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

In the Matter of
MARITIME COMMUNICATIONS/
LAND MOBILE, LLC, Assignor

And
SOUTHERN CALIFORNIA REGIONAL RAIL
AUTHORITY, Assignee

For change in regulatory status of a
geographically partitioned portion of the license
area of Station WQGF318, assignment of a
partitioned portion and related waiver requests

To: Marlene H. Dortch, Secretary
   For transmission to the Commission

SHOWING PURSUANT TO FOOTNOTE 7
AND STATEMENT IN SUPPORT

Maritime Communications/Land Mobile, LLC (MCLM), by its attorney, is pleased to
show and support the showing of Southern California Regional Rail Authority (SCRRRA) that the
public interest would be served by the Commission removing the above-captioned applications
from the hearing on the licensee qualifications of MCLM and to grant no later than June 15,
2011 the above-captioned applications. Doing so will permit SCRRRA to expedite the installation
and interoperability testing this year of its Positive Train Control (PTC) system in the congested
Los Angeles Basin. Protecting the public’s safety is such a foundational Commission
responsibility that Congress featured it in the very first section of the Communications Act.
Indeed, Section 151 provides that the Commission was created “for the purpose of promoting safety of life and property through the use of wire and radio communications”. The immediate use by SCRRA of the above-captioned spectrum to enable automatic train braking and prevent train collisions in Southern California would clearly promote safety of life and property and therefore be in the public interest. The Commission should remove the above-captioned applications from the hearing and grant the assignment immediately -- no later than June 15, 2011 -- to fulfill its fundamental responsibility to promote safety of life and property.

To further explain its support for SCRRA’s Showing, MCLM shows the following:

Over two dozen people were killed in the 2008 Chatsworth, California collision which led to Congress mandating the deployment of PTC by all intercity and commuter passenger transportation providers and Class I rail carriers. The fact that Congress passed legislation a month after the incident shows their intent to have PTC deployed as soon as possible. SCRRA committed to its congressional delegation and customers that it would deploy PTC as soon as it could, and no later than December 2012. Two other railroads, Union Pacific Corporation and Burlington Northern Santa Fe Corporation, announced their goal of initiating PTC in the area by December 2012 and remain committed to this early date. More rapid deployment of PTC would clearly improve the safety of Californians in the LA Basin. But the Rail Safety Improvement Act also requires that the Department of Transportation report to the Senate Committee on Commerce, Science and Transportation and the House Committee on Transportation and

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3 See Letter from Edwin F. Kemp, President, PTC-220, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, EB Docket No. 11-71 (May 9, 2011).
Infrastructure on implementation by December 31, 2012 as well. It would clearly be in the public interest for the Department of Transportation to have experiential data from at least one area with a live system testing PTC interoperability over the air on which to report to Senate Commerce and House Transportation on the “progress of the railroad carriers in implementing such positive train control systems.” Every additional week SCRRA has access to and use of the spectrum will enable the Department of Transportation to have a more meaningful report, to the benefit of not just Southern California, but the entire nation.

SCRRA has explained in thorough detail the absolute necessity of its complying with federal law which requires interoperability of a carrier’s PTC “with movements of trains of other railroad carriers over its lines.” Reflecting Congress’ sense of urgency, the Rail Safety Improvement Act also requires passenger transportation providers “to assess areas of greater risk before areas of lesser risk.” The Federal Rail Administration, in its letter to the Commission over a year ago urging “expeditious approval” noted that there were a “large number of freight and passenger railroads operating in Southern California, and their intense operating tempo” and the “various locomotive, wayside and office systems that comprise a PTC system are very large.” Given how congested the LA Basin is, with many railroad carriers and passenger entities sharing track, it is critical for SCRRA to get access to the spectrum now and begin testing interoperability amongst these different operators and systems. Access to the spectrum

4 See id. at § 20157(d).
5 Id.
6 See id. at § 20157(a)(2).
7 Id.
now will allow SCRRA to more expeditiously assess those periods and areas of greater risk and determine how to deploy its PTC network to mitigate those risks.

The prompt installation and operation of PTC is clearly in the public interest, and MC/LM’s spectrum in particular fills a specialized need for improved safety in the LA Basin. SCRRA has demonstrated the extensive investment which it has made to date to meet its goal of deploying PTC by December 2012 and SCRRA has explained that it cannot move forward at this point without this spectrum. SCRRA further explains that it needs the MCLM spectrum because it is compatible with the spectrum owned by the railroads with which SCRRA shares track.

Access to spectrum has been a challenge for the rail industry in implementing the congressional mandate. Indeed, the Government Accounting Office found that identifying suitable and available spectrum for PTC, particularly in dense, metropolitan areas like Los Angeles, is a major challenge for railroads.9 SCRRA was not alone in recognizing the congested nature of the LA Basin. The Los Angeles County Board of Supervisors called MC/LM’s spectrum “critically needed” when it urged the Commission over a year ago to approve the above-captioned application.10 The Board’s views were shared by the Los Angeles County Metropolitan Transportation Authority Board of Directors and the Alameda Corridor

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10 See Letter from Don Knabe, Fourth District Supervisor, County of Los Angeles, to Marlene Dortch, Secretary, Federal Communications Commission, WT Docket No. 10-83 (Apr. 19, 2010).
Transportation Authority. The Ventura County Transportation Commission urged the application approval as a “critical step in the advancement of public safety by enabling a robust and interoperable train control systems as mandated by the Rail Safety Act of 2008.”

