

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FILED/ACCEPTED

MAR 26 2010

Federal Communications Commission  
Office of the Secretary

In the Matter of )  
 )  
Request of Southern California ) File No.  
Regional Rail Authority )  
for Waiver of Certain Part 80 Rules )

To: Chief, Wireless Telecommunications Bureau

**REQUEST FOR WAIVERS**

Southern California Regional Rail Authority ("SCRRA"), pursuant to Sections 1.3 and 1.925 of the Commission's rules, respectfully requests the grant of waivers of certain rules applicable to Automated Maritime Telecommunications System ("AMTS") licenses as part of the instant application for assignment and geographic partitioning of Station WQGF318 (the "License") from Maritime Communications/Land Mobile, LLC ("MC/LM") to SCRRA. SCRRA seeks these waivers so that it can comply with federal law requiring it to deploy a robust, interoperable "positive train control" network designed to monitor train activity, prevent railroad collisions, and enhance public safety. Attached as Exhibit A is a table that lists the rules which SCRRA seeks to be waived, including a brief description of each rule and the reason for the waiver.<sup>1</sup> SCRRA believes that waiver of these provisions would be sufficient to permit SCRRA to operate its proposed system in a manner that is consistent with the requirements of the federal positive train control mandate. However, SCRRA requests the waiver of any additional rule provisions which the Commission may determine to

<sup>1</sup> Specifically, SCRRA seeks waiver of the following rule sections: 80.92(a); 80.102(a); 80.105; 80.123(a),(b),(c), (d),(e),(f) & (g); 80.215(h)(5)(i);80.385(a)(2); 80.475(c); and 80.479(c).

be necessary for the proposed operations.

**I. SCRRA and the Public Safety Requirements of Positive Train Control.**

Formed in 1991, the SCRRA is a Joint Powers Authority, consisting of five county transportation planning agencies: the Los Angeles County Metropolitan Transportation Authority, the Orange County Transportation Authority, the Riverside County Transportation Commission, the San Bernardino Associated Governments and the Ventura County Transportation Commission. SCRRA was formed to develop a regional transit service to reduce the congestion on highways and improve mobility throughout the Southern California region. In October 1992, the Metrolink railroad service was created. Today, in its 17th year of operation, Metrolink provides the people of Southern California a safe, reliable and environmentally friendly commute option. Currently, Metrolink operates seven different train lines<sup>2</sup> serving 55 train stations, and has 512 operating route miles (including shared miles) of track. On an average weekday, Metrolink serves over 40,000 riders and runs 149 trains.

Of course, public safety is the primary concern for any operator of a train system, and robust, reliable, advanced telecommunications is a critical tool for insuring safe operations. Congress recognized this when it enacted the Rail Safety Improvement Act of 2008 (the "Safety Act"), which mandates development and implementation of positive train control ("PTC") on "Class I" and passenger railroads by December 31, 2015.<sup>3</sup> PTC systems use radio frequencies to monitor train activity, prevent train collisions and worker injuries, and enhance public safety. In these systems, radio devices located onboard a train transmit and receive data to and from radio devices installed along the track and at a network operations center. Information is transmitted regarding that train's location and related route data, along with additional information regarding where the train may travel

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<sup>2</sup> The seven lines are the San Bernardino Line, the Riverside Line, the Antelope Valley Line, the Ventura County Line, the Orange County Line, the Inland Empire-Orange County Line, and the 91 Line (Riverside-Fullerton-Downtown L.A.).

<sup>3</sup> See Rail Safety Improvement Act of 2008, Pub. L. No. 110-432, 122 Stat. 4848 (2008).

safely. The integrated onboard system then automatically monitors the train's speed and location with respect to the train's area authorized for travel, also known as "authority." Positive train control systems will manage track congestion and improve safety, in part by supervising and enforcing "movement authorities" and speed limits. They will also continuously monitor and report train diagnostics, issue alarms (for example, broken rails and incorrect switch alignments), and monitor radio transmissions from "wayside" systems, among other functions.<sup>4</sup>

Department of Transportation Secretary Raymond LaHood has emphasized the importance of implementing PTC, calling it "life-saving technology" and stating that the Federal Railroad Authority ("FRA") believes positive train control systems will make "freight, intercity and commuter rail lines safer for the benefit of communities across the country."<sup>5</sup> The Senate Commerce, Science, and Transportation Committee has remarked that "[i]n addition to providing a greater level of safety, PTC systems may also enable a railroad to improve scheduling operations, running time, reliability, asset utilization, and track capacity."<sup>6</sup> The FCC has also recognized the public safety interest in facilitating PTC systems, noting that they have "the capability to dramatically improve railroad safety by preventing train-to-train collisions, enforcing speed limits, and protecting roadway workers working near trains, among other things."<sup>7</sup>

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<sup>4</sup> See, e.g. Federal Railroad Administration, Positive Train Control (PTC), <http://www.fra.dot.gov/us/content/784> (last visited February 23, 2010); see also Letter from Joseph C. Szabo, Administrator, FRA, to Ruth Milkman, Chief, Wireless Telecommunications Bureau, FCC, ULS File Number 0003766889, at 1 (dated Oct. 9. 2009) ("FRA Letter") (supporting several applications by BNSF Railway Company ("BNSF") and SMR Management, Inc. to facilitate positive train control deployments in the 220 MHz band); Letter from Mark Schulze, Vice President - Safety, Training & Operations Support, BNSF, to Ruth Milkman, Chief, Wireless Telecommunications Bureau, FCC, ULS File Number 0003766889, at 1 (dated Oct. 16. 2009) (supporting the same applications).

<sup>5</sup> Department of Transportation, *FRA Issues NPRM on Technology to Prevent Train Collisions*, <http://www.dot.gov/affairs/2009/fra0409.htm> (last visited February 23, 2010).

<sup>6</sup> S. Rep. No. 110-270 at 5 (2008).

<sup>7</sup> See, *Request of PTC-220, LLC for Waivers of Certain 220 MHz Rules*, Memorandum Opinion and Order, 24 FCC Rcd 8537 (2009) at para. 13 ("PTC-220 Waiver Order").

