

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

In the Matter of)
)
Request of PTC-220, LLC for) WT Docket No. 13-59
Waiver of Sections 90.723(f) and 90.729(b))
of the Commission’s Rules)
to Deploy Positive Train Control Systems)

COMMENTS OF SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY

The Southern California Regional Rail Authority (“SCRRA”), through its attorneys and pursuant to the Commission’s March 8, 2013 *Public Notice* (DA 13-364), hereby supports the request of PTC-220, LLC (“PTC-220”) for waiver of Sections 90.723(f) and 90.729(b) of the Commission’s rules. Grant of these waiver requests would serve the public interest by facilitating the deployment, efficiency and effectiveness of positive train control (“PTC”) systems, a technology critical to monitoring train activity, preventing railroad collisions, and enhancing public safety. In support thereof, the following is shown.

I. Introduction: SCRRA, the Public Safety Requirements of Positive Train Control, and Spectrum Issues.

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, Metrolink provides the people of Southern California a safe, reliable and environmentally friendly commute option. Currently, Metrolink operates seven different train lines serving 55 train stations, and has 512 operating route miles (including shared miles) of track. On an average weekday, Metrolink serves over 43,000 riders and dispatches 162 revenue commuter trains and approximately 140 Metrolink non-revenue, Amtrak intercity passenger, and Burlington Northern or Union Pacific freight trains, for a peak total of about 300 daily trains.

Of course, public safety is the primary concern for any operator of a train system, and robust, reliable, advanced telecommunications capability is a critical tool for insuring safe operations. Congress recognized this when it enacted the Rail Safety Improvement Act of 2008 (the “RSIA”), which mandates development and implementation of positive train control on “Class I” and passenger railroads by December 31, 2015.¹ The FCC has already acknowledged the public safety interest in facilitating PTC systems: in previously granting waiver requests to PTC-220, the Commission noted that PTC has “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.”²

As the Commission well knows, in order to comply with urgent public safety-related requirements expressly imposed by Congress, SCRRRA has diligently attempted to acquire its own spectrum to deploy PTC systems, but those attempts have been stymied. In March of 2010, it filed an application to acquire a partitioned portion of an Automated Maritime Telecommunications Systems

¹ See Rail Safety Improvement Act of 2008, Pub. L. No. 110-432, 122 Stat. 4848 (2008).

² 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.

(“AMTS”) license held by Maritime Communications/Land Mobile, LLC (“MC/LM”).³ More than three years later, and more than four years after Congress imposed the 2015 PTC implementation deadline (a deadline that now looms less than three years away), SCRRA’s application remains stuck in an administrative quagmire, and SCRRA has yet to be able to acquire the spectrum necessary to afford it the permanent ability to comply with its statutory obligations. SCRRA is a national leader in its plans to implement PTC ahead of the statutory deadline, but its efforts to plan for the use of spectrum with reasonable certainty and on a timeline consistent with its PTC deployment schedule have been frustrated by the Commission's inaction.

II. Grant of the Waivers Would Serve the Public Interest, Nationwide, and Particularly in the Los Angeles Basin.

PTC-220 has made a strong showing that waiver of the power and antenna height limitations of Section 90.729(b) of the Commission’s rules would serve the public interest by enhancing its ability to implement PTC systems. Specifically, as PTC-220 demonstrated, the waiver of that rule would enable PTC-220 to increase network capacity and allow more railroads to benefit from PTC-220’s networks, especially in congested markets. This improvement of PTC service will be important nationwide, but is particularly important in the Los Angeles basin, where SCRRA provides service. The grant of the waivers will enhance, at least in the short term, the ability of SCRRA to provide PTC service.

Because of the rapidly approaching statutory deadline for implementing PTC, and given the

³ See File No. 0004144435. That application also includes a request for waiver of various provisions of the AMTS rules (including rules limiting transmitter power and antenna height) necessary to allow the spectrum to be used for the provision of PTC. In addition to the assignment application, SCRRA also filed an application to modify the geographically partitioned assigned portion of the license area to provide for operation as a private mobile radio service (“PMRS”), rather than as a commercial mobile radio service (“CMRS”). See File No. 0004153701.

Commission's inaction to date with regard to SCRRA's purchase of spectrum, SCRRA has of necessity entered into a temporary arrangement with PTC-220 for the lease of a limited amount of spectrum to provide PTC. This temporary solution is, for SCRRA, a temporary stopgap measure at best. PTC-220 holds the license to 18 channels (as compared to the 40 channels in the license that SCRRA seeks to acquire). According to SCRRA's most recent engineering analysis, nine of those 18 channels are ERP (effective radiated power) and height (height above average terrain -- HAAT) constrained. Of those nine ERP/HAAT-constrained channels, only a maximum of three can be used simultaneously without adversely affecting performance under current network design parameters. In other words, as a practical matter, *total* spectrum available today in the Los Angeles Basin for PTC is 12 channels (nine from the group identified as unconstrained, plus any combination of three from the group identified as ERP/HAAT-constrained).⁴ SCRRA's internal analysis of spectrum needs for PTC in the Los Angeles Basin – for both freight and passenger rail – indicates that between 14 and 19 channels will be required for initial deployment of a PTC system that meets reasonable standards of reliability necessary to achieve PTC's public safety goals. Over time, additional channels will be necessary to ensure continued operation of PTC in the Los Angeles Basin.

Waiver of the power and antenna height limitations of Section 90.729(b) would thus increase the number of channels useable for PTC in the Los Angeles basin, and for similar reasons, in spectrum congested areas nation-wide. This would significantly enhance the ability of PTC-220 and its spectrum lessees such as SCRRA to implement critical PTC systems as required by federal law.⁵

⁴ These conclusions are based on a fully redundant radio coverage environment.

⁵ SCRRA emphasizes that in no event should its interim arrangement with PTC-220, and any grant of waivers to PTC-220, be viewed as a justification for further delay in the processing and grant of SCRRA's own pending applications. Under the terms of its temporary lease from PTC 220, SCRRA, for a period of five years, has the non-exclusive right to lease spectrum subject to the PTC 220's determination of *its own* spectrum needs in SCRRA's geographic area, which

(Footnote continued on next page)

III. Conclusion

As demonstrated above and by PTC-220, grant of the requested waivers would serve the public interest. Accordingly, SCRRA urges the Commission to grant the waivers requested by PTC-220.

Respectfully submitted,

/s/ Paul J. Feldman

Robert M. Gurss

Paul J. Feldman

Harry F. Cole

Counsel to Southern California
Regional Rail Authority

Fletcher Heald & Hildreth, PLC
1300 N. 17th St. 11th Fl.
Arlington, VA 22209
Phone: (703)812-0400
Fax: (703)812-0486
feldman@fhhlaw.com

April 8, 2013

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needs are subject to change at PTC 220's discretion. Moreover, at some point in the near future, PTC requirements will change – as a result both of technological advances and anticipated regulatory modifications – such that additional spectrum will be required. Best estimates are that by 2020, PTC in the Los Angeles Basin – for all railroads – will require a minimum of between 19-25 channels of spectrum. That number will only increase over time with best estimates indicating as many as 35 channels may be necessary over the long term life of the system. Grant of SCRRA's applications is thus the only way to provide SCRRA with a permanent means for access to spectrum sufficient for assuring and maintaining its RSIA obligations. SCRRA will address this issue more fully in response to the Bureau's March 28, 2012 *Public Notice* in WT Docket No. 13-85, seeking comments on applications to assign MC/LM's spectrum pursuant to the *Second Thursday* doctrine.