



**DAVID PORTER**  
CHAIRMAN, RAILROAD COMMISSION OF TEXAS

**RECEIVED - FCC**

August 13, 2015

**AUG 17 2015**

The Honorable Tom Wheeler  
Chairman  
Federal Communications Commission  
445 12th Street SW  
Washington, DC 20554

Federal Communications Commission  
Bureau / Office

**Re: *Maritime Communications/Land Mobile (MCLM)***  
**WT Docket No. 13-85, EB Docket No. 11-71**

Dear Chairman Wheeler:

The mission of the Railroad Commission of Texas is to protect people and communities from the risks of hazardous materials transportation. To do this, the commission establishes policy, sets and enforces standards, educates, and conducts research to prevent incidents. We work continuously to find new ways to reduce risk toward zero deaths, injuries, environmental and property damage, and transportation disruptions related to pipeline operations.

It was recently brought to our attention that a few oil and gas pipeline companies operating in Texas have been trying for more than four years to acquire frequencies from Maritime Communications/Land Mobile (MCLM) to support supervisory control and data acquisition (SCADA) systems necessary for the safe and efficient operation of their pipelines. Unfortunately, the Commission's processing of their applications apparently has been delayed by an ongoing hearing proceeding involving the qualifications of MCLM to retain its licenses. It has been alleged that MCLM engaged in misconduct during a spectrum auction. We understand there have been no allegations of wrongdoing on the part of the pipeline companies.

The Railroad Commission of Texas takes no position regarding MCLM's qualifications to remain a Commission licensee. However, we join a number of other groups, including the American Petroleum Institute (API), the Energy Telecommunications and Electrical Association (ENTELEC), and the National Association of Regulatory Utility Commissioners (NARUC), in asking the Commission to revisit its conclusion that the use of these frequencies by pipeline companies for SCADA systems -- unlike a railroad's similar use for Positive Train Control (PTC) -- is primarily for business purposes and not sufficiently related to public safety as to justify removal of the pipeline applications from the ongoing hearing.<sup>1</sup>

---

<sup>1</sup> *In re Maritime Communications/Land Mobile, LLC, Debtor-in-Possession Application to Assign Licenses to Choctaw Holdings, LLC*, Memorandum Opinion and Order, FCC 14-133 (rel. Sept. 11, 2014) ("MO&O"). In its Order, the Commission noted that, "[a]lthough the CII Companies' proposals to use the spectrum licenses for

We urge the Commission to recognize the critical role of SCADA systems in promoting public safety goals in the pipeline industry. SCADA systems use wireless frequencies to detect leaks, monitor and control flow, and perform other vital functions across the nation's pipeline networks. Approximately two-thirds of the energy supply in the United States is transported through pipelines supported by SCADA systems.<sup>2</sup>

Our colleagues at the Pipeline Hazardous Materials Safety Administration acknowledged the public safety benefits of SCADA when it implemented rules requiring each pipeline to operate and maintain a communication system necessary for safe operation of their systems<sup>3</sup> At a minimum, under the rules, the communications system must: (1) monitor operational data, (2) receive notices from personnel, the public and public authorities of any abnormal/emergency conditions, (3) provide two-way vocal communications between a control center and the scene of any abnormal/emergency situation, and (4) communicate with fire, police, and other appropriate public officials during emergency conditions.<sup>4</sup> These requirements make clear the primary purpose of SCADA systems is to prevent human injury and property damage – not to serve the underlying business needs of oil and gas companies.

Thank you for your attention to this matter. Should you have questions or require additional information, please do not hesitate to contact us.

Sincerely,



David Porter  
Chairman, Railroad Commission of Texas

**cc: Commissioner Clyburn  
Commissioner Pai  
Commissioner Rosenworcel  
Commissioner O'Rielly  
Chief, Wireless Telecommunications Bureau  
Chief, Enforcement Bureau  
Certificate of Service (Attached)**

---

SCADA, smart grid and similar applications would be beneficial to the public, unlike PTC, those other services are not dedicated to communications to prevent human injury and property damage, but are also used for day-to-day facilities management and other purposes that primarily serve the business needs of the licensee." MO&O at ¶36.

