



# PUBLIC NOTICE

Federal Communications Commission  
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**WIRELESS TELECOMMUNICATIONS BUREAU SEEKS COMMENT ON NATIONAL RAILROAD PASSENGER CORPORATION (AMTRAK) REQUEST FOR WAIVER OF CERTAIN PART 80 AUTOMATED MARITIME TELECOMMUNICATIONS SYSTEM (AMTS) RULES TO IMPLEMENT POSITIVE TRAIN CONTROL (PTC)**

**WT Docket No. 11-27**

**Comment Date: March 11, 2011**

**Reply Date: March 21, 2011**

Pursuant to sections 1.3 and 1.925 of the Commission's rules,<sup>1</sup> the Wireless Telecommunications Bureau (Bureau) seeks comment on a request for waiver filed by National Railroad Passenger Corporation (Amtrak) on January 3, 2011, regarding certain Part 80 Automated Maritime Telecommunications System<sup>2</sup> (AMTS) rules to implement its planned Advanced Civil Speed Enforcement System (ACSES), a "positive train control" (PTC) system in the AMTS bands (217-218 MHz and 219-220 MHz) within its Northeast Corridor.<sup>3</sup> At this time, we seek comment only on AMTRAK's waiver request, not whether it is in the public interest for AMTRAK to acquire any particular AMTS licenses. The public will have an opportunity to comment on any application AMTRAK files seeking assignment of AMTS licenses related to this matter.

Amtrak is subject to the Rail Safety Improvement Act of 2008 (Act)<sup>4</sup> and is required, along with certain other rail carriers, to develop and deploy interoperable PTC systems by December 15, 2015. To meet the requirements mandated by the Act, Amtrak has initiated a search for suitable spectrum. Amtrak notes that the Commission has previously granted waivers for certain 220 MHz Radio Service technical rules to allow several of the nation's largest freight railroads to utilize this spectrum to implement their

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<sup>1</sup> 47 C.F.R. §§ 1.3, 1.925.

<sup>2</sup> AMTS stations provide automated, integrated, interconnected ship-to-shore communications similar to a cellular phone system for tugs, barges, and other maritime vessels. See Amendment of Parts 2 and 80 of the Commission's Rules Applicable to Automated Maritime Telecommunications Systems (AMTS), *First Report and Order*, GEN Docket No. 88-732, 6 FCC Rcd 437, 437 ¶ 3 (1991).

<sup>3</sup> *Request for Waiver*, (filed Jan. 3, 2011) (Waiver Request).

<sup>4</sup> Rail Safety Improvement Act of 2008, Pub. L. No. 110-432, 122 stat. 4848 (2008).

PTC systems.<sup>5</sup> Because Amtrak operates on the same tracks with these freight railroads, Amtrak seeks spectrum as close to the 220 MHz band as possible to ensure that its own ACSES system will be easily interoperable with that of the freight railroads' planned PTC systems.<sup>6</sup> Amtrak, anticipating congestion in the 220 MHz Radio Service band, has identified Part 80 AMTS spectrum as the best option for its ACSES system and has initiated a process to acquire spectrum from AMTS licensees within its Northeast Corridor line.<sup>7</sup> However, before committing funds to acquire this spectrum in the secondary market, Amtrak seeks waivers of certain Part 80 AMTS technical rules as they may apply to Amtrak's use of any AMTS spectrum it may acquire. Generally, Amtrak requests waiver of the Part 80 AMTS rules that restrict use of the subject spectrum to accommodate a shared, public maritime communications system and are not compatible with Amtrak's planned exclusive-use private land mobile radio PTC system.<sup>8</sup> For example, Amtrak seeks waiver of certain output power and antenna height restrictions allowing Amtrak to use 75 watts output power for fixed base radios, 50 watts for train-mounted and other mobile units and 30 watts output power for fixed wayside units. Additionally, Amtrak seeks waiver of the Section 80.123(e) 6.1 meter antenna height restriction to allow it to install antennas up to a height of 100 feet which are necessary for its land-based system.<sup>9</sup> Finally, with respect to existing and future operations in the AMTS band, Amtrak notes the importance of interference-free maritime communications and is committed to ensuring that all contemplated operations pose no potential for interference to marine communications, and to act quickly in the event interference is reported. Amtrak also states it will comply with required interference protection to TV Channels 10 and 13.<sup>10</sup> Amtrak believes that implementing its PTC system is critically important and will not only offer significant benefits such as enhanced railroad safety, lower operating costs and improved productivity, but will maximize spectrum efficiency and encourage flexible use of spectrum.

### **Procedural Matters**

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<sup>5</sup> Waiver Request at 2. *See also* Request of PTC-220, LLC for Waivers of Certain 220 MHz Rules, *Memorandum Opinion and Order*, 24 FCC Rcd 8537 (WTB 2009); Application for Consent to the Assignment of a Five-Channel 220 MHz Nationwide License to the Association of American Railroads, *Order*, 18 FCC Rcd 24711 (WTB 2003).

<sup>6</sup> *Id.* at 4.

<sup>7</sup> See Attachment 2 to Waiver Request, which list 35 counties from Washington, DC to Boston, Massachusetts included in Amtrak's Northeast Corridor.

