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November 1, 2004

The Honorable Michael Powell
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: Docket 03-103, ex parte communication

Dear Mr. Chairman:

APCO previously wrote to you to express general concerns regarding a possible Commission order in the above-referenced proceeding concerning Air-to-Ground ("ATG") radio communications in the 849-851 and 894-896 MHz bands. The 849-851 MHz band is immediately adjacent to spectrum at 806-809.75/851-854.75 MHz, in which some public safety agencies now operate. Moreover, the 806-809/851-854 MHz band will become an exclusive public safety land mobile radio band pursuant to the Report and Order in WT Docket 02-55, FCC 04-168 (released August 6, 2004). The purpose of this letter is to underline APCO's continuing concerns about the potential for ATG interference to critical public safety radio systems.

There seems to be a constantly changing array of proposals and options before the Commission, making it difficult at this late date to provide assurances that no interference will occur. Among our concerns are the following:

- Is the Commission considering proposals that would place "downlinks" in 849-851 MHz?

- While we understand that the 849-851 MHz spectrum will be used at a "limited" number of ATG "uplinks," we are concerned about the potential for rapid proliferation of sites as the service expands.

- We understand that consideration is being given to ATG systems that would allow for operations on board aircraft that are still on the ground or at very low altitudes. If so, that would presume the placement of terrestrial transmitters (using the "uplink" channels) in and around airports. Such operations could create a very substantial risk of interference to adjacent band public safety systems (indeed, many airport law enforcement and emergency operations use 800 MHz channels).

- The out of band emissions (OOBE) levels from ATG ground stations must be appropriate to protect nearby public safety operations. "Normal" OOBE signal levels are inadequate, as is more fully explored within the extensive record in WT Docket 02-55. Has there been sufficient analysis of the potential for OOBE interference from ATG to adjacent band operations?

- Will there be mandatory coordination of ground station placement to prevent interference from occurring? What other interference protections are proposed? Has there been an opportunity for public comments regarding those protections?

- Are the rules under consideration sufficient to prevent interference? As the Commission concluded in WT Docket 02-55, it is insufficient merely to provide for after-the-fact mitigation when public safety communications is at risk.

We urge the Commission to resolve these and other related interference issues before adopting rules in the ATG proceeding.

Respectfully submitted,

Robert M. Gurss
Director, Legal &
Government Affairs

cc: The Honorable Jonathan Adelstein
The Honorable Kathleen Abernathy
The Honorable Kevin Martin
The Honorable Michael Copps
John Muleta, Chief, WTB