As the FRA has stated, railroads are undertaking a "massive effort," with a "significant investment of manpower and other resources" to deploy PTC systems.<sup>8</sup> SCRRA is subject to the PTC mandate, and it is aggressively pursuing an implementation strategy to meet an earlier deadline of 2012. However, in order to utilize this spectrum in a manner consistent with PTC requirements, SCRRA must obtain waiver of several Part 80 AMTS rules.

## **II. Grant of the Requested Waivers Would Serve the Public Interest.**

### **A. Waiver Standards**

The Commission will grant a waiver request where: (i) the underlying purpose of the rule at issue would not be served or would be frustrated by its application, and a waiver is in the public interest; or (ii) in view of the unique circumstances, application of the rule would be inequitable, unduly burdensome or contrary to the public interest.<sup>9</sup> Waiver is appropriate if special circumstances warrant a deviation from the general rule, and such a deviation will serve the public interest.<sup>10</sup> In addition, the Commission has provided specific guidance to applicants requesting waivers of the Commission's Part 80 rules to use AMTS spectrum for land mobile radio operations.<sup>11</sup> As demonstrated below, the present request for waivers meets these standards.

### **B. There are Unique and Special Circumstances Surrounding SCRRA's Spectrum Requirements to Provide PTC.**

The unique factual circumstances faced by SCRRA justify the limited rule waivers sought

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<sup>8</sup> See FRA Letter, *supra* note 4, at 2.

<sup>9</sup> 47 C.F.R. § 1.925(b)(3); *see also* 47 C.F.R. § 1.3 (stating that the Commission can waive or suspend any portion of its rules "for good cause shown").

<sup>10</sup> *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969)).

<sup>11</sup> *MariTEL, Inc. and Mobex Network Services, LLC Petitions for Rule Making to Amend the Commission's Rules to Provide Additional Flexibility for AMTS And VHF Public Coast Station Licensees*, Report and Order, 22 FCC Rcd 8971 at para. 26 (2007) ("*AMTS Flexibility Order*").

herein, and as a result, strict enforcement of those rules would be inequitable, unduly burdensome, and contrary to the public interest.<sup>12</sup> SCRRA is subject to a federal mandate to implement PTC, and for its PTC system to be interoperable with other railroad carriers. In order to achieve that interoperability, SCRRA must use spectrum that facilitates shared operations with the other major rail operators in Southern California—Union Pacific and BNSF—with whom Metrolink shares tracks. Both Union Pacific and BNSF are members of the PTC-220 consortium,<sup>13</sup> and thus they will use 220 MHz spectrum on their PTC systems with which Metrolink’s PTC system must interoperate. However, Union Pacific and BNSF have informed Metrolink that there likely will not be sufficient capacity on the PTC-220 spectrum in Southern California to accommodate Metrolink’s operations. It is therefore necessary for SCRRA to obtain enough suitable spectrum in the working range of the 220 MHz band in order to implement an interoperable PTC system as required. SCRRA has conducted extensive spectrum research and has engaged engineers and other technical consultants in order to identify appropriate frequencies on which to deploy its PTC system, and found that the only viable option was to purchase a partitioned portion of an existing AMTS geographic-area license.<sup>14</sup>

**C. Grant of the Requested Waivers Would Serve the Public Interest  
And Be Consistent With Commission Precedent.**

SCRRA requests the waiver of the rules listed in Exhibit A. The majority of these rules are

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<sup>12</sup> 47 C.F.R. § 1.925(b)(3)(ii).

<sup>13</sup> PTC-220, LLC is the licensee for a number of nationwide and regional licenses in the 220 MHz band, to be used for PTC operations.

<sup>14</sup> V/ETMS, the version of PTC that Metrolink must implement in order to interoperate with Union Pacific and BNSF railroads, requires a block of several hundred megahertz of spectrum within this range in the railroad’s operating territory. The only services within 217-222 MHz known to have enough spectrum available to support this need are AMTS, IVDS, and the 220 MHz band (with the license held by PTC-220 LLC). PTC-220 LLC will only have enough spectrum to meet its own needs in congested areas such as Los Angeles, where a large number of freight trains operate. Thus, PTC-220 will likely not have enough additional spectrum to also support a high density commuter operation such as Metrolink. IVDS has a more stringent (4 watt) mobile transmit power limitation than AMTS, and furthermore, IVDS spectrum in the Los Angeles area does not appear to be available for sale at this time.

irrelevant in connection with the provision of PTC service, which must be operated on an exclusive-use, private land mobile basis, and could not possibly provide service to maritime traffic.

Transmissions from other users would create interference to the PTC system, which could cause significant problems. At very least, such interference from other users could result in unplanned and repeated stops to PTC-equipped trains, as the PTC system interprets the lack of its own signal reception as a lack of movement authority.

Many of the rule sections for which waiver is sought require the AMTS licensee to communicate with ship stations and give priority to marine communications, which as noted above is not feasible with the provision of PTC.<sup>15</sup> Other rule provisions for which waiver is sought would apply burdensome administrative procedures to the communications that are inconsistent with, and unnecessary for, operation of an exclusive use, land-based PLMR system.<sup>16</sup> Other rules establish operational standards that are not needed for a private, internal-use only system,<sup>17</sup> or are inapplicable to

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<sup>15</sup> See §§ 80.105, 80.123(b) and (g), 80.475 (c). With regards to the requirement in Section 80.475(c) that services be provided to ship stations in emergencies without prior arrangements, SCRRA notes that, in contrast to VHF radios which are widely available from electronic retailers, SCRRA's trunked radio equipment would not be able to "see" a particular ship radio unless it had been pre-programmed into the SCRRA network.

<sup>16</sup> Specifically, Section 80.123(a) requires "public coast stations" to give an authorization letter to associated "land stations"; Section 80.123(c) requires "land stations" to be identified with their associated "public coast station" call sign; and Section 80.123(d) requires equipment used on land to operate only on authorized public correspondence channels. Section 80.479(c) allows mobile-to-mobile communications only if consent is obtained from "all affected licensees." There are no mobile-to-mobile communications in the V/EMTS PTC system.

