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**ADRIAN & BLISSFIELD RAIL ROAD COMPANY** JUN 16 201438235 North Executive Drive • Westland, Michigan 48185-1971
(734) 641-2300

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June 10, 2014

Ms. Marlene Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, Southwest, Room TW-A325
Washington, DC 20554-0005

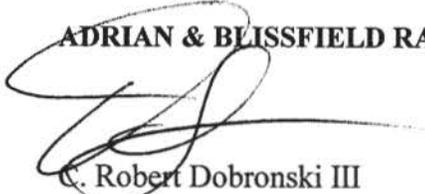
Re: RM-11721

Dear Ms. Dortch:

On behalf of Adrian & Blissfield Rail Road Company, enclosed please find an original and two copies of *Comments of Adrian & Blissfield Rail Road Company* in the above-referenced rulemaking matter. Would you kindly file these documents in accordance with your normal procedure.

Should there be any questions in this regard, please direct same to the attention of the undersigned.

Very truly yours,

ADRIAN & BLISSFIELD RAIL ROAD COMPANY
C. Robert Dobronski III
Vice President and General Counsel

CRDIII/hp

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JUN 16 2014

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

Mail Room

In the Matter of)	
)	
Modification of Part 90 of the Commission's)	
Rules to Enable Railroad Police to Access)	RM-11721
Frequencies Reserved for Public Safety)	
Interoperability)	

COMMENTS
OF
ADRIAN & BLISSFIELD RAIL ROAD COMPANY

Adrian & Blissfield Rail Road Company ("ADBF"), acting pursuant to FCC Rule 1.405(a), provides these comments in response to the Public Notice (DA 14-747) released on May 30, 2014. That Public Notice solicited comments on a Petition for Rulemaking ("Petition") filed by the National Public Safety Telecommunications Council ("NPSTC"), which requests that the Commission initiate a rulemaking proceeding to consider amending Sections 90.20, 90.523, and 90.617 of the Commission's rules to enable railroad police to be eligible to license and operate on public safety interoperability frequencies.

ADBF is a Class III (short line) railroad company as well as a holding company operating a total of five (5) Class III (short line) railroad companies in Michigan. The railroad lines operated include: Adrian & Blissfield Rail Road Company, operating approximately 20 miles of track between Adrian and Riga, in Lenawee County, Michigan; Charlotte Southern Railroad Company ("CHS"), operating approximately 3.22 miles of track in Charlotte, Eaton County, Michigan; Detroit Connecting Railroad Company ("DCON"), operating approximately 2.5 miles of track in Detroit, Wayne County, Michigan; Lapeer Industrial Railroad Company ("LIRR"), operating approximately 2 miles of track in Lapeer, Lapeer County, Michigan; and, Jackson & Lansing Railroad Company ("JAIL"), operating approximately 47 miles of track between Jackson and Lansing, in Jackson and Ingham Counties, Michigan.

ADBF employs several railroad police officers to protect the property of ADBF and its subsidiary railroads. All of ADBF's railroad police officers are certified or commissioned by State authorities as police officers. In addition, pursuant to the "interstate authority" afforded to railroad police officers pursuant to 49 U.S.C. § 28101, ADBF has designed its railroad police officers, in accordance with 49 C.F.R. § 207.5, to have authority in the surrounding states of Michigan, Ohio, Indiana, Illinois and Wisconsin, where ADBF routinely has property. All of ADBF's railroad police officers were formerly employed by state, county, or local municipal law enforcement agencies, and have many years of law enforcement experience.

ADBF's railroad police officers deal on a daily basis with a wide range of crimes and civil violations, including trespassing, theft, cargo theft, tampering with signals, tampering with switches, assaults, burglary, criminal property damage, traffic offenses (driving around gates), and traffic accidents (train versus automobile).

ADBF's railroad line in Lenawee County is located partially in the Toledo High Threat Urban Area, The DCON line, is located within the Detroit High Threat Urban Area. Both ADBF and DCON haul hazardous cargo ("HAZMAT") in their respective high threat urban areas and, thus, ADBF's railroad police officers must afford special patrols and surveillance to these trains. In the event of a breach or release of HAZMAT content, railroad police officers must have the capability to communicate with surrounding law enforcement and emergency responder agencies.

In the event of an emergency or disaster, such as a derailment, or traffic accident between a train and an automobile, ADBF's railroad police officers must be able to efficiently and effectively communicate and coordinate with surrounding law enforcement and emergency response agencies and *vice versa*. Accordingly, it is essential that railroad police have access to radio frequencies reserved for public safety interoperability.

