

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	WT Docket No. 10-83, DA 10-556
Applications of	)	
MARITIME COMMUNICATIONS/ LAND MOBILE, LLC	)	FCC File No. 0004153701
	)	
and	)	
	)	
SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY	)	FCC File No. 000414435
	)	
	)	

To: Marlene H. Dortch, Secretary  
Attention: Chief, Wireless Telecommunications Bureau

OPPOSITION TO PETITION TO DENY

Maritime Communications/Land Mobile, LLC (MCLM), by its attorney, hereby files its Opposition to the Petition to Deny, or in the Alternative Section 1.41 Request (Petition) filed in the above captioned matters by Warren Havens, Verde Systems LLC, Environmental LLC, Intelligent Transportation and Monitoring Wireless LLC, Telesaurus Holdings GB LLC, and Skybridge Spectrum Foundation (collectively, Havens). In support of its position, MCLM shows the following.

A passenger train moves—lives are at stake. Those who know that best, the Federal Railroad Administration, PTC-220 (which oversees the development and deployment of Positive Train Control for the four largest railroads in the nation), and multiple local jurisdictions all support grant of the above captioned applications. Havens alone opposed the application. It is

yet another strike pleading, brought by a competitor to block or delay competition, heedless of the public interest. Havens' vendetta against MCLM and the contempt for the people of Southern California shown in his Motion to Extend Pleading Cycle must have blinded him to the safety of the travelling public. The Commission need not consider the Petition further.

Havens' tactics in the instant matter demonstrate the method by which he has been effective in usurping the Commission's authority to approve an application. The Commission has the power but has not demonstrated the ability to deal with Havens' overloading of proceedings with hundreds of miscellaneous pages and hundreds of random claims. Years have gone by with no finality; Havens has not stopped even when informed that the Commission will summarily dismiss any further filing. Lives are at stake. The Commission should take back its authority and promptly deny Havens' challenges. The Commission should now be assigning adequate resources to handle the inevitable petition for reconsideration and the appeals which will follow.

Havens would have the Commission consider in the instant proceeding matters which he has raised in other proceedings, including an allegation that MCLM is not qualified by character to be a Commission licensee. Havens did not show that any of the behavior which he alleged concerning MCLM related specifically either to station WQGF318 or to the instant applications. Except as MCLM responds herein, MCLM has responded to each and every one of Havens' allegations in other proceedings and will not burden the record by rehearsing its responses here. MCLM respectfully refers the Commission to its responses in those other proceedings, particularly, but not limited to, its application assigned FCC File No. 0002303355. To the extent

that Havens requested that the Commission consider MCLM's character qualifications, the Commission should follow its precedents and not consider those Havens claims in the instant matter, see, Mobex Network Services, LLC, 25 FCC Rcd \_\_\_\_\_, \_\_\_\_\_ (FCC 10-39 Released March 16, 2010); Wireless Properties of Virginia, Inc., 23 FCC Rcd 7474, 7480 (WTB 2008); Paging Systems, Inc., 22 FCC Rcd 1294, 1299 (WTB 2007), *aff'd*, 23 FCC Rcd 7458, 7463 (DA 08-1084 Released May 7, 2008). The Commission should also follow precedent which has rejected claims that a licensee's actions with respect to one license should affect the disposition of a matter involving a different license, see, Mobex Network Services, LLC, 25 FCC Rcd 554, n. 4 (2010).

Havens included in his filing a mass of documents which he had filed previously in File No. 0002303355. MCLM has responded to Havens' arguments concerning those documents in the proceedings in which they were initially filed. Havens did not show the relevance of those documents to the instant applications. Unique to the instant matter, Havens filed as his Exhibit 13, a collection of notes and his opinions concerning whether MCLM has complied with state laws. Those state law matters are not within the Commission's primary jurisdiction and do not require the Commission's attention.