<sup>8</sup> Specifically, Amtrak seeks a waiver of Sections 80.92(a), 80.102(a), 80.105, 80.106, 80.123, 80.205, 80.207, 80.215(e)(2), 80.215(h)(5), 80.215(i), 80.385(a)(2), 80.475(c) and 80.479(c) of the Commission's Rules, 47 C.F.R. §§ 80.105, 80.106, 80.123, 80.205, 80.207, 80.371, 80.215(e)(2), 80.215(h)(5), 80.215(i), 80.385(a)(2), 80.475(c) and 80.479(c) to the extent applicable, in order to permit use of the frequencies for exclusive-use private land mobile radio (PLMR) communications. We note that the Commission has offered guidance to prospective waiver applicants regarding some of the factors to be considered in evaluating requests for waivers of the Part 80 rules by entities proposing to use AMTS spectrum for land mobile communications. *See* MariTEL, Inc. and Mobex Network Services, LLC, *Report and Order*, WT Docket No. 04-257, 22 FCC Rcd 8971, 8986 ¶ 26 (2007), *aff'd*, 25 FCC Rcd 533 (2010), *recon. pending*. Specifically, the Commission requires that waiver applicants provide an explanation of the following: (a) whether the applicant will provide priority to maritime communications, (b) the distance of a proposed land mobile radio operation from the nearest navigable waterways, (c) the magnitude of divergence sought from specific Part 80 technical requirements, (d) a showing that alternative spectrum that could accommodate the proposed PLMR or other land mobile radio service is unavailable or unsuitable for that purpose, and (d) whether grant of the waiver would benefit public safety or homeland security.

<sup>9</sup> Waiver Request at 5.

<sup>10</sup> *Id.* at 7.

Comments on the request are due **no later than March 11, 2011**. Reply comments are due **no later than March 21, 2011**. All filings should reference the docket number of this proceeding, WT 11-27.

This proceeding has been designated as a “permit-but-disclose” proceeding in accordance with the Commission's *ex parte* rules.<sup>11</sup> Parties making oral *ex parte* presentations in this proceeding are reminded that memoranda summarizing the presentation must contain the presentation’s substance and not merely list the subjects discussed.<sup>12</sup> More than a one- or two-sentence description of the views and arguments presented is generally required.<sup>13</sup>

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 Fed. Reg. 24121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/cgb/ecfs/>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, “get form.” A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing.<sup>14</sup> If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission’s Secretary, Office of the Secretary, Federal Communications Commission, as follows:

-All hand-delivered paper filings for the Commission’s Secretary must be delivered to FCC Headquarters at 445 12<sup>th</sup> St., S.W., Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Envelopes must be disposed of before entering the building. The filing hours at this location are 8:00 a.m. to 7:00 p.m. **PLEASE NOTE:** This is the

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<sup>11</sup> *See* 47 C.F.R. §§ 1.1200(a), 1.1206.

<sup>12</sup> *See* Commission Emphasizes the Public’s Responsibilities in Permit-But-Disclose Proceedings, *Public Notice*, 15 FCC Rcd 19945 (2000). We note that the Commission recently amended the rules governing the content of *ex parte* notices. *See* Amendment of the Commission’s *Ex Parte* Rules and Other Procedural Rules, *Report and Order and Further Notice of Proposed Rulemaking*, GC Docket No. 10-43, FCC 11-11, ¶¶ 35-36 (rel. Feb. 2, 2011).

<sup>13</sup> *See* 47 C.F.R. § 1.1206(b)(2). Other rules pertaining to oral and written presentations are also set forth in Section 1.1206(b). *See* 47 C.F.R. § 1.1206(b).

<sup>14</sup> Section 1.51(c) of the Commission’s Rules, 47 C.F.R. § 1.51(c), recently was amended to reduce the required number of copies to one original and one copy, but the rule change does not take effect until thirty days after Federal Register publication. *See* Amendment of Certain of the Commission’s Part 1 Rules of Practice and Procedure and Part 0 Rules of Commission Organization, *Report and Order*, GC Docket No. 10-44, FCC 11-16, ¶ 43 (rel. Feb. 4, 2011). In the event that the comment or reply periods in this proceeding extend past the effective date of the rule change, parties filing after the effective date need file only one original and one copy of each filing.

**ONLY** location where hand-delivered or messenger-delivered paper filings for the Commission's Secretary will be accepted. The Commission's former filing location at 236 Massachusetts Ave., N.E., is permanently closed.

-Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

-U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, S.W., Washington, D.C. 20554.

Parties shall send one copy of their comments and reply comments to Best Copy and Printing, Inc., Portals II, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554, (800) 378-3160, e-mail [FCC@BCPIWEB.com](mailto:FCC@BCPIWEB.com).

The request, and comments and reply comments filed in response to this *Public Notice*, will be available for public inspection and copying during business hours in the FCC Reference Information Center, Portals II, 445 12th Street S.W., Room CY-A257, Washington, D.C. 20554, and via the Commission's Electronic Comment Filing System (ECFS) by entering the docket number, WT 11-xx. They may also be purchased from Best Copy and Printing, Inc., telephone (800) 378-3160, facsimile (301) 816-0169, e-mail [FCC@BCPIWEB.com](mailto:FCC@BCPIWEB.com).

Alternate formats of this *Public Notice* (computer diskette, large print, audio recording, and Braille) are available to persons with disabilities by contacting the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY), or send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov).

For further information, contact Mr. Jim Shaffer of the Wireless Telecommunications Bureau, Mobility Division, at (202) 418-0687, [james.shaffer@fcc.gov](mailto:james.shaffer@fcc.gov).

Action by the Chief, Mobility Division, Wireless Telecommunications Bureau.

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