications could devolve into a fragmented free-for-all in which financial incentives determine the outcome.

#### **IV CONCLUSION**

Based solely on the qualifications claimed in the request, the LMCC believes NFC cannot be certified as it does not even assert the required representational attribute. If the FCC nonetheless intends to give serious consideration to the request, it must address NFC's inter-relationship with the Smartcomm-affiliated entities identified above and the implications of allowing frequency coordinators to have an economic interest in the applications they process.

Respectfully submitted,

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