

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Maritime Communications/Land Mobile LLC) File No. 0004310060
and Jackson County Rural Electric) Call Sign: WQGF317
Membership Cooperative Assignment of)
Authorization Application)
)
)

To: Office of the Secretary

Attn: Wireless Telecommunications Bureau

Reply to Opposition to Petition to Deny,
or in the Alternative Section 1.41 Request^{1/2}

Petitioners hereby reply to the MCLM opposition (the “Opposition”) to their petition to deny (the “Petition”) the Application.

Petitioners hereby reply to the MCLM opposition (the “Opposition”) to their petition to deny (the “Petition”) the Application. The Opposition failed to refute the facts and arguments in the Petition and was evasive, lacked candor and misleading. MCLM and its counsel, Dennis Brown, who has a history before the FCC of such behavior³, should be sanctioned, investigated and prosecuted under U.S. Criminal Code violations. Petitioners have shown clear facts and evidence of why the License is invalid and why MCLM lacks character and fitness and MCLM is generally denying all of those facts and evidence in its Opposition, therefore, Petitioners have a right to respond to those general denials herein.

¹ A copy of this reply will be filed under File No. 0002303355 and in WT Docket 10-83 since it contains relevant facts and arguments of decisional significance to those proceedings. Petitioners also intend to supplement with a copy of this reply the other pending proceedings involving Petitioners’ challenges to the MCLM AMTS incumbent and geographic licenses.

² The defined terms used herein have the same meaning they had in the Petition.

³ See e.g. <http://www.scribd.com/doc/23192936/FCC-Communications-Act-Sec-308-Decision-Licensee-Kay-Attorney-Dennis-Brown-Lack-Candor-License-Revocation-Fines>

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1. Introduction and Summary

In this Reply, Petitioners show that the Opposition fails to refute the Petition's facts and arguments and that it is contradicted by the facts in the Petition and FCC records. Further, the Reply provides certain new facts and admissions by MCLM since Petitioners filed the Petition and asks that the FCC accept and consider those new facts since it was solely MCLM that had a duty to provide them earlier and their acceptance and consideration now is in the public interest, especially since they are relevant to the License and grant of the Application, including because they further show that MCLM failed to list officers and affiliates and gross revenues with the FCC, which is further evidence lack of candor and misrepresentation and of lack of character and fitness to be a Commission licensee. In addition, the Reply rebuts the Opposition's arguments that the Petition is frivolous. It also shows the following: that Donald DePriest is a controller and owner of MCLM and that the Opposition fails to refute this with any actual evidence to the contrary; that the FCC can and should consider character issues and MCLM's repeated, deliberate misrepresentations to the FCC with respect to the Application and License; that MCLM has failed to operate its site-based licenses as CMRS and failed to report operations under it or pay required regulatory fees for it; that its site-based licenses have permanently discontinued and automatically terminated for failure to be operated as CMRS for over 6 years and per other evidence, including MCLM's recent admissions, before the FCC; that MCLM has

taken contradictory positions regarding the role of John Reardon in MCLM and that all evidence actually indicates he is an officer contrary to MCLM's and Sandra DePriest's sworn responses to the Bureau's Section 308 letters and the EB Letters (thus, MCLM, Sandra DePriest and John Reardon are deliberately misrepresenting Mr. Reardon's position in MCLM and MCLM and Sandra DePriest have committed perjury); that MCLM has and continues to lack candor and should be investigated and it, the DePriests and its legal counsel should be sanctioned and disqualified from ever holding an FCC license. At minimum, the Reply further shows why a hearing and investigation under Section 309(d) and (e) is required.

2. New Admissions by MCLM

Petitioners point out here that the Opposition makes new admissions that are contrary to what MCLM and Sandra DePriest have been telling the FCC for years.

First, regarding the warrant to the "MC Group" for 20 units in MCLM, MCLM now alleges it represents only 2% of the shares of MCLM. Of course, the Opposition fails to point out that this warrant was issued by Donald DePriest as Manager and not by Sandra DePriest. It also fails to state what rights and control those shares have (Not all shares in an LLC are necessarily the same. Some shares may hold all of the voting control or rights to a majority of profits, etc.). Nevertheless, the Opposition is now admitting that Donald DePriest had the power and control over MCLM to issue 2% of of the shares of MCLM in a warrant. This admission by MCLM clearly shows Donald DePriest has control in MCLM. However, for the reasons stated herein, MCLM's representations can no longer be relied upon. Thus, the FCC has no basis to believe MCLM's assertions on this point. Also, MCLM only makes a bald assertion regarding what percentage the 20 units mean without any actual evidence to back it up.

Further, the Opposition's statement is at odds with the evidence presented on this matter as to what ownership the warrants represented. For the amount of the funds put in for the warrants, and for the high risk of unsecured debt involved, it is not believable that at that early

stage of MCLM (where the spectrum cannot be considered worth more than the public auction prices), that said level of funding would obtain only that very minor percentage in equity rights (via the warrants). But in any case, what that evidence showed was that MCLM, Depriest and the funding sources and their counsel understood that issuance of the warrants had to wait for the FCC license matter to be cleared up: There is no reason to put that off, especially when those warrants were overdue to be issued (as the evidence showed), if the ownership percentage, or some level of FCC-disclosable control of affiliation, was not already provided for in the funding deal, explicitly or in some side oral or written instrument or understanding. Also, this is further cause that a hearing must be held. As Petitioners have often demonstrated, if ever there was a case that required a full factual hearing under Section 309(d) of the Communications Act, this is the one (all MCLM actions before the FCC including, based on, or related to Auction 61).

Second, at page 14, the Opposition states, “As he did at page 5 of his Exhibit A, Havens wildly misinterpreted Belinda Hudson’s execution of a document at page 37 of his Exhibit A. Hudson signed as treasurer of Communications Investments, Inc., not as treasurer of MCLM.” And at page 13, it states, “...Hudson is not now and never had been treasurer of MCLM”. Notwithstanding the evidence provided by Petitioners that shows Belinda Hudson is in fact an officer of MCLM and Communications Investments, Inc. (“ComI”), MCLM itself is now belatedly admitting that Belinda Hudson is an officer (Treasurer) of ComI, the controlling entity in MCLM. As such, she clearly had to be listed on MCLM’s Form 175 and Form 601 for Auction No. 61 and was not. This also shows MCLM’s past statements, under penalty of perjury, that Sandra DePriest was the sole officer of ComI to be false and misleading. On MCLM’s Form 175 for Auction No. 61 it stated, “Sandra M. DePriest is the sole officer, director and key management personnel of Communications Investments, Inc.” In MCLM’s responses to Petitioners’ pleadings in the Section 309 Proceeding to date it has denied that Ms. Hudson was an officer of ComI and MCLM. Also, the MCLM and Sandra DePriest responses to the Section