<sup>17</sup> See §§ 80.102(a), 80.123(f). In regards to the station ID requirement in Section 80.102(a), the Commission has in the past granted waivers of the station identification rule in cases where there is a single licensee operating on particular channels in a Commission-defined service area, and where the licensee "can be readily identified based on service area information contained in the Commission's licensing records and other publicly available sources." See, *Implementation of Sections 3(n) and 332 of the Communications Act*, Third Report and Order, 9 FCC Rcd 7988, 8092 at paras. 216-17 (1994); *Implementation of Sections 3(n) and 332 of the Communications Act*, Memorandum Opinion and Order on Reconsideration, 15 FCC Rcd 6341, 6346-47 at paras. 13-14 (2000). More recently, the Commission eliminated the station identification requirement for all geographic area VHF public coast station ("VPC") operations. In doing so, the Commission noted that "[e]limination of this requirement will not compromise the ability of the Commission or the [US Coast Guard] to identify transmissions from geographic area VPC stations, and should not engender confusion among the licensees' customers." See, *Amendment of Parts 13 and 80 of the Commission's Rules Concerning Maritime Communications; Petition for Rule Making Filed by Globe Wireless, Inc.; Amendment of the Commission's Rules Concerning Maritime Communications*, Second Report and Order, Sixth Report and Order and Second Further Notice of Proposed Rulemaking, 19 FCC Rcd 3120, 3157 at para. 72 (2004). Most recently, the Commission granted such a waiver in connection with the provision of PTC service. See,

TDMA systems such as that proposed by SCRRRA here.<sup>18</sup> Therefore, the purpose underlying these rules—*i.e.*, ensuring appropriate access by ship stations to maritime communications systems and protecting other users of these frequencies—would not be undermined in a situation where the spectrum will instead be used to help operate PTC, rather to provide a maritime communications system. Furthermore, the public interest will be served by facilitating the provision of PTC in Southern California: Section 90.7 of the Commission’s rules recognizes railroads as a critical infrastructure industry where radio communications is used to protect safety of life, health and property, and Congress has determined that the use of PTC is a mandatory part of that public safety mission. In addition, in light of the unique circumstances in this case (as set forth in Section II.B above), denial of waiver of these rules would be contrary to the public interest in fulfilling SCRRRA’s federal mandate to provide PTC.<sup>19</sup>

PTC systems require very reliable, frequent communication of movement authority messages to trains in order for the trains to be permitted to move. If PTC radio communications are not robust

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*PTC-220 Waiver Order, supra* note 7, at para. 18. Similar treatment should be afforded to SCRRRA here: as in the case of the VPC and PTC-220 licenses, to the extent that interference occurs and is not identified as a site-specific licensee, it can be assumed that the geographic area licensee is the source. The identity of the geographic area licensee can then be determined by consulting the Commission’s licensing database and other publicly available sources. Thus, the underlying purpose of the station identification rule would not be undermined by waiving its application to SCRRRA’s A Block license, as another licensee could, with little effort, determine whether SCRRRA’s operations are the source of any interference in the band.

<sup>18</sup> See Section 80.92(a). This rule, adopted before establishment of AMTS, requires the station operator to determine that the frequency is not in use before transmitting. Because the rule seems to contemplate only a manual system, SCRRRA seeks a clarification that the rule does not apply to automated systems such as AMTS. In the alternative, SCRRRA seeks a waiver to permit the operation of its planned TDMA radio system. The reason for the efficient performance of TDMA systems is that timeslots are reserved and assigned to individual users on a repeating basis, so there is no time lost listening first and no contention (message collisions) that can waste a significant amount of channel capacity. Accordingly, the requirements of Section 80.92(a) are inconsistent and unnecessary with the operation of TDMA systems. Furthermore, because PTC systems must be operated on an exclusive use basis, there is no reason to listen first for nonexistent other transmitters.

<sup>19</sup> In light of the fact that there do not appear to be any other spectrum alternatives for SCRRRA to fulfill the federal mandate to provide PTC and that waivers are required to operate in a manner consistent with the requirements for PTC, grant of the requested waivers will not only serve the public interest, it will also serve the public “necessity,” as set forth in Section 310(d) of the Communications Act, 47 U.S.C. § 310(d).

(error-free), movement authority messages will not always be successfully communicated and when they are not, trains will be stopped. Because of this, PTC systems require much more robust and timely radio communications than encountered in other wireless mobile systems. To obtain robust and dependable PTC coverage capabilities in SCRRA's operating territory and consistent with PTC's public safety purpose, waivers of certain Part 80 power and antenna height rules are thus necessary. Specifically, SCRRA requests a waiver of Section 80.215(h)(5)(i), which limits ship station transmitter output to 25 watts, with an ERP not exceeding 18 watts. Higher power will be needed for mobile and fixed transmitters in order to ensure the reliability critical to PTC operations. SCRRA's engineering analysis shows that it requires a limit of: a) 75 watts for fixed terminal base radios, b) 50 watts for train-mounted and other mobile units, and c) 30 watts for fixed wayside units. Similarly, SCRRA will also require a waiver of Section 80.123(e)'s 6.1 meter antenna height limit. SCRRA anticipates a need for fixed base stations at up to 100 feet and fixed wayside stations at up to 50 feet.

The above-referenced power and antenna waivers are needed because the operation of PTC requires robust, dependable coverage that can only be obtained from certain minimum power and antenna height parameters. In addition, the power and antenna height rules in Part 80 were established with the expectation that the relevant topography for the maritime services would generally be flat and unimpeded, as is typically the case near oceans and rivers. By contrast, SCRRA's operating territory contains many mountains and canyons, which attenuate radio signals. These factors of difficult terrain and the operational requirements of PTC constitute unique circumstances which warrant a deviation from the Part 80 rules. Because it would be prohibitively expensive to build a sufficient number of additional base stations to compensate for these circumstances, application of the Part 80 rules would be unduly burdensome. In addition, in light of the unique circumstances in this case, denial of these waiver requests would block SCRRA from

providing PTC, which would be contrary to the public interest.

