

COMMENT

Maritime Communications/Land Mobile, LLC (MCLM), by its attorney, hereby files its Comments on the Petition for Declaratory Ruling (Petition) filed in the above captioned matter filed on April 23, 2010 by Warren Havens as president of Environmental LLC, Intelligent Transportation & Monitoring Wireless LLC, Verde Systems LLC, Telesaurus Holdings GB LLC, and Skybridge Spectrum Foundation (collectively, Havens) in the above captioned matter. In support of its position, MCLM shows the following.

MCLM agrees with Scott Stone, Deputy Chief, Mobility Division, that this matter has not risen to the level where the Commission needs to be involved. MCLM is willing and ready to cooperate in the avoidance of interference to its incumbent systems as soon as Havens demonstrates a real need for this information by telling MCLM in what specific market he plans to build and where he plans to operate. Such evidence could include receipts for equipment, site leases, customer requests, etc. In the meantime, Havens is just badgering MCLM in every possible way he can imagine.

Havens request for nationwide incumbent information to be provided all at once was a request which was not made in good faith. Concurrent with his request, Havens informed the Commission that “once [I] get the actual station parameters from MCLM, whether via Court action or FCC action, [I] plan to. . . run the coverage studies under the applicable rule, to verify gaps. . . and then revoke the subject licenses, and/or other AMTS licenses of MCLM (and formerly Mobex)”, Petition to Deny in WT Docket No. 10-83 at 62, filed April 28, 2010.

MCLM does remain willing to cooperate fully to avoid or resolve harmful interference if Havens provides evidence that he is making his request in good faith for the avoidance of actual interference to his systems. However, at the present time, MCLM has seen no reason to believe that Havens will construct any AMTS facilities. He has done nothing yet, despite owning AMTS licenses for nearly a decade now. And, in the 220-222 MHz band, Havens requested additional time to construct facilities although he had not constructed anything for ten years, see, FCC File Nos. 0003990344-379, 0003989107-176, FCC File Nos. 0003990398-431, 0003990344-379, 0003990398-431, FCC File Nos. 0003223118-153, and 0003223081-114.

MCLM looks forward to supplying this information when Havens presents it with specific market needs. MCLM looks forward to cooperating to avoid actual interference to its systems and to those of Mr. Havens.

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 6, 2010

CERTIFICATE OF SERVICE

I hereby certify that on this sixth day of May, 2010, I served a copy of the foregoing COMMENT on the following person by placing a copy in the United States Mail, first-class postage prepaid:

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

/s/ Dennis C. Brown

Subject: Revised: Corrections to: Further written demand, actual station details, per DA 09-793 & DA 10-664, or forfeit later asserted protection

Date: Friday, April 23, 2010 1:35 PM

From: Jimmy Stobaugh <jstobaugh@telesaurus.com>

To: d brown <d.c.brown@att.net>

Cc: Warren Havens <warren.havens@sbcglobal.net>, Scot Stone <Scot.Stone@fcc.gov>, Jimmy Stobaugh <jstobaugh@telesaurus.com>

Mr. Brown,

I am resending this email again since my last email inadvertently did not contain the full header for the first email that follows in the email string below. This revised email and not the one I just sent will be served as noted in my 2. below.

I am sending this email on behalf of Mr. Havens to make the following corrections to Mr. Havens' email below of April 22, 2010 addressed to Maritime Communications/Land Mobile LLC ("MCLM"), Mr. and Mrs. DePriest, and you:

1. Where Mr. Havens gives a time period in which the requested information be provided, he meant that to be by the end of next week, April 30, 2010, and not by the end of this week.
2. This email and the entire email string below will actually be served by email and mail with a Certificate of Service today, and a copy will be filed under the MCLM incumbent station and geographic licenses on the FCC ULS, as well as under MCLM's Form 601, File No. 0002303355.

Sincerely,

Jimmy Stobaugh
Skybridge Spectrum Foundation
Environmentel LLC
Verde Systems LLC
Telesaurus Holdings GB LLC
Intelligent Transportation & Monitoring Wireless LLC
Berkeley California
Ph: 510-841-2220

Cc: Warren Havens
Scot Stone, FCC

----- Forwarded Message

From: Warren Havens <warren.havens@sbcglobal.net>

Date: Thu, 22 Apr 2010 09:55:09 -0700 (PDT)

To: Scot Stone <Scot.Stone@fcc.gov>, d brown <d.c.brown@att.net>

Cc: Jimmy Stobaugh <jstobaugh@telesaurus.com>

Subject: Re: Further written demand, actual station details, per DA 09-793 & DA 10-664, or forfeit later asserted protection

Mr. Stone,

While not spelled out, the below email string did specifically relate key points my companies have pending before the FCC, handled in large part by you, regarding MCLM and Mr. Brown. However, I see your point that I did not make that clear, and apologize for that.

Thus, what my office will do, when filing the email string on ULS (as I stated below we will do), is reference some of the past filings, in matters still open before the FCC (most or all that you are handling to the best of our knowledge, since they deal with AMTS rules and licensing) is specifically reference these pending matters, and that issued on those are also carried forward in the subject email string. Those include:

The matters below (including that MCLM has not complied with the requirements of DA 09-793) are stated in many pending pleadings filed by my companies against MLCM regarding AMTS issues in proceedings still pending. Among other things we state in pending pleadings, reflected in the below email, is that violation of FCC orders and related rules (including specifically DA -09-793 and Sec 80.385(b)) is relevant to the character and fitness of MCLM and of its counsel to practice before the FCC, and in addition, that failure of MCLM to provide actual station details unlawfully blocks my companies attempts to use geographic AMTS, since 80.385(b) is meant to allow geographic licensees the ability to use their spectrum vis a vis incumbents, by the specified short-space method, that MCLM renders moot by refusal to provide actual station details in violation of these Two Orders.

In addition, the below email string commenced with Mr. Brown evading a simple question that was clearly to reduce contention before the FCC. The second part also had that purpose, and references MCLM's evasion-- or outright refusal rather-- to comply with the requirements of Sec 80.385(b) and the Two Orders. We make a point in some of our pleadings on this also, including with regard to Auction 61 long form of MCLM and Mr. Brown's evasive and misleading string of responses over the years to the present day.

We will also copy the Enforcement Bureau since our position in the below email is that MCLM is in deliberate violation of a key AMTS rule, 80.385, and the Two Orders interpreting that rule, which we believe is relevant to that Bureau's investigation of MCLM compliance with FCC AMTS-licensing rules and procedures. In both the MCLM Auction 61 long form matters, and in the below noted matters re 80.385(b), the central issue is deliberate sustained violation of rules essential for fair competition in AMTS., which also violates the Communications Act and is not in the public interest.

Sincerely,
Warren Havens

From: Scot Stone <Scot.Stone@fcc.gov>
To: Warren Havens <warren.havens@sbcglobal.net>; d brown <d.c.brown@att.net>
Cc: jstobaugh@telesaurus.com
Sent: Thu, April 22, 2010 8:53:14 AM
Subject: RE: Further written demand, actual station details, per DA 09-793 & DA 10-664, or forfeit later asserted protection

Mr. Havens,

Copying me on your communications with other parties is unnecessary. The Commission will not involve itself in matters that licensees are expected to resolve between themselves. While such matters could later develop into matters for Commission involvement, I will not review correspondence between licensees that does not pertain to a specific matter that is pending before the Commission.

Scot Stone
Deputy Chief, Mobility Division
Wireless Telecommunications Bureau

From: Warren Havens [mailto:warren.havens@sbcglobal.net]
Sent: Thursday, April 22, 2010 1:51 AM
To: d brown
Cc: Scot Stone; jstobaugh@telesaurus.com
Subject: Further written demand, actual station details, per DA 09-793 & DA 10-664, or forfeit later asserted protection

Mr. Dennis Brown,
Mr. and Mrs. Donald and Sandra Depriest,
Maritime Communications/ Land Mobile LLC ("MCLM")

On this topic (began in emails earlier today, below)
of DA 09-793 and DA 10-664 (the "Two Orders") --

A copy of this email will be served by regular email with a Certificate of Service today. In addition, a copy will be filed under MCLM incumbent station licenses on the FCC ULS.

First, I copy Mr. Stone here:

(i) since I make arguments under the Two Orders he signed,
(ii) since in my view, I am arguing below in defense of the most fundamental FCC rule on relation between incumbent and geographic AMTS licensees; and
(iii) since in any case my position below is meant to reduce further extenuated contests before the FCC on these matters and allow my companies that bought the majority of the A and B block incumbent AMTS spectrum in the nation to use it, without further artificial blockage and evasion by MCLM (and I do not comment here as to the other AMTS incumbent station licensee).

MCLM as a legal entity does not exist in law, due to years of violation or the minimum State law requirements (including specifying to outside parties in government and private sectors the entity's actual controllers and officers and acting in accord therewith) to maintain a legal entity separate from its owners and controllers, and to provide any entity right of holding assets, action, liability protection or other legal right or protection. However, for purpose of this email, I use the term MCLM. Also, by referencing MCLM incumbent stations below, I also do not imply that any are valid under FCC law (the evidence you and the FCC know of shows otherwise), apart from the violations of the Two Orders I note below.