308 Proceeding (see MCLM response dated 9/30/09 at page 3) MCLM and Sandra DePriest stated, “As of February 18, 2005, I was Sole Shareholder and was elected Director and serve as the sole officer and director of CII.” And in MCLM’s 3/29/10 responses to the Enforcement Bureau regarding its investigation under File No. EB-09-IH-1751, MCLM stated at page 2 that “I [Sandra DePriest] have also remained the President, Secretary and sole director of Communications Investments, Inc. since Don DePriest resigned as President and Director of what was a shell corporation since 1998.” However, in those same MCLM 3/29/10 responses at page 2, footnote 3 it states: “It has come to my attention [Sandra DePriest’s] in the detailed review of the minutes of the meetings of Maritime that I need to correct a statement made in my earlier LOI responses. In reviewing the minutes, I see that Belinda Hudson was indeed authorized to sign as Treasurer in the January 6, 2006 minutes of Maritime authorizing her to sign as Treasurer, Exhibit 1 (viii) hereto, as well as in the minutes of Maritime of March 10, 2009 in the opening of a bank account, Exhibit 1 (x) hereto.” Yet, now in the Opposition, MCLM is taking a contrary position to those statements and stating that Ms. Hudson have never been the treasurer of MCLM, but only of ComI. It appears MCLM, the Reverand Sandra DePriest and their attorney cannot get their stories straight. Nevertheless, MCLM is now admitting Belinda Hudson is the Treasurer of ComI and it has already admitted in its responses to the Enforcement Bureau that she is the Treasurer of MCLM. Also, all of the evidence from Petitioners, including the Petitions Exhibit A, shows that she was Treasurer of both since at least September 20, 2005 (Belinda Hudson as an officer of MCLM and ComI also had a duty to timely inform the FCC, but she did not do so). The FCC clearly should move to investigate Belinda Hudson and obtain testimony from her under penalty of perjury, as well as copies of all records she has, regarding her knowledge of MCLM and its affiliates and the DePriests and their affiliates and the DePriests’ and her role in MCLM and its affiliates.

3. Responses to Opposition’s Arguments

In the Opposition in various places, instead of addressing the relevant evidence and documents presented to the arguments Petitioners made, MCLM addresses irrelevant parts of the evidence to avoid the actual points. Whenever evidence is presented in any legal proceeding entire documents or entire sections of documents are presented to show the context, otherwise excerpts may be misleading. However, that obviously does not mean that the irrelevant portions provided to show the context and authenticity can be speciously construed as the meaning of the evidence where the meaning or point was clearly made. By addressing clearly irrelevant portions of evidence presented MCLM is revealing that it cannot refute the relevant evidence and arguments. It is also sanctionable behavior by an attorney at law because it is an attempt to mislead the legal authority in this case, the FCC. Therefore, there is no need for Petitioners to respond to MCLM's discussion of irrelevant parts of the evidence except to point out that it effectively admits to the relevant parts and arguments based on those.

The evidence in the record before the FCC and provided in the Petition shows that the FCC cannot rely on the representations of MCLM, its legal counsel or its alleged owners/controllers, whoever they may be at any given time or what title they may or may not use. Despite the overwhelming evidence to the contrary, the Opposition continues to maintain that John Reardon is solely an "authorized employee" of MCLM and not an officer. That lacks candor and is misleading and should be punished. The Petition's facts clearly show that Sandra DePriest and MCLM have perjured themselves before the FCC when they told the FCC in their responses, under penalty of perjury, in the Section 309 Proceeding, Section 308 Proceeding and Enforcement Proceeding that Mr. Reardon has never been an officer of MCLM. The Petition showed that MCLM has told a Florida court (see Attachment 003 to Petition) that Mr. Reardon is its President and Officer. MCLM also misrepresented to the FCC that Sandra DePriest and Donald DePriest live "separate economic lives", as shown by the Petition's evidence from the Goad Case in which Donald DePriest admitted that his wife and him have joint tax returns. As

shown by the Petition, these are just a couple of the blatant misrepresentations that MCLM has made to the FCC. Thus, based on the Petition's evidence, it is clear that the Reverend Sandra DePriest and MCLM have committed perjury and fraud upon the FCC and they should be prosecuted accordingly. Nothing they say at this point should be believed with respect to any of their licenses, applications, officers, operations, etc. Therefore, the FCC must grant the Petition and move to conduct a hearing and investigation under Section 309 (d) and (e) and for violations under the U.S. Criminal Code. The FCC should fully investigate all aspects of MCLM and request copies of all corporate documents including but not limited to contracts, incorporation documents, tax returns, site leases, equipment invoices, station logs, financial books and records, license lease agreements, affiliates' documents, all records of ownership of other businesses held by Sandra DePriest, MCLM and Donald DePriest, etc.

Further, regarding the John Reardon issue, the Petition's facts and arguments speak for themselves and nothing in the Opposition effectively refutes those. It is notable however that MCLM continues to tell the Enforcement Bureau and Wireless Telecommunications Bureau in their investigations that John Reardon is not an officer of MCLM and that he is only an "authorized employee", yet before a Florida Court (see Attachment 003) and in numerous MCLM FCC licensing applications filed by MCLM over several years and in contract agreements attached to some of those applications, and in a May 25, 2006 letter to the acting Chief of the Wireless Bureau asking for the FCC to process MCLM's Form 601 for Auction No. 61 (see the 2010 Supplement, in particular the Email and attachments filed June 8, 2010 that discuss this and footnote 8 of Order, DA 06-2368), John Reardon has signed as President and Chief Executive Officer of MCLM. Also, see the 19 Pages obtained by SSF under FOIA Control No. 2009-089 that contains a letter John Reardon wrote to Jeffrey A. Mitchell, Associate General Counsel of the FCC's Office of General Counsel on MCLM letterhead and signed it as MCLM's President, and a letter in those same 19 Pages from W.B. Erwin at the USAC that copies Mr.

Reardon as President of MCLM. Apparently, MCLM believes that the FCC and Petitioners will actually fall for their preposterous “Emperor has new clothes” argument regarding Mr. Reardon’s role in MCLM (as well as for their other arguments regarding a Manager, Director, and Treasurer not meaning what those titles signify in business and law). MCLM and its legal counsel should be sanctioned for such repeated and willful misrepresentations and lack of candor (as previously, MCLM’s counsel, Dennis Brown, has a history before the FCC of such lack of candor).