Lastly, in order to provide PTC service, SCRRA will need a waiver of Section 80.385(a)(2) of the Commission's rules, which provides that "coast" (base) stations are only allowed to transmit on the lower half of the AMTS A-block (217.5-218 MHz) and "ship" stations (mobiles) only on the upper half (219.5-220 MHz). However, since PTC will use TDM communications for transmit/receive separation (as well as for multiple access), it is absolutely necessary to allow all 3 types of PTC nodes (mobiles, base, and wayside) to transmit on both frequency sub-blocks. Thus, in light of the unique circumstances in this case (as set forth in Section II.B above), denial of the waiver of this rule would be contrary to the public interest in fulfilling SCRRA's federal mandate to provide PTC. Indeed, the Commission has recently granted a request to waive similar Part 90 base/mobile configuration requirements in order to facilitate the provision of PTC.<sup>20</sup>

**D. Grant of the Waivers Will Not Harm Maritime Users, AMTS Licensees, or Broadcasters.**

As shown above, grant of the requested waivers will service the public interest in improved passenger railroad safety by facilitating the prompt provision of PTC. Furthermore, grant of the requests will not harm other interested parties—maritime users, AMTS licensees or television broadcasters.

*1. Maritime Users*

SCRRA recognizes that the original purpose of the AMTS spectrum was to provide service to maritime users. However, repurposing this limited amount of spectrum to non-maritime use will not harm maritime users in southern California, as there are many other licensees operating in that area that can serve them.

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<sup>20</sup> *PTC-220 Waiver Order*, *supra* note 7, at para. 18. See also, *Application for Consent to the Assignment of a Five-Channel 220 MHz Nationwide License to the Association of American Railroads*, Order, 18 FCC Rcd 24711 (2003) at para. 9.

For example, Applicants believe that MarITEL Southern Pacific, Inc. provides VHF service from station WPOC536, serving VPC006. AT&T California provides VHF Public Coast service at Avalon in Los Angeles County (Station KMB393) and San Diego in San Diego County (Station KMB394). At Marina Del Rey in Los Angeles County, Shipcom, LLC offers High Frequency (HF) and VHF service using call sign KNN. Providing an innovative service, Sailmail Association uses a combination of HF (Station WQAB964) and satellite service to transmit e-mail correspondence to and from its members.<sup>21</sup>

In addition, in many of the counties<sup>22</sup> of the partitioned area, at least one public safety agency operates a VHF coast station that SCRRA believes monitors the Channel 16 maritime distress frequency:<sup>23</sup>

Los Angeles County

State of California:

KXJ749 Long Beach

County of Los Angeles:

KZJ347 Los Angeles

KWS614 Hermosa Beach

KWS618 Malibu

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<sup>21</sup> In addition, the requested waiver will not displace regular maritime communications, as MC/LM currently has no maritime customers on its Southern California spectrum.

<sup>22</sup> San Bernardino County contains no seacoast or navigable waterways.

<sup>23</sup> The public does not rely on AMTS either to maintain a watch on Channel 16 (156.800 MHz) or to respond to calls on Channel 16, *see* 47 C.F.R. § 80.303. The United States Coast Guard (“USCG”) and other licensed stations maintain a watch on 156.800 MHz in this area. Applicants provided a copy of this application to the USCG before it was filed and the Applicants have been authorized to state that the USCG has no objection to the instant application.

City of Avalon:

WRO555 Avalon

City of Long Beach:

WHU336 Long Beach

WHU733 Long Beach

WHU764 Long Beach

WQA280 Long Beach

City of Los Angeles:

KEB260 Rancho Palos Verdes

WQB416 San Pedro

WQB417 Terminal Island

WQB418 Wilmington

WQB419 San Pedro

WQB595 San Pedro

WQZ357 San Pedro

WXF617 Playa Del Rey

WXH947 Long Beach

City of Redondo Beach:

KWB433 Redondo Beach

Orange County

Orange County:

KTD440 Dana Point

KTD441 Sunset Beach

San Diego County

State of California:

KMC300 Mission Bay

City of San Diego:

KIC758 San Diego

WHH325 San Diego

San Diego Unified Port District

WRS941

Ventura County

State of California:

WHF832 Ventura

Ventura County:

WQZ323 Oxnard

Oxnard Harbor District:

WQE616 Point Hueneme

In addition to service from the above stations authorized for maritime use, as the Commission well knows, maritime users increasingly rely on cellular and satellite telephone service for their communications needs. It is a matter of record that the coastal area of the partitioned service area proposed in this application is well served by numerous cellular and satellite operators.

*2. AMTS Licensees*

Grant of the waiver requests will not harm other AMTS licensees. First, in regards to the un-partitioned portion of the AMTS A-Band license at issue, SCRRA and MC/LM, the assignor

and licensee of the geographic area to be partitioned and the surrounding areas, have worked closely together to ensure that operations under the existing and partitioned licenses will be compatible and will not interfere with the availability of maritime or other services to the public. SCRRA's signal strength will be limited to 38 dBu at the border with MC/LM's license area, in compliance with § 80.479(b). There is only one site-based AMTS license falling within 120 kilometers<sup>24</sup> of SCRRA's planned sites—Station KAE889. That station is licensed to MC/LM, and, pursuant to the Purchase Agreement between assignor and assignee herein, operations at that station will be terminated and the license surrendered prior to closing on the assignment at issue here. Accordingly, no interference will be created for Station KAE889. In regards to the Pacific B-Block AMTS license, it should be noted that that license is a totally separate (non-overlapping) block of spectrum. If both parties (the A and B-Block licensees) adhere to FCC transmission mask requirements, there should be no interference in either direction. Lastly, in regards to the Mountain A-Block AMTS license, SCRRA believes that the limited number of Pacific A-Block transmitter locations, their likely great distance from any Mountain A-Block sites, and the mountainous terrain in the border area, should greatly limit the likelihood of interference. Accordingly, SCRRA does not anticipate any problem complying with the requirement in Section 80.479(b) not to exceed a 38 dBu field strength at the border with the Mountain A-Block license.<sup>25</sup>

### *3. Television Channels 10/13*

Grant of the waiver requests will not harm the TV Channel 13 broadcaster (Station KCOP, Los Angeles) or TV Channel 10 (Station KGTV, San Diego) in or near the AMTS service area, either. SCRRA understands the need to limit any harmful interference to TV

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<sup>24</sup> See § 80.385(b) (establishing protection criteria for any incumbent licensees within 120 kilometers).

