

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

(1) In the Matters of	Filed on “Lead” Call Signs**
All FCC Licenses** of: Telesaurus Holdings GB LLC (THL) Verde Systems LLC (VSL) Environmental LLC (ENL) Environmental LLC-2 (ENL2) Intelligent Transportation...LLC* (ITL) V2G LLC (V2G)** Skybridge Spectrum Foundation (SSF)** (these 7 together, the “Entities”)	THL WPOJ876 VSL WPOJ521 ENL WQCP810 ENL2 WQNZ336 ITL WQER215 V2G WQMU210 SSF WQHU548 (together, the “Licenses”)
(2) In the Matters of	
All FCC licenses issued to: Maritime Communications/ Land Mobile LLC; and its successors in interest, the various “Choctaw” entities	WQGF315, WQGF316 ,WQGF317, WQGF318, WRAP933, WRAP934, WRAP935, WRAP936
(3) In matters ‘(1)’ and ‘(2)’ above	Dockets: 11-71 and 13-85

SUPPLEMENT, CITING

[THE 9-23-2019 3rd. Cir. DECISION IN PROMETHEUS V FCC](#)

IN SUPPORT OF: 9-3-2019 FURTHER SHOWING OF LEGAL INTEREST AND STANDING
OF WARREN HAVENS IN THE CAPTIONED FCC MATTERS

To: Office of the Secretary. Filed on ULS.
Attn: Chief, Wireless Telecommunications Bureau

Warren Havens, and
Polaris PNT Group (see execution page)
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September 23, 2019

** “Lead Call Sign” method: on ULS: Licenses, sorted by Call Sign, descending: first one listed: (i) active licenses selected *except* for SSF and V2G, where all licenses were selected to thus include the terminated licenses, since Petitioners seek to reinstate these.

* Full name: Intelligent Transportation & Monitoring Wireless LLC (“ITL” for short).

Introduction. This is by and for the interests of the signatories hereto (each and together herein, “Petitioner”). In the captioned matters, FCC staff have issued many decisions (pending on appeal by Petitioner) involving Petitioner and other entities listed in the caption above. An issue in the decisions is the *legal standing* of Petitioner to participate in the matters resulting in the decisions. Petitioner has submitted showings that Petitioner clearly has standing -- had standing prior to commencement of a California-Court issued receivership over the “Entities” defined in the caption above (the “Receivership”), and retained standing after that time to the times of the decisions, and to this day, as asserted and shown in the more recent Petitioner filings in the captioned matters. The most recent is the “9-3-2019 Further Showing” indicated in the title of this filing above that was filed in the captioned matters.

9-23-2019 Supplement. The following supports the 9-3-2019 Further Showing including (i) Petitioner may, as Petitioner has done a number of times in the captioned matters, make or supplement showings of legal standing *during* a FCC proceeding (and may do the same if Petitioner appeals or seeks review of an FCC final decision in a US Circuit Court of Appeal), (ii) the harm-component of standing does not have to be closely tied to a legal argument, and (iii) “Article III” standing does not apply to a FCC proceeding.

From the decision of the US Third Circuit Court of Appeals, releases 9-23-2019 in *Prometheus v. Federal Communications Commission*, No. 17-1107 (3d Cir. 2019) (underlining added):

[pp. 20-21:]

As a threshold matter, Intervenors argue that Citizen and Diversity Petitioners (called “Regulatory Petitioners” for ease of reference in this section) lack standing, and the FCC concurs in that argument.

[...]

We disagree.... It is well established that petitioners challenging agency action may supplement the administrative record for the purpose of establishing Article III standing, even though judicial review of agency action is usually limited to the administrative record. As the Tenth Circuit observed in *US Magnesium, LLC v. EPA*, 690 F.3d 1157, 1164 (10th Cir. 2012), the Article III standing requirements do not apply to agency proceedings, and thus there is no reason for the facts supporting

standing to be a part of the administrative record. It is, moreover, the practice in most of the Circuits that have considered the matter to accept these materials at any stage of the litigation. In *US Magnesium* itself, for example, the Tenth Circuit accepted supplemental materials that were attached to a petitioner's reply brief. Id. The Seventh Circuit has accepted supplemental submissions filed after oral argument. *Texas Indep. Producers and Royalty Owners Ass'n v. EPA*, 410 F.3d 964, 971 (7th Cir. 2005). And the Ninth Circuit has expressly held that standing need not be established in an opening brief in cases like this. *Nw. Envtl. Def. Ctr. v. Bonneville Power Admin.*, 117 F.3d 1520, 1528 (9th Cir. 1997).

[...]

[pp. 22-23:]

It appears that this is a question of first impression in our Circuit. To resolve it, we adopt the view held overtly by the Ninth Circuit and implicitly by the Tenth and Seventh: parties may submit materials to establish standing at any time in the litigation. This is especially so here, where the same parties have been litigating before us for a decade and a half. It was not unreasonable for Regulatory Petitioners to assume that their qualification to continue in the case was readily apparent. Cf. *Del. Dep't. of Nat'l Res. & Envtl. Control v. EPA*, 785 F.3d 1, 8–9 (D.C. Cir. 2015) (permitting petitioners to submit standing materials with their reply brief despite the contrary requirement of the D.C. Circuit's local rules when they reasonably believed that standing was self-evident).

[p.25]

In addition, there is no requirement that the harm alleged be closely tied to a challenger's legal argument in order to have Article III standing.

Each aspect of the decision quoted above applies to Petitioner's standing position and arguments in all of the captioned matters. To date, the FCC in its substantive decisions on the captioned matters, after the time the Receivership commenced, failed to find, as it clearly should have found under relevant standing law, that Petitioner had standing, and on the basis of that faulty finding, the FCC then largely avoided in its decisions the substance of the Petitioner's petitions and filings in proceedings leading to the decisions. Since the FCC's standing findings were clearly in error, further shown above, Petitioner asserts that the decisions were invalid for failure to address Petitioner's substantive showings. For these reasons, Petitioner also asserts equitable rights and remedies, including tolling.

/ / /

Respectfully submitted,

/s/

Warren Havens

Individually. And for

Polaris PNT PBC; Polaris PNT 1, PB LLC; Polaris PNT 2, PB LLC; and Polaris PNT 3, PB LLC (the "Polaris PNT Group")

September 23, 2019

DECLARATION

I declare under penalty of perjury that the foregoing filing was prepared pursuant to my direction and control and the factual statements therein known by me are true and correct, and the exhibits hereto are true and correct copies.

/s/

Warren Havens

September 23, 2019

CERTIFICATE OF SERVICE

I, Warren C. Havens, certify that I have, on September 23, 2019:^[*]

Caused to be served, by placing into the USPS mail system with first-class postage affixed unless otherwise noted below, a copy of the foregoing filing, including exhibits, to the following:

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^[*] The mailed service copies being placed into a USPS drop-box today may be after business hours and thus may not be processed and postmarked by the USPS until the next business day.