See Exhibit 1 hereto that is an email string involving communications from Petitioners to FCC staff and a response from MCLM’s attorney, Dennis Brown, regarding FCC Order, DA 10-1013 in which the Wireline Competition Bureau states that Mobex and Watercom are MCLM’s predecessors in interest. In Mr. Brown’s email, MCLM says it bought Mobex’s assets only and thus is not a predecessor in interest. However, as shown herein, that is not a correct analysis. Also, when looking at the evidence presented by Petitioners (including, but not limited to, the Petition’s Attachment 003 in which MCLM says Mobex is its predecessor and showing that John Reardon is an officer of MCLM thereby requiring his affiliates, Mobex and Watercom, to be attributable as affiliates and predecessors in interest), it is obvious that Mobex and Watercom are predecessors in interest contrary to Mr. Brown’s email and the Opposition. Clearly, MCLM chooses to continue to violate FCC Rules on this point. In fact, before the WCB, MCLM is saying it is the successor in interest to Mobex and Watercom for purposes of a refund of operational income of these entities, and before the Florida Court (see Attachment 003) it is also taking that position with respect to Mobex contracts and operations, among other things. The Opposition is insincere in continuing to argue that Mobex is not a predecessor in interest by acting like the FCC (the WCB in this case) has not found Mobex to be its predecessors in interest

as Order, DA 10-1013, has clearly stated.⁴

Mobex: MCLM's Affiliate Predecessor in Interest

MCLM failed to comply with FCC finding (contained in its decisions to date on the MCLM long form in Auction 61 and in other decisions cited below), based on irrefutable facts in evidence, that Mobex is the predecessor in interest of MCLM (and MCLM is successor in interest of Mobex) and thus amend its Auction 61 long form to include Mobex and its attributable gross revenues (which for a legal entity include cash and other income)⁵ This amendment is required under FCC auction rules and Section 1.64.

⁴ *Order*, DA 10-1013, released June 4, 2010, WC Docket No. 06-122, 25 *FCC Rcd* 7170, at paragraph 8 (the "Order") that states the following [underlining added for emphasis]:

8. For these reasons, we affirm the Bureau's prior conclusion that Maritime's predecessors were providing telecommunications services from 2001 through 2006 when they offered AMTS and that revenue from these services are subject to universal service contribution assessments.

And at Footnote 18 that states [underling added for emphasis]:

Maritime is incorrect in asserting that the Bureau should have proffered evidence that Watercom and Mobex offered their AMTS indiscriminately. Maritime Petition for Reconsideration at 4. As the applicant requesting a refund, Maritime bore the burden of proffering evidence that its predecessors in interest were the exception to the rule that CMRS providers are treated as common carriers. See 47 C.F.R. § 1.41; 47 U.S.C. § 332(c)(1).

⁵ E.g., (i) Mobex asserts in its Florida court case against Central Florida Communications, shown in exhibits in the Petition, that it was by contract entitled to specified large spectrum-lease income. Under accounting and tax law, that is income to the party that, as in this case, has a contract claim of right to the income, even if not received when due. (When income due is thus included in accounting and tax returns in one year, since it is lawfully due and claimed, but received in a later year, then it is income in the first year and not the latter year, and if never ultimately received and uncollectable, it is bad debt expense. However, in addition, Mobex other major gross revenues attributed to MCLM from other known sources (apart from ones that Petitioners do not know of). (ii) Mobex sold off its 800 MHz (and possibly other) non-AMTS FCC licenses to Nextel (and possibly others) prior to Auction 61, and some of that sale income, and interest thereupon, was in the three years preceding the year of Auction 61: one Mobex company (that held AMTS licenses) was not dissolved until after Auction 61, and some other Mobex companies have to this day not been dissolved. (iii) MCLM asserted a claim right to revenue via a refund it demanded, on behalf of Mobex, before the Universal Service Fund Administrator ("USFA"). It asserted that only since it purchased that right from Mobex, with its other assets and business. That claim then became an asset of Mobex which, by presenting to the

It is not questioned by MCLM or the FCC that any predecessor in interest of MCLM is its affiliate for Auction 61 purposes, as meant in relevant FCC rules.⁶

See Exhibit 1: This was a statement by MCLM, via its legal counsel, to the FCC in the overarching proceeding regarding the AMTS licenses obtained by misrepresentations and other legal violations of MCLM in Auction 61, some of which spectrum is subject of this Petition and this Application. In Exhibit 1, MCLM persists in flatly denying this inescapable fact: that Mobex is its predecessor in interest, that MCLM lied about this to the FCC, and to day continues to attempt to hoodwink the FCC staff into believing it should reverse its finding noted above, and overlook the fact and MCLM's own statements that Mobex is its predecessor in interest, and it is Mobex's successor in interest. It attempt that now by suggesting that it only acquired the assets of Mobex and that only a take over of a business entity creates this relation (predecessor and successor in interest). First, the evidence submitted in the Petition shows MCLM took over both the assets and business of Mobex, but even if it only took over the assets—the FCC licenses and licensed stations, and associated assets, that still unquestionably creates this predecessor and successor in interest relation.

USFA, it sought to profit from. Whether or not it succeeded, it alleged the legal right to this revenue and the revenue. (iv) Other: see evidence in the Petition, including referenced, incorporated, and attached materials.

⁶ Section 1.2110 (o) provides, in relevant part:

(o) Gross revenues. Gross revenues shall mean all income received by an entity, whether earned or passive, before any deductions are made for costs of doing business (e.g., cost of goods sold), as evidenced by audited financial statements for the relevant number of most recently completed calendar years or, if audited financial statements were not prepared on a calendar-year basis, for the most recently completed fiscal years preceding the filing of the applicant's short-form (FCC Form 175). If an entity was not in existence for all or part of the relevant period, gross revenues shall be evidenced by the audited financial statements of the entity's predecessor-in-interest or, if there is no identifiable predecessor-in-interest, unaudited financial statements certified by the applicant as accurate.

The FCC rules on affiliates makes entirely and repeatedly clear that it defines affiliates as entities with certain economic interests related to the auction applicant, that may provide to the applicant direct or indirect financial support that the FCC chooses to consider in its designated-entity bidding-discount-level “size.” Predecessors in interest of an applicant are included since they may have assets that produce income: Income is not produced by private for profit entities by taxation, as government entities can obtain, or by charitable donations as tax-exempt nonprofits can obtain, but since they have assets that support business that generates or may generate revenue. The FCC does not, with many terms it uses that have well established legal and industry meaning, define said terms. In this case, the above noted purpose, made clear in its designated-entity rules on affiliates, is fully served by the standard industry definition of successor in interest (and the mirror definition of predecessor in interest) as shown below (emphasis and text in brackets added in the below definitions):

(1) Sources 1 and 2: From: Lawyers.com, citing Merriam-Webster:

Successor in interest

Definition

: a successor to another's interest in property [assets]

esp: a successor in ownership of a business that is carried on and controlled substantially as it was before the transfer

The above states that it is:

Based on Merriam-Webster's Dictionary of Law ©2001.

