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June 13, 2024

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
45 L Street, N.E.
Washington, D.C. 20554

Re: RM-11979
***Ex Parte* Presentation**

Dear Ms. Dortch:

In an *ex parte* filing dated June 12, 2024, the Association of American Railroads (“AAR”) identified the above-referenced proceeding, which is responsive to the Petition for Rulemaking (“PFR”) filed by the Enterprise Wireless Alliance (“EWA”), as one of the “Active Challenges to Rail Industry’s Narrowband Licensed Spectrum Resources.” To be clear, as stated by EWA in its Reply Comments in that proceeding, the issue is not whether AAR should have the right to consider and deny concurrence requests, “when a grant of the underlying application would have a demonstrable, material, adverse effect on safety.”¹ The question is the geographic scope within which concurrence could be needed given the very narrowly defined areas where railroads utilize Part 90 VHF and UHF channels in the great majority of the country. EWA stated:

The FCC’s special consideration of railroad spectrum requirements is recognized...

The question is the scope of the protection AAR asserts on frequencies subject to the concurrence requirement. It is not specified in the FCC rules or in any documentation of which EWA is aware. It is not possible to search ULS and evaluate whether AAR is likely to grant concurrence, irrespective of the distance from a licensed railroad system.

In 2007, the FCC denied AAR’s request for an unprecedented 190-mile-wide geographic ribbon license as “directly at odds with the fundamental principle of shared spectrum use in the PLMR bands below 512 MHz.” The FCC stated, “We believe that preserving the shared use of the LR frequencies for all eligible users outweighs the benefits that would be conferred upon the railroad industry by a geographic license....” At a minimum, the FCC should

¹ 47 C.F.R. §90.175(b).

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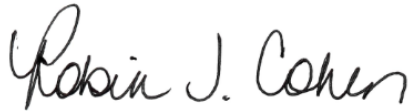
evaluate the geographic scope of AAR's concurrence rights to ensure that this limited spectrum resource is being used appropriately.²

This request is based on prudent spectrum management principles and not on an effort to deprive the nation's railroads of spectrum they use to conduct their operations safely and efficiently.

Please feel free to contact me if you have any questions or comments.

Sincerely,

ENTERPRISE WIRELESS ALLIANCE



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² EWA Reply Comments, RM-11979, filed May, 21 2024 at 5 (footnotes omitted).