Our LLCs and nonprofit foundation ("Havens Companies") previously issued to MCLM written demands for the actual MLMC AMTS incumbent station technical parameters-- those described in DA 09-793 and DA 10-664 (the "Two Orders") that incumbent licensees must provide to the same-channel geographic licensees for the latter to determine under Sec. 80.385(b) the required protection (but no more) to be provided to the incumbent stations: to their systems' composite service contours, based on the actual-station ERP (and coverage pattern) of the stations: those that existed at the "freeze" of incumbent licensees service contours and have been maintained in actual permanent lawful operation ever since then (there is no rule-defined safe harbor in AMTS stations being off the air prior to permanent discontinuance, and we know of no Mobex or MCLM waivers in this regard).

MCLM refused to respond to these demands and provide the required information.

The Two Orders contain FCC orders (not suggestions) as the ordering clauses stated. Even if pending on reconsideration (if you further appeal), these orders are in effect. Thus, MCLM has violated these FCC orders and remains in violation, and this has caused the Havens Companies damages, and moreover violated FCC purposes of AMTS licensing and rules, including Sec. 80.385(b), and the public interest.

MCLM's position in court against my Companies -- (one case out of the California Court

system is to be presented in week to the US Supreme Court, as MCLM knows, and the other one in a USDC in New Jersey, waiting on finality of the first case) -- is that nothing that MCLM does of any kind that may damage the Havens Companies, or damage the markets under antitrust law violations, can be brought in court-- all claims that touch upon MCLM in any way be decided by the FCC. Yet before the FCC, MCLM will not comply with this most basic rule as to the division of rights of AMTS geographic vs. incumbent licensed stations (nor honor FCC rules on auction disclosures, discounts, fair bidding, etc.).

I do not have to repeat here these written requests indicated above, and the Havens Companies do not waive past and ongoing damage claims. However, for the Havens Companies, I below:

(1) repeat to MCLM again the same written request noted above, and
(2) give notice to MCLM of the ramifications if you do not comply with the preceding item '(1)' request:

(1) Please provide this information to me for the Havens Companies by the end of this week. It is information MLCM must have immediately at hand, since it is the most fundamental licensee information and keeping station records is a FCC rule requirement also. This includes:

(a) All of the MCLM AMTS A-block incumbent stations where any MCLM-alleged incumbent station service contour extends into, or MCLM asserts must be protected under Sec. 80.385(b) by, any of the geographic A-block licenses held by Environmental LLC, Intelligent Transportation & Monitoring Wireless LLC, or Skybridge Spectrum Foundation,

(b) All of the MCLM AMTS B-block incumbent stations (including in the Southeast, Gulf Coast and Mississippi River Basin areas) where any MCLM-alleged incumbent station service contour extends into, or MCLM asserts must be protected under Sec. 80.385(b) by, any of the geographic B-block licenses held by Verde Systems LLC or any of the entities in '(1)(a)' above.

(2) If you do not provide this information by that time, then (in addition to other legal remedies, and with no waiver of damages caused by MCLM's past and ongoing violations of the Two Orders and other FCC law) **then Havens Companies will:**

(a) Proceed with further actions bases on our reasonable assumptions, factoring in relevant information -- (such as the transmitter power levels commercially available in 217-220 MHz [shown in FCC and other records] at the time of the alleged construction and FCC "freeze" note above [far less than 50 W Transmitter Output power]; what Mobex itself, in files MCLM maintains, including public UCC filings, states as "license holder" stations; other evidence our agents have investigated such as MCLM stations that are disconnected [for lack of lease payments and other causes] or token, with no interconnect or customers, etc.; etc.)-- and use not more than resulting ERPs far lower than the maximum that could have been constructed under the granted applications resulting in the subject MCLM incumbent station systems.

- For some time, we will probably use (but do not here promise), giving the benefit of the doubt, what is reasonable to assume (consulting experts, and keeping equipment and engineering files to back our position) if simple systems was built to warehouse-- (attempting for that purpose, which is apparent in the public records on Mobex and MCLM, to keep a signal on the air to keep the license, but with no real commercial intent or results)-- spectrum at low cost. That warehousing purpose is what MCLM-Mobex's own UCC filings show, and all over evidence at most points to including all its FCC filings, and current "business" of selling all of its licenses.

- We do not have to get, and do not seek, MCLM permission in advance for our assumptions and resultant determinations of short-space protection of these MCLM alleged valid incumbent stations since MCLM has elected to violate the Two Orders, and keep secret the most basic details of its alleged valid public-coast CMRS AMTS station systems, supposedly serving the public coast to coast.

(b) Take the position before the FCC, third parties, and courts and other authorities, that MCLM is not entitled to later assert any particular actual station technical parameters required to have been given to the Havens Companies under the Two Orders, and must be found --(if it can first prove up that it meet all FCC requirements to keep the subject stations in the first place, including overlapping coverage under the then-current Sec. 80.475(a), the rules on no permanent discontinuance, the rules that required interconnect, the licensee and applicant character qualifications, etc.)-- to have forfeited any protection under Sec. 80.385(b) that it could have obtained had it complied with the requirements of the Two Orders, and thus, that the Havens Companies' AMTS geographic stations, system plans and economic relations, based on the above assumptions caused solely by MCLM violation of the Two Orders, can stand with no modification.

Sincerely,
Warren Havens

President
Skybridge Spectrum Foundation
Environmental LLC
Verde Systems LLC
Telesaurus Holdings GB LLC
Intelligent Transportation & Monitoring Wireless LLC
Berkeley California

www.scribd.com/warren_havens <http://www.scribd.com/warren_havens>

www.atliswireless.com <<http://www.atliswireless.com>>

www.tetra-us.us

510 841 2220 x 30

510 848 7797 -direct

From: Dennis C. Brown <d.c.brown@att.net>
To: Warren Havens <warren.havens@sbcglobal.net>
Cc: Scot Stone <Scot.Stone@fcc.gov>; jstobaugh@telesaurus.com
Sent: Wed, April 21, 2010 2:51:55 PM
Subject: Re: ex parte violations in MCLM petition for recon of DA 09-793

Please refer to my earlier responses.

On 4/21/2010 5:47 PM, Warren Havens wrote:

Mr. Brown,

I stated the facts to assume-- same as in your case in which you say my companies were not parties: Your position must be that my companies were not parties since (you suggest, whether true or not) your declaratory ruling request was purely a matter arguing for interpretation of rules, and that request (and the facts and arguments you used in that request) did not involve any contested matter in which my companies were parties.

I thus pose the same in my item 3. Again, do you disagree? Or do you assert that incumbents generally, or MCLM in particular, have rights that geographic licensees and my companies in particular do not have to pursue the forms of declaratory rulings I noted above (you do not have to assume any others) on an ex parte basis?

From: Dennis C. Brown <d.c.brown@att.net>
<mailto:d.c.brown@att.net>
To: Warren Havens <warren.havens@sbcglobal.net>
<mailto:warren.havens@sbcglobal.net>
Cc: Scot Stone <Scot.Stone@fcc.gov>

<mailto:Scot.Stone@fcc.gov> ; jstobaugh@telesaurus.com

Sent: Wed, April 21, 2010 2:34:15 PM

Subject: Re: ex parte violations in MCLM petition for recon of DA 09-793

You may take it however you like. I cannot advise you on matters of law. Without knowing the facts of each situation, I cannot predict what might happen.

On 4/21/2010 5:28 PM, Warren Havens wrote:

Mr. Brown,

I take your answer to my item 3 to be a yes.
My item 3 does not suggest more than what it literally says.

From: Dennis C. Brown <d.c.brown@att.net>
<mailto:d.c.brown@att.net>

To: Warren Havens <warren.havens@sbcglobal.net>
<mailto:warren.havens@sbcglobal.net>

Cc: Scot Stone <Scot.Stone@fcc.gov>
<mailto:Scot.Stone@fcc.gov> ;
jstobaugh@telesaurus.com

Sent: Wed, April 21, 2010 2:14:23 PM

Subject: Re: ex parte violations in MCLM petition for recon of DA 09-793

Each circumstance must stand on its own facts. Please understand that I cannot advise you on matters of law.

On 4/21/2010 5:05 PM, Warren Havens wrote:

Mr. Brown,

1. I know you did not serve a copy of your request that resulted in DA 09-793 upon me for my companies.
2. But that action by you does not mean we were not a required party to that, or that we were not parties to matters involving your argument to the FCC leading to DA 09-793, and to your argument on recon. It also does not square with your past arguments as to FCC on declaratory ruling request I submitted. (If that is my concluding position, I can still waive assertion of any rights as to ex parte violation, on a case by case basis.)
3. However, your position does mean that MLMC is barred from objecting if, from now on (and notwithstanding your past positions), I submit arguments and requests to the FCC as to what AMTS rules should mean that involve incumbent stations and incumbent licensees.

Do you disagree with item 3 above? If so, to what degree and on what basis?

My questions are in the FCC and public interest, since they will narrow issues that may be brought to the FCC. Thus, I again copy Mr. Stone.

If you do not respond, then I can reasonably proceed as if you agree with item 3 above based on your response below.