Likewise, the Riverside County Board of Supervisors urged, over a year ago, that the Commission approve the application, noting that for “residents in Riverside County, Metrolink train service provides a viable travel alternative to driving alone for thousands of commuters each day.”

Putting spectrum to use in a more efficient manner has been a policy goal of the Commission, most recently stated in the National Broadband Plan. In a section entitled The Importance of Spectrum Flexibility, the Plan noted “the current spectrum policy framework sometimes impedes the free flow of spectrum to its most highly valued uses” and that “because mission needs and technologies evolve,” flexibility, including that offered through secondary markets, should be the norm. In the Recommendation on secondary markets, the Plan underscores the public interest in the “more productive allocation and use of spectrum through secondary markets”, the goal of which is to permit more productive and efficient use of spectrum.

11 See id.
12 See Letter from Darren M. Kettle, Executive Director, Ventura County Transportation Commission, to Marlene Dortch, Secretary, Federal Communications Commission, WT Docket No. 10-83 (Apr. 20, 2010).
13 See Letter from Marion Ashley, Chairman, Riverside County Board of Supervisors--District Five, to Marlene Dortch, Secretary, Federal Communications Commission, WT Docket No. 10-83 (Apr. 16, 2010).
15 See id. at 78.
16 See id. at 83.
SCRRRA and Maritime filed for the Commission’s approval of this spectrum assignment over a year ago, in March 2010. Removal and grant of the above-captioned applications by June 15, 2011, the date determined by the hearing judge for a conference on all applications still included, would clearly be the most expeditious means to assign the spectrum at this point. Keeping the applications included in the hearing would undermine the Commission’s own spectrum management goals of more efficient assignment and use of spectrum, as well as threaten safety of life as the hearing continues.

SCRRRA has explained that nearly 40,000 persons ride its system each day. Moreover, SCRRRA operates in a very congested area, where other railroad carriers are operating. PTC technology relies on spectrum to prevent train-to-train collisions, protect against overspeed derailments, protect roadway workers, and prevent trains from running through misaligned switches.17 The more operators, the greater the risk of incidents. The public has recently been made aware of external threats as well. In its Showing, SCRRRA quoted a recent Los Angeles Times article stating that Al Qaeda considered launching a terrorist strike against America’s rail system.18 PTC helps trains stop when some obstruction is blocking the track, such as a van with explosives. Clearly, PTC could help prevent or minimize the effectiveness of a terrorist attack against the rails.

Furthermore, the Wall Street Journal quotes Brian Jenkins, the director of the National

17 See FRA Administrator Letter, supra at n. 7.
Transportation Security Center at the Mineta Transportation Institute in San Jose, California, as stating that “terrorists see surface transportation as a killing field. We know that derailment and bombs on crowded trains are in their playbook”.\textsuperscript{19} The article notes that terrorists targeted “Madrid commuter trains in 2004, subway and bus bombings in London in 2005, a rail assault in Mumbai in 2006, and more recent subways bombings in Moscow”\textsuperscript{20} and provides more detail on the history of surface transportation attacks during the past ten years, including the fact that more than 3,700 persons have been killed worldwide in attacks on trains, subways, and buses. Positive Train Control can help prevent loss of life, especially if the Commission acts immediately.

SCRRA made clear, and MC/LM has agreed, that SCRRA will deposit the purchase price for the spectrum into an escrow account pursuant to an agreement that will previously have been presented to the Commission. Until the hearing has concluded, the escrowed funds will be disbursed only to persons identified in the escrow agreement, including persons and/or entities which are unaffiliated third party creditors of MC/LM, and the FCC itself for unjust enrichment in accord with the Commission’s Rules. MC/LM agrees that until the hearing is concluded, none of the escrowed funds will be disbursed to MC/LM or its owner. To the extent that the Commission may choose to impose additional reasonable safeguards, MC/LM agrees to cooperate in taking appropriate steps to seek to satisfy such additional requirements.

MC/LM recognizes that Warren Havens may argue that AMTS spectrum should be used

\begin{footnotesize}
\textsuperscript{20} \textit{Id.}
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only for Maritime purposes. In considering such an argument, the Commission should consider that Havens’ entities have sold and/or leased Maritime spectrum to non-Maritime entities such as Northeast Utilities, Vermont Transco, and Puget Sound Energy, among others. Warren havens may argue that the AMTS band should not be broken up by sales or leases. Again, the Commission should consider the source of such an argument. The argument may be made by Havens that the AMTS band should be preserved for inclusion in some grand scheme in the indefinite future. As SCRRA explained, PTC has been developed over a span of 20 years and is the current state-of-the-art for promoting safety of life and property over the rails by radio communication. The public is entitled to enjoy state-of-the-art communications safety technology and should not suffer unnecessary risk waiting for some imaginary future. The public’s safety should not be threatened further while waiting for finality of the scheduled MC/LM hearing.

For all the foregoing reasons, MC/LM supports severance of the SCRRA applications from the above-captioned hearing, grant of the assignment by June 15, 2011, and SCRRA’s proposal to expedite the operation of Positive Train Control to protect the public safety.

Respectfully submitted,
MARITIME COMMUNICATIONS/ LAND MOBILE, LLC

/s/ Dennis C. Brown

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Dated: May 12, 2011
CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of May, 2011, I served a copy of the foregoing Statement in support on each of the following persons by placing a copy in the United States Mail, first-class postage prepaid:

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