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<http://www.m-w.com>

(3) Source 3: The Complete Real Estate Encyclopedia by Denise L. Evans, JD & O. William Evans, JD. Copyright © 2007 by The McGraw-Hill Companies, Inc.

successor in interest [means]

An owner of property [assets] after the one being described.

Example: Jim executed a mortgage on property that was never paid off, but which never showed up in title searches until recently, despite the fact the property had

been sold several times. All of Jim's successors in interest were in danger of losing their property to a foreclosure by the mortgage holder.

(4) Source 4: Answers.com

What does successor in interest mean?

A successor in interest is one who follows another in ownership or control of a property. For example: If you sold your home the new owner would be your successor in interest.

MCLM itself has repeatedly stated to the FCC that it acquired the AMTS FCC license assets and associated – alleged—operating station hardware from Mobex—not to warehouse them, but to keep them in operations as CMRS business. Even if not kept in operation, this is an acquisition of assets that creates this predecessor and successor in interest relation, but, in addition and independently, this relation is created due to that alleged take over and continuation of this CMRS gross-revenue producing (alleged) business of Mobex.

Mobex attempted to get the FCC to allow it to exclude some of its revenues for purposes of auction bidding, but at least Mobex requested this and was rejected. Then, after that rejection, MCLM was formed and simply lied to the FCC that it had no affiliates including Mobex. The Mobex rejection is explained by the FCC in, or including in, FCC 02-74⁷ (footnotes in original retained, and emphasis and text in brackets added):

81. We reject Mobex's recommendation that we should allow applicants seeking bidding credits to exclude operating revenues from activities that have been discontinued more than one year prior to the filing of the short form application when determining the average gross revenues for the preceding three years.⁸ We note that a business's gross revenue stream may fluctuate over a three-year period and that certain revenue-producing activities [including FCC licensed stations] may be discontinued. By averaging the total gross revenues for the preceding three years, including those revenues that come from any discontinued activity ,

⁷ In the Matter of Amendment of the Commission's Rules Concerning Maritime Communications ... PR Docket No. 92-257, Second MO&O and Fifth R&O, FCC 02-74, Released April 8, 2002.

⁸ [Footnote in original:] Mobex Comments at 16.

the applicant is able to provide an accurate and equitable measure of the size of a business and whether that business has the resources to compete in an auction.⁹ For that reason, the Commission has not excluded such revenue from the definition of gross revenues it has applied to applicants for licenses in other services. Moreover, we are concerned that adoption of Mobex's recommendation could invite business practices that are designed to circumvent our competitive bidding provisions in order to qualify as a small or very small business, i.e., to shield revenue or shelve revenue-producing activities for the year preceding the auction [including from past sales of, or operations of, FCC licenses]. We believe our current definition of "gross revenues" has worked well to date as a measure of an applicant's size and Mobex has failed to present any evidence to the contrary.

See: In the Matter of Applications of MOBEX NETWORK SERVICES, LLC; for Automated Maritime Telecommunications System Along the Mississippi River. File Nos. 0001082495.... DA 05-2492. 20 FCC Rcd 14813; 2005 FCC LEXIS 5185. Released; September 20, 2005:

3. On August 11, 1982, the Commission granted Mobex's predecessor in interest, Waterway Communications System, Inc. (Watercom), the authority to construct and operate an AMTS along the Mississippi River. n8 Watercom's system was authorized to operate on AMTS Channel Block A.

The preceding makes clear that the FCC deems a company a predecessor when it buys the FCC licenses and licensed station assets of a company. MCLM's position that-- after Mobex purchased the Watercom AMTS licenses and stations, and thus Watercom became the predecessor of Mobex-- when MCLM then bought the same from Mobex, Mobex was not its predecessor in interest is, of course, nonsensical and without basis in the very history of the AMTS licenses and station assets at issue. See also Exhibit 2 hereto.

For this reason (under this subsection of this Reply) alone, MCLM was created and presented to the FCC as having no affiliates as a sham—to attempt to get out of the gross revenues of Mobex and its other affiliates, to get a bidding discount it did not deserved and

⁹ [Footnote in original:] Amendment of Part 1 of the Commission's Rules -- Competitive Bidding Procedures, *Third Report and Order and Second Further Notice of Proposed Rule Making*, WT Docket No. 97-82, 13 FCC Rcd 374, 388-89 ¶ 19 (1997); see generally 15 U.S.C. § 632(c)(2)(ii).

unfairly compete in auction 61. To this day, MCLM perpetuates this and a host of other shams shown in the Petition.

John Reardon, Denied as Officer in MCLM:
Thus, the Application is Invalid

The Opposition did not refute the evidence in the Petition that the alleged sole controller of MCLM, Sandra Depriest, adamantly instructed the FCC that John Reardon was never an officer in MCLM. To say that he is only an “Authorized Employee” is to admit that he is an officer. The legal and industry definition of “officer” and its origin, mean nothing more or less than an employee of a legal entity authorized to take certain acts to bind the entity. This law was presented by Petitioners in their petition to deny the MCLM assignment of AMTS spectrum to the Southern California Railroad Administration which is among the past pleadings referenced and incorporated in the subject Petition. Since Ms. Depriest has denied that John Reardon is an officer in MCLM, he is not authorized as an employee to take any actions to bind MCLM including the subject Application.

The Application is thus not the act of MCLM and must be dismissed on this basis alone, and should be sanctioned.

Clearly, MCLM has reasons for all of its endless contradictor statements (lies) to the FCC, Petitions, and the market: one of them here is that MCLM does not want Mobex to be its affiliate for Auction 61 purposes, and if John Reardon is an officer in MCLM (as MCLM and other records show he was, before and after Auction 61), then Mobex is MCLM’s affiliate since John Reardon is the chief officer in Mobex (an officer of the Applicant in an auction, causes that persons affiliates to be the affiliates of the applicant). Thus, MCLM is now attempting to call Reardon “only” an “authorized employee” which is simply the summary definition of an officer to start with.

Where the FCC uses both terms--“officer” and “authorized employee” -- together , that does not contravene the legal and industry meaning of “officer” but it obviously means that what counts in determining an officer is not the title but the function: substance over form.