ADBF, following the mandate issued to all railroads by the Federal Railroad Administration and the Transportation Security Agency, periodically organizes "mock disaster" training exercises with surrounding law enforcement and emergency responder agencies. Most recently, during Summer 2013, in conjunction with law enforcement and emergency responders from state, County, and local municipal agencies in Lenawee County, Michigan and Lucas County, Ohio, ADBF held an all-day training exercise involving emergency response to a mock terrorist attack upon a passenger train. In the training debriefing which followed, all incident commanders felt that the training exercise was excellent, but noted that the single greatest hindrance was the lack of common interoperability communication capabilities between all of the law enforcement and emergency responder agencies involved. This fact alone highlights the importance of establishing the public safety interoperability channels and having them available to all law enforcement and emergency responder agencies, including railroad police.

In 2007, the United States Congress enacted the *Implementing Recommendations of the 9/11 Commission Act of 2007*, Public Law 110-53, 121 Stat. 452, which set forth, *inter alia*, at Section 1513, thereof, the intent of Congress that the Secretary of the Department of Transportation oversee grants to railroads to obtain "... communications equipment... that is interoperable with Federal, State, and local agencies and tribal governments." Thus, the United States Congress has made abundantly clear its vision of the indispensable working partnership and interrelationship between railroad police officers and federal, state, and local law enforcement and emergency responder agencies, as well as Congress' desired goal of their being public safety interoperability communication capabilities between all of these agencies.

The NPTSC Petition appears to suggest restricting railroad police officer usage of public safety interoperability channels to "full time" officers only. Such a restriction is ill advised. In

addition, there has been no definition as to what constitutes “full time” versus “part time”. State, county, and local municipal police agencies across the United States employ full-time and part-time police officers. Police departments in smaller communities tend to employ greater numbers of part-time police officers because of budgetary restrictions. In fact, many police agencies employ reserve or auxiliary police officers on a voluntary (non-paid) basis. Regardless of whether full time or part time, paid or volunteer, a police officer generally has the same powers and authorities.¹ Similarly, a railroad police officer – regardless of whether full time or part time – has the same powers and authorities as any other police officer. In an emergency or disaster situation, a law enforcement or emergency responder agency will make use of any and all manpower resources that are available, and such would also hold true of any railroad police department. Accordingly, there should be no restriction within FCC Rules as to use of public safety interoperability frequencies by “part time” railroad police officers.

In an emergency situation along railroad right-of-way, the need for effective and expeditious communications interoperability between railroad police and members of local and state law enforcement, fire and emergency medical personnel is just as essential as any emergency situation which might occur in any municipality. The fact that railroad police officers are not compensated by a federal, state, county, or local municipal government should make no difference as to whether railroad police officers should have the ability to have emergency interoperability communications with emergency responders from federal, state, and local law enforcement or emergency response agencies.

ADBF urges that the Commission amend Section 90.20 of the Commission’s Rules, by inserting a subsection (a)(3) to include, as Public Safety Pool eligibles:

“Any Class I, II, or III rail carrier, as those terms are defined at 49 C.F.R. § 1201, and Amtrak, for use by its railroad police officers for public safety interoperability communications essential to the law enforcement activities of the rail carrier.”

And, to amend Section 90.523 of the Commission’s Rules, by inserting a new subsection (b) and renumbering the existing subsection (b) and subsequent subparagraphs, as follows:

(b) *Rail Carriers.* Any Class I, II, or III rail carrier, as those terms are defined at 49 C.F.R. § 1201, and Amtrak, for use by its railroad police officers for public safety interoperability communications essential to

¹ Some state laws and/or law enforcement agencies restrict the activities of their reserve or auxiliary police officers to having police powers and authority only when on duty or only when under the effective supervision of a supervisory police officer. However, when on duty or under appropriate supervision, the reserve or auxiliary police officer is acting in an official police capacity.

the law enforcement activities of the rail carrier.”

ADBF sees no need to amend Section 90.617 of the Commission’s Rules, as that rule makes reference to the eligibility definitions set forth at Section 90.20.

The Commission’s consideration of these comments is appreciated.

DATED this 10th day of JUNE, 2014.

Respectfully Submitted,

ADRIAN & BLISSFIELD RAIL ROAD COMPANY

By: 
C. Robert Dobronski III (P72684)
Vice President and General Counsel
38235 North Executive Drive
Westland, Michigan 48185-1971
Telephone: (734) 641-2300
Facsimile: (734) 641-2323
E-mail: crdobronski@abrailroad.com