<sup>25</sup> Nevertheless, if the Commission believes it appropriate or necessary, SCRRA would be willing to provide 30 day prior notification of commencement of operations to the Mountain A-Block licensee. See, *PTC-220 Waiver Order*, *supra* note 7, at para. 19.

reception, and, in accordance with Section 80.215(h)(2), a TV channel 10/13 interference mitigation plan will be filed in conjunction with future license modification applications which seek authority for specific station sites to be located within the partitioned license area.

In sum, improving the safety of passenger rail operations by grant of the instant application and waivers will not adversely affect the safety of the maritime public or harm AMTS licensees or TV broadcasters.

**E. Grant of the Waivers Will Promote Spectrum Efficiency.**

Grant of the requested waivers will also advance the Commission's spectrum efficiency and flexible use goals, as well as encourage intensive use of the AMTS spectrum. In streamlining the AMTS service rules, the Commission noted that the rule changes would "promote more efficient use of maritime spectrum...."<sup>26</sup> When it afforded AMTS licensees additional operational flexibility to provide service to units on land in 2007, the Commission also stated that its actions would "facilitate more efficient use of VPC and AMTS spectrum; and provide an additional means to meet growing demand for spectrum by PLMR licensees and end users, including public safety and critical infrastructure industry (CII) entities."<sup>27</sup> Grant of the requested waivers would advance these important public policy goals.

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<sup>26</sup> *Amendment of the Commission's Rules Concerning Maritime Communications*, Second Memorandum Opinion and Order and Fifth Report and Order, 17 FCC Rcd 6685 (2002) at para. 2.

<sup>27</sup> *AMTS Flexibility Order*, *supra* note 11, at para. 1.

### **III. Conclusion**

As demonstrated above, grant of the requested waivers would serve the public interest, and would not harm other users. Accordingly, SCRRA respectfully requests that the Commission grant the waiver requests made herein.

Respectfully submitted,

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Counsel to Southern California  
Regional Rail Authority

March 8, 2010

### Part 80 AMTS Rule Waivers Requested

Rule Section	Subject Matter at Issue	Explanation
80.92(a)	Prevention of Interference (must determine that frequency is not in use before transmitting)	This rule is inconsistent with the operation of a Time Division Multiplex (TDM) communication system where transmission of mobile radios is managed by base station.
80. 102(a)	Radiotelephone Station Identification (ID required at the beginning and end of each communication, and every 15 mins. for sustained communications)	Transmission at the beginning and end of each communication is unnecessary for an exclusive, internal-use only system.
80.105	General Obligations of Coast Stations (must receive calls from ship or aircraft)	Rule requirement is not consistent with the operation of a PTC system.
80.123	Service to Stations On Land	
(a)	Special administrative requirement for land stations.	Rule requirement is not consistent with the operation of PTC.
(b)	Must give priority to marine communications.	Rule requirement is not consistent with the operation of PTC.
(c)	Land unit identification requirements	Mobile radios will travel between, and be associated with, multiple base stations. Thus, rule requirement is not consistent with operation of PTC
(d)	Operations restricted "public correspondence channels"	Rule requirement is inconsistent with the operation of PTC.
(e)	Transmitter power & antenna height limitations (antenna height limited to 6.1 meters)	Need 100 foot fixed base station antenna height and 50 foot fixed wayside height for coverage purposes.
(f)	Land stations may only communicate with public coast stations.	Rule requirement not consistent with the operation of PTC.
(g)	Land station must cease operation upon notice of interference to marine communications.	Rule requirement is not consistent with operation of PTC.

80.215(h)(5)(i)	Transmitter Power (ship station transmitter output limited 25 watts with an ERP not exceeding 18 watts)	Higher power needed for mobile and fixed units to ensure reliability critical to PTC. Seek base radios power at terminals of 75 watts, train/mobiles 50 watts, wayside 30 watts
80.385 (a)(2)	"Coast" (base) stations are only allowed to transmit on the lower half of the AMTS A-block (217.5-218 MHz) and "ship" stations (mobiles) only on the upper half (219.5-220 MHz).	Since PTC will use TDM communications for transmit/receive separation (as well as for multiple access), it is absolutely necessary to allow all 3 types of PTC nodes (mobiles, base, and wayside) to transmit on both sub-blocks.
80.475(c)	Scope of Service of AMTS (Private mobile service may be provided only to licensees who have made cooperative arrangements with the AMTS licensee. Services must be provided to ship stations in emergencies without prior arrangements.)	Waiver is appropriate because system must be limited to PTC use. Service to ship stations is not consistent with the operation of PTC system.
80.479(c)	Assignment and Use of Frequencies For AMTS (Need written consent from "all affected" licensees for mobile-to-mobile communications).	Rule requirement appears to be inconsistent with the operation of PTC.



Submitted: 03/11/2010 at 11:08:57

File Number: 0004144435

**FCC 603**      **FCC Application for Assignments of Authorization and Transfers of Control:**  
**Main Form**      **Wireless Telecommunications Bureau**  
**Public Safety and Homeland Security Bureau**

Approved by OMB  
 3060 - 0800  
 See instructions for  
 public burden estimate

**General Information**

1) Application Purpose (Select only one) ( AA )	
<b>AA</b> - Assignment of Authorization <b>AM</b> - Amendment <b>TC</b> - Transfer of Control <b>WD</b> - Withdrawal	<b>NT</b> - Required Notification (For Consummation of an Assignment or Transfer) <b>EX</b> - Request for Extension of Time (To Consummate an Assignment or Transfer)
2) If this application is for an Amendment (AM) or Withdrawal (WD), enter the File Number of the pending or consented to application currently on file with the FCC.	File Number:
3a) Is this application for Assignment of Authorization or Transfer of Control part of a series of applications involving other wireless license(s) held by the licensee, affiliates of the licensee (e.g., parents, subsidiaries, or commonly-controlled entities), or third parties that are not included on this application and for which Commission approval or notification is required?	( N ) <u>Yes</u> <b>No</b>
3b) If the answer to 3a is 'Y', provide the File Number of the lead application.	File Number:
3c) Does this application for Assignment of Authorization or Transfer of Control involve the assignment or transfer of non-wireless licenses/authorizations for which Commission approval or notification is required?	( N ) <u>Yes</u> <b>No</b>
4) Are attachments being filed with this application?	( Y ) <u>Yes</u> <b>No</b>