- W. Havens

From: Dennis C. Brown <d.c.brown@att.net>
<mailto:d.c.brown@att.net>
To: Warren Havens <warren.havens@sbcglobal.net>
<mailto:warren.havens@sbcglobal.net>
Sent: Wed, April 21, 2010 1:30:36 PM
Subject: Re: ex parte violations in MCLM petition for recon of DA 09-793

I did not. You were not a party to the matter.

From: Warren Havens
<warren.havens@sbcglobal.net>
<mailto:warren.havens@sbcglobal.net>
To: d brown <d.c.brown@att.net>
<mailto:d.c.brown@att.net>
Cc: Scot Stone <Scot.Stone@fcc.gov>
<mailto:Scot.Stone@fcc.gov> ;
jstobaugh@telesaurus.com
Sent: Wed, April 21, 2010 1:13:39 PM
Subject: ex parte violations in MCLM petition
for recon of DA 09-793

Mr. Brown,

Re DA 10-664-- from my initial review, I find no evidence that you served a copy upon me or my companies of your petition for reconsideration of DA 09-793 that resulted in DA 10.664. (As you know, I served upon MCLM- you, a copy of the petition for reconsideration I filed of DA 09-793.)

Please inform me if I am not correct above by the end of this week.

Sincerely,
Warren Havens

President
Skybridge Spectrum Foundation
Environmental LLC
Verde Systems LLC
Telesaurus Holdings GB LLC

Intelligent Transportation & Monitoring Wireless LLC
Berkeley California

www.scribd.com/warren_havens <http://www.scribd.com/warren_havens>

www.atliswireless.com <<http://www.atliswireless.com>>

www.tetra-us.us <<http://www.tetra-us.us>>

510 841 2220 x 30

510 848 7797 -direct

----- End of Forwarded Message

Certificate of Service

I, Jimmy Stobaugh, an employee of the Havens Companies, certify that I have, on this 23rd day of April 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 4/23/10 Email and its email string to the following:¹

Dennis Brown (legal counsel for MCLM and Mobex)
8124 Cooke Court, Suite 201
Manassas, VA 20109-7406
Via email to: d.c.brown@att.net
Via USPS overnight delivery

[Filed Electronically. Signature on File]

Jimmy Stobaugh

¹ The mailed copy being placed into a USPS drop-box today may not be processed by the USPS until the next business day.

Skybridge Spectrum Foundation

And donor LLCs

2649 Benvenue Avenue, 2-6
Berkeley CA 94704
510.841.2220

December 5, 2008

Via email, Federal Express, and US mail

Sandra DePriest and Donald DePriest
Co-controllers of
Maritime Communications/Land Mobile LLC
At addresses on Certificate of Service

Re: Further notice demanding cancellation, or details required under FCC rules, of your alleged validly constructed and maintained AMTS licensed stations for the AMTS A-Block spectrum in the greater New York City metropolitan area, Call Sign WRV374, station location #s 14, 15, 18, 25, 33, 40 on the FCC's ULS (the "Alleged NYC Stations" and the "NYC Stations License"), and of other alleged AMTS stations and station licenses (together with the Alleged NYC Stations and the NYC Stations License: the "Alleged Stations" and the "Stations Licenses").

Mrs. and Mr. DePriest:

Summary

This is a further demand, prior to legal action (in addition to pending court action), that, by no later than December 12, 2008, you provide to me definitive written documentation of the following, in sum (further described later herein):

(1) The FCC-rule-required written notices to the FCC for cancellation of your NYC Stations License, and your other Stations Licenses that have automatically terminated under FCC rules; -- and, for all Stations Licenses for which you do not submit said cancellation notices--

(2) The FCC-rule- required and -specified actual station details to be given to me (for the Foundation and the LLCs defined below), as your co-channel AMTS licensees, of your Alleged NYC Stations and the other Alleged Stations.

I have requested both of the above in the past, as evidenced herein including in the Exhibits. To be clear, if you do not now do the above, then I intend to have the Foundation and Supporting LLCs (defined below) which I manage take appropriate legal action to obtain compliance with the FCC rules that are violated, and to seek damages caused by the past and ongoing violations of said rules. This is in addition to claims currently filed in

court and pending against you related to your violation of FCC rules and the Communications Act.

In this regard, in recent months and weeks, business opportunities have arisen for the Foundation and the LLCs in the greater New York City area, and other parts of the United States, which require planning and use of AMTS A-block stations with their respective AMTS A-block licenses in those areas. One of the opportunities involves a spectrum lease under FCC rule §1.9010, discussed below. These opportunities are being blocked and damaged by your willful continued violation of FCC rules described herein. The damages are in the millions of dollars, and other damages cannot be measured economically. These economic and other damages will or may become irreparable soon if you do not comply with the demands of this letter by the date set forth above.

Further in this regard, as I noticed to you at the end of year 2007 (see EXHIBIT 2 below),¹ the LLCs again plan this year, by no later than December 30, 2008, to donate and assign to the Foundation additional AMTS A-block spectrum, including in the New York City region and including within the radio service and radio interference contours that you allege before the FCC (see footnotes 11 and 14 below) for your Alleged NYC Stations. If you do not comply with the demands of this letter by the date set forth above, you will cause irreparable major harm to the donor LLCs and the Foundation, and the Foundation may reject the donations.

Preliminary Information

(i) As you know (e.g., as shown in FCC proceedings in which you are a principal party), you are familiar with the fact that I am the President and controlling person in the legal entities for who I speak in this email.

(ii) Capitalized terms used herein that are not defined herein have meanings defined in the rules of the Federal Communications Commission that apply to the Station and the Station license. Also, “you” and “your” refer to Maritime Communications/Land Mobile LLC (“MCLM”) and to all parties that have control in that company or are

¹ AMTS Consortium LLC in fact did donate and assign, to our Foundation, at the end of year 2007, B-block AMTS spectrum in the New York City region within your alleged radio service contour and radio interference contour of your Alleged NYC Station. (The LLCs did not assign at that time any A-block AMTS spectrum since you did not respond and your claims of the Alleged Stations encumbered and damaged the planed donation assignment.) The just noted 2007 B-block donation assignment is shown in FCC records. In fact, the donor LLC suffered the major damages that I noted in Exhibit 1 below, as determined in part by the professional appraisal required for the donor’s LLC income tax filing in which it claimed this donation for tax benefit. Similar damages to the LLCs were caused by your lack of response and lack of turning back in invalid Stations Licenses on the A block.

controlled by that company, and those entities predecessors in interest including entities with names “Mobex,” “Regionet,” and “Watercom” (and others perpetuating the fraud and deliberate violations of law involved, indicated herein, not excluding alleged professional counsel); and “I,” “me,” and “my” refers to me as the controlling person in the Foundation and its donor LLCs (defined below) and to those entities.

(iii) As shown in FCC records, Skybridge Spectrum Foundation (the “Foundation”), by charitable donation assignments of FCC licensed spectrum, holds AMTS B-block licensed spectrum in the New York City metropolitan area. I informed you of intended assignments to the Foundation at the end of year 2007 of certain AMTS A-block spectrum, as shown in EXHIBIT 1 hereto. This donation assignment was from AMTS Consortium LLC, with which you are familiar (e.g., see Exhibits hereto), out of its AMTS geographic license holdings in the nation. In addition, as you know, other LLCs that I manage, that also support by charitable donations the Foundation, and that also hold AMTS A-block and/or B-block geographic licensed spectrum throughout the nation except for areas around the Great Lakes, include Telesaurus VPC LLC, and Intelligent Transportation & Monitoring Wireless LLC. This demand notice to you is on behalf of the Foundation and the just listed LLCs (the “LLCs”).

(iv) I attach hereto documents relevant to this letter’s demands, summarized above and further described below, and to its facts and arguments including but not limited to those related to §80.70(a).^{*} You have not complied in any form or fashion, but instead have frustrated the purposes of that and related rules including §§ 80.385(b) and (c). At the start of the Exhibits is a list of the Exhibits and short descriptions of each, including notes on your violation and frustration of noted FCC rules.

(v) The further attempt in this letter is not required prior to the above-indicated new legal action, but by the attempt I seek to mitigate damages, reduce litigation expense, and provide a further, summary record for said action.

* The arguments related to §80.70(a) center around your Alleged Stations (that are all site-based licensed stations) on the AMTS A-block that have any possible service or interference contour in any of the areas within the LLCs geographic AMTS A-block licenses. However, the request extends also to all other Alleged Stations since (i) all of the Alleged Stations are in areas in which the LLCs hold FCC licensed spectrum, including AMTS among other spectrum, with which they may and do plan to compete with you and your Alleged Station operations, and (ii) for the reason given in the footnote herein that commences with: *** This makes relevant....”

Further Demand for Compliance with FCC Rules

Part 1

Compliance with FCC rules

on Turning In for Cancellation Automatically Terminated Station Licenses and/ or §80.70(a) and Related Rules on Providing Details of Valid Stations

1. First, as demanded herein, you should without further delay turn in to the FCC for cancellation your invalid Station Licenses that automatically terminated due to your failure to construct, operate, and/or maintain them under FCC time deadlines (and independently, under other rule requirements including, but not limited to, interconnection, actual public common carrier service, continuity of multi-station radio coverage, etc.).