“President,” “Secretary” and other common titles for officer positions are not the limits of who is an officer: any “authorized employee” that acts for the legal entity is an officer by said authority and function or act.

Thus, the Application is unauthorized since, despite use of the term “authorized employee,” MCLM’s alleged sole controller adamantly instructed the FCC that John Reardon has no officer authority in MCLM. At minimum, use of that term “authorized employee” in the fact of that denial, must be cause for a hearing under Section 309(d) of the Communications Act as to who, in fact, has taken any act for MCLM that is valid, and what the FCC should do with regard to acts found unauthorized and invalid. In fact, the larger issue is that MCLM has acted as a sham corporation or legal entity before the FCC (and other governmental entities, and private parties): the Reardon issue being just one prong of the sham that is abundantly clear.

By Mr. Brown’s email in Exhibit 1 and the Opposition’s arguments, MCLM and Mr. Brown are essentially saying that if an entity gets away with misrepresentations and fraud for long enough than it is too late to punish them for those when finally discovered and that MCLM deserves finality.¹⁰ The Opposition’s assertion that these matters are closed is entirely false including as evidenced by Petitioners’ pending pleadings and also the FCC’s own investigations under Section 308 and by the Enforcement Bureau. In fact, Petitioners continue to find more and more evidence that further shows MCLM has committed misrepresentations, fraud and perjury

¹⁰ For example, MCLM has deliberately maintained a false Form 601, File No. 0002303355. MCLM has belatedly admitted to over 30 affiliates, but at no time, as required under Section 1.65 and other FCC rules, has it amended its Form 601 to include those affiliates (e.g. Mobex, MCT Corp., Bioventures). Clearly what MCLM is trying to do is argue that everything they have done is fine, contrary to the evidence, so that they can get and close deals and then use that money to satisfy debt obligations of Donald DePriest and MCLM and generally gain benefit from ill begotten government property.

and is violating numerous FCC rules. In addition, Petitioners showed in the Petition that SSF has an pending appeal to obtain more records that MCLM submitted to the FCC that are of decisional significance to the Section 309 Proceeding, Section 308 Proceeding and Enforcement Bureau investigation (see SSF's pending appeal of FOIA Control No. 2010-379). Once SSF obtains that information and provides it to the rest of Petitioners and publishes it publicly (information that Petitioners should have been provided by the FCC already, but that was impermissibly withheld from them in violation of their constitutional petition rights and in violation of the public interest), Petitioners will have additional evidence and arguments to add to the proceeding regarding MCLM fraud, misrepresentations, perjury, criminal activity, etc.

The Petition clearly showed that Petitioners have standing for various reasons to file the Petition including under *Lujan*. The Opposition does not attempt to refute those showings.

As stated above, the Sandra DePriest's declaration cannot be relied upon due to the clear evidence that she has perjured herself before the FCC.

The Petition is not a strike pleading for all the clear facts and sound arguments it gave and nothing in the Opposition refutes those facts and arguments or shows them to be frivolous or irrelevant to the Application and License and MCLM, as a FCC licensee. In fact, the FCC, itself, has seen fit to commence two separate investigations of MCLM based on many of the facts presented in the Petition, see the Section 308 Proceeding and the Enforcement Proceeding. As explained in the Petition, the facts and matters being investigated by the FCC are relevant to the License, Application and MCLM as a FCC licensee. The Petition also showed that MCLM refuses to provide Petitioners with the actual station technical parameters for its site-based licenses and that Petitioners recently demanded yet again those details from MCLM per the FCC's two orders¹¹ and Section 80.385(b). MCLM responded to Petitioners' most recent

¹¹ See (1) *Letter* of April 8, 2009 from Scot Stone, Deputy Chief, Mobility Division, Wireless Telecommunications Bureau to Dennis Brown, counsel for Maritime Communications/Land

demand.¹² The MCLM Comment shows it will not provide station parameters contrary to the FCC's Two Orders and Section 80.385(b). Instead, the MCLM Comment suggests a rule that does not exist. In order for Petitioners to proceed with any short spacing under Section 80.385(b), MCLM asserts that Petitioners must give them their confidential and proprietary business plan and any agreements, which is not required by any FCC rule. This is further evidence that MCLM is not operating its site-based licenses. If it were really operating the site-based licenses, then it would have those actual station technical parameters. Also, if MCLM were actually providing service with its site-based licenses, then the public would know those licenses' actual station technical parameters since MCLM would have publicly disclosed information about the coverage area and station parameters of its site-based licenses for its customers and potential customers to see and consider. MCLM cannot assign those licenses when it will not even report and disclose to Petitioners or the FCC those licenses' actual station parameters, including but not limited to, because as the Two Orders state each site-based license's area is not per the original hypothetical maximum application parameters as MCLM asserts, but per the actual station operating parameters, which MCLM will not provide to the FCC or Petitioners.

Based on any assumptions of what MCLM may have actually built, the MCLM stations, or most of them, automatically terminated for failure to meet the overlapping site coverage requirement of Section 80.475(a) that, as the Two Orders noted, was in effect at the construction deadline for MCLM's site-based AMTS licenses. This is yet another reason that the Application cannot be processed because MCLM has maintained for year auto-terminated licenses which

Mobile LLC, DA 09-793, 24 *FCC Rcd* 4135, at footnote 7 (the "MCLM Ruling") and (2) *Order on Reconsideration*, DA 10-664, Released 4/19/10 (the "2nd MCLM Ruling") (together the "Two Orders") with regard to Rule Section 80.385(b) that requires AMTS incumbents to provide to Petitioners, as co-channel geographic licensees, the actual technical parameters of the incumbent's site-based (alleged valid and operating) stations

¹² See *Comment* filed by MCLM on May 6, 2010 under File No. 0002303355 and various other MCLM call signs, including the License. (the "Comment")

shows lack of character and fitness and long-term, ongoing rule violations. In addition, Petitioners are submitting various information to the FCC in relation to the FCC's ongoing investigation that shows that the MCLM incumbent stations have auto-terminated without specific Commission action and are otherwise invalid.