**Fees and Waivers**

5a) Is the applicant exempt from FCC application fees? If 'Y', attach an exhibit justifying how the applicant is exempt from FCC application fees.	( N ) <u>Yes</u> <b>No</b>
5b) Is a waiver/deferral of the FCC application fees being requested and the application fees are not being submitted in conjunction with this application? If 'Y', attach a date-stamped copy of the request for waiver/deferral of the FCC application fees.	( N ) <u>Yes</u> <b>No</b>
6a) Does this application include a request for waiver of the Commission's rules (other than a request for application fee waivers)? If 'Y', attach an exhibit specifying the rule section(s) for which a waiver is being requested and including a justification for the waiver request.	( Y ) <u>Yes</u> <b>No</b>
6b) If 6a is 'Y', enter the number of rule sections involved.	Number of Rule Sections: <u>8</u>

**Additional Transaction Information**

7) Has this application for Assignment of Authorization or Transfer of Control already occurred?	( N ) <u>Yes</u> <b>No</b>
8a) The Assignment of Authorization or Transfer of Control is:	( X ) Voluntary    ( ) Involuntary
8b) If 8a is 'Involuntary', provide the date that the event occurred:	(MM/DD/YYYY)    /    /
9a) Is this application a <i>pro forma</i> Assignment of Authorization or Transfer of Control?	( N ) <u>Yes</u> <b>No</b>
9b) If 9a is 'Y', is this a post notification that is being filed under the Commission's forbearance procedures pursuant to Section 1.948(c)(1) of the Commission's Rules?	( ) <u>Yes</u> <b>No</b>
9c) If 9b is 'Y', provide the consummation date of the Assignment of Authorization or Transfer of Control.	(MM/DD/YYYY)    /    /
10a) Does this application involve the partitioning and/or disaggregation of geographic-area licenses? If 'Y', complete Schedule B and, if applicable, Schedule C.	( Y ) <u>Yes</u> <b>No</b>
10b) If 10a is 'N', does this application involve the partial assignment of site-based licenses?	( ) <u>Yes</u> <b>No</b>

11) How will/has the Assignment of Authorization or Transfer of Control be/been accomplished? Select One: ( S )

Sale or other assignment of assets                       Court order                       Reorganization or liquidation

Transfer of stock or other ownership interests

Other (voting trust agreement, management contract, etc.): \_\_\_\_\_

**Designated Entity Information** (If 12a, 12b or 12c is 'Y', Schedule A is required to be completed.)

12a) Does this application for Assignment of Authorization or Transfer of Control involve any licenses that were originally awarded with bidding credits within the last five years?	( <input checked="" type="checkbox"/> ) <b>Yes</b> <b>No</b>
12b) Does this application for Assignment of Authorization or Transfer of Control involve any licenses that were originally subject to the Commission's installment payment plan?	( <input type="checkbox"/> ) <b>Yes</b> <b>No</b>
12c) Does this application for Assignment of Authorization or Transfer of Control involve any licenses that were originally granted pursuant to closed bidding within the last five years?	( <input type="checkbox"/> ) <b>Yes</b> <b>No</b>

**Competition-Related Information**

13) Does this application for Assignment of Authorization or Transfer of Control involve a license(s) that may be used for interconnected mobile voice and/or data services that would, if assigned or transferred, create a geographic overlap with another license(s) in which the Assignee/Transferee already holds direct or indirect interests (of 10 percent or more), either as a licensee or spectrum lessee/sublessee, and that also could be used to provide interconnected mobile voice and/or data services?	( <input type="checkbox"/> ) <b>Yes</b> <b>No</b>
14a) Does the Assignee/Transferee hold direct or indirect interests (of 10 percent or more) in any entity that already has access to 10 MHz or more spectrum in the Cellular Radiotelephone, broadband PCS, or Specialized Mobile Radio (SMR) services through license(s), lease(s), or sublease(s) in the same geographic area?	( <input type="checkbox"/> ) <b>Yes</b> <b>No</b>
14b) Would/does this application for Assignment of Authorization or Transfer of Control reduce the number of entities providing service (using spectrum in any of the three services listed in item 14a) in the affected market(s)?	( <input type="checkbox"/> ) <b>Yes</b> <b>No</b>

**Broadband Radio Service and Educational Broadband Service Information**

15a) Will the requested facilities be used to provide multichannel video programming?	( <input type="checkbox"/> ) <b>Yes</b> <b>No</b>
15b) If 15a is 'Y', does the Assignee/Transferee operate, control or have attributable interest (as defined in Section 27.1202 of the Commission's Rules) in a cable television system whose franchise area is located within the geographic area of the requested facilities?  If 'Y', provide an exhibit explaining how the Assignee/Transferee complies with Section 27.1202 of the Commission's Rules or justifying a waiver of that rule. If a waiver of the Commission's Rule(s) is being requested, 6a must be answered 'Y'.	( <input type="checkbox"/> ) <b>Yes</b> <b>No</b>
16) Does the Assignee/Transferee comply with the programming requirements contained in Section 27.1203 of the Commission's Rules?  If 'N', provide an exhibit explaining how the Assignee/Transferee complies with Section 27.1203 of the Commission's Rules or justifying a waiver of that rule. If a waiver of the Commission's Rule(s) is being requested, 6a must be answered 'Y'.	( <input type="checkbox"/> ) <b>Yes</b> <b>No</b>

