

# Congress of the United States

Washington, DC 20515

August 8, 2013

The Honorable Mignon L. Clyburn  
Acting Chairwoman  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Dear Chairwoman Clyburn:

In 2008, Congress passed the Rail Safety Improvement Act of 2008 (P.L. 110-432) (RSIA) requiring U.S. railroads to install positive train control (PTC) by December 31, 2015 on specified rail lines over which passengers or certain hazardous materials are transported. PTC is a complex undertaking. As noted by the Federal Rail Administration (FRA), "PTC implementation, on the scale required by the RSIA, has never been attempted anywhere in the world." In order to meet the statutory mandate, railroads will be required to place as many as 22,000 antennas along the railroad lines to facilitate communications from the track detectors.

We understand that Federal Communications Commission (FCC) staff has advised the railroads that the construction of antennas are subject to the FCC's environmental and historic review processes and regulations, including the use of the FCC's Tower Construction Notification System (TCNS). We also understand that FCC staff has further advised the railroads that they should not proceed with PTC antenna construction without going through these processes.

The FCC's historic review process currently contemplates separate notice to affected State Historic Preservation Officers (SHPO) and Native American Tribes for each of the 22,000 proposed antenna construction applications. This includes the approximately 97 percent of antennas that are only wayside "sticks" between ten and sixty feet tall and located on railroad-owned rights of way. Apparently recognizing that the FCC's processes cannot accommodate the railroads' statutorily mandated PTC implementation schedule, the FCC staff has advised the railroads not to proceed with any applications for environmental and historic review until an approach for expediting the notification and review processes can be determined. Accordingly, PTC antenna installation activities by the railroads have been essentially put on hold until the FCC staff advises the railroads that they can start again.

We recognize that FCC staff has been in discussion with the Federal Railroad Administration, the Advisory Council on Historic Preservation, and the rail industry seeking a resolution to the issue. However, the FCC staff has not committed to a firm timeline or schedule for determining a resolution or process for the expedited approval of the approximately 97 percent of antennas that are located along the railroad rights of way. The delay caused by this freeze and the FCC's environmental and historic review processes adversely affects the railroads' ability to deploy PTC and delays implementation of safety systems mandated by Congress.

It is our understanding that this is one of a number of challenges facing the railroads as they attempt to deploy PTC. We urge the FCC to move expeditiously to put a process in place to facilitate the timely deployment of PTC, which will ensure that this critical safety enhancement is successfully implemented on a national level. As we continue to monitor the FCC's involvement with PTC implementation, we would appreciate periodic updates from you or your staff on efforts to resolve this matter.

If you have any questions, please have a member of your staff contact David Redl on the Energy and Committee staff at (202) 225-2927 or Mike Friedberg on the Transportation and Infrastructure Committee staff at (202) 226-0727.

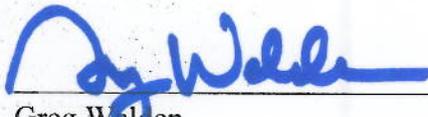
Sincerely,



Fred Upton  
Chairman  
Committee on Energy and Commerce



Bill Shuster  
Chairman  
Committee on Transportation and  
Infrastructure



Greg Walden  
Chairman  
Subcommittee on Communications  
and Technology



Jeff Denham  
Chairman  
Subcommittee on Railroads, Pipelines and  
Hazardous Materials

cc: The Honorable Henry Waxman  
The Honorable Nick J. Rahall, II  
The Honorable Anna Eshoo  
The Honorable Corrine Brown  
Commissioner Jessica Rosenworcel  
Commissioner Ajit Pai