

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Promoting Efficient Use of Spectrum Through)	WT Docket No. 00-230
Elimination of Barriers to the Development of)	
Secondary Markets)	

**REPLY COMMENTS
OF ST. CLAIR COUNTY, ILLINOIS**

St. Clair County, Illinois (“County”) replies to the comments of others in the captioned proceeding. The County is licensed to use 16 channels at 821-824/866-869 MHz, on a 10-site, digital trunked system that will inter-operate with federal, state and other local public safety agencies at both 800-MHz and UHF/VHF frequencies.¹ The County supports the FCC’s proposals in the Further Notice to extend spectrum leasing opportunities to public safety licensees.² We agree generally with the Report of the Spectrum Policy Task Force:

Public safety users should have flexibility to lease their dedicated spectrum capacity that is available during lower-use periods to commercial users with a “take-back” mechanism when public safety use increases. Public safety spectrum use is typically highly variable, with periods of low traffic and occasional usage “spikes” during certain times of the day or week or during emergencies. Accordingly, there is benefit to be gained from permitting public safety entities to lease some of their spectrum capacity to commercial users during low-use periods, under an arrangement whereby the spectrum can be reclaimed immediately when needed for public safety use. The potential for this type of shared use will increase

¹ The County system is an addition to the Illinois statewide STARCOM 21 network. Among County users are the Sheriff, the Highway Department and administrative offices, in addition to emergency services.

² FCC 03-113, released October 6, 2003, ¶¶290-298.

as smart transmitters and receivers are developed that can be shut down immediately upon command.³

Among the potential lessees of the St. Clair system are private ambulance and airport flight maintenance services. Because St. Clair is permitted to build out its system over five years,⁴ considerable spectrum will remain available in the course of construction and sequential loading, to the mutual benefit of the County as lessor and potential non-County users as lessees.

For the most part, the commenters thus far either agree generally with the proposal to extend leasing opportunities to public safety licensees or take no position. The Center for Wireless Network Security (“WinSeC”) notes that “public safety traffic is by nature short, bursty, and experiences infrequent but unpredictable spikes,” and could benefit “by leasing access to a portion of its frequencies to commercial carriers.”⁵

APCO is more dubious, observing first that leasing opportunities at 700 MHz may be constrained by the language of eligibility at Section 337(f) of the Communications Act. (Comments, 2-3). Moreover, APCO questions the economic viability of arrangements whereby commercial lessees would be subject to “ruthless preemption” in the event public safety emergencies were to arise. (Comments, 4)

³ Report, November 2002, 43, full text available at <http://www.fcc.gov/sptf/reports.html>. At its monthly meeting December 17, 2003, the FCC opened a proceeding on smart (“cognitive”) radios, in partial fulfillment of the Report’s forecast. News Release, 12/17/03, ET Docket 03-108. The text of the Notice of Proposed Rule Making on cognitive radio, FCC 03-322, released December 30, 2003, reviews (¶¶62-68) several technical means of assuring instantaneous reversion of spectrum use from a lessee to a licensee in the public safety context.

⁴ Section 90.629 of the Rules, 47 C.F.R. §90.629.

⁵ Comments, 8. WinSeC’s principal message, however, is the converse: Allow public safety to acquire temporarily needed spectrum of others as a “primary or priority user,” entitled to automatic preemption of acquired channels “up to a certain threshold.” Comments, 9.

Against the grain of the majority of approving comments, however, is CTIA's fear that public safety licensees might be tempted to "warehouse" spectrum for leasing.⁶ SBC and WinStar disapprove of public safety spectrum rental, but give no reasons for their conclusions.

The County appreciates and understands the concerns expressed by APCO and CTIA, but these are not sufficient, in our judgment, to withhold the opportunity for fallow public safety spectrum to be used more efficiently. The proposed activity would be voluntary, not mandatory. It smacks of condescension to mistrust local governments to make sound judgments about the long-term interest in public safety and welfare versus short-run commercial advantage.

The issue of economic viability for "ruthlessly preemptive" uses of public safety spectrum will, we suggest, be resolved in the marketplace. But not all such spectrum is occupied by emergency service providers. To the extent that eligible public administrative use by a primary licensee can yield temporarily to the needs of a commercial lessee, we see no reason to preclude this.

For the reasons discussed, St. Clair County supports the proposals in the Further Notice to permit the commercial lease of public safety frequencies, assuming adequate means for the spectrum to be reclaimed immediately when required for its primary licensed purpose.

Respectfully submitted,

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⁶ Comments, 4. APCO expresses a similar concern that public safety entities might be driven by cash-strapped local governments to over-lease their spectrum, "to the detriment of public safety operational requirements." Comments, 4.