2. Evidence (among much other evidence of which you are aware) that you did not, under said FCC rule requirements, construct, operate and maintain the Alleged Stations, and thus that they automatically terminated, includes the evidence shown in: EXHIBIT 4 (re: your not reporting the stations as constructed and in operation to the FCC under the rule requirements and with the required form and details), and EXHIBIT 3 (re: your not reporting stations to the FCC-related Universal Service Fund, and your not paying the fees due).²

3. However, if you continue to refuse to turn in the invalid Station Licenses, and instead continue to maintain them before the FCC and the market and your competitors, including the Foundation and the LLCs, you must comply with the following demand to stop violating the noted FCC rules and comply with their requirements.

4. You are aware, or under FCC rules are obligated to be aware, of all FCC rules pertaining to your Alleged Stations and Station Licenses. These include FCC “Part

² Other, indirect evidence includes, among others: (i) your filing and maintaining for years with the FCC many deliberately false reports of station construction, and then your filing of deliberately false applications to the FCC (which were granted) for renewing AMTS station licenses, for stations that had long since been terminated for failure to construct by the construction deadline (which you later admitted), (ii) your failure to provide to us, as required in FCC rules (shown in this letter) of any proof or even any alleged details of your Alleged Stations, (iii) other evidence partly in FCC records, and (iv) evidence including in testimony in legal proceeding cases in which you (including your predecessors in interest) were parties, including but not limited to your Chicago station where Shorenstein, the building owner, said you had no lease and your transceiver equipment was removed; and your stations in the Pacific Northwest where Day stated that you did not pay him sums due under contract, that you stations were not fully constructed (under FCC rule requirements), and that he terminated their operations. (v) In addition, you do not market your stations as available to the public, except nominally in a few cases. Instead, you now list all your Stations Licenses (and geographic AMTS spectrum licenses as well) as up for sale with a certain new spectrum exchange.

80” rules that apply to the AMTS radio service (Part 80 of 47 CFR), including the following (underlining and items in brackets added):

§ 80.5 Definitions.

* * * * *

Station. One or more transmitters or a combination of transmitters and receivers, including the accessory equipment, necessary at one location for carrying on radio communication services.

§ 80.70 Special conditions relative to coast station VHF facilities.

(a) Coast **stations** which transmit on the same radio channel above 150 MHz **must** minimize interference by reducing radiated power, by decreasing antenna height or by installing directional antennas. Coast stations at locations separated by less than 241 kilometers (150 miles) which transmit on the same radio channel above 150 MHz **must** also consider a time-sharing arrangement. The Commission may order station changes if agreement cannot be reached between the involved licensees.^{3 4}

³ This rule applies to AMTS (which is a “coast station” radio service that is “above 150 MHz”) on its face, and as noted by the FCC full Commission in a decision denying your (as “your” is defined above) request: *In the Matter of Amendment of the Commission's Rules Concerning Maritime Communications*, PR Docket No. 92-257; RM-9664, *FOURTH REPORT AND ORDER AND THIRD FURTHER NOTICE OF PROPOSED RULE MAKING*, FCC 00-370, 15 FCC Rcd 22585; 2000 FCC LEXIS 6084:

22. RegioNet also seeks a ruling that Section 80.70 of our Rules, which requires coast stations above 150 MHz to minimize interference to other coast stations, does not apply to AMTS stations, n99 but, because RegioNet has not explained how Section 80.70 prevents AMTS licensees from using new technology or offering additional services, we find this request to be beyond the scope of this proceeding. n100

- - - -

n99 RegioNet Comments at 3 (citing 47 C.F.R. § 80.70).

n100 See Second Further Notice, 12 FCC Rcd at 17008.

The FCC did not, in the Final Rules set forth in the above-noted R&O, change §80.70 to make it not applicable to AMTS as RegioNet, one of your predecessors-in-interest, asked, nor at any time thereafter to this day has there been any change to this rule, including its applicability to AMTS site-based and geographic stations.

⁴ When the FCC created rules for geographic AMTS licenses, it extended in §80.479(b) the application of §80.70(a) from site-based AMTS stations (including your Alleged Stations) to geographic licensed stations (including those of the Foundation and the LLCs). Section 80.70(a) creates obligations and rights for the co-channel (same frequency) coast station licensees involved.

§ 80.409 Station Logs.⁵

(b) (1) (iii): Logs relating to any claim or complaint of which the station licensee has notice must be retained until the claim or complaint has been satisfied or barred by statute limiting the time for filing suits upon such claims.

§ 1.9010 De facto control standard for spectrum leasing arrangement⁶

* * * *

(b)(1)(ii) The licensee must maintain a reasonable degree of actual working knowledge about the spectrum lessee's activities and facilities that affect its ongoing compliance with the Commission's policies and rules. These responsibilities include: Coordinating operations and modifications of the spectrum lessee's system to ensure compliance with Commission rules regarding non-interference with co-channel and adjacent channel^{***} licensees (and any authorized spectrum user). . . . The licensee is responsible for resolving all interference-related matters, including conflicts between its spectrum lessee and any other spectrum lessee or licensee (or authorized spectrum user). . . .

(b)(1)(iii) [Continues above as to interference issues.]

5. However, despite the requirements of the preceding §80.70(a) (and other rules, including §1.946(d), §80.385(b), and §80.475(a) [as it existed when you initially constructed and for some time thereafter]), and my requests for the information they require you to provide to me in various FCC proceedings (in which you were the primary or a primary party on the other side), you have refused to supply to me, for the Foundation and the LLCs, *any* said information on your Alleged NYC Stations and other Alleged Stations.⁷ Again, for example, see the EXHIBITS hereto, and footnote below.^{**}

⁵ Additional relevant parts of § 80.409 are in Appendix 1 hereto.

⁶ Section 80.70(a) station details (which as the rule states are for reduction of co-channel [same channel] interference) as to station characteristics (transmit power, and antenna height and directionality, number of transmitter channels in use, etc.) is also required for the Foundation and the LLCs to proceed with the spectrum lease opportunity noted above, with regard to interference control obligations and rights, including under the rule cite above: §1.9010.

^{***} This makes relevant you're a-block Alleged Stations to the LLCs B-block geographic licenses planned stations, as well as to the LLCs' A-block geographic licenses planned stations.

⁷ Indeed, you have not even reported any such station to the FCC under requirements of rules as actually constructed and placed into operation. Such reports would have provided some station details, including which specific site-based transmitters were actually constructed and in operational service. See EXHIBIT 4 hereto.

^{**} In most of the many FCC proceedings related to your Alleged Stations and Stations Licenses, involving dozens of pleadings, I (for the LLCs and Foundation) raised facts and

6. “Station” is a defined term, as you know: the rule is given above. (A “station” is not the same as the maximum technical parameters of a granted license Application, as partially reflected on the license.) You are required to have kept and maintained, from the commencement of each of the Alleged Stations, station logs, as shown in the above cited rule, §80.409. “Station” (and its subsumed term “transmitter”) is the subject and pivotal defined term in principal FCC rules relevant to this letter (as they existed in the time periods relevant to your Alleged Stations), including rules on: required construction, including §§ 1.946 including subsection (c), 80.475(a), and 80.49(a)(3); required operation, including §§ 80.70(a) and the related 80.385(b), and required and automatic termination (for failing to timely and properly construct or maintain) including §§ 1.955(a)(2) and (3), 1.946(c), and 80.49(a)(3)-- each discussed herein.

7. Not acting to supply **** the details of your Alleged NYC Stations and other Alleged Stations causes violation of FCC rule §80.70(a) since it orders that same-channel public coast (including AMTS) licensees must arrange to minimize interference by the stated technical means, and must also, if within 150 miles— *and to be clear, the Foundation and LLCs plan stations at this time, and always have, on AMTS A block spectrum within 150 miles of all of your Alleged Stations, with specific urgency in some areas involving the paragraphs in boxes above*— consider an arrangement on time sharing. In addition, such non action also frustrates the purposes and functions of, and the Foundation’s and LLCs’ rights under, §80.385(b) to space stations under the noted “F(50, 50)” technical showing method.⁸

law with respect to you not providing proof of construction and operation to maintain valid stations and licenses, and presenting evidence that exits to the contrary. A partial result of those filings was the 2004 FCC AMTS site-based station “audit” in which you admitted that many of the stations you formerly stated to the FCC were validly constructed and kept in operation, and even renewed, were never constructed at all, and thus automatically terminated at the construction deadline. All you had to do at any time, to dispose of much of the matters I raised in the noted pleadings and proceedings, was to show standard proof of construction and operation, including the details called for in §80.70(a). Most of those pleadings were prior to the LLCs holding A-block geographic licenses. In any case, regardless of those past pleadings and those proceedings, you did not supply any proof and details of any of your Alleged Stations, and the LLCs and Foundation have rights now to demand this information, including under §80.70(a).

**** You have not supplied any such details in past, as noted above, and if you do not supply the details as a result of this letter’s demand in the alternative, said violation will be clear.