MCLM's application, FCC File No. 0004153701, requests that the Commission approve MCLM's showing that it has overcome the presumption of Commercial Mobile Radio Service regulatory status and authorize MCLM to operate station WQGF318 as a Private Mobile Radio Service station. Pursuant to Section 20.9(b) of the Commission's Rules, 47 C.F.R. §20.9(b),

MCLM provided the Commission with ample information to overcome the presumption. Havens protested MCLM's Section 20.9(b) showing on the basis that MCLM's request was inconsistent with MCLM's petition to deny PMRS status for certain of Havens' stations for which Havens had submitted a Section 20.9 certification.<sup>1</sup>

MCLM had requested that the Commission deny Havens' applications because Havens stated that he intended to operate without interconnection, which would not have been in compliance with Section 80.385(a) of the Commission's Rules, 47 C.F.R. §80.385(a). Havens argued that MCLM's statement that MCLM's operation would not be interconnected was inconsistent with MCLM's objection to Havens' not being interconnected. At the time that MCLM filed its petition to deny, Rule Section 80.385(a) defined AMTS as "an integrated and interconnected maritime communications system." In petitioning to deny MCLM's instant application, Havens apparently didn't recognize that, subsequent to the filing of MCLM's petition to deny Havens' applications, the Commission conformed Section 80.385(a) with other rule sections by eliminating the words "integrated" and "interconnected", *see, Maritel, Inc.* (FCC 10-6 Released January 7, 2010) at paragraph 13. While MCLM had a reasonable basis for protesting Havens' applications on the basis of Rule Section 80.385(a) in July 2009, that issue is now moot and MCLM is properly positioned to operate on a non-interconnected basis.<sup>2</sup> Whether any other

---

<sup>1</sup> MCLM requested that the Commission dismiss or deny Havens' license modification applications in FCC File Nos. 0003875412, 0003875418, and 0003875427.

<sup>2</sup> MCLM raised an additional issue concerning Havens' applications which need not be considered here.

MCLM station is interconnected or not interconnected is not relevant to the operation of station WQGF318.

Running throughout Havens' Petition was the theme that he had been unfairly treated by the Commission. In general, Havens' assertions of prejudice and denial of due process are between him and the Commission and do not require comment by MCLM. However, at page 16, note 10, of his Petition, Havens alleged that the Commission "granted the MCLM licenses. . . by conducting a secret private hearing with MCLM." There was no such secret private hearing. Havens allegation was both speculative and false.

Havens' allegations at his pages 25-26 have no merit:

1) Havens stated that Mobex had licenses terminated as the result of an audit. MCLM is not Mobex and is not responsible for the Commission's actions concerning Mobex. Havens was incorrect in stating that MCLM "had its incumbent station revoked" in Mobex Network Services, LLC, 25 FCC Rcd \_\_\_\_ (FCC 10-39 Released March 16, 2010). In that matter, the site license was deemed to have terminated automatically and the license was cancelled, not revoked. The Commission has neither revoked any MCLM license nor denied any MCLM license application.

2) Havens speculatively and incorrectly claimed that MCLM owes a non-tax debt to a federal agency. MCLM has not been informed by any federal agency that it owes a non-tax debt.

3) MCLM owes no fee for the filing of a request for waiver of the Commission's construction rules because it has not filed an application for such a waiver and has no need to file such an application.

4) MCLM is not delinquent in paying any Auction No. 61 sums to the Commission. MCLM paid all Auction No. 61 sums to the Commission when ordered.

5) MCLM's Form 602 Ownership Report is current and accurate.

The remainder of Havens' allegations at his pages 25-26 have been raised in other proceedings and can best be resolved in those proceedings and need not detain the Commission here.<sup>3</sup>

Not knowing the facts, Havens launched into an extended attack on MCLM based on his claim that MCLM had "used its AMTS licenses as collateral and therefore affected [sic] an unlawful transfer of control," Petition at 54. MCLM attaches hereto as Exhibit 1 a letter from each of the lenders Havens identified at his Exhibit 5, acknowledging that the assets pledged as collateral do not include MCLM's licenses.

---

<sup>3</sup> Although not relevant to the instant matter, Havens argued that MCLM had not complied with 47 C.F.R. §80.385(b). On May 6, 2010, MCLM filed its comment on Havens' petition for a declaratory ruling concerning 47 C.F.R. §80.385(b). MCLM refers the Commission to that comment.