<sup>2</sup> 74 Fed. Reg. 63311 (Dec. 3, 2009).

<sup>3</sup> 49 C.F.R. § 195.408(a) (2010).

<sup>4</sup> 49 C.F.R. § 195.408(b) (2010).

## CERTIFICATE OF SERVICE

I, Beverly Harding, hereby certify that on this 17<sup>th</sup> of August, 2015, a copy of the foregoing Letter from David Porter, Chairman of the Texas Railroad Commission was filed with the Commission, served on the parties listed below via First Class U.S. Mail and a courtesy copy was provided via electronic mail.

The Honorable Richard L. Sippel  
Chief Administrative Law Judge  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554  
Richard Sippel [Richard.Sippel@fcc.gov](mailto:Richard.Sippel@fcc.gov)  
Patricia Ducksworth [Patricia.Ducksworth@fcc.gov](mailto:Patricia.Ducksworth@fcc.gov)  
Austin Randazzo [Austin.Randazzo@fcc.gov](mailto:Austin.Randazzo@fcc.gov)

Pamela A. Kane  
Michael Engel  
Enforcement Bureau  
Federal Communications Commission  
445 12th Street, S.W., Room 4-C330  
Washington, DC 20554  
[Pamela.Kane@fcc.gov](mailto:Pamela.Kane@fcc.gov)

Sandra DePriest  
Maritime Communications/Land Mobile LLC  
218 North Lee Street  
Suite 318  
Alexandria, VA 22314

Dennis C. Brown  
8124 Cooke Court  
Suite 201  
Manassas, VA 20109  
[d.c.brown@att.net](mailto:d.c.brown@att.net)  
**Counsel for Maritime Communications/  
Land Mobile LLC**

Jeffrey L. Sheldon  
Levine, Blaszak, Block & Boothby, LLP  
2001 L Street, NW, Suite 900  
Washington, DC 20036  
[sheldon@lb3law.com](mailto:sheldon@lb3law.com)

**Counsel for Puget Sound Energy, Inc**

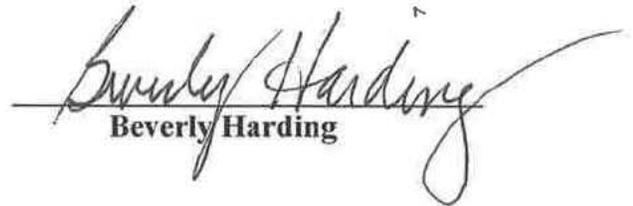
Charles A. Zdebski  
Eckert Seamans Cherin & Mellott, LLC  
171.7 Pennsylvania Avenue, N.W.  
Washington, D.C. 20006  
[czdebski@eckertseamans.com](mailto:czdebski@eckertseamans.com)  
**Counsel for Duquesne Light Co.**

Paul J. Feldman  
Harry F. Cole  
Fletcher, Heald & Hildreth, P.L.C.  
1300 N. 17th Street —11th Floor  
Arlington, VA 22209  
[feldman@fhhlaw.com](mailto:feldman@fhhlaw.com)  
[cole@fhhlaw.com](mailto:cole@fhhlaw.com)  
**Counsel for Southern California Regional  
Rail Authority**

Robert J. Keller  
Law Offices of Robert J. Keller, P.C.  
P.O. Box 33428  
Washington, D.C. 20033  
[rjk@telecomlaw.com](mailto:rjk@telecomlaw.com)  
**Counsel for Maritime Communications/Land  
Mobile LLC**

Robert G Kirk  
Wilkinson Barker Knauer, LLP  
2300 N Street, NW Suite 700  
Washington, DC 20037  
[RKirk@wbklaw.com](mailto:RKirk@wbklaw.com)  
**Counsel for Choctaw Telecommunications,  
LLC and Choctaw Holdings, LLC**

Matthew J. Plache, Esq.  
Law Office of Matthew J. Plache  
5425 Wisconsin Ave.  
Suite 600, PMB 643  
Chevy Chase, MD 20815  
[Matthew.plache@plachelaw.com](mailto:Matthew.plache@plachelaw.com)  
**Counsel for Pinnacle Wireless Corp.**

  
**Beverly Harding**