⁸ The details required under §80.70(a) would allow the noted site-spacing engineering showing in §80.385(b), and without such details, no such showing can be calculated and made. §80.70(a) predates §80.385(b), and thus there was no need to repeat in §80.385(b) the station-details requirements that already existed in §80.70(a). *Only a licensee who is maintaining a fraudulent claim to Alleged Stations and station licenses would refuse to provide, as required under said law, to another co-channel (same frequency) coast station licensee the details of and proof of its Alleged Stations. Fraud is not permitted under the*

8. Said arrangements on your side involve possible modifications to your Alleged Stations', including the Alleged NYC Stations'. technical attributes: as the rule describes: possible decreases in radiated power and antenna height, directional antenna patterns, and time sharing; and on my Foundation's and LLCs' side involves the same with regard to our planned stations indicated above, including those within 150 miles of your Alleged Stations including your Alleged NYC Stations. We stand ready to make and abide by those rule requirements and to demonstrate to you our station operations in compliance with proof (to the degree you hold, and qualify to hold, any valid stations under FCC rules).

9. Said arrangements or agreements are impossible to reach or even attempt if you refuse to provide any station details of your Alleged Stations, including actual transmit power, antenna height, antenna type including directionality and pattern, for particular transmitters and receivers (transceivers) on particular transmit and receive frequencies. Accordingly, you have been and remain in violation of FCC rule § 80.70(a)⁹ that is pivotal for the Foundation and the LLCs to proceed with the particular *imminent* business and charitable opportunities indicated above (in the paragraphs in boxes) and for proceeding with their other business nationwide with their AMTS A-block licenses (and for reasons noted above, their B-block licenses also). Your violations block and damage these opportunities, businesses, and licenses.

10. Thus, by the date given in the Summary above, provide to me full documentation of:

(1) The FCC rule-required details described in items 4-9 above, based on rule §80.70(a), of all of your Alleged Stations *including first of all your Alleged NYC Stations*, that you allege to have constructed and kept in permanent operation under FCC rule requirements,¹⁰ along with evidence thereof (station site leases, station

Communications Act or FCC rules, and deliberate frustration of fair competition, by such refusal, is not allowed under antitrust law and the Communications Act.

⁹ While FCC rule §80.385(b) applies to the permissible spacing of a geographic AMTS station from an actual, valid incumbent same-channel (or "co-channel") site-based AMTS station, §80.70(a) also applies with regard to its stated requirements that all same-channel coast stations licensees must undertake an agreement to minimize interference by the means described, which also greatly increases full and efficient use of the subject same spectrum. (As any radio system engineer, or educated layman, can understand immediately, and as the FCC has often stated in decisions regarding interference and spectrum efficiency.) Also, for the Foundation and the LLCs to determine how to plan, construct, and operate AMTS geographic A-block stations in proximity to your Alleged NYC Stations and your Alleged Other Stations, the same information required under FCC rule §80.70(a) is required.

¹⁰ That is, stations that have not automatically terminated: (i) for failure to timely and properly construct and put into operational service, including under §1.955(a)(2), or (ii) for permanent discontinuance, including under §1.955(a)(3).

equipment purchases and installation reports, station construction and operation logs, etc.), and

(2) You turning in to the FCC for cancellation, on the required forms and with the required information, of all your Station Licenses other than those for the Alleged Stations for which you satisfy item '(1)' immediately above.¹¹

[The rest of this page is intentionally left blank.]

Part 2

Compliance with FCC rules

On Turning In for Cancellation Automatically Terminated Station Licenses
And/ or Rules Requiring Reporting and Fees to the Universal Service Fund

1. You are aware, or under FCC rules are obligated to be aware, of all FCC rules pertaining to your requirements as AMTS station licensees and operators, to submit to the Universal Service Fund required reports and related fees. The applicable rules are primarily in 47 CFR Part 54, and include (underlining added):

Sec. 54.706 Contributions.*

(a) Entities that provide interstate telecommunications to the public, or to such classes of users as to be effectively available to the public, for a fee will be considered telecommunications carriers providing interstate telecommunications services and must contribute to the universal service support mechanisms. Certain other providers of interstate telecommunications, such as payphone providers that are aggregators, providers of interstate telecommunications for a fee on a non-common carrier basis, and interconnected VoIP providers, also must contribute to the universal service support mechanisms. Interstate telecommunications include, but are not limited to:

- (1) Cellular telephone and paging services;
- (2) Mobile radio services [which includes AMTS]¹²

¹¹ See rules and discussion in Part 1, ¶ 6 above.

* This rule is pursuant to 47 USC §254(d).

¹² See *In the Matter of Universal Service Contribution Methodology; Request for Review by Waterway Communication System, LLC and Mobex Network Services, LLC of a Decision of the Universal Service Administrator*, WC Docket No. 06-122, Order, DA 08-1971, Released August 26, 2008. 23 FCC Rcd 12836; 2008 FCC LEXIS 5919. In sum, this Order found:

2. You have maintained before the FCC your NYC Stations License and other Stations Licenses for over a decade, and always described these in FCC filings as public-coast commercial common carrier stations and operators, extensively serving the mobile maritime radio service market along, as you wrote, virtually all of the US Pacific Ocean and US Atlantic Ocean coastlines, Hawaii, Puerto Rico, the Mississippi River waterways (and other inland waterways), the Gulf Coast waterways, much of the Great Lakes.

3. You have failed to file the required Forms 499-A, contribute amounts due,^{***} and otherwise comply with the rules and purposes stated in item 1 above of this Part 2, as described and documented in EXHIBIT 3 below.¹³ —In addition, as stated in footnote *** below, given the number of your Alleged Stations, it is impossible that you would not need to contribute to the Universal Service Fund as you currently state on your 2008 Form 499-A (See Exhibit 3 below), unless you were not actually operating your Alleged Stations and providing CMRS services, as you have indicated you are not doing in your Request for Review (See footnote 13 here). Thus, your actions noted in the preceding paragraph 2 above are deliberately false if you actually operated those stations, or this indicates that the Stations Licenses including the NYC Stations License are automatically terminated under FCC rules for lack of construction, operation, and/or permanent maintenance under the FCC rules indicated above (including for not being operated as CMRS, if existing and operated at all) and must be returned to the FCC for cancellation under the rules also described above.

4. However, if you do not return said stations for cancellation for the reasons just stated, but maintain them as valid, then under the noted FCC rules you must file full and complete Forms 499-A and other filings required for purposes of the Universal Service Fund and submit all required fees, late penalties, and other sums due.

7. We deny Maritime's request and find that, in accordance with the Commission's instructions and rules, AMTS providers are subject to USF contribution obligations....

^{***} Based on the worksheet and rules by which *de minimis* exemption is allowed from making contributions, you could not meet the exemption if you actually were operating your Alleged Stations as you assert to the FCC and to me, which is that you are operating the Alleged Stations as per your granted FCC applications (that resulted in the Stations Licenses), in which you stated you needed and would operate all of the A-block and B-block spectrum. Even if you were operating *one* of your Alleged Stations in this fashion, with typical customer loading and revenues, you would not meet this exemption.

¹³ See the decision cited in footnote 13 above. The required 499-A filings must state the “Jurisdictions in Which the Filing Entity Provides Telecommunications Services,” as indicated on the Form 499-A itself, and in applicable rules. That includes States in which any of your Alleged Stations has an alleged “service contour.” For example, you have an alleged station in the State of Connecticut, but do not list that State on the Form 499-A, and you also don’t list other States where you have Alleged Stations and radio service contours (asserted in your own FCC filings) from said stations.

5. Thus, by the date given in the Summary above, provide to me full documentation of:

(1) The FCC filings for cancellation of your Stations Licenses just indicated above in this Part 2.

(2) And for any Stations Licenses for which you do not submit such cancellation filings: evidence of curing the FCC rule violations involving the filings just indicated above in this Part 2 that you were required to submit in the past, but which you did not ever submit, for purposes of the Universal Service Fund, including under §54.706, cited above, and related rules.

Sincerely,

/s/

[This is the electronic version. Signature on original, and on file.]

Warren Havens
President

Attachments:
Appendix
Four Exhibits

cc: Foundation and LLCs legal counsel

Appendix

Sec. 80.409 Station logs.

(a) **General requirements.** Logs must be established and properly maintained as follows:

(1) The log must be kept in an orderly manner. The required information for the particular class or category of station must be readily available. Key letters or abbreviations may be used if their proper meaning or explanation is contained elsewhere in the same log.

(2) Erasures, obliterations or willful destruction within the retention period are prohibited. Corrections may be made only by the person originating the entry by striking out the error, initialing the correction and indicating the date of correction.

(3) Ship station logs must identify the vessel name, country of registry, and official number of the vessel.

(4) The station licensee and the radio operator in charge of the station are responsible for the maintenance of station logs.

(b) **Availability and retention.** Station logs must be made available to authorized Commission employees upon request and retained as follows:

(1) Logs must be retained by the licensee for a period of two years from the date of entry, and, when applicable, for such additional periods as required by the following paragraphs:

(i) Logs relating to a distress situation or disaster must be retained for three years from the date of entry.

(ii) If the Commission has notified the licensee of an investigation, the related logs must be retained until the licensee is specifically authorized in writing to destroy them.

(iii) Logs relating to any claim or complaint of which the station licensee has notice must be retained until the claim or complaint has been satisfied or barred by statute limiting the time for filing suits upon such claims.

