

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Public Notice. Spectrum Needs for the Implementation of the Positive Train Control Provisions of the Rail Safety Improvement Act of 2008	DA No. 11-838 WT Docket No. 11-79
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Copy by email to the Secretary, Office of Secretary.

Report of Oral Ex Parte Presentation

Skybridge et. al, the undersigned (“SkyTel”) submits this report. On September 12, 2011, Warren Havens for SkyTel by telephonic attendance, and in person Patrick MacFadden of Drinker Biddle law firm, SkyTel counsel, and Ron Lindsey of Communications Architecture, met at FCC offices with FCC staff: Richard Arsenault, Jennifer Jonhston, Rodney Conway, Roger Noel, Lloyd Coward, Ira Keltz.

Mr. Lindsey presented orally and visually by slide projector the PowerPoint presentation attached hereto in two versions. The 6-up, black-and-white version is included since it contains some text that could not be printed in the full-page color version also attached hereto.

Mr. Havens then presented the following, most of which SkyTel previously presented in this docket in written submissions:

- SkyTel pursues “intelligent” transportation wireless including for trains.
- SkyTel funded presentations by Mr. Lindsey in this docket to address issues in the docket objectively as he sees fit.
- SkyTel is not seeking to sell or provide (at no cost in one offer) any lower 200 MHz (or other) spectrum to railroads unless for a good purpose clearly needed, and SkyTel opposes lack of candor

and misrepresentation by railroads or anyone related to spectrum and FCC issues, and this is shown in some railroads' presentations to the FCC including in this docket, if those are viewed objectively. That objectivity requires sufficient background facts. Mr. Lindsey and SkyTel are providing these facts.

- SkyTel made several offers of spectrum in 217-222 MHz sufficient for PTC (as it was articulated by railroads, which seemed excessive). One offer was for no cost to these railroads. The offers are shown in previous SkyTel filings in the docket. SkyTel may file in this docket related communications, none of which are confidential, between railroads to SkyTel on this matter.¹

- Meteorcomm LLC, owned by PTC 220 LLC freight railroads, informed SkyTel that it would not make available to SkyTel for commercial sale any products, although it markets products in

¹ These include, for example, the following responses. Each concerns a railroad-asserted seeking of spectrum for the PTC mandate and nothing else, the following. (The details in this footnote were not in the presentation reported of here, but were indicated in the presentation and its referenced past presentations in this docket. All documents related to the below can be made available in this docket. SkyTel entities, in each case indicated below, held more than sufficient 217-222 MHz spectrum to provide all or a substantial portion of the spectrum each railroad indicated it sought for PTC on a partition and disaggregation basis.)

(A) In earlier stages (2010 and into year 2011): (i) DART gave SkyTel a two-day response deadline, after previous negotiations under an asserted lawful Texas-agency RFP with other spectrum holders (obtained under Texas Public Records Act after an Attorney General ruling requiring limited release, and after SkyTel offered free spectrum in the deadline, DART had no response; (ii) MNR-LIRR excluded SkyTel from its RFP for spectrum allegedly for PTC, then reissued when SkyTel inquired, but excluding the AMTS B block, then reissuing it yet again, etc.; (iii) MBTA (Boston) did not respond to SkyTel's showing, that MBTA asked for, that SkyTel had geographic AMTS available in its coverage area without site-based station encumbrance (it falsely informed the FCC in this docket to the contrary); (iv) AMTRAK required that SkyTel give up claims against another AMTS licensee (claims shown in FCC 11-64, and obviously valid by any objective review); (v) SCRAA several times rejected any communications with SkyTel, via its legal counsel and employees and Board, but asserted that SkyTel abused California Public Records Act when submitting requests under that act for fundamental documents, including whether the single-source procurement was lawful. (vi) NJT had no response, after soliciting SkyTel spectrum offers and suggestions, to SkyTel's responses. (All these railroads, to start with, mislead SkyTel and wasted its time, not considering applicable State procurement law, and Federal procurement law (FAR) regarding AMTRAK. They appear effectively controlled by PTC 220 LLC or some of its members. The initial relevance to this FCC docket is that they are not in good faith seeking 217-222 MHz spectrum for PTC.

(B) In recent stages: SkyTel offers in August 2011, copies of which are filed in this docket, to which there has been no substantive response from any railroad to any of these. It was sent to all of the railroads named in '(A)' above and two others. It is now well beyond the date SkyTel gave for responses. Any party with any potential interest, when getting an offer with a response deadline, provides some response even if it is a note of potential interest with request to extend the time for more substantive response. No railroad did this, which would have been easy and at no risk. Thus, again, these railroads are not – in fact—seeking 217-222 MHz as they dramatically state to the FCC.

low-band VHF, lower 200 MHz, and lower 900 MHz, three spectrum bands in which SkyTel holds a large amount of the FCC issued licenses and sought products from Meteorcomm LLC.

- Multi-band wireless, including for “interoperability,” may be via SDR or by use of multi-band RF components, neither of which is difficult especially for large train platforms. Thus, if freight railroads chose to use 220 MHz (which they obtained prior to the PTC mandate) for new wireless including, one day, PTC, there is no “interoperability” need for other railroads to do the same. *In fact, in urban areas there is a better case for using higher band spectrum for new rail wireless including PTC (see past filings in this docket by SkyTel).*

- Railroads and affiliated parties, from their presentations to the FCC and otherwise, falsely assert lack of spectrum for PTC, and ability to use only lower 200 MHz for PTC. Each assertion is not based on real need, has no showings of need (credible technical and use showings, etc.), and lacks technology and products ready or seriously being pursued for the asserted need. And each assertion is made by railroads that simultaneously *refuse to respond to actual offers of to meet the asserted need.* There are two apparent reasons: (1) to seek a lot of free spectrum by “reallocation” (that they do not define) for new railroad wireless *and not for PTC per se*, or (2) failing that, or in addition to that, to suggest a block or delay-impediment to their obligation to implement PTC which some major railroads, including the CEO of Union publicly stated will be a terrible waste Pacific (e.g., see start of attached Presentation).

- In spite of the above noted actions by railroads that undermine needed new railroad wireless, including component PTC, SkyTel maintains its position to support that new wireless, as part of SkyTel’s commitment to intelligent transportation wireless. The for-profit SkyTel LLCs set up and funded the nonprofit Skybridge Spectrum Foundation to lead this purpose.

- SkyTel and Skybridge supported Mr. Lindsey’s presentations to the FCC, and public papers, on this topic since he has, for a long time, published independent credible analysis and solutions on and to advance intelligent railroad wireless, which clearly is not stand-alone PTC.

SkyTel offered to cover the cost of further presentation to the FCC by Mr. Lindsey if, in

suitable circumstance, the FCC agreed to that. Mr. Lindsey explained that he would be available, including if other parties also attended.

Respectfully submitted, September 16, 2011,



Warren C. Havens
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