Contrary to the Opposition's assertions, Petitioners have shown that Mobex is MCLM's predecessor-in-interest, not just by their own admissions in the New Jersey Case, but also by FCC rule and other facts in the records including those provided in the New Recon and Supplement to New Recon, the Petition (see e.g. its Attachment 003 and others), and WCB Proceedings that show that Mobex is MCLM's predecessor-in-interest and affiliate and that it needed to be disclosed on the MCLM Auction No. 61 Form 175 and Form 601 (in the WCB Proceedings MCLM itself has told the FCC that it is Mobex's successor-in-interest; the flip side of a successor-in-interest is a predecessor-in-interest, the one necessarily implies the other, and the WCB has stated in Order, DA 10-1013 that Mobex is MCLM's predecessor). The Opposition fails to refute the clear facts in Petitioners' filings in those proceedings other than with bald assertion. Petitioners also note, that MCLM has contradicted itself before the FCC several times now in the Auction No. 61 Proceedings regarding its affiliates, attributable gross revenues, its control and ownership, its directors and officers, etc. MCLM stated in a court filing that Mobex was fully merged into MCLM (MCLM's attorney must have had review and approval of its client prior to filing that statement). Petitioners, upon seeing that statement, then referred to and cited to it in their FCC filings. After seeing Petitioners' FCC filings, MCLM then made a filing to attempt to retract that statement. However, just because MCLM is attempting to retract that statement does not mean it was not accurate and correct. That contradiction in statements is not something that MCLM can readily dismiss or correct with another filing, especially when the facts in the record support MCLM's original statement and Petitioners' arguments. It is a matter that a court or the FCC will have to decide upon ultimately, and that the

FCC may determine to investigate further, although there is clearly enough evidence in the record already showing that Mobex is a predecessor-in-interest and affiliate of MCLM under FCC rules (including but not limited to that Mobex's President, John Reardon, is also, per records before the FCC, including in the Petition (see e.g. Attachment 003), New Recon, Supplement to New Recon, the 19 Pages of documents obtained by Skybridge Spectrum Foundation under FOIA Control No. 2009-089, the 2010 Supplement (that discussed the MCLM May 25, 2006 Letter to the FCC from Mr. Reardon as President and the FCC Order, DA 06-2368, that identifies said letter at Footnote 8) and elsewhere, the President and Chief Executive Officer of MCLM).

Regarding the Opposition's arguments concerning Mobex Network Services LLC, 25 FCC Rcd 554, n. 4 (2010), Petitioners note that they are appealing that decision and thus it is not final. In addition, in that decision the FCC did not conclude that it would not consider character issues of a licensee relating to one license with respect to another license held by that same licensee. The FCC wrote that, "Even assuming Petitioners' allegations have merit, the Commission's policy is that a licensee's misconduct with respect to one station is not necessarily relevant to its qualifications to hold any station license...." [Underlining added for emphasis]. However, in this case, the Petition's facts, although presented in other proceedings too, do affect and relate directly to the License and MCLM as a licensee (e.g. MCLM must disclose its actual control at all times to the FCC), thus they are clearly relevant to the Application and there is no reasonable or possible separation that can be made in this case (or should be made, especially when considering MCLM's repeated, willful misrepresentations to the FCC as evidenced by the Petition and this Reply).¹³

¹³ Petitioners in their appeal of that FCC decision argue, in part, that a licensee's character and fitness necessarily extends to all of its and that if a licensee commits misrepresentations and fraud then those cannot and should not be limited to a particular license but must be considered for all of its licenses and applications.

Regarding the issue of Donald DePriest being a co-controller and sole controller of MCLM, the Petition's facts and arguments on this issue speak for themselves and fully support Petitioners' position. Nothing in the Opposition or any MCLM opposition filing to date effectively refutes those facts. The Petition, New Recon and Supplement to New Recon and the Auction No. 61 Proceedings (and now the 2010 Supplement) facts clearly show that Donald DePriest is a controller of MCLM, that he is its Manager and Director, that he was, until recently, the sole Director of Communications Investments, Inc. (by Sandra DePriest's own filing of Communications Investment's annual reports certified under penalty of perjury as accurate and truthful with the State of Mississippi), that he has the power to issue ownership and warrants in MCLM, that he has obtained financing for and personally guaranteed financing of MCLM, etc. MCLM has no good rebuttal of these facts other than to play word games (i.e. another one of their "Emperor has new clothes" arguments). The FCC should not stand for such lack of candor any longer.

Regarding the non-tax debt owed, MCLM does not address the Petition's facts and arguments on this issue, but only makes a bald assertion to the contrary when in fact the FCC's own records show that it failed to file Forms 499-A for certain years, that on Forms 499-A filed it failed to report several jurisdictions in which it operates AMTS stations, and that MCLM has told the WCB, for purposes of a refund, that it is providing PMRS service and thus not subject to USF fees, when in fact its AMTS incumbents licenses, including the License, are CMRS and they are required to pay USF and other regulatory fees for them. Thus, MCLM has hundreds of operating AMTS CMRS incumbent stations for which it is not paying any USF fees because its position is that they have been operating as PMRS, yet the FCC rules don't say that a CMRS licensee can elect to not pay USF and other regulatory fees just because the licensee decides to assert that its authorized CMRS service is actually PMRS. Thus, for its site-based licenses alone MCLM owes money for USF and other regulatory fees. MCLM has not been filing Form 499-A

for and reporting income from its site-based operations. MCLM has always maintained it has been operating and providing service with its site-based licenses, yet it is not reporting that and paying fees. This alone is prima facie evidence calling into question grant of the Application since if MCLM is not filing the Form 499-A for those licenses and paying any fees, then there is a serious question of whether or not MCLM is actually operating those licenses and whether or not it has permanently discontinued them. Further, contrary to the Opposition's assertions, the Petition provided ample evidence that the MCLM's site-based licenses are defective and must be cancelled because (1) the original assignment application between Mobex and MCLM is defective since it failed to disclose MCLM's actual control and ownership (e.g. Donald DePriest is a controller and owner) and (2) those licenses, by MCLM's own admissions and arguments to the FCC, have been operated impermissibly outside of their authorized service as PMRS for over 6 years and thus automatically terminated without specific Commission for permanent discontinuance and for illegal operation without a license (an AMTS licensee must operate its AMTS license as AMTS, otherwise, it is not operating AMTS and is not meeting the requirements for keeping and maintaining the license and has given up its authorized rights to the spectrum).

In addition, MCLM had an obligation to disclose non-tax debt it owed and it is cheating the FCC by not submitting the proper filings to show the debt it owes, namely timely and accurate Forms 499-A. The WCB Proceedings and the FOIA Control No. 2009-089 show that MCLM failed to file Forms 499-A for certain years and that it has not reported and paid USF fees for years since it has maintained that its AMTS licenses have been operated as PMRS, when they are only authorized for CMRS.

