

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

In the Matter of	)	
	)	
Maritime Communications/Land Mobile LLC	)	
And Southern California Regional Rail	)	
Authority	)	WT Docket No. 10-83
	)	
Applications to Modify License and Assign	)	
Spectrum for Positive Train Control Use, and	)	FCC File Nos. 0004153701 and
Request Part 80 Waivers	)	0004144435

**OPPOSITION TO MOTION TO DISMISS**

Southern California Regional Rail Authority ("SCRRA"), by its attorneys, hereby files this Opposition to the "Motion to Dismiss Motion for Conditional Grant, or in the Alternative, Opposition to Motion for Conditional Grant" filed by Environmental LLC, Verde Systems LLC, Intelligent Transportation & Monitoring Wireless LLC, Telesaurus Holdings GB LLC, Skybridge Spectrum Foundation, and Warren Havens (collectively, "Havens") in the above-captioned docket on December 7, 2010 (the "Opposition to MCLM Motion"). SCRRA will only address herein Havens' assertions regarding SCRRA.

First, on page 5 of the Opposition to MCLM Motion, Havens asserts that there is no need for the conditional grant sought by MCLM (and by SCRRA), since any need to begin testing of radios for PTC can be accomplished by use of an experimental license. Indeed, Havens asserts that "SCRRA-PTC 220-Union Pacific" are already doing this. In response, SCRRA notes that the experimental license referred to by Havens is held by PTC-220, not by SCRRA. However, this misses the point: the ultimate purpose of the motions for conditional grant is to move the FCC licensing process along

towards grant and thus actual operation of PTC, not to facilitate testing. SCRRA and MCLM recognize that Havens will most likely appeal any action by the FCC granting the assignment and modification applications, and thus MCLM and SCRRA are merely attempting to begin that appeals process as soon as possible.

Second, on page 5 of the Opposition to MCLM Motion, Havens asserts that SCRRA and PTC-220 are “partners” in seeking the MCLM spectrum. Similarly, on page 8, Havens asserts that SCRRA is “applying for the AMTS in partnership with PTC-220 and it is not admitting this to the FCC.” However, contrary to Havens’ suggestions, there is no secret partnership or any other current business relationship between SCRRA and PTC-220 in order to seek spectrum. As the Commission well knows, Federal requirements for PTC include mandates for interoperability among carriers. Such preparations for the federal interoperability mandate provide no basis for contrary action by the Commission.

Lastly, on page 5 of the Opposition to MCLM Motion, Havens asserts that SCRRA is “misleading” the FCC regarding the need for one MHz of AMTS spectrum to provide PTC. Similarly, on page 8, Havens asserts that SCRRA is “not being honest with the FCC as to its real needs [for spectrum].” That is flatly untrue. SCRRA has been fully open regarding its spectrum needs, both in the applications and the subsequent pleadings in this proceeding. As SCRRA has publically stated, any spectrum not immediately needed for provision of PTC is being obtained in anticipation of future needs for PTC. More importantly, though, this issue is a “red herring” and ignores a critical point: the amount of spectrum currently needed for PTC is not relevant to the Commission’s grant or denial of the pending applications.<sup>1</sup> There is no basis in the Commission’s rules or cases for the FCC to consider that issue in the context of these applications.

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<sup>1</sup> Indeed, Havens would apparently oppose the grant of the applications regardless of how small the amount of spectrum sought by SCRRA.

## Conclusion

As shown in the Applications in this proceeding, it is clearly in the public interest for SCRRA to obtain the spectrum at issue as soon as possible, and use it to provide PTC. It is also clear that the public safety benefits of providing PTC to the people of Southern California should not be indefinitely delayed. Accordingly, SCRRA requests prompt action on the Applications, and if necessary, an initial grant of the Applications which is explicitly subject to the subsequent result of the pending Enforcement Bureau inquiry regarding MCLM.

Respectfully submitted,

SOUTHERN CALIFORNIA  
REGIONAL RAIL AUTHORITY

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December 20, 2010

CERTIFICATE OF SERVICE

I, Joan P. George, an assistant in the law firm of Fletcher, Heald & Hildreth, P.L.C., do hereby certify that a true copy of the attached *Opposition to Motion to Dismiss* was sent this 20<sup>th</sup> day of December, 2010, via email where indicated, and via United States First Class Mail, postage prepaid, to the following:

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