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VERNER, LIIPFERT, BERNHARD, MCPHERSON AND HAND
CHARTERED
901-15TH STREET, N.W.
WASHINGTON, D.C. 20005-2301
(202) 371-6000
TELECOPIER: (202) 371-6279

EX PARTE OR LATE FILED

WRITER'S DIRECT DIAL
(202) 371-6060

October 19, 1995

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Hand-Delivered

William F. Caton, Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Re: Ex Parte Presentation to Commissioner Ness by the Association of American Railroads (AAR) in PR Docket No. 92-235

Dear Mr. Secretary:

Pursuant to Section 1.1206(a)(1) of the Commission's rules, we are hereby filing on behalf of the Association of American Railroads (AAR) a copy of a written ex parte presentation that was sent on this date to Commissioner Ness.

AAR's presentation consists of a letter from the undersigned to Commissioner Ness and a courtesy copy of a letter from Mr. Hugh Henry of AAR to Mr. Charles M. Meehan of UTC disputing UTC's September 13 ex parte presentation to Bureau staff.

This filing should be associated with the Commission's record in PR Docket No. 92-235.

Any questions concerning this matter should be directed to the undersigned.

Respectfully submitted,

Thomas J. Keller

Enclosure

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October 19, 1995

Commissioner Susan Ness
Federal Communications Commission
1919 M Street, N.W.
Room 832
Washington, D.C. 20554

Re: PR Docket No. 92-235 (Part 90 Spectrum "Refarming")

Dear Commissioner Ness:

I am writing on behalf of the Association of American Railroads (AAR) regarding the pending proposal in PR Docket No. 92-235 to consolidate the existing private land mobile radio (PLMR) services into a small number of large channel pools and to permit multiple frequency coordinators to manage the channel assignments in those pools. The Commission has requested an industry "consensus plan" on this matter by November 20, 1994.

It has come to AAR's attention that certain PLMR user representatives are meeting with the staff of the Commission on this subject and have submitted certain recommendations for consolidating the various PLMR services, including the Railroad Radio Service. In this regard, I am enclosing for your information a copy of correspondence from AAR to the Utilities Telecommunications Council (UTC) dated October 16, 1995.

Please be advised that AAR and its members have not authorized UTC or any other frequency coordinator, PLMR user group, coalition, association, or anyone else, to represent or speak for the railroad industry on this matter.

A copy of this letter is being filed this date with the Office of the Secretary in accordance with the Commission ex parte rules.

Sincerely,

Tom Keller

Thomas J. Keller

Enclosure

ASSOCIATION OF AMERICAN RAILROADS

Hugh B. Henry
Executive Director, C & S Division

(202) 639-2214
(202) 639-2218 (Fax)

October 16, 1995

Mr. Charles M. Meehan
UTC, The Telecommunications Association
1140 Connecticut Avenue, Suite 1140
Washington, DC 20036

Dear Mr. Meehan:

It has come to our attention that on September 13, 1995, UTC met with Laurence Atlas, Associate Bureau Chief of the Wireless Telecommunications Bureau, to discuss consolidation of the Private Land Mobile Radio ("PLMR") service pools. According to UTC's September 14 ex parte filing, you recommended that the twenty current pools be consolidated into three:

(1) police, fire and emergency services;

(2) utilities, pipelines, railroads and the remaining public safety entities; and

(3) all other services.

UTC's proposal, if adopted, would have a direct impact on railroad communications and railroad operations. Unfortunately, however, UTC did not see fit to notify the railroads or their representatives that this presentation was going to be made to the FCC.

UTC's unilateral action was completely at odds with the FCC's specified procedure for addressing the question of service consolidation, and it frustrates the goal of obtaining a result "that reflects the interests and needs of the PLMR community" and is "mutually agreeable, reasonable and workable." Refarming Report and Order at ¶ 50. The FCC's stated objective was a consensus position on service consolidation.

50 F Street, N.W., Washington, D.C. 20001

In keeping with that objective, AAR has participated in broad-based discussions with other industry groups regarding consolidation. Although the railroad industry's position on this issue historically has favored preservation of the Railroad Radio Service, we have approached these discussions with an open mind and have not foreclosed any reasonable alternative.

Obviously, UTC is free to tell the FCC whatever it wants, whenever it wants to. Nevertheless, we believe the most prudent and potentially productive course would have been for all the PLMR users to have had a fair opportunity to arrive at a consensus among themselves before any one of them went charging off to the FCC advancing any particular proposal or agenda. In that regard, we believe UTC's presentation to the FCC regarding its own private solution for service consolidation was premature and inappropriate, especially since it was done without consultation with at least one other major user group directly affected by it -- the railroad industry.

There is another reason why UTC's presentation concerns us. Parties who have been advocating consolidation have claimed all along that their frequency coordinators will be willing and able to safeguard the needs and interests of <u>all</u> users -- not just their own members -- in the larger, consolidated frequency pools. We regret to say that UTC's unwillingness to consult with AAR about the September 13 presentation has not given AAR any reason to be confident of UTC's willingness as a coordinator to be mindful of railroad interests if consolidation were to occur.

Finally, had UTC made the effort to confer with the railroads before making its proposal, it would have learned that railroad radio usage is different from that of the utilities, pipelines and other users whom UTC unilaterally decided to group with the railroads on the basis that they are all "compatible users." A cornerstone of the North American railroad mobile radio network is the need for nationwide interoperability -- a requirement that does not exist for any other PLMR user group.

Interoperability is necessary so that railroad vehicles travelling over foreign rights-of-way can communicate with (1) dispatchers issuing track warrants authorizing use of main line track, (2) yardmasters and switch crews engaged in assembly and disassembly of trains, (3) crews servicing the right-of-way and adjacent equipment, and (4) trackside defect detectors. While the utilities and other user groups may sometimes have a need for regional compatibility, these requirements are simply not comparable to the unique need in the railroad industry for nationwide interoperability.

In summary, the FCC said that it could not act on consolidation until it heard directly from the affected users, pointing out that "PLMR users can best assess their needs." Refarming Report and Order at ¶ 50. AAR agrees with that sentiment. We believe that the wisest course at this time is for affected user groups to talk to each other about the pros and cons of consolidation and to try to reach a consensus by the November 20 deadline, not for any single group to take it upon itself to tell the FCC unilaterally what is best for everyone else.

Sincerely,

Hugh B. Henry
Executive Director

Enclosure

cc(w/encl): Laurence Atlas