**Assignor/Licensee Information**

17) Assignor/Licensee is a(n): (Select One)			
<input type="checkbox"/> Individual	<input type="checkbox"/> Unincorporated Association	<input type="checkbox"/> Trust	<input type="checkbox"/> Government Entity
<input type="checkbox"/> Corporation	<input checked="" type="checkbox"/> Limited Liability Company		
<input type="checkbox"/> General Partnership	<input type="checkbox"/> Limited Partnership	<input type="checkbox"/> Limited Liability Partnership	<input type="checkbox"/> Consortium
<input type="checkbox"/> Other: _____			
18) FCC Registration Number (FRN): 0013587779			
19) First Name (if individual):	MI:	Last Name:	Suffix:
20) Legal Entity Name (if not an individual): Maritime Communications/Land Mobile, LLC			
21) Attention To: Sandra M. DePriest			
22) P.O. Box:	<b>And /Or</b>	23) Street Address: 206 North 8th Street	
24) City: Columbus		25) State: MS	26) Zip Code: 39701
27) Telephone Number: (662)328-0504		28) Fax Number:	
29) E-Mail Address:			

**30) Demographics of Assignor/Licensee (Optional):**

<b>Race:</b> <input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African-American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> White	<b>Ethnicity:</b> <input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latino	<b>Gender:</b> <input type="checkbox"/> Male <input type="checkbox"/> Female
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**Assignor/Licensee Contact Representative**

31) First Name: Dennis	MI: C	Last Name: Brown	Suffix:
32) Company Name: Dennis C Brown			
33) Attention To:			
34) P.O. Box:	<b>And /Or</b>	35) Street Address: 8124 Cooke Court, Suite 201	
36) City: Manassas		37) State: VA	38) Zip Code: 20109-7406
39) Telephone Number: (703)365-9437		40) Fax Number: (703)365-9456	
41) E-Mail Address: d.c.brown@att.net			

**Transferor Information** (for Transfers of Control only)

42) Transferor is a(n): (Select One)			
<input type="checkbox"/> Individual	<input type="checkbox"/> Unincorporated Association	<input type="checkbox"/> Trust	<input type="checkbox"/> Government Entity
<input type="checkbox"/> Corporation	<input type="checkbox"/> Limited Liability Company	<input type="checkbox"/> General Partnership	<input type="checkbox"/> Limited Partnership
<input type="checkbox"/> Limited Liability Partnership	<input type="checkbox"/> Consortium	<input type="checkbox"/> Other: _____	
43) FCC Registration Number (FRN):			
44) First Name (if individual):	MI:	Last Name:	Suffix:
45) Legal Entity Name (if not an individual):			
46) Attention To:			
47) P.O. Box:	<b>And /Or</b>	48) Street Address:	
49) City:		50) State:	51) Zip Code:
52) Telephone Number:		53) Fax Number:	
54) E-Mail Address:			

**55) Demographics of Transferor (Optional):**

<b>Race:</b> <input type="checkbox"/> American Indian or Alaska Native  <input type="checkbox"/> Asian  <input type="checkbox"/> Black or African-American  <input type="checkbox"/> Native Hawaiian or Other Pacific Islander  <input type="checkbox"/> White	<b>Ethnicity:</b> <input type="checkbox"/> Hispanic or Latino  <input type="checkbox"/> Not Hispanic or Latino	<b>Gender:</b> <input type="checkbox"/> Male  <input type="checkbox"/> Female
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**Transferor Contact Representative**

56) First Name:	MI:	Last Name:	Suffix:
57) Company Name:			
58) Attention To:			
59) P.O. Box:	<b>And /Or</b>	60) Street Address:	
61) City:		62) State:	63) Zip Code:
64) Telephone Number:		65) Fax Number:	
66) E-Mail Address:			

**Assignee/Transferee Information**

67) Assignee/Transferee is a(n): (Select One)

- Individual   
 Unincorporated Association   
 Trust   
 Government Entity   
 Corporation   
 Limited Liability Company  
 General Partnership   
 Limited Partnership   
 Limited Liability Partnership   
 Consortium  
 Other: \_\_\_\_\_

68) FCC Registration Number (FRN): 0001531623

69) First Name (if individual):	MI:	Last Name:	Suffix:
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70) Legal Entity Name (if not an individual): Southern California Regional Rail Authority

71) Attention To: Darrell Maxey

72) Real Party in Interest FCC Registration Number (FRN): 0001531623

73) Name of Real Party in Interest: Southern California Regional Rail Authority

74) P.O. Box:	<b>And /Or</b>	75) Street Address: 700 S. Flower St. Suite 2600
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76) City: Los Angeles	77) State: CA	78) Zip Code: 90017
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79) Telephone Number: (213)452-0250	80) Fax Number:
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81) E-Mail Address: maxeyd@scrra.net

**82) Demographics of Assignee/Transferee (Optional):**

<b>Race:</b> <input type="checkbox"/> American Indian or Alaska Native <input type="checkbox"/> Asian <input type="checkbox"/> Black or African-American <input type="checkbox"/> Native Hawaiian or Other Pacific Islander <input type="checkbox"/> White	<b>Ethnicity:</b> <input type="checkbox"/> Hispanic or Latino <input type="checkbox"/> Not Hispanic or Latino	<b>Gender:</b> <input type="checkbox"/> Male <input type="checkbox"/> Female
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**Assignee/Transferee Contact Representative (if other than Assignee/Transferee)**

83) First Name: Paul	MI: J	Last Name: Feldman	Suffix:
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84) Company Name: Fletcher Heald &amp; Hildreth

85) Attention To:

86) P.O. Box:	<b>And /Or</b>	87) Street Address: 1300 N. 17th St. 11th Fl.
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88) City: Arlington	89) State: VA	90) Zip Code: 22209
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91) Telephone Number: (703)812-0403	92) Fax Number:
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93) E-Mail Address: feldman@fhhlaw.com

**Ownership Disclosure Information**

94a) Is the Assignee/Transferee required to file FCC Form 602, Ownership Disclosure Information for the Wireless Telecommunications Services?	( <input type="radio"/> N ) <input checked="" type="radio"/> Yes <input type="radio"/> No
94b) If 94a is 'Y', provide the File Number of the FCC Form 602 that is required to be submitted in conjunction with this application or already on file with the FCC.	File Number: _____

