

October 24, 2014

VIA ECFS and ULS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TW-A325
Washington, D.C. 20554

Re: Amendment to Request for Waiver

Request of PTC-220, LLC for Waivers of Sections 90.729(b) and 90.723(f) of the Commission's Rules, WT Docket No. 13-59;
ULS File Nos. 0005631265, 66, 69-75, 77, 78, 81, 82, 84, 86, and 89

Dear Ms. Dortch:

PTC-220, LLC ("PTC-220") hereby submits this amendment to its above-referenced request, filed February 1, 2013, seeking waiver of Sections 90.729(b) and 90.723(f) of the Commission's rules to facilitate the deployment of Positive Train Control ("PTC") in the 220-222 MHz band ("Waiver Request").¹

On March 8, 2013, the Commission sought public comment regarding the Waiver Request. The National Rural Telecommunications Cooperative ("NRTC") filed Comments and Reply Comments opposing the Waiver Request based on interference concerns.² Pepco Holdings, Inc. filed a letter in opposition (the "Letter") also based on interference concerns.³

PTC-220, NRTC, and PHI Service Company, a 220-222 MHz Service licensee and wholly-owned affiliate of Pepco Holdings, Inc., have entered into a Coordination Agreement containing specific procedures and requirements to address interference concerns related to the Waiver Request. The Coordination Agreement establishes a mutually acceptable arrangement designed to accommodate the parties' interests in facilitating the deployment of stations in geographic and spectral proximity in the 220-222 MHz band. PTC-220 will continue to protect all other affected licensees as described in the Waiver Request.

¹ Request of PTC-220, LLC for Waivers of Sections 90.729(b) and 90.723(f) of the Commission's Rules, WT Docket No. 13-59 (Feb. 1, 2013).

² Comments of the NRTC, WT Docket No. 13-59 (filed April 8, 2013), Reply Comments of NRTC, WT Docket No. 13-59 (April 23, 2013).

³ Letter from Russell Ehrlich, Pepco Holdings, Inc., to Marlene Dortch, Secretary, FCC, WT Docket No. 13-59 (June 6, 2013).

Based on the terms of the Coordination Agreement, PTC-220 hereby amends the Waiver Request to remove its J-Block 220 MHz licenses (call signs WPOI702, WPOI703, WPOI704, WPOI705, WPOI706, and WPOI708). NRTC hereby requests the withdrawal of its Comments and Reply Comments opposing the Waiver Request; and PHI Service Company, on behalf of Pepco Holdings, Inc., hereby requests withdrawal of the Letter opposing the Waiver Request. As a result, both NRTC and PHI Service Company support grant of the Waiver Request as amended. Attached hereto are affidavits of the parties required by Section 1.935 of the Commission's rules, as well as a copy of the Coordination Agreement, which is being submitted with a request for confidential treatment.

In addition, PTC-220 further amends the Waiver Request to seek inclusion of call sign WPWY753 upon the consummation of its assignment to PTC-220 from the Association of American Railroads.⁴ NRTC and PHI Service Company do not object to this addition.

⁴ See ULS File No. 0006225216 (amended October 3, 2014).

Pursuant to Section 1.1206(b)(2) of the Commission's rules, an electronic copy of this letter is being filed in the above-referenced docket. Kindly direct any questions regarding this filing to the undersigned or their respective counsel.

Respectfully submitted,

PTC-220, LLC

/s/ Henry S. McCreary

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**NATIONAL RURAL
TELECOMMUNICATIONS
COOPERATIVE and Manager,
NRTC LLC**

/s/ Robert A. Fuhrer

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Jack Richards
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PHI SERVICE COMPANY

/s/ Russell A. Ehrlich

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Counsel to PHI Service Company.

AFFIDAVIT

I, Robert A. Fuhrer, hereby certify under penalty of perjury that I am Vice President and General Counsel of the National Rural Telecommunications Cooperative, Manager of NRTC LLC (collectively, "NRTC"), and that:

- (1) Neither NRTC nor its principals has received or will receive any money or other consideration in exchange for the withdrawal of its Comments and Reply Comments in WT Docket No. 13-59, filed April 8, 2013, and April 23, 2013, respectively (collectively, the "Comments"), beyond the non-financial coordination-related concessions detailed in the **Coordination** Agreement, dated September 17, 2014, as amended and restated on October 20th, 2014, which is being submitted for FCC staff review with a request for confidential treatment.
- (2) NRTC has not sought reimbursement of any expenses associated with the preparation and filing of the Comments.
- (3) There is no oral agreement related to the withdrawal of the Comments.

