

December 10, 1985

**Concurring Statement of
Commissioner James H. Quello**

In re: The Report and Order Amending Parts 2, 73, and 90 of the Commission's Rules and Regulations to Allocate Additional Channels in the Band 470-512 MHz for Public Safety and Other Land Mobile Services (the reallocation of Ventura, California's UHF-TV Channel 16 to the Los Angeles County Sheriff's Department).

In 1984, I "reluctantly" concurred with the majority in adopting the Notice of Proposed Rulemaking seeking a solution to the Los Angeles County Sheriff's Department's need for spectrum. I questioned the need for interim relief as expressed by the Sheriff, as well as the appropriateness of the proposals contained in the NPRM.

Today, I reluctantly concur to the Report and Order reallocating Channel 16 from Ventura to meet public safety needs of Los Angeles, or more specifically, to meet the needs of the Los Angeles County Sheriff's Department. My reluctance in concurring should not be interpreted as a strike against public safety. Both Congress and this Commission have long recognized the important role of public safety services and the need for adequate spectrum to provide these services, for example (see PR Docket 84-232). My reluctant concurrence instead addresses the Report and Order's endorsement of inefficient spectrum use.

The real need for the Los Angeles County Sheriff, the need for spectrum to accommodate new portable hand-held units, can be met in part by reconfiguring the existing radio system to accommodate spectrum-efficient equipment. I am told that such equipment is available today and would not require the use of new, untested technology. Spectrum efficient equipment may prove to be somewhat more costly and, in the specific case of the Sheriff, may not provide for all that was requested. The long term benefits of greater spectrum use and efficiency, however, must be taken into consideration not only by the L.A. County Sheriff's Department, but also by all those in the public safety community.

Further, today's action in effect rewards a failure to plan for the future and a lack of foresight to obtain

additional frequencies when they were available.¹ Early on I questioned the claim made by the Sheriff's office concerning congested spectrum, since our own Field Operations Bureau's analysis indicated otherwise. Nonetheless, the possibility of spectrum congestion would indicate an even more dire need to utilize existing and future spectrum allocations in an efficient manner.

I am concerned that the Order adopted today will send the wrong message to the public safety community that communication needs be met by just acquiring additional spectrum. This is the wrong message. Public safety licensees like all licensees must come to grips with the excessive demands being placed on limited spectrum. To accommodate legitimate demands, more efficient use of the spectrum must be made. Because my colleagues have assured me that the situation of the Los Angeles County Sheriff's Department is unique, I am convinced that the public interest needs of the residents of Los Angeles County warrant my concurrence with the Order. Furthermore, the length of time the Commission has taken to address the needs of the Sheriff has been excessive, thereby creating a greater urgency to provide spectrum relief.

The applicants for Channel 16 will be disserved by reallocating Channel 16 to the public safety service in Los Angeles. The Commission must share the blame for this disservice. Applicants for Channel 16 have been in hearing for approximately five years adding the unacceptable burdens of delay and uncertainty to an already lengthy comparative proceeding. Nonetheless, the Mass Media Bureau has made a significant effort to find a reasonable substitute for Channel 16 that will provide service to the citizens of Ventura.

For the reasons enumerated above, I concur.

¹ See Second Report and Order in Docket No. 18262 (an inquiry relative to the future use of the frequency band 806-960 MHz and amendment of Parts 2, 18, 21, 73, 74, 89, 91, and 93 of the rules relative to operations in the land mobile services between 806 and 960 MHz), 46 FCC 2d 752 (1974), reconsidered, Memorandum Opinion and Order, Docket No. 18262, 51 F.C.C.2d 945 (1975); and Second Report and Order in PR Docket No. 79-191 (amendment of Part 90 of the Commission's Rules to release spectrum in certain MHz bands and to adopt rules and regulations which govern their use; and amendment of the Commission's Rules to facilitate authorization of wide-area mobile radio communication systems; and action concerning the multiple licensing of 800 MHz radio systems; and amendment of the Commission's Rules to allow transmission of non-voice signals at 800 MHz), 90 F.C.C.2d 1281 (1982).