

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In re	)	
	)	
<b>MARITIME COMMUNICATIONS/LAND</b>	)	EB Docket No. 11-71
<b>MOBILE, LLC</b>	)	File No. EB-09-IH-1751
	)	FRN: 0013587779
Participant in Auction No. 61 and Licensee of	)	
Various Authorizations in the Wireless Radio	)	
Services	)	
	)	
Applicant for Modification of Various	)	Application File Nos. 0004030479,
Authorizations in the Wireless Radio Services	)	0004144435, 0004193028, 0004193328,
	)	0004354053, 0004309872, 0004310060,
Applicant with <b>ENCANA OIL AND GAS (USA),</b>	)	0004314903, 0004315013, 0004430505,
<b>INC.; DUQUESNE LIGHT COMPANY; DCP</b>	)	0004417199, 0004419431, 0004422320,
<b>MIDSTREAM, LP; JACKSON COUNTY</b>	)	0004422329, 0004507921, 0004153701,
<b>RURAL MEMBERSHIP ELECTRIC</b>	)	0004526264, 0004636537,
<b>COOPERATIVE; PUGET SOUND ENERGY,</b>	)	and 0004604962
<b>INC.; ENBRIDGE ENERGY COMPANY,</b>	)	
<b>INC.; INTERSTATE POWER AND LIGHT</b>	)	
<b>COMPANY; WISCONSIN POWER AND</b>	)	
<b>LIGHT COMPANY; DIXIE ELECTRIC</b>	)	
<b>MEMBERSHIP CORPORATION, INC.;</b>	)	
<b>ATLAS PIPELINE – MID CONTINENT, LLC;</b>	)	
<b>DENTON COUNTY ELECTRIC</b>	)	
<b>COOPERATIVE, INC., DBA COSERV</b>	)	
<b>ELECTRIC; AND SOUTHERN CALIFORNIA</b>	)	
<b>REGIONAL RAIL AUTHORITY</b>	)	

To: Marlene H. Dortch, Secretary  
Attention: Chief Administrative Law Judge Richard L. Sippel

**ENFORCEMENT BUREAU'S MOTION TO STRIKE  
ENL-VSL PROPOSED DISCOVERY SCHEDULE  
AND MR. HAVENS' ADDITIONAL COMMENTS**

1. The Chief, Enforcement Bureau (Bureau) respectfully moves to strike from the record (a) the proposed discovery schedule submitted by Environmental, LLC and Verde

Systems, LLC (collectively “ENL-VSL”) and by Mr. Havens<sup>1</sup> and (b) the procedurally improper additional comments submitted by Mr. Havens concerning ENL-VSL’s proposed discovery schedule.<sup>2</sup>

2. On October 1, 2014, the Presiding Judge issued *Order*, FCC 14M-30, with the following simple directive: “On or before 12 noon EDT on October 9, 2014, the parties that intend to litigate the issues pertaining to Maritime’s basic qualifications shall file and serve, jointly if possible, a Proposed Discovery Schedule.”<sup>3</sup> In accordance with this *Order*, the Bureau reached out to Mr. Havens and to counsel for all of the parties that may litigate the remaining Issues, proposing a six-month discovery period for all Issues in the HDO other than Issue (g) that would commence on March 1, 2015.

3. During the October 1, 2014 prehearing conference, the Bureau had raised concerns about proceeding with discovery on the remaining Issues at the same time as the Bureau, and many of the parties from whom it would be seeking such discovery, would be preparing for the hearing on Issue (g), or while the Bureau was preparing proposed findings and fact and conclusions of law after the hearing. The Bureau reiterated these concerns to the parties in proposing the March 1 commencement date.<sup>4</sup> ENL-VSL and Mr. Havens’ accusation that the Bureau “gave *no reasons* for [the] proposed schedule”<sup>5</sup> is thus plainly unfounded.

4. Counsel for ENL-VSL informed the Bureau that ENL-VSL and Mr. Havens would not be joining the Bureau’s proposal and intended to file their own discovery proposal.

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<sup>1</sup> See ENL-VSL Proposed Discovery Schedule, filed Oct. 9, 2014 (ENL-VSL’s Proposed Discovery Schedule).