Havens' position concerning MCLM incumbent station KAE889 is simply mysterious. MCLM does not propose to assign station KAE889 to SCRRA. Rather, MCLM has committed to SCRRA to cancel certain sites from the license for station KAE889 upon grant of the above-captioned applications. Havens' associated attack on Robert Gurss, Esq. is incomprehensible.

At page 29 of his Petition, Havens once again violated 47 C.F.R. §1.52 of the Commission rules by including slanderous material in his pleading. Havens alleged that "selling and buying 'hot bikes' (stolen goods) is not a legitimate trade or business, as MCLM is engaging in and SCRRA and its counselors seek to profit from." Havens presented absolutely no evidence to support his claim that MCLM was engaging in the buying and selling of stolen goods. MCLM strongly denies that it has ever engaged in the selling and buying of any stolen good, whatsoever.

Also on page 29 of his Petition, Havens alleged that SCRRA "must be aware of the false and criminal claims of MCLM to said AMTS spectrum." MCLM denies that it has made any false or criminal claim to the spectrum. Havens not only presented no evidence that MCLM has been convicted of any crime, he presented no evidence that MCLM has even been indicted for a crime. Had he exercised due diligence before libeling MCLM, he would have learned that MCLM has neither been indicted for nor convicted of any crime.

MCLM's agreement with Eagle Communications, Inc. (Eagle) was incorrectly described at Section 8.4 of the Partitioned License Agreement (Agreement) as a lease. It was not a lease. It was, rather, a management agreement under which Eagle managed MCLM's operation for MCLM's benefit.

Havens' doubts about the desirability of Positive Train Control are misplaced before the Commission. Congress has mandated PTC. Havens may desire to disparage PTC to his congressional representatives but whether SCRRA should protect the public safety by installing Positive Train Control is not a matter which the Commission need consider.

Whether Havens appreciates the life saving value of PTC or not, comments filed in WT Docket No. 10-83 in support of the above-captioned applications by the Federal Railroad Administration; PTC-220, LLC; the County of Riverside; the Ventura County Transportation Commission, and the County of Los Angeles demonstrate that each of those entities understands the imperative to increase public safety by SCRRA's installing and operating its Positive Train Control system without delay.

Conclusion

For all the foregoing reasons, the Commission should dismiss or deny Havens' Petition and should grant the above captioned applications immediately to allow SCRRA to meet its objective of constructing and placing into operation its PTC system at the earliest possible date.

Respectfully submitted,  
MARITIME COMMUNICATIONS/  
LAND MOBILE, LLC

/s/ Dennis C. Brown

8124 Cooke Court, Suite 201  
Manassas, Virginia 20109-7406  
703/365-9437

Dated: May 10, 2010

## EXHIBIT I

John S. Reardon, Chief Executive Officer  
Maritime Communications/Land Mobile, LLC  
218 North Lee Street, Suite 318  
Alexandria, Virginia 22314-2631

Re: Collateral

Dear Mr. Reardon:

In its agreement with Pinnacle National Bank dated 1-27-10, Maritime Communications/Land Mobile, I.J.C. (MCLM) agreed to pledge as collateral all of its assets. It is our understanding that, in conformity with the rules and policies of the Federal Communications Commission (FCC), the assets pledged as collateral do not include any license granted to MCLM by the FCC.

Thank you for your attention this matter.

Very truly yours,  
Pinnacle National Bank

By Heidi J. Weckert  
Senior Vice President

Dated: May 7, 2010

C. Chris Dupree  
201 Hazelwood  
Dothan, Al, 36303

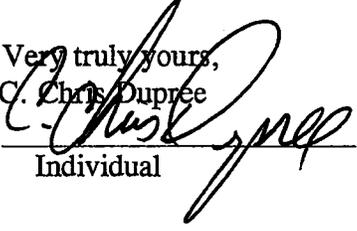
Sandra M. DePriest, President  
Maritime Communications/Land Mobile, LLC  
P.O. Box 1076  
Columbus, Mississippi 39703-1076

Re: Collateral

Dear Ms. DePriest:

In its agreement with C. Chris Dupree, LLC dated December 29<sup>th</sup>, 2005, Maritime Communications/Land Mobile, LLC (MCLM) agreed to pledge as collateral all of its assets. It is our understanding that, in conformity with the rules and policies of the Federal Communications Commission (FCC), the assets pledged as collateral do not include any license granted to MCLM by the FCC.

