August 13, 2015

The Honorable Tom Wheeler
Chairman
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: Maritime Communications/Land Mobile (MCLM)
WT Docket No. 13-85, EB Docket No. 11-71

Dear Chairman Wheeler:

The mission of the Railroad Commission of Texas is to protect people and communities from the risks of hazardous materials transportation. To do this, the commission establishes policy, sets and enforces standards, educates, and conducts research to prevent incidents. We work continuously to find new ways to reduce risk toward zero deaths, injuries, environmental and property damage, and transportation disruptions related to pipeline operations.

It was recently brought to our attention that a few oil and gas pipeline companies operating in Texas have been trying for more than four years to acquire frequencies from Maritime Communications/Land Mobile (MCLM) to support supervisory control and data acquisition (SCADA) systems necessary for the safe and efficient operation of their pipelines. Unfortunately, the Commission’s processing of their applications apparently has been delayed by an ongoing hearing proceeding involving the qualifications of MCLM to retain its licenses. It has been alleged that MCLM engaged in misconduct during a spectrum auction. We understand there have been no allegations of wrongdoing on the part of the pipeline companies.

The Railroad Commission of Texas takes no position regarding MCLM’s qualifications to remain a Commission licensee. However, we join a number of other groups, including the American Petroleum Institute (API), the Energy Telecommunications and Electrical Association (ENTELEC), and the National Association of Regulatory Utility Commissioners (NARUC), in asking the Commission to revisit its conclusion that the use of these frequencies by pipeline companies for SCADA systems -- unlike a railroad’s similar use for Positive Train Control (PTC) -- is primarily for business purposes and not sufficiently related to public safety as to justify removal of the pipeline applications from the ongoing hearing.1

1 In re Maritime Communications/Land Mobile, LLC, Debtor-in-Possession Application to Assign Licenses to Choctaw Holdings, LLC, Memorandum Opinion and Order, FCC 14-133 (rel. Sept. 11, 2014)(“MO&O”). In its Order, the Commission noted that, “[a]lthough the CII Companies’ proposals to use the spectrum licenses for...
We urge the Commission to recognize the critical role of SCADA systems in promoting public safety goals in the pipeline industry. SCADA systems use wireless frequencies to detect leaks, monitor and control flow, and perform other vital functions across the nation's pipeline networks. Approximately two-thirds of the energy supply in the United States is transported through pipelines supported by SCADA systems.\(^2\)

Our colleagues at the Pipeline Hazardous Materials Safety Administration acknowledged the public safety benefits of SCADA when it implemented rules requiring each pipeline to operate and maintain a communication system necessary for safe operation of their systems\(^3\) At a minimum, under the rules, the communications system must: (1) monitor operational data, (2) receive notices from personnel, the public and public authorities of any abnormal/emergency conditions, (3) provide two-way vocal communications between a control center and the scene of any abnormal/emergency situation, and (4) communicate with fire, police, and other appropriate public officials during emergency conditions.\(^4\) These requirements make clear the primary purpose of SCADA systems is to prevent human injury and property damage – not to serve the underlying business needs of oil and gas companies.

Thank you for your attention to this matter. Should you have questions or require additional information, please do not hesitate to contact us.

Sincerely,

David Porter
Chairman, Railroad Commission of Texas

cc: Commissioner Clyburn
Commissioner Pai
Commissioner Rosenworcel
Commissioner O'Rielly
Chief, Wireless Telecommunications Bureau
Chief, Enforcement Bureau
Certificate of Service (Attached)

SCADA, smart grid and similar applications would be beneficial to the public, unlike PTC, those other services are not dedicated to communications to prevent human injury and property damage, but are also used for day-to-day facilities management and other purposes that primarily serve the business needs of the licensee." MO&O at §36.

\(^3\) 49 C.F.R. § 195.408(a) (2010).
\(^4\) 49 C.F.R. § 195.408(b) (2010).
CERTIFICATE OF SERVICE

I, Beverly Harding, hereby certify that on this 17th of August, 2015, a copy of the foregoing Letter from David Porter, Chairman of the Texas Railroad Commission was filed with the Commission, served on the parties listed below via First Class U.S. Mail and a courtesy copy was provided via electronic mail.

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