When citizens and companies have an obligation on a debt and it is their obligation to know that debt and state it and pay it, then they still have that debt whether or not they are informed of it by the Federal agency. However, the MCLM position is that it does not have to

report any debts it knows it owes or that it has avoided paying by not filing correct Forms 499-A, but that the FCC must catch it not reporting operations or filing Forms 499-A and then inform MCLM of any obligations there under. That is absurd and clearly warrants further investigation by the FCC into MCLM's non-tax debt owed since the Petition also already provided ample evidence to indicate MCLM, with hundreds of operating AMTS stations around the country, has not been paying taxes and other regulatory fees per Form 499-A (e.g. MCLM's undisclosed, late assertion in the WCB Proceedings that Mobex did not operate interconnected, CMRS AMTS stations, but some other type of PMRS service, which was illegal).

Regarding delinquency on Auction No. 61 debt, as shown in the Petition, MCLM was delinquent in payment of Auction No. 61 sums since it knew all along, per the facts in the Auction No. 61 Proceedings and the Section 308 Proceeding and Enforcement Proceeding, that it did not qualify for the bidding credit level that it had applied for in Auction No. 61. MCLM deliberately failed to disclose over 30+ affiliates and their gross revenues in its Form 175 and Form 601 and Mr. DePriest as a co-controller (as a spouse and as the Petition shows the actual controller, Manager and Director of MCLM) and to disclose John Reardon as an officer and disclose his numerous affiliates and their gross revenues (e.g. Mobex Communications, Inc. and its various subsidiaries including Mobex Network Services LLC). At all times, MCLM had FCC legal counsel, its alleged sole owner, Sandra DePriest, is an attorney and has managed FCC licensees with her husband, MCLM's co-controller (or actual sole controller), Donald DePriest, who has owned and controlled other FCC licensees, including MariTel, Inc. that participated in FCC auctions; and MCLM's CEO and President, John Reardon, who was one of MCLM's authorized bidders in Auction No. 61, is also an FCC-practice attorney and managed Mobex Communications Inc. and its subsidiaries, most of which were FCC licensees. Thus, there is no way that MCLM did not know it had to list Donald DePriest and his affiliates and John Reardon and his affiliates and that those affiliates' gross revenues clearly disqualified it from its applied

for bidding credit amount (just Mr. DePriest's affiliates alone disqualify MCLM).

Contrary to the Opposition's arguments regarding past revoked licenses, MCLM has asserted in the WCB Proceeding that it is taking over the assets of Mobex and is stepping in the place of Mobex regarding Mobex's past licensing activities before the FCC including for refunds of any fees paid to USAC for USF by Mobex. Since MCLM is seeking to benefit from Mobex's past licensing activities, it is also subject to past Mobex liabilities. In addition, the FCC has determined that the liabilities of a license or licensee cannot be laundered or removed by an assignment (see *Order*, DA 04-4051, released December 28, 2004. *19 FCC Rcd 24939*).

It is established in law that you cannot acquire assets of this kind without the associated liabilities because those liabilities cannot be remedied simply by monetary payments to parties injured by the liabilities. The remedy or relief is the invalidation of the asset itself. That is the meaning of not being able to launder defects in licenses by an assignment. One cannot get rid of the defect/liability by the assignment. It stays with the license.

In addition, the Mobex-MCLM Chicago station of KP531 had a modification application, which MCLM continued to uphold and still does before the FCC (for Sears Tower) that was denied by the FCC when it found the Chicago station that it was seeking to modify was permanently discontinued. However, at no time has MCLM updated the Application under Section 1.65 to disclose this denial of its modification application or the termination of its Chicago station license.

Regarding the Opposition's assertion that Petitioners have not been carved out of proceedings involving MCLM, Petitioners refer to their appeals in the Auction No. 61 Proceedings that clearly show the FCC conducted a private proceeding without Petitioners in order to grant the MCLM Auction No. 61 Form 601, captioned above. In that proceeding, the FCC in their order denying Petitioner's original petition to deny said that they would deal with the Sandra DePriest and husband affiliation in separate proceeding, even though Petitioners'

raised the issue and facts in their petition to deny. Then MCLM filed a major amendment under Section 1.2105, bidder status and control, for its Form 601 and then the FCC issued an order granting that major amendment and deciding upon facts raised by Petitioner's petition to deny, but not allowing Petitioners' to participate at the petition to deny stage. The FCC could not deny Petitioners' petition to deny and then proceed to allow filing of the MCLM amendment and grant it. However, now the FCC is investigating MCLM based on the facts in Petitioners' original petition to deny that was denied by the Bureau. The private arrangement between MCLM and FCC staff resulted in the denial of Petitioners' petition to deny, but on the very same basis that was the essence of that petition to deny regarding change in bidder size due to undisclosed affiliates and undisclosed control (a spouse who was co-controller), the FCC and MCLM arranged that MCLM would submit an "amendment" to speciously get around those fatal defects. The fact that an "amendment" had to be submitted and granted shows that the denial of Petitioners' petition to deny was deliberately unlawful. The same decisional facts were involved. If Petitioners' petition to deny had insufficient facts to call into question the grant of the MCLM Form 601 application and thus for the petition to be granted and a formal hearing required, then there would have been no need for the amendment, as a devious remedy for the fatal defects. In addition, Section 1.2105 and the Commission's rulemaking creating it clearly describe change in bidder size (designated entity bidder discount level) and/or change in control as an impermissible major amendment after the deadline for the Form 175. Both of those things happened, which is why the devious amendment arrangement was made between FCC staff and MCLM. However, at minimum, waivers would have been required to get around those clear impermissible major changes stated in Section 1.2105. In fact, MCLM submitted a waiver request essentially admitting the defects and seeking relief since the alleged sole controller, Sandra DePriest, was an alleged minister of a church and a woman, but with no good cause shown for its rule violations. In addition, MCLM continued to falsely assert that a large numbers of affiliates, and their gross

revenues, were not affiliates and not attributable. After that time, MCLM has admitted that its previous sworn statements were incorrect in the two ongoing FCC investigations: Section 308 Proceeding and the Enforcement Proceeding. To this day, MCLM has not amended its Form 175 or Form 601 and disclosed its affiliates and attributable gross revenues or the actual control. It's initial amendment failed to do that. Further, the FCC, as noted above, has denied Petitioners' FOIA request under FOIA Control No. 2010-379, which in part, requested gross revenue information submitted by MCLM that was supposed to be stated publicly and given to Petitioners. Thus, the FCC has blocked Petitioners' access to relevant information of decisional significance to the Section 309 Proceeding, much of which should be public anyway by rule, and thereby continues to deny Petitioners' their constitutional petition rights and to continue to unfairly hold a private proceeding with MCLM (as noted above, all auction applications, except apparently MCLM, had to comply with FCC auction rules and fully disclose their affiliates and their gross revenues. Yet, MCLM has admitted to numerous affiliates and additional gross revenues, and none of these appear on its Form 175 or Form 601 for Auction No 61).¹⁴