<sup>2</sup> See ENL-VSL Proposed Discovery Schedule Additional Comments of Havens, filed Oct. 9, 2014.

<sup>3</sup> *Order*, FCC 14M-30 (ALJ, rel. Oct. 1, 2014) at 2.

<sup>4</sup> See, e.g., email from Pamela S. Kane to Charles A. Zdebski (and others, including counsel for ENL-VSL and Mr. Havens), dated Oct. 6, 2014 (contained within Exhibit 1 to ENL-VSL’s Proposed Discovery Schedule).

<sup>5</sup> ENL-VSL’s Proposed Schedule at 2 (emphasis in the original).

However, rather than simply identifying alternative dates on which the discovery period for Issues other than Issue (g) should begin, ENL-VSL and Mr. Havens filed a nearly 10-page pleading that amounts to nothing more than an untimely and procedurally improper motion to reconsider the Presiding Judge's ruling that the parties proceed with the hearing on Issue (g) scheduled for December 9, 2014. Moreover, under the guise of explaining why the Presiding Judge should delay a hearing on Issue (g) and allow discovery to begin immediately on Issues other than Issue (g), ENL-VSL and Mr. Havens have flooded the record with unsubstantiated, and in places, factually and legally inaccurate, contentions concerning the substantive issues set forth in the HDO. Such arguments are more appropriately raised in a motion for summary decision or a trial brief than a discovery proposal. Indeed, if allowed to stand, ENL-VSL and Mr. Haven's pleading will in all certainty necessitate substantive responses from many of the parties, including the Bureau, and will require the parties and the Presiding Judge and his staff to, once again, devote resources to addressing the improper submissions of ENL-VSL and Mr. Havens. For the foregoing reasons, ENL-VSL's Proposed Discovery Schedule should be stricken in its entirety from the record.

5. In addition, it is plain from the record that Mr. Havens joined ENL-VSL's Proposed Discovery Schedule, so his "additional comments" are improperly duplicative. The Presiding Judge has already acknowledged that with Mr. Havens acting *pro se* while two of his six companies in the hearing proceeding are represented by counsel, there is a greater likelihood of "duplicative pleadings ... ." <sup>6</sup> In an effort to avoid the confusion and delay that would result from such duplication, the Presiding Judge recently reiterated the directives he imposed nearly two years ago requiring Mr. Havens and his companies to coordinate their participation and to

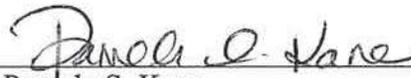
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<sup>6</sup> *Order*, FCC 12M-52 (ALJ, rel. Nov. 15, 2012) at 3.

submit joint pleadings when they take identical positions.<sup>7</sup> There is nothing in Mr. Havens' additional comments that reflects a position that is different from ENL-VSL's. Accordingly, Mr. Havens' superfluous pleading should be should be stricken in its entirety from the record.

Respectfully submitted,

Travis LeBlanc  
Chief, Enforcement Bureau



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October 14, 2014

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<sup>7</sup> See Order, FCC 14M-25 (ALJ, rel. Aug. 11, 2014) at 3.

**CERTIFICATE OF SERVICE**

Moris Martinez, an Enforcement Analyst in the Enforcement Bureau's Investigations and Hearings Division, certifies that he has on this 14th day of October, 2014, sent by first class United States mail copies of the foregoing "ENFORCEMENT BUREAU'S MOTION TO STRIKE ENL-VSL PROPOSED DISCOVERY SCHEDULE AND MR. HAVENS' ADDITIONAL COMMENTS" to

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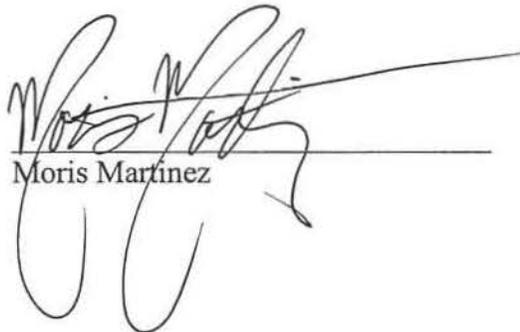
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