Thank you for your attention this matter.

Very truly yours,  
C. Chris Dupree  
By   
Individual

Dated: 5-5-2010

Watson & Downs Investments, LLC  
P. O. Box 1207  
Dothan, Al, 36302

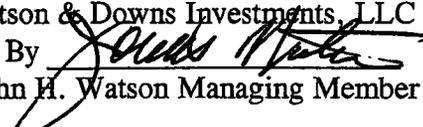
Sandra M. DePriest, President  
Maritime Communications/Land Mobile, LLC  
P.O. Box 1076  
Columbus, Mississippi 39703-1076

Re: Collateral

Dear Ms. DePriest:

In its agreement with Watson & Downs Investments, LLC dated December 29<sup>th</sup>, 2005, Maritime Communications/Land Mobile, LLC (MCLM) agreed to pledge as collateral all of its assets. It is our understanding that, in conformity with the rules and policies of the Federal Communications Commission (FCC), the assets pledged as collateral do not include any license granted to MCLM by the FCC.

Thank you for your attention this matter.

Very truly yours,  
Watson & Downs Investments, LLC  
By   
John H. Watson Managing Member

Dated: 05/05/10

Robert H. Hollis III  
P. O. Box 1530  
Dothan, Al, 36302

Sandra M. DePriest, President  
Maritime Communications/Land Mobile, LLC  
P.O. Box 1076  
Columbus, Mississippi 39703-1076

Re: Collateral

Dear Ms. DePriest:

In its agreement with Robert H. Hollis III dated December 29<sup>th</sup>, 2005, Maritime Communications/Land Mobile, LLC (MCLM) agreed to pledge as collateral all of its assets. It is our understanding that, in conformity with the rules and policies of the Federal Communications Commission (FCC), the assets pledged as collateral do not include any license granted to MCLM by the FCC.

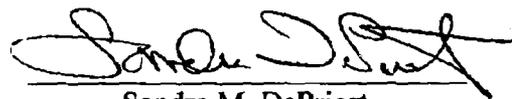
Thank you for your attention this matter.

Very truly yours,  
Robert H. Hollis III  
By Robert H. Hollis III  
Individual

Dated: 5-05-10

I declare under penalty of perjury that the foregoing is true and correct. Executed on

May 10, 2010



Sandra M. DePriest

CERTIFICATE OF SERVICE

I hereby certify that on this tenth day of May, 2010, I served a copy of the foregoing Opposition to Petition to Deny on each of the following persons by placing a copy in the United States Mail, first-class postage prepaid:

Warren C. Havens  
2649 Benvenue Avenue, #2-6  
Berkeley, California 94704

Paul Feldman, Esq.  
Fletcher Heald & Hildreth  
1300 North 17th Street, 11th Floor  
Arlington, Virginia 22209

Joseph C. Szabo, Administrator  
Federal Railroad Administration  
1200 New Jersey Avenue, SE  
Washington, DC 20590

Edward F. Kemp, President  
PTC-220, LLC  
1400 Douglas Street, STOP 0640  
Omaha, Nebraska 68179

Marion Ashley, Chairman  
Riverside County Board of Supervisors  
County Administrative Center  
Fifth Floor  
4080 Lemon Street  
Riverside, California 92501

Darren M. Kettle, Executive Director  
Ventura County Transportation Commission  
950 County Square Drive, Suite 207  
Ventura, California 93003

Don Knabe  
Supervisor, Fourth District  
Board of Supervisors  
County of Los Angeles  
822 Kenneth Hahn Hall of Administration  
Los Angeles, California 90012

Russell Fox, Esq.  
Mintz Levin  
701 Pennsylvania Avenue, NW  
Washington, DC 20004

Jeff Tobias, Special Counsel, Mobility Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Lloyd Coward  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Gary Schonman, Special Counsel  
Investigations and Hearings Division  
Enforcement Bureau  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Brian Carter  
Investigations and Hearings Division  
Enforcement Bureau  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

/s/ Dennis C. Brown