

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

In the Matter of)
)
Request of PTC-220, LLC for Waivers of) WT Docket No 08-256
Certain 220 MHz Rules)
)

To: Chief, Wireless Telecommunications Bureau

COMMENTS IN SUPPORT OF REQUEST FOR WAIVERS

In accordance with the Commission’s Public Notice, DA 08-2807, released December 24, 2008, the American Public Transportation Association (“APTA”), by its undersigned counsel, hereby submits these comments in support of the Request for Waivers filed on October 31, 2008, by PTC-220, LLC (hereafter the “Waiver Request”).

APTA is a non-profit international trade association of more than 1,500 public and private member organizations, including transit systems; planning, design, construction and finance firms; product and service providers; academic institutions; and state associations and departments of transportation. More than ninety percent of Americans who use public transportation are served by APTA member transit systems. Almost every commuter railroad¹ in the nation is an APTA member.

PTC-220, LLC, a joint venture formed by Norfolk Southern Railway Company and Union Pacific Railroad (hereafter the “Waiver Proponents” or “Proponents”), recently acquired 13 licenses in the 220-222 MHz band to be used for implementation of a new positive train control (“PTC”) network to be deployed on rail lines throughout the

¹ APTA is aware of only one U.S. commuter railroad that is not an APTA member.

continental United States. Twelve of these licenses have construction deadlines that will occur in March or September of 2009, and the Waiver Proponents have requested extensions of those deadlines. In addition, the Proponents have requested waivers of certain other Part 90 rules applicable to frequencies in the 220-222 MHz band, including rules pertaining to base/mobile channel configuration and station identification.

APTA joins the Association of American Railroads² (“AAR”) in strongly supporting grant of the requested waivers. The Proponents have thoroughly and effectively explained in their Waiver Request why a grant of the waivers will promote the public interest by enabling more effective spectrum utilization and by facilitating deployment of new PTC technologies that will enhance safety and efficiency in the railroad industry. Furthermore, proponents have demonstrated that there are ample precedents for grant of the requested waivers;³ and have shown that waiver relief will greatly facilitate compliance by the railroad industry with the recently enacted Congressional requirement for implementation of positive train control on all Class I railroads by December 21, 2015, as set for the in the Rail Safety Improvement Act of 2008.⁴

APTA and its members, in cooperation with AAR and its members, have been committed for decades to the development of and deployment of various types of train control systems that promote safety by minimizing or preventing collisions between trains, enforcing speed limits, and protecting employees engaged in track maintenance.

² See *Comments in Support of Request for Waivers*, Association of American Railroads, as submitted to the instant docket.

³ Waiver Request, at notes 23-27, 30, 42, 46-49, 54, 56-59, and accompanying text.

⁴ Pub. L. No. 110-432, § 104, 122 Stat. 4848, ____ (2008).

We agree with AAR's assertions that the latest generation of train control technology (called "positive train control" or "PTC") is neither a single technology nor an "off-the-shelf" technology, but actually a number of different technologies with different capabilities and that compatibility of these technologies is a key component to successful implementation of the next generation of PTC. Commuter railroads, freight railroads, and Amtrak face significant challenges in integrating them successfully into a nationwide, interoperable communications network that must overlay the vast 140,000 mile rail network. A common radio platform is a key ingredient to successful and timely implementation in accordance with the statutory deadlines, and the spectrum recently acquired by the Waiver Proponents is critical to the entire undertaking.

In this regard, the Federal Railroad Administration ("FRA") has addressed at length the complexity and the challenges inherent in achieving compliance with the statutory mandate in its supporting comments filed in this proceeding on December 15, 2008. We support and agree with FRA's statement that "any actions that facilitate the installation and operations of these critical systems are in the best interest of the public," and join with the FRA in "request[ing] the Commission's assistance in facilitating deployment" of this important safety-related technology.⁵

⁵ Letter from Clifford Eby, Acting Administrator, FRA, to Marlene H Dortch, Secretary, FCC, December 15, 2008.

In conclusion, for the reasons set forth herein and in the Proponents' Waiver Request, as well as for the reasons articulated by FRA in its filing in this proceeding, and the comments filed by AAR, APTA urges the Commission to grant the requested waivers.

Respectfully submitted,

AMERICAN PUBLIC TRANSPORTATION ASSOCIATION



James P. LaRusch
Chief Counsel and Vice President-Corporate Affairs
American Public Transportation Association
Suite 1100
1666 K Street, S.W.
Washington, D.C. 20006
(202) 496-4808

Its Attorney

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