**Alien Ownership Information**

95) Is the Assignee/Transferee a foreign government or the representative of any foreign government?	( <input type="radio"/> N ) <input checked="" type="radio"/> Yes <input type="radio"/> No
96) Is the Assignee/Transferee an alien or the representative of an alien?	( <input type="radio"/> N ) <input checked="" type="radio"/> Yes <input type="radio"/> No
97) Is the Assignee/Transferee a corporation organized under the laws of any foreign government?	( <input type="radio"/> N ) <input checked="" type="radio"/> Yes <input type="radio"/> No
98) Is the Assignee/Transferee a corporation of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country?	( <input type="radio"/> N ) <input checked="" type="radio"/> Yes <input type="radio"/> No
99a) Is the Assignee/Transferee directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country?	( <input type="radio"/> N ) <input checked="" type="radio"/> Yes <input type="radio"/> No
99b) If 99a is 'Y', has the Assignee/Transferee received a ruling(s) under Section 310(b)(4) of the Communications Act with respect to the same radio service(s) and geographic coverage area(s) involved in this application?  If 99b is 'N', attach a date-stamped copy of a request for a foreign ownership ruling pursuant to Section 310(b)(4) of the Communications Act.	( <input type="radio"/> ) <input checked="" type="radio"/> Yes <input type="radio"/> No

**Basic Qualification Information**

100) Has the Assignee/Transferee or any party to this application had any FCC station authorization, license or construction permit revoked or had any application for an initial, modification or renewal of FCC station authorization, license, or construction permit denied by the Commission?	( <input type="radio"/> N ) <input checked="" type="radio"/> Yes <input type="radio"/> No
101) Has the Assignee/Transferee or any party to this application, or any party directly or indirectly controlling the Assignee/Transferee ever been convicted of a felony by any state or federal court?	( <input type="radio"/> N ) <input checked="" type="radio"/> Yes <input type="radio"/> No
102) Has any court finally adjudged the Assignee/Transferee, or any party directly or indirectly controlling the Assignee/Transferee guilty of unlawfully monopolizing or attempting unlawfully to monopolize radio communication, directly or indirectly, through control of manufacture or sale of radio apparatus, exclusive traffic arrangement, or any other means or unfair methods of competition?	( <input type="radio"/> N ) <input checked="" type="radio"/> Yes <input type="radio"/> No

**Assignor/Transferor Certification Statements**

- 1) The Assignor/Transferor certifies either that (1) the authorization will not be assigned or that control of the license(s) will not be transferred until the consent of the Federal Communications Commission has been given, or (2) prior Commission consent is not required because the transaction is subject to streamlined notification procedures for *pro forma* assignments and transfers by telecommunications carriers. See Section 1.948(c) (1) of the Commission's Rules.
- 2) The Assignor/Transferor certifies that all statements made in this application and in the exhibits, attachments, or documents incorporated by reference are material, are part of this application, and are true, complete, correct, and made in good faith.
- 3) The Assignor/Transferor certifies that it is not in default on any payment for Commission licenses and that it is not delinquent on any non-tax debt owed to any federal agency.

**Typed or Printed Name of Party Authorized to Sign**

103) First Name: John	MI: S	Last Name: Reardon	Suffix:
104) Title: Authorized Employee			
Signature: John S Reardon			105) Date: 03/11/2010

**FAILURE TO SIGN THIS APPLICATION MAY RESULT IN DISMISSAL OF THE APPLICATION AND FORFEITURE OF ANY FEES PAID. WILLFUL FALSE STATEMENTS MADE ON THIS FORM OR ANY ATTACHMENTS ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. Code, Title 18, Section 1001) AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. Code, Title 47, Section 312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title 47, Section 503).**

**Assignee/Transferee Certification Statements**

1)	The Assignee/Transferee certifies either that (1) the authorization(s) will not be assigned or that control of the license(s) will not be transferred until the consent of the Federal Communications Commission has been given, or (2) prior Commission consent is not required because the transaction is subject to streamlined notification procedures for <i>pro forma</i> assignments and transfers by telecommunications carriers. See Section 1.948(c)(1) of the Commission's Rules.
2)	The Assignee/Transferee waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application.
3)	The Assignee/Transferee certifies that grant of this application would not cause the Assignee or Transferee to be in violation of any pertinent cross-ownership or attribution rules.* *If the Assignee/Transferee has sought a waiver of any such rule in connection with this application, it may make this certification subject to the outcome of the waiver request.
4)	The Assignee/Transferee agrees to assume all obligations and abide by all conditions imposed on the Assignor/Transferor under the subject authorization(s), unless the Federal Communications Commission pursuant to a request made herein otherwise allows, except for liability for any act done by, or any right accrued by, or any suit or proceeding had or commenced against the Assignor/Transferor prior to this assignment/transfer.
5)	The Assignee/Transferee certifies that all statements made in this application and in the exhibits, attachments, or documents incorporated by reference are material, are part of this application, and are true, complete, correct, and made in good faith.
6)	The Assignee/Transferee certifies that neither it nor any other party to the application is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862, because of a conviction for possession or distribution of a controlled substance. See Section 1.2002(b) of the Commission's Rules for the definition of "party to the application" as used in this certification.
7)	The Assignee/Transferee certifies that it is not in default on any payment for Commission licenses and that it is not delinquent on any non-tax debt owed to any federal agency.

**Typed or Printed Name of Party Authorized to Sign**

106) First Name: Darrell	MI:	Last Name: Maxey	Suffix:
107) Title: Director of Engineering			
Signature: Darrell Maxey			108) Date: 03/11/2010
<b>FAILURE TO SIGN THIS APPLICATION MAY RESULT IN DISMISSAL OF THE APPLICATION AND FORFEITURE OF ANY FEES PAID.</b>			
<b>WILLFUL FALSE STATEMENTS MADE ON THIS FORM OR ANY ATTACHMENTS ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. Code, Title 18, Section 1001) AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. Code, Title 47, Section 312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title 47, Section 503).</b>			