

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

In the Matter of)	
)	DA 13-569
Application to Assign Licenses from)	
Maritime Communications/Land Mobile, LLC,)	WT Docket No. 13-85
Debtor-in Possession,)	
to Choctaw Holdings, LLC)	File No. 0005552500
)	

To: Chief, Wireless Telecommunications Bureau

COMMENTS OF THE ASSOCIATION OF AMERICAN RAILROADS

In accordance with the Commission’s Public Notice, DA-13-569, released March 28, 2013, the Association of American Railroads (hereafter “AAR”), by its undersigned counsel, hereby submits these comments. As discussed below, the AAR takes no position on the appropriate procedural steps in this proceeding related to the application filed by Maritime Communications/Land Mobile, LLC Debtor-in-Possession (hereafter “MC/LM”) and Choctaw Telecommunications, LLC and Choctaw Holdings, LLC, (hereafter “Choctaw”), but asks that Commission act expeditiously to ensure that spectrum be made available to Southern California Regional Rail Authority (hereafter “SCRRA”) to facilitate the deployment and operation of Positive Train Control (hereafter “PTC”) in the Los Angeles Basin area.

The 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 used of spectrum.¹

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 mandate that the nation's railroads deploy interoperable PTC by December 31, 2015. 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, that was formed to oversee the development and use of spectrum in the 220 MHz band for PTC systems. To this end, PTC-220 has acquired sixteen licenses in the 220 MHz band, including four nationwide licenses, six J Block license, and six E Block licenses.

PTC-220 has expressed to the Commission its expectation that its current spectrum holdings will be sufficient for providing PTC for the locomotive traffic of PTC-220 member railroads and, in most areas, for the locomotives of other railroads that travel over track operated by PTC-220 member railroads.² However, in areas of high volume rail traffic, PTC-220 has noted that its spectrum will not be sufficient to provide robust PTC operations for all traffic.³

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 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 Comments of PTC-220, LLC, WT Docket No. 10-83 (Dated April 28, 2010).

³ See *id.* See also Reply Comments of PTC-220, LLC, WT Docket No. 13-59 (at page 10) (Dated April 23, 2013).

The Los Angeles Basin is one such high-traffic area, as the Federal Railroad Administration (hereafter “FRA”) has previously informed the Commission.⁴ As indicated in its previously filed Request for Waivers, SCRRRA alone runs 149 commuter trains per day over some 500 miles of track, including shared track maintained by other railroads. PTC-220 has expressed to the Commission its belief that it may possess sufficient spectrum to deploy PTC in Southern California in the short term, but that its holdings will likely be insufficient to cover the high-density commuter trains and heavy freight rail traffic moving in and out of Los Angeles over the long term.⁵ While the Commission’s public notice notes that “[t]he Commission has approved SCRRRA’s five-year spectrum lease with PTC-220 . . . to implement PTC in the Los Angeles basin,”⁶ such a short-term lease arrangement does not obviate the need for a longer term solution to the PTC related spectrum needs in the Los Angeles basin. For this reason, PTC-220 has encouraged SCRRRA to obtain additional, compatible spectrum that can be used for PTC, such as the Automated Maritime Telecommunications Service (“AMTS”) spectrum that is the subject of this proceeding.⁷

Over three years have passed since SCRRRA filed its original assignment application in March of 2010⁸ and over two years have passed since the Commission indicated in “Footnote 7”

⁴ See Letter from Joseph C. Szabo, Administrator, FRA, to Ruth Milkman, Chief, Wireless Telecommunications Bureau, FCC, ULS File Number 0003766889 (Dated Oct. 9, 2009).

⁵ See Presentation of PTC-220, WT Docket No. 08-256 (dated Dec. 15, 2011). See also Reply Comments of PTC-220, LLC, WT Docket No. 13-59 (at page 10) (Dated April 23, 2013). Moreover, successful deployment of PTC in the Los Angeles basin will be contingent on the Commission granting the waivers sought by PTC-220 in WT Docket No. 13-59. See *id.* See also, *e.g.*, Comments of SCRRRA, WT Docket No. 13-59 (Dated April 8, 2013).

⁶ See DA 13-59 at 2 & n.12.

⁷ See Comments of PTC-220, LLC, WT Docket No. 10-83 (Dated April 28, 2010) (explaining how AMTS Spectrum is suitable for interoperable PTC operations).

⁸ See Maritime Communications/Land Mobile LLC and Southern California Regional Rail Authority File Applications to Modify License and Assign Spectrum for Positive Train Control Use, and Request Part 80 Waivers, Public Notice, DA 10-556 (rel. Mar. 29, 210).

that the public interest in facilitating PTC might warrant removing the SCRRA application and request from the ongoing MC/LM hearing.⁹ Therefore, the AAR asks the Commission to act expeditiously to serve the public interest by allowing SCRRA to obtain the spectrum it seeks and use it to deploy and operate PTC. To the extent that the applicants here, MC/LM and Choctaw, request that SCRRA's (and others') pending applications "either (i) be removed from the hearing and process immediately pursuant to Footnote 7, or (ii) granted pursuant to the *Second Thursday* relief"¹⁰ being consider in this proceeding, the AAR supports the application.

Respectfully submitted,



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⁹ See Maritime Communications/Land Mobile, LLC, *Order to Show Cause, Hearing Designation Order, and Notice of Opportunity for Hearing*, EB Docket No. 11-71, 26 FCC Rcd 6520 (2011).

¹⁰ FCC File No. 0005552500 at 14-15.