

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

In the Matter of)	
)	
Request of PTC-220, LLC for Waivers of)	WT Docket No. 13-59
Sections 90.729(b) and 90.723(f) of the)	
Commission's Rules)	

To: Chief, Wireless Telecommunications Bureau

COMMENTS IN SUPPORT OF REQUEST FOR WAIVERS

In accordance with the Commission's Public Notice, DA-13-364, released March 8, 2013, the Association of American Railroads ("AAR"), by its undersigned counsel, hereby submits these comments in support of the Request for Waivers filed on February 1, 2013, by PTC-220, LLC (hereafter the "Waiver Request").

AAR is a voluntary non-profit membership organization whose freight railroad members operate 82 percent of the line-haul mileage, employ 95 percent of the workers, and account for 97 percent of the freight revenues of all railroads in the United States. In addition, Amtrak, the nation's principal intercity passenger railroad, is a member of the AAR. The AAR has been certified by the Commission as the exclusive frequency coordinator for the land mobile frequencies used by the railroad industry for dispatcher-to-train lines, onboard communications, train-to-train communications, various types of train control systems, and other industry-specific uses of spectrum.¹

¹ See Frequency Coordination in the Private Land Mobile Radio Services, *Report & Order*, 103 FCC 2d 1093, ¶ 94 (1986); Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Services

PTC-220, LLC (hereafter “PTC-220”) is a joint venture among all seven Class I freight railroads in the United States, all of which are members of the AAR. PTC-220 is leading the deployment of interoperable Positive Train Control (hereafter “PTC”) networks, as mandated by the Rail Safety Improvement Act of 2008, Pub. L. No. 110-432 § 104, 122 Stat. 4848, 4857 (2008) and regulations promulgated by the Federal Railroad Administration. To this end, PTC-220 has acquired sixteen licenses in the 220 MHz band, including four nationwide licenses, six J Block licenses, and six E Block licenses. In its request, PTC-220 seeks waiver of Sections 90.729(b) and 90.723(f) of the Commission’s rules to allow the full benefits of the 220 MHz spectrum that will be used to support a nationwide interoperable PTC system to be realized and to realize the public safety benefits associated with the deployment of that system.²

The AAR strongly supports the granting of the requested waivers. In its request, PTC-220 has demonstrated how the granting of the request will promote the public interest. Waiver of the power and antenna height limitations of Section 90.729(b) would allow the railroad industry to leverage the existing 160 MHz communication infrastructure it has in place and will minimize the risk that PTC-220 will need to obtain more spectrum to deploy PTC.³ A waiver would thus increase the capacity of the 220 MHz spectrum to serve more railroads, including commuter and short line railroads, particularly in dense, urban areas. Similarly, waiver of

and Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignment Policies of the Private Land Mobile Services, *Second Report and Order*, 12 FCC Rcd 14307, 14324, 14330 (1997) and *Second Memorandum Opinion and Order*, 14 FCC Rcd 8642, 8646-47 (1999); Waiver of the Commission’s Rules to License Use of Six Conventional 900 MHz Frequency Pairs for Advanced Train Control System, *Order*, 3 FCC Rcd 427 (PRB 1988); and Modification of Licenses for Use in Positive Train Control Systems, *Order*, 16 FCC Rcd 3078 (WTB 2001).

² See Waiver Request at 6.

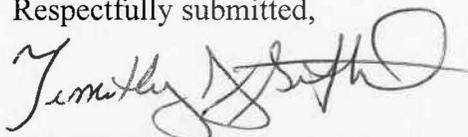
³ A nationwide interoperable PTC network may require additional spectrum beyond that for which PTC-220 already has a license, particularly in geographic areas with a dense railroad environment, such as Chicago. See Waiver Request at 2 & n.4.

Section 90.723(f) would also serve the public interest by enhancing the possibility of ensuring a timely deployment of PTC. PTC-220's suggestion that waiver be conditioned on a process for coordination in situations where another 220 MHz licensee seeks to locate a station near an existing PTC-220 station will ensure that the underlying purposes of the Commission's rules will be met. Moreover, PTC-220 has shown that such waivers of both sections would be consistent with precedent and that waiver relief will facilitate compliance of the railroad industry with the safety mandate of the RSIA.

AAR and its member railroads have been committed to developing and deploying safety measures including train control systems. The implementation of PTC is neither the development of a single technology nor the deployment of an "off-the-shelf" technology, but rather the creation of new tools, development of new software, procurement of technology, implementation of a series of multiple new systems, and installation of equipment. At the center of these efforts, is the need to create compatible and interoperable systems among the railroads to ensure that PTC will work throughout a multi-railroad network. To date, the railroad industry has invested \$2.8 billion and millions of man-hours toward the development of PTC. This includes an investment of approximately \$40 million in acquiring and managing 220 MHz spectrum and over \$180 million for development and installation of three distinct 220 MHz radios. These investments are only a portion of the effort necessary to complete a nationwide interoperable PTC system. For example, over 3,800 base station radios and over 31,000 wayside radios still need to be manufactured and installed, and over 19,700 must have a complete radio system installed. Granting the requested waivers will provide the certainty necessary for the railroad industry to continue to invest and deploy the equipment to implement PTC.

In sum, for the reasons set forth above and in the Waiver Request, the AAR respectfully urges the Commission to grant the requested waivers.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Timothy J. Strafford". The signature is fluid and cursive, with a large, stylized initial "T".

ASSOCIATION OF AMERICAN RAILROADS
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Date: April 8, 2013