Executed on this 20th day of October 2014,



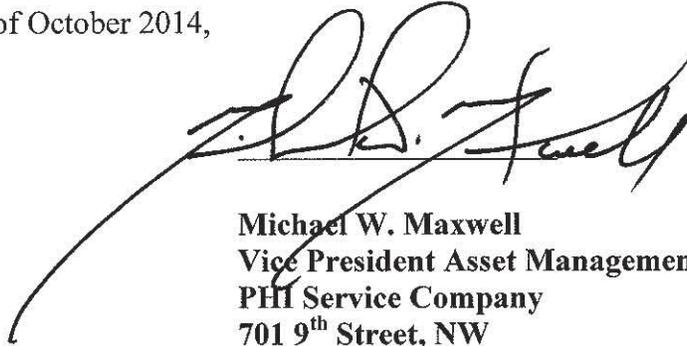
Robert A. Fuhrer
Vice President and General Counsel
NRTC
2121 Cooperative Way
Herndon, VA 20171
rfuhrer@nrtc.coop

AFFIDAVIT

I, Michael W. Maxwell, hereby certify under penalty of perjury that I am Vice President, Asset Management NERC of PHI Service Company, and that:

- (1) Neither PHI Service Company nor its principals has received nor will receive any money or other consideration in exchange for the withdrawal of the Letter from Russell Ehrlich, Pepco Holdings, Inc., to Marlene Dortch, Secretary, Federal Communications Commission, WT Docket No. 13-59 (June 6, 2013) ("June 6 Letter") beyond the non-financial coordination-related concessions to be provided by PTC-220, LLC as detailed in the Coordination Agreement, dated October 20, 2014, ("Coordination Agreement") which is being submitted for FCC staff review with a request for confidential treatment.
- (2) PHI Service Company has not sought reimbursement of any expenses associated with the preparation and filing of the June 6 Letter.
- (3) There is no oral agreement related to the withdrawal of the June 6 Letter.

Executed on this 23rd day of October 2014,



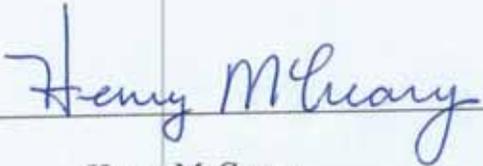
Michael W. Maxwell
Vice President Asset Management NERC
PHI Service Company
701 9th Street, NW
Washington, D.C. 20068
mwmaxwell@pepco.com

AFFIDAVIT

I, Henry McCreary, hereby certify under penalty of perjury that I am President of PTC-220, LLC ("PTC-220"), and that:

- (1) Neither PTC-220 nor its principals has paid or will pay any money or other consideration in exchange for the withdrawal of any filing made by any party in WT Docket No. 13-59, beyond the non-financial coordination-related concessions detailed in the Coordination Agreement, dated September 17, 2014, as amended and restated on October 20, 2014, which is being submitted for FCC staff review with a request for confidential treatment.
- (2) There is no oral agreement related to the withdrawal of the Comments.

Executed on this 21 day of October 2014,

A handwritten signature in blue ink that reads "Henry McCreary". The signature is written in a cursive style and is positioned above a horizontal line.

Henry McCreary
President
550 Water Street, 5th Floor
Jacksonville, FL 32202
Henry_McCreary@csx.com

October 24, 2014

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

**Re: WT Docket No. 13-59
ULS File Nos. 0005631265, 66, 69-75, 77, 78, 81, 82, 84, 86, and 89**

Request for Confidential Treatment

Dear Ms. Dortch:

As required by Section 1.935 of the Commission's rules, the attached Coordination Agreement (the "Agreement"), entered into by PTC-220, LLC, NRTC, LLC; the National Rural Telecommunications Cooperative; and PHI Service Company (collectively, the "Parties") is being submitted for staff review in connection with the above-referenced proceedings.

The Parties hereby request confidential treatment of the Agreement in its entirety pursuant to Section 0.459 of the Commission's rules.¹ The Agreement is entitled to confidential treatment because it contains business proprietary, technical and commercially sensitive information which, if disclosed, could cause substantial financial harm to the Parties.² Moreover, while the Agreement does not call for the exchange of money between the Parties, performance under the Agreement nevertheless imposes obligations upon the Parties which have financial implications. The Agreement therefore contains financial information which is protected from disclosure.³

The Coordination Agreement is a voluntary agreement between the Parties that involved complex negotiations requiring considerable compromises by each Party and taking several months to complete. Knowledge of the details of the negotiated outcome, including the specific coordination process, the allocation of expenses related to performance of the Agreement, and the technical operational limits the parties have agreed to, could prejudice similar negotiations in the future with other parties.⁴ Because it is not known when future similar agreements might be negotiated, the Parties seek the confidential treatment indefinitely.

¹ 47 C.F.R. § 0.459.

² See 47 C.F.R. § 0.457(d)(2) ("If it is shown in the request that the materials contain trade secrets or commercial, financial or technical data which would customarily be guarded from competitors, the materials will not be made routinely available for inspection....").

³ *Id.*

⁴ See, e.g., *DISH Network, LLC v. WNET*, 2014 WL 1628132 at *4 (D. Co. April 24, 2014) (information that would allow a party to obtain an advantage over another in a future negotiation is confidential commercial information).

The Parties have contractually bound themselves to treat the Agreement as confidential, and the information contained in the agreement has not been made available to the public. Release of the Agreement to third parties (such as to consulting engineers and attorneys) is only permitted on the condition that the third parties keep the Agreement confidential.

For the above reasons, the Agreement contains commercially sensitive information of the type which would customarily be guarded from competitors or the public, and the Agreement should therefore be afforded confidential treatment.

Respectfully submitted,

PTC-220, LLC

/s/ Michele C. Farquhar

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PHI SERVICE COMPANY

/s/ C. Douglas Jarrett

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**NATIONAL RURAL
TELECOMMUNICATIONS
COOPERATIVE and Manager,
NRTC LLC**

/s/ Jack Richards

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*Counsel to the National Rural
Telecommunications Cooperative*

Enclosure

cc: Richard Arsenault