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May 13, 2009

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VIA ELECTRONIC DELIVERY

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW
Room TWA325
Washington, DC 20554

**Re: Notice of *Ex Parte* Presentation
WT Docket No. 08-256**

Dear Ms. Dortch:

On May 12, 2009, PTC-220, LLC (“PTC-220”) representatives Edwin Kemp (Co-President of PTC-220) and I (counsel to PTC-220) spoke by telephone with David Hu and Lloyd Coward of the FCC’s Wireless Telecommunications Bureau regarding the above-referenced proceeding.

Specifically, we provided background information on PTC-220’s (and its member railroads’) efforts to identify the 220 MHz spectrum band for positive train control use and to work with other railroads and vendors to ensure implementation of this technology using the 220 MHz licenses acquired by PTC-220. In addition, we discussed the feasibility of a narrowly tailored condition, limited in duration, such that PTC-220 would not be able to transfer, assign or partition any of its spectrum licenses that are subject to the waiver to non-railroad entities until either the Federal Railroad Administration (“FRA”) approves the positive train control implementation plans of PTC-220’s member railroads or December 31, 2010, whichever is sooner.¹ We also expressed concern that any limitation of the potential use of the PTC-220

¹ Under Section 104 of the Rail Safety Improvement Act of 2008 (“RSIA”), each Class I railroad and entities providing intercity or commuter rail passenger transportation “shall develop and submit to the Secretary of Transportation a plan for implementing a positive train control system by December 31, 2015” no later than 18 months after the date of enactment of the RSIA [April 16, 2010]. In addition, “[n]ot later than 90 days after the Secretary receives a plan, the Secretary shall review and approve or disapprove it. If the proposed plan is not approved, the Secretary shall notify the affected railroad carrier or other entity as to the specific areas in which the proposed plan is deficient, and the railroad carrier or other entity shall correct all deficiencies within 30 days following receipt of written notice from the Secretary. The Secretary shall annually conduct a review to ensure that the railroad carriers are complying with their plans.” Pub. L. No. 110-432, Section 104 (2008).

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spectrum licenses solely to positive train control would be contrary to the FCC's spectrum policy goals, would prevent several spectrum lease tenants inherited from the previous licensee from continuing their current operations, would unnecessarily limit PTC-220's ability to optimize its use of the licenses to best effectuate positive train control implementation, and would impair the valuation of PTC-220's licenses and unduly jeopardize its financial investment in this resource.

Finally, we discussed the benefits of granting the unopposed pending waiver requests of PTC-220 expeditiously, including the proposed five-year extension of the current build-out requirements, as described in previous filings in this proceeding.

Pursuant to Section 1.1206 of the Commission's rules, this letter is being filed via ECFS with your office.

Respectfully submitted,

/s/ Michele C. Farquhar

Michele C. Farquhar
Counsel to PTC-220, LLC

cc: David Hu
Lloyd Coward