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

In the Matter of	)	
	)	
Redesignation of the 17.7-19.7 GHz Frequency	)	
Band, Blanket Licensing of Satellite Earth Stations	)	IB Docket No. 98-172
in the 17.7.20.2 GHz and 27.5-30.0 GHz Frequency	)	
Bands, and the Allocation of Additional Spectrum in)		
the 17.3-17.8 GHz and 24.75-25.25 GHz Frequency	)	
Bands for Broadcast Satellite-Service Use	)	

To: The Commission

REPLY COMMENTS OF APCO

The Association of Public-Safety Communications Officials-International, Inc. ("APCO") hereby submits the following Reply to comments filed in response to the Commission's Notice of Proposed Rulemaking ("*NPRM*"), FCC 98-235, released September 18, 1998, in the above-captioned proceeding regarding segmentation, sharing, and reallocation of portions of the 18 GHz frequency band. In particular, APCO responds to the Comments of Teledesic, Inc.

APCO supports the comments of the Fixed Wireless Communications Coalition ("FWCC") and other representatives of fixed microwave users in the 18 GHz band. As discussed in those comments, and in APCO's initial comments, the Commission must protect the interests of existing fixed service licensees who provide vital public safety and other essential services. The Commission must also ensure that adequate spectrum will be available to accommodate future fixed microwave needs in the 18 GHz band.

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In the NPRM, the Commission proposes a "grandfathering" of incumbent fixed service users in the 18.3-18.55/18.8-19.3 GHz band, but also seeks comments regarding the possible need to relocate those users. APCO opposes forcing public safety microwave incumbents to relocate to other bands, due to the cost, disruption and potential threats to the safety of life and property. However, if the Commission chooses to require relocation, then it must adopt the same basic relocation rules as it did in ET Docket 92-9 regarding the 2 GHz bands. Those rules mitigate the harm to incumbents and, in most cases, ensure that the full cost of relocation is borne by new spectrum users. Teledesic, Inc., takes a contrary and entirely self-serving position in its comments, which APCO strongly opposes.

Teledesic's premise is that the Commission's relocation rules for the 2 GHz bands have been a failure. The reality, of course, is the opposite. Personal Communications Services (PCS) in the 2 GHz band is now operational in much of the country, offering new competitive wireless communications services to the public. That success is due in large part to the Commission's relocation rules. The vast majority of 1.8-1.99 GHz microwave incumbents have quickly relocated as a result of mutually beneficial relocation negotiations, consistent with the rules adopted in ET Docket 92-9. Recognizing the benefits of this process, the Commission recently reaffirmed the application of the relocation rules to Mobile Satellite Services.[1]

Oddly, Teledesic supports the ET Docket 92-9 relocation rules as an alternative to grandfathering, while simultaneously proposing changes to those rules which would eviscerate any protection for public safety and other fixed service incumbents. Teledesic repeatedly refers to the "public interest" benefits of reducing if not eliminating the

relocation costs that it and other satellite licensees should bear. Yet, Teledesic fails to acknowledge that there is also a substantial public interest in preserving the critical communications services provided by fixed service licensees.

Fixed microwave services are not merely a convenience that can be easily swept away. Microwave provides an essential link in public safety communications networks, tying together mobile transmitter sites, emergency command centers, and other locations vital to the protection of life and property. Taxpayers paid for these fixed microwave facilities, and they must not be required to absorb relocation costs merely to make room for new commercial communications ventures. Nor should any public safety licensee be forced to abandon radio frequencies unless comparable replacements are made available.

Teledesic would make all fixed service incumbents secondary as of January 1, 2004, just five years from now. At that point, incumbents could be forced to move (or accept harmful interference) without ANY compensation or assurances that replacement spectrum exists. Teledesic's proposed rule would be nothing short of a taxpayer supported subsidy to Teledesic and other satellite licensees, and would seriously endanger public safety communications if affordable, comparable replacements are unavailable.

Teledesic also suggests that relocation reimbursement should be limited to "the 'unamortised' cost of the replaced equipment, plus 2% of these 'hard costs' to help cover engineering and installation costs." This would certainly be of benefit to Teledesic, but it would leave state and local government licensees (and therefore taxpayers) "holding the bag." The basic principle of the Commission's current relocation rules is that incumbents should be reimbursed for all costs that they would not have incurred were it not for the

[1] Memorandum Opinion and Order in ET Docket 95-18, FCC 98-309 (released November 25, 1998).

need to relocate by a particular time at the behest of a new user. That includes the total cost of the new equipment and all costs involved in the engineering and installation, as well as reasonable transactional costs. Furthermore, the Commission has recognized the value in allowing new users to provide incentives for incumbents to speed the relocation process. The PCS band is a good example of how that process can work to clear large blocks of spectrum in a speedy fashion.

When a state or local government is forced to replace a microwave link because of the Commission rules, the burden on taxpayers is the total cost incurred at the time of the replacement. What the equipment may have cost 5, 10, or 15 years ago is irrelevant to what the state or local government must raise to replace it. Nor is it relevant that portions of the existing equipment may have needed to be replaced after the date of the NPRM. If microwave facilities are replaced at the behest of new users, then the new users must pay for the entire cost of new equipment, regardless of its age. In essence, the Commission has stated that incumbents are entitled to the total "replacement cost" for the new equipment.

Finally, Teledesic is also wrong when it states that "every FS operate carries the cost of its equipment on its books and takes tax deductions over time to recover for the depreciation of the equipment." State and local government licensees are tax exempt, making depreciation an irrelevant financial concept.

CONCLUSION

For the reasons discussed above and in its initial comments, APCO opposes any Commission action that reduces spectrum availability for public safety fixed microwave operations, disrupts existing public safety communications systems, or would force relocation of public safety incumbents without full compensation of all direct and indirect costs.

Respectfully submitted,

ASSOCIATION OF PUBLIC-SAFETY
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CERTIFICATE OF SERVICE

I, Jane Nauman, hereby certify that 21st day of December, 1998, via first-class mail, postage prepaid, to the following individual at the address listed below:

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