(2) Logs containing entries required by paragraphs (e) and (f) of this section must be kept at the principal radiotelephone operating location while the vessel is being navigated. All entries in their original form must be retained on board the vessel for at least 30 days from the date of entry. Additionally, logs required by paragraph (f) of this section must be retained on board the vessel for a period of 2 years from the date of the last inspection of the ship radio station.

(3) Ship radiotelegraph logs must be kept in the principal radiotelegraph operating room during the voyage.

(c) **Public coast station logs.** Public coast stations must maintain a log as follows:

(1) "ON DUTY" must be entered by the operator beginning a duty period, followed by the operator's signature. "OFF DUTY" must be entered by the operator being relieved of or terminating duty, followed by the operator's signature.

(2) The date and time of making an entry must be shown opposite the entry.

(3) Failure of equipment to operate as required and incidents tending to unduly delay communication must be entered.

(4) All measurements of the transmitter frequency(ies) must be entered with a statement of any corrective action taken.

(5) Entries must be made giving details of all work performed which may affect the proper operation of the station. The entry must be made, signed and dated by the operator who supervised or performed the work and, unless the operator is regularly employed on a

full-time basis at the station, must also include the mailing address, class, serial number, and expiration date of the operator license.

(6) Entries must be made about the operation of the antenna tower lights when the radio station has an antenna structure requiring illumination by part 17 of this chapter.

(7) All distress or safety related calls transmitted or received must be entered, together with the frequency used and the position of any vessel in need of assistance.

(8) Coast stations which maintain a watch on 500 kHz must enter the time this watch is begun, suspended or ended.

Exhibits Follow on Next Pages:

EXHIBIT 1:

12.27.2007 Letter email to Maritime Communications/Land Mobile LLC ("MCLM") regarding year-end donations of spectrum, damage claims and demand to MCLM to turn back in to the FCC for cancellation all invalid station licenses to mitigate damages.

12.31.07 Letter email to MCLM extending the deadline given in the above.

EXHIBIT 2:

Note that MCLM gave no response to the above Letter emails.

EXHIBIT 3:

MCLM's violation of FCC rules including Section 54.706 by failure to file FCC Form 499-A listing the States in which it operates its alleged AMTS stations (and pay the required fees to the Universal Service Fund), including for the States of NY, NJ and CT: Notes and evidence from FCC files.

EXHIBIT 4:

MCLM's violation of FCC rules including Section 1.946(d) by failure to file FCC Form 601 reporting construction and service operation for a majority of its AMTS stations, which details are needed for purposes of Sections 80.70(a) and other rules.

NEXT DOCUMENT

Exhibit 1 follows

From: warren havens [warren.havens@sbcglobal.net]
Sent: Thursday, December 27, 2007 3:49 PM
To: d.c.brown@att.net; ahartman@goodinmacbride.com
Cc: bernsteinlaw@earthlink.net; Patrick Richard; jstobaugh Stobaugh; warren havens
Subject: To MCLM-Mobex: Request to immediately turn-in invalid licenses, to mitigate year-end damages

By email and Fed Ex with delivery tracking

To:

Susan Depriest and Donald DePriest,
and any other owners, controllers, and officers of:
Maritime Communications / Land Mobile LLC ("MCLM")

Owners, controllers, and officers of:
Mobex Network Services LLC ("Mobex")

Via email their FCC legal counsel:

Dennis Brown
(The following information is taken off of the current MCLM licenses on the FCC
ULS database:)

Dennis C Brown
8124 Cooke Court, Suite 201
Manassas, VA 20109-7406
Email: d.c.brown@att.net

Anne Hays Hartman,
(The following is form the firm's website and information the firm provided
today by phone:)

Anne Hays Hartman
GOODIN, MACBRIDE, SQUERI, DAY & LAMPREY LLP

505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111
Email: ahartman@goodinmacbride.com

Addressed parties:

(i) Herein below, by "MCLM," I mean both (i) the entity Maritime Communications / Land Mobile LLC but also all persons and entities that are related and are liable along with the entity for the direct and other damages noted herein, and (ii) the entity Mobex Network Services LLC along with all persons and entities that are related and are liable along with the entity for the direct and other damages noted herein.

1. As you know, the LLCs I manage, listed below, including AMTS Consortium LLC, own FCC geographic licenses for AMTS B-block spectrum in most areas of the nation, and for A-block spectrum in lesser but still major parts of the nation. In many of these geographic areas MCLM claims to have validly obtained and constructed AMTS A-block and/or B-block incumbent site-based licenses that also have never been permanently discontinued and which thus encumber (restrict the use of) the geographic licenses' for the same spectrum block(s) in said MCLM site-based licenses within and near their service-coverage contours ("MCLM Encumbered Spectrum").

2. As you know, my LLCs contest these MCLM claims, and we believe that there is sufficient evidence in the record, of which you have been made aware, that your claims are false, and that your AMTS licenses are invalid, including in the Northern Pacific AMTS-geographic-license area and the Mississippi River AMTS-geographic-license area, but also in other areas.

3. While your claims, if invalid, cause various damages each day to my LLCs, in particular cases, your perpetuation of the invalid claims can cause particular irreversible damages at given points in time. One such case is explained below.

4. My LLCs and their members have determined that they will donate by the end of this year 2007 certain non-controlling interests in the LLCs, and /or certain geographic spectrum held by the LLCs, that is subject to MCLM Encumbered Spectrum, to a nonprofit organization, Skybridge Spectrum Foundation (set up to develop and operate Intelligent Transportation System ["ITS"] wireless networks

in the US to reduce accidents, pollution, congestion, fuel consumption, and other public-interest purposes) (and possibly to another nonprofit organization also) for which said donors will obtain, under IRS rules, valuable tax deductions based on the fair-market value of the donations at the time of the donations.

5. MCLM's invalid claims regarding the MCLM Encumbered Spectrum will cause major devaluations and damages to the legitimate fair market valuation of these donations to be made by the end of this year 2007. (While the reasons for said devaluation and damages are for the most part obvious, they include, among others: reduction in the geographic-licensed AMTS B-block spectrum that is not encumbered by the MCLM claims to site-based authorization of the same spectrum; the loss of use of the encumbered spectrum in time, which also reduces the utility and value of the adjacent, not-encumbered AMTS geographic spectrum, and of our companion 900 MHz spectrum that our LLCs hold nationwide for use in ITS wireless networks paired with our AMTS spectrum [as frequently described in public FCC filings, and in our public website]; the cost of legal action to clear invalidly encumbered spectrum; and other reasons.) The damages will be to both the donor LLCs and their members, and the recipient nonprofit organization(s). Based on research to date, I believe the direct, initial, irreversible damages will be a multi-million dollars sum, if MCLM does not perform the following request by the date noted below, and other, additional damages may be a multiple of that sum. My LLCs and their members, and possibly also the nonprofit organization involved, intend to pursue these initial and these other damages against MCLM (as defined above) to the full extent possible under law.

6. Thus, on behalf of my LLCs and its members making these donations, I request and demand that MCLM immediately notify the FCC, with a copy to me, that MCLM turns in to the FCC for immediate cancellation all of the invalid AMTS licenses, with these clearly identified (the "FCC Cancellation Notice") in order to mitigate the damages to said donations, and to said donors and recipient entities.

7. If I do not receive the above-requested copy of the above-requested FCC Cancellation Notice by email before Noon on December 30, 2007 with cc's to the persons cc'ed in this email, who (as you know) assist me and my LLCs in FCC and other legal matters, then I will assume that MCLM elects to not take the actions requested and demanded above, and in any case, it will thereafter be beyond the time that, in this year, any such actions by MCLM will mitigate damages since

all of the described donations must and will be concluded immediately after said day and time.

8. By addressing the above-noted donations and related damages in this email, I do not address other past and ongoing damages that MCLM has already caused and is causing to the LLCs I manage, or any other matter. In addition, by the above, I do not imply that MCLM has not already caused damages to the donations, donors, and recipient in this year, and with regard to previous periods of time.

9. MCLM has clearly been on notice by the undersigned parties as to MCLM's invalid claims noted above, and as to damages those have caused and are causing to the undersigned parties. This email is an attempt to mitigate further damages with regard to the specific transactions noted above.

Sincerely,

/ s /
Warren Havens
President
'Telesaurus' --
www.telesaurus.com
Telesaurus VPC LLC
AMTS Consortium LLC
Telesaurus Holdings GB LLC
Intelligent Transportation & Monitoring Wireless LLC
& Skybridge Spectrum Foundation, a nonprofit corporation
Berkeley, California
(510) 841 2220

cc: Litigation legal counsel for immediately above listed legal entities: Mr. Bernstein and Mr. Richards

From: warren havens [warren.havens@sbcglobal.net]
Sent: Monday, December 31, 2007 9:51 AM
To: d.c.brown@att.net; ahartman@goodinmacbride.com
Cc: bernsteinlaw@earthlink.net; Patrick Richard; jstobaugh Stobaugh
Subject: Re: To MCLM-Mobex: Request to immediately turn-in invalid licenses, to mitigate year-end damages

Addressed parties:

The below deadline of Noon on December 30, 2007 is hereby extended to today at 2 PM Pacific Time to make every attempt to mitigate the damages noted below.