The Opposition attempts to minimize the relevance of the Petition's evidence at Attachment 002 regarding Bioventures. However, among other things, this evidence shows that Donald DePriest had the financials of Bioventures and provided them to Mr. Sullins in 2007. Yet, in the Enforcement Proceeding, Mr. DePriest is telling the Enforcement Bureau that he cannot get the financials for Bioventures for the relevant period. Also, from Mr. DePriest's email communication, Bioventures had a "massive profit margin" and that he is on the board (all

¹⁴ This includes requiring MCLM to disclose John Reardon and his affiliates and their gross revenues on the MCLM Form 175 and Form 601 applications. As evidenced by the FCC Order, DA 06-2368, and the MCLM May 25, 2006 Letter to Catherine Seidel, Acting Bureau Chief, WTB, the FCC has known that Mr. Reardon was President (an officer) of MCLM and that his affiliates and their gross revenues had to have been listed per FCC rules since 2006, but never required MCLM to do so. Attachment 003 of the Petition is further evidence that Reardon, by MCLM's own statement to a Florida Court and Mr. Reardon's own affidavit to that court, is MCLM's President and CEO.

board members have access to a company's financials), but he is telling the FCC that it had minimal income. Thus, there is a conflict between this evidence and what MCLM and Mr. DePriest have told the FCC.

Also, see Exhibit 3 hereto that is a declaration by Mr. Peter Harmer that refutes the Opposition's statements regarding Attachment 002.

Contrary to the Opposition's assertions, Attachment 003, as shown by the Petition and herein, contains significant, relevant information and for the Opposition to suggest otherwise is misleading, seriously lacks candor and should be sanctioned. As shown above, this evidence, among other things, shows that John Reardon is the President and an officer of MCLM, meaning that MCLM and Sandra DePriest have committed perjury in the Enforcement Proceeding and Section 308 Proceeding, and that Mobex is MCLM's predecessor and affiliate.

As for the Attachment 005, the Opposition does not refute the information provided but only shows that MCLM may have settled some debt it owed to Mr. Calabrese. Among other things, Attachment 005 showed that Mr. DePriest is the Chairman of MCT Corp., per his business card (Mr. DePriest is telling the FCC that he is only a "non-executive" chairman—whatever that hogwash means), and that John Reardon signed as President of MCLM on the sale contract between Critical RF and MCLM and that Mr. Reardon communicates with Mr. DePriest about this purchase and the new company and not Sandra DePriest. The evidence also shows that Mr. DePriest is an officer of both MCLM and Critical RF, which is owned by MCLM.

The Opposition's arguments re: Attachment 006 are misleading. Attachment 006 showed in part that Donald and Sandra DePriest filed joint tax returns, yet they are telling the FCC that they lead "separate economic lives", and that in a suit against MCLM and Mr. DePriest, Mr. DePriest is asking that his wife, the alleged sole controller of MCLM, not be considered. Also, it suggests that Mr. DePriest is using FCC licenses as collateral to back some of the listed debt since his real property has less value than the total debt it is backing.

Attachments 007 and 008 are self-explanatory, but Petitioners provided notes on them to explain their relevance. The Opposition chooses not to address these attachments, so Petitioners' arguments related to them are unchallenged.

Contrary to the Opposition's assertion, Attachment 009 is not about a business dispute, but shows, among other things as discussed in the Petition, MCLM's refusal to comply with the requirements of Section 80.385(b) and supply its actual station operating parameters to Petitioners.

In response to the Opposition's bald assertions regarding the various Exhibits to the Petition, Petitioners, rather than reiterate here their explanatory and responsive arguments already before the Commission regarding these Exhibits in other pending proceedings (which were referenced and incorporated in the Petition), hereby reference and incorporate in opposition their past arguments and responses regarding the Petition's exhibits 1-2, 4-7, 9-13 and A-D. They fully respond to and dispose of the Opposition's bald assertions.

4. Conclusion

For the reasons given, the Opposition fails to refute the Petition's facts and arguments. The Petition should be granted and the relief requested therein granted, including, but not limited to, dismissal or denial of the Application, revocation of the License and disqualification of MCLM as a Commission licensee. At minimum, a hearing must be held since Petitioners have submitted sufficient *prima facie* evidence to raise substantial questions about whether grant of the Application is in the public interest.

Respectfully,

Environmental LLC, by

[Filed electronically. Signature on file.]

Warren Havens

President

Verde Systems LLC, by

[Filed electronically. Signature on file.]

Warren Havens

President

Intelligent Transportation & Monitoring Wireless LLC, by

[Filed electronically. Signature on file.]

Warren Havens

President

Telesaurus Holdings GB LLC, by

[Filed electronically. Signature on file.]

Warren Havens

President

Skybridge Spectrum Foundation, by

[Filed electronically. Signature on file.]

Warren Havens

President

Warren Havens, an Individual

[Filed electronically. Signature on file.]

Warren Havens

Each of Petitioners:

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Date: August 23, 2010

Exhibits and Attachments

All Exhibits are being filed separately from the text of the Petition on ULS and ECFS.

Declaration

I, Warren Havens, as President of Petitioners, hereby declare under penalty of perjury that the foregoing Reply to Opposition to Petition to Deny, or in the Alternative Section 1.41 Request, including all attachments and exhibits, was prepared pursuant to my direction and control and that all the factual statements and representations contained herein are true and correct.

/s/ Warren Havens
[Submitted Electronically. Signature on File.]

Warren Havens

August 23, 2010

Certificate of Service

I, Warren C. Havens, certify that I have, on this 23rd day of August 2010, caused to be served, by placing into the USPS mail system with first-class postage affixed, unless otherwise noted, a copy of the foregoing Reply to Opposition to Petition to Deny, or in the Alternative Section 1.41 Request, including all exhibits and attachments, unless otherwise noted,¹⁵ to the following:¹⁶

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(The Reply's text only)

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Fletcher Heald & Hildreth (Legal counsel to Southern California Regional Rail Authority)
Paul J Feldman

¹⁵ Petitioners are serving a copy of the Reply's text only, excluding exhibits and attachments, to certain of the parties as noted on this Certificate of Service. A copy of the exhibits and attachments can be downloaded electronically from ULS.

¹⁶ The mailed copy being placed into a USPS drop-box today may not be processed by the USPS until the next business day.

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/s/ [Filed Electronically. Signature on File]

Warren Havens