Warren Havens

On Dec 27, 2007, at 3:49 PM, warren havens wrote:

By email and Fed Ex with delivery tracking

To:

Susan Depriest and Donald DePriest,
and any other owners, controllers, and officers of:
Maritime Communications / Land Mobile LLC ("MCLM")

Owners, controllers, and officers of:
Mobex Network Services LLC ("Mobex")

Via email their FCC legal counsel:

Dennis Brown
SSF & LLCs to MCLM, 12.5.2008

(The following information is taken off of the current MCLM licenses on the FCC ULS database:)

Dennis C Brown
8124 Cooke Court, Suite 201
Manassas, VA 20109-7406
Email: d.c.brown@att.net

Anne Hays Hartman,

(The following is form the firm's website and information the firm provided today by phone:)

Anne Hays Hartman
GOODIN, MACBRIDE, SQUERI, DAY & LAMPREY LLP

505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111
Email: ahartman@goodinmacbride.com

Addressed parties:

(i) Herein below, by "MCLM," I mean both (i) the entity Maritime Communications / Land Mobile LLC but also all persons and entities that are related and are liable along with the entity for the direct and other damages noted herein, and (ii) the entity Mobex Network Services LLC along with all persons and entities that are related and are liable along with the entity for the direct and other damages noted herein.

1. As you know, the LLCs I manage, listed below, including AMTS Consortium LLC, own FCC geographic licenses for AMTS B-block spectrum in most areas of the nation, and for A-block spectrum in lesser but still major parts of the nation. In many of these geographic areas MCLM claims to have validly obtained and constructed AMTS A-block and/or B-block incumbent site-based licenses that also have never been permanently discontinued and which thus encumber (restrict the use of) the geographic licenses' for the same spectrum block(s) in said MCLM site-based licenses within and near their service-coverage contours ("MCLM Encumbered Spectrum").

2. As you know, my LLCs contest these MCLM claims, and we believe that there is sufficient evidence in the record, of which you have been made aware, that

your claims are false, and that your AMTS licenses are invalid, including in the Northern Pacific AMTS-geographic-license area and the Mississippi River AMTS-geographic-license area, but also in other areas.

3. While your claims, if invalid, cause various damages each day to my LLCs, in particular cases, your perpetuation of the invalid claims can cause particular irreversible damages at given points in time. One such case in explained below.

4. My LLCs and their members have determined that they will donate by the end of this year 2007 certain non-controlling interests in the LLCs, and /or certain geographic spectrum held by the LLCs, that is subject to MCLM Encumbered Spectrum, to a nonprofit organization, Skybridge Spectrum Foundation (set up to develop and operate Intelligent Transportation System ["ITS"] wireless networks in the US to reduce accidents, pollution, congestion, fuel consumption, and other public-interest purposes) (and possibly to another nonprofit organization also) for which said donors will obtain, under IRS rules, valuable tax deductions based on the fair-market value of the donations at the time of the donations.

5. MCLM's invalid claims regarding the MCLM Encumbered Spectrum will cause major devaluations and damages to the legitimate fair market valuation of these donations to be made by the end of this year 2007. (While the reasons for said devaluation and damages are for the most part obvious, they include, among others: reduction in the geographic-licensed AMTS B-block spectrum that is not encumbered by the MCLM claims to site-based authorization of the same spectrum; the loss of use of the encumbered spectrum in time, which also reduces the utility and value of the adjacent, not-encumbered AMTS geographic spectrum, and of our companion 900 MHz spectrum that our LLCs hold nationwide for use in ITS wireless networks paired with our AMTS spectrum [as frequently described in public FCC filings, and in our public website]; the cost of legal action to clear invalidly encumbered spectrum; and other reasons.) The damages will be to both the donor LLCs and their members, and the recipient nonprofit organization(s). Based on research to date, I believe the direct, initial, irreversible damages will be a multi-million dollars sum, if MCLM does not perform the following request by the date noted below, and other, additional damages may be a multiple of that sum. My LLCs and their members, and possibly also the nonprofit organization involved, intend to pursue these initial and these other damages against MCLM (as defined above) to the full extent possible under law.

6. Thus, on behalf of my LLCs and its members making these donations, I request and demand that MCLM immediately notify the FCC, with a copy to me, that MCLM turns in to the FCC for immediate cancellation all of the invalid AMTS licenses, with these clearly identified (the "FCC Cancellation Notice") in order to mitigate the damages to said donations, and to said donors and recipient entities.

7. If I do not receive the above-requested copy of the above-requested FCC Cancellation Notice by email before Noon on December 30, 2007 with cc's to the persons cc'ed in this email, who (as you know) assist me and my LLCs in FCC and other legal matters, then I will assume that MCLM elects to not take the actions requested and demanded above, and in any case, it will thereafter be beyond the time that, in this year, any such actions by MCLM will mitigate damages since all of the described donations must and will be concluded immediately after said day and time.

8. By addressing the above-noted donations and related damages in this email, I do not address other past and ongoing damages that MCLM has already caused and is causing to the LLCs I manage, or any other matter. In addition, by the above, I do not imply that MCLM has not already caused damages to the donations, donors, and recipient in this year, and with regard to previous periods of time.

9. MCLM has clearly been on notice by the undersigned parties as to MCLM's invalid claims noted above, and as to damages those have caused and are causing to the undersigned parties. This email is an attempt to mitigate further damages with regard to the specific transactions noted above.

Sincerely,

/ s /

Warren Havens

President

'Telesaurus' --

www.telesaurus.com

Telesaurus VPC LLC

SSF & LLCs to MCLM, 12.5.2008

AMTS Consortium LLC
Telesaurus Holdings GB LLC
Intelligent Transportation & Monitoring Wireless LLC
& Skybridge Spectrum Foundation, a nonprofit corporation
Berkeley, California
(510) 841 2220

cc: Litigation legal counsel for immediately above listed legal entities: Mr.
Bernstein and Mr. Richards

NEXT DOCUMENT

Exhibit 2 follows

Maritime Communications/Land Mobile LLC gave no response to the above request of December 27, 2007.

NEXT DOCUMENT

Exhibit 3 follows

Maritime Communications/Land Mobile LLC's Form 499-A and its Predecessor-in-Interest's, Mobex Network Services LLC, Form 499-A: Do not List Connecticut

Maritime Communications/Land Mobile LLC ("MCLM") holds and alleges to operate AMTS licensed stations in and around Connecticut, but is not listing Connecticut on its 2008 Form 499-A (MCLM did not file a Form 499-A prior to April 2008 per FCC online records even though it has held AMTS licenses since 2005) and its predecessor-in-interest, Mobex Network Services LLC ("Mobex"), did not list Connecticut on its Form 499-A. Thus, both MCLM and Mobex have not listed Connecticut as a jurisdiction where either one has been providing telecommunications services.

Call Sign, Station Location # and Station City and State of MCLM Alleged New York, New Jersey and Connecticut Stations:

Call Sign: WRV374
Station Location 14: Selden, NY
Station Location 15: Verona, NJ
Station Location 18: Valhalla, NY
Station Location 25: Perrinville, NJ
Station Location 33: New York, NY
Station Location 40: Hamden, CT

Attached below are the following:

- (1) MCLM April 1, 2008 Form 499-A from FCC online Form 499-A database (see <http://fjallfoss.fcc.gov/cgb/form499/499a.cfm>)
- (2) Search Results from the FCC's Form 499-A online database, as of 11/1/07, showing that there is no Form 499-A on file for MCLM.
- (3) Mobex April 3, 2006 Form 499-A from FCC online database (printed 11/1/07)

Note: As witnessed by the below records, MCLM filed its first Form 499-A, per the FCC's online database, on April 1, 2008, even though MCLM has held AMTS station licenses since 2005 and the Form 499-A is required to be filed annually.



CGB - Form 499A Search Results Detailed Information

[FCC](#) > [CGB Home](#) > [499-A Search Form](#) > 499-A Detail

[FCC site map](#)

FCC Form 499-A Telecommunications Reporting Worksheet

DETAILED INFORMATION

Filer Identification Information:

499 Filer ID Number: **827056**
 Registration Current as of: **4/1/2008**
 Legal Name of Reporting Entity: **Maritime Communications/Land Mobile, LLC.**
 Doing Business As: **Maritime Communications/Land Mobile, LLC.**
 Principal Communications Type: **Other Mobile**
 Universal Service Fund Contributor: **No**
 (Contact USAC at 888-641-8722 if this is not correct.)
 Holding Company: **Maritime Communications/Land Mobile**
 Registration Number (CORESID): **0013587779**
 Management Company:
 Headquarters Address: **6200 Hwy 62 E**
Bldg. 2501
Suite 875
 City: **Jeffersonville**
 State: **IN**
 ZIP Code: **47130**
 Customer Inquiries Address: **6200 Hwy 62 E**
Bldg. 2501
Suite 875
 City: **Jeffersonville**
 State: **IN**
 ZIP Code: **47130**
 Customer Inquiries Telephone: **812-280-8609**
 Other Trade Names: **MCLM, LLC**

Agent for Service of Process:

Local/Alternate Agent for Service of Process:

Telephone:
 Extension:
 Fax:
 E-mail:

Business Address of Agent for Mail or Hand Service of Documents:

City:
 State:
 ZIP Code:

D.C. Agent for Service of Process: **Corporation Service Comp**

Telephone: **800-927-9801**
 Extension:
 Fax: **302-636-5454**
 E-Mail:

Business Address of D.C. Agent for Mail or Hand Service of Documents:

City:
 State:
 ZIP Code:

FCC Registration Information:

Chief Executive Officer: **John Reardon**
 Business Address: **215 N Lee Street**
Suite 318
 City: **Alexandria**
 State: **VA**
 ZIP Code: **22314**

Chairman or Other Senior Officer: **Robert Smith**
 Business Address: **6200 Hwy 62 E**
Bldg. 2501
Suite 875
 City: **Jeffersonville**
 State: **IN**
 ZIP Code: **47130**

President or Other Senior Officer:
 Business Address:
 City:
 State:
 ZIP Code:

Jurisdictions in Which the Filing Entity Provides Telecommunications Services:

Alabama
Arkansas
California
Delaware
Florida
Illinois
Indiana
Iowa
Kentucky
Louisiana
Maryland
Minnesota
Mississippi
Missouri
New Jersey
New York
Ohio
Oregon
Pennsylvania
Tennessee
Texas
Washington
West Virginia
Wisconsin

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This database reflects filings received by USAC as of Nov. 04, 2008

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Federal Communications Commission
 445 12th Street SW
 Washington, DC 20554
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Phone: 1-888-CALL-FCC (1-888-225-5322)
 TTY: 1-888-TELL-FCC (1-888-835-5322)
 Fax: 1-866-418-0232
 E-mail: fccinfo@fcc.gov

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CGB - Form 499A Search Results

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FCC Form 499-A Telecommunications Reporting Worksheet

SEARCH RESULTS

No records were found matching your criteria.

Name, Trade Name or DBA contains "*Maritime Communications*"

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FCC Form 499-A Telecommunications Reporting Worksheet SEARCH RESULTS

No records were found matching your criteria.

Name, Trade Name or DBA contains "*Maritime Communications/Land Mobile*"

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last reviewed/updated on 08/15/06

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FCC Form 499-A Telecommunications Reporting Worksheet

SEARCH RESULTS

No records were found matching your criteria.

Name, Trade Name or DBA contains "MC/LM"

[Return to Search Form](#)

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CGB - Form 499A Search Results Detailed Information

[FCC](#) > [CGB Home](#) > [499-A Search Form](#) > 499-A Detail

[FCC site map](#)

FCC Form 499-A Telecommunications Reporting Worksheet

DETAILED INFORMATION

Filer Identification Information:

499 Filer ID Number: **822896**
 Registration Current as of: **4/3/2006**
 Legal Name of Reporting Entity: **Mobex Network Services, LLC- CONSOLIDATED**
 Doing Business As: **Mobex Network Services, LLC**
 Principal Communications Type: **Other Mobile**
 Universal Service Fund Contributor: **No**
 (Contact USAC at 888-641-8722 if this is not correct.)
 Holding Company: **Mobex Communications, Inc**
 Registration Number (CORESID): **0002-1581-52**
 Management Company:
 Headquarters Address: **6200 Hwy 62 E**
Bldg 2501 Suite 875
 City: **Jeffersonville**
 State: **IN**
 ZIP Code: **47130**
 Customer Inquiries Address: **6200 Hwy 62 E**
Bldg 2501 Suite 875
 City: **Jeffersonville**
 State: **IN**
 ZIP Code: **47130**
 Customer Inquiries Telephone: **812-280-8609**
 Other Trade Names: **Regionet Wireless**
Regionet Wireless Operations
Mobex
Waterway Communications System, Inc.
Waterway Communications System, LLC
WATERCOM

Agent for Service of Process: Local/Alternate Agent for Service of Process:

Telephone:
 Extension:
 Fax:
 E-mail:

Business Address of Agent for
Mail or Hand Service of Documents:
 City:
 State:
 ZIP Code:

D.C. Agent for Service of Process: **CT CORP CT Corporation Syst**
 Telephone: **800-336-3376**
 Extension:
 Fax: **202-572-3100**
 E-Mail:

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E-mail: fccinfo@fcc.gov

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NEXT DOCUMENT

Exhibit 4 follows

FCC Rule Section 1.946(d)

Section 1.946 Construction and coverage requirements.

....

(d) Licensee notification of compliance. A licensee who commences service or operations within the construction period or meets its coverage or substantial services obligations within the coverage period must notify the Commission by filing FCC Form 601. The notification must be filed within 15 days of the expiration of the applicable construction or coverage period. Where the authorization is site-specific, if service or operations have begun using some, but not all, of the authorized transmitters, the notification must show to which specific transmitters it applies.

....

Note: The undersigned parties to the instant letter have conducted research of FCC paper records and online databases and have not found records of Form 601s having been filed by Maritime Communications/Land Mobile LLC to comply with the above rule section for the vast majority of its AMTS stations.

Certificate of Service

I, Warren C. Havens, hereby certify that I have, on this 5th day of December 2008, caused to be served by placing into the USPS mail system with first-class postage affixed and into the Federal Express package system for overnight delivery, and as otherwise noted below, a copy of the foregoing letter, its appendix and its exhibits to the following:

Sandra M. DePriest and Donald R. DePriest
Maritime Communications/Land Mobile LLC
206 North 8th Street
Columbus, MS 39701

GINA M. GRAHAM (Legal counsel to Maritime Communications/Land Mobile)
GRAHAM CURTIN, PA
4 HEADQUARTERS PLAZA
P.O. BOX 1991
MORRISTOWN, NJ 07962-1991
Also via email to: ggraham@grahamcurtin.com

ROBERT W. MAURIELLO (Legal counsel to Maritime Communications/Land Mobile)
GRAHAM CURTIN, PA
4 HEADQUARTERS PLAZA
P.O. BOX 1991
MORRISTOWN,, NJ 07962
Also via email to: rmauriello@grahamcurtin.com

Dennis Brown (Legal counsel to Maritime Communications/Land Mobile)
8124 Cooke Court, Suite 201
Manassas, VA 20109-7406
Also via email to: d.c.brown@att.net

John Reardon, President and CEO
Maritime Communications/Land Mobile LLC
6200 Hwy. 62 East
Bldg. 2501 Suite 275
Jeffersonville, IN 47130
Also via email to: john.reardon@mclmlc.com

/s/ Warren Havens [*This is the electronic version. Signature on original and on file.*]

Warren C. Havens

From: warren havens [warren.havens@sbcglobal.net]
Sent: Monday, December 31, 2007 9:51 AM
To: d.c.brown@att.net; ahartman@goodinmacbride.com
Cc: bernsteinlaw@earthlink.net; Patrick Richard; jstobaugh Stobaugh
Subject: Re: To MCLM-Mobex: Request to immediately turn-in invalid licenses, to mitigate year-end damages
Addressed parties:

The below deadline of **Noon on December 30, 2007 is hereby extended to today at 2 PM Pacific Time to make every attempt to mitigate the damages noted below.**

Warren Havens

On Dec 27, 2007, at 3:49 PM, warren havens wrote:

By email and Fed Ex with delivery tracking

To:

Susan Depriest and Donald DePriest,
and any other owners, controllers, and officers of:
Maritime Communications / Land Mobile LLC ("MCLM")

Owners, controllers, and officers of:
Mobex Network Services LLC ("Mobex")

Via email their FCC legal counsel:

Dennis Brown
(The following information is taken off of the current MCLM licenses on the FCC ULS database:)
Dennis C Brown
8124 Cooke Court, Suite 201
Manassas, VA 20109-7406
Email: d.c.brown@att.net

Anne Hays Hartman,
(The following is form the firm's website and information the firm provided today by phone:)
Anne Hays Hartman
GOODIN, MACBRIDE, SQUERI, DAY & LAMPREY LLP
505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111
Email: ahartman@goodinmacbride.com

Addressed parties:

(i) Herein below, by "**MCLM**," I mean both (i) the entity Maritime Communications / Land Mobile LLC but also all persons and entities that are related and are liable along with the entity for the direct and other damages noted herein, and (ii) the entity Mobex Network Services LLC along with all persons and entities that are related and are liable along with the entity for the direct and other damages noted herein.

1. As you know, the LLCs I manage, listed below, including AMTS Consortium LLC, own FCC geographic licenses for AMTS B-block spectrum in most areas of the nation, and for A-block spectrum in lesser but still major parts of the nation. In many of these geographic areas MCLM claims to have validly obtained and constructed AMTS A-block and/or B-block incumbent site-based licenses that also have never been permanently discontinued and which thus encumber (restrict the use of) the geographic licenses' for the same spectrum block(s) in said MCLM site-based licenses within and near their service-coverage contours ("MCLM Encumbered Spectrum").

2. As you know, my LLCs contest these MCLM claims, and we believe that there is sufficient evidence in the record, of which you have been made aware, that your claims are false, and that your AMTS licenses are invalid, including in the Northern Pacific AMTS-geographic-license area and the Mississippi River AMTS-geographic-license area, but also in other areas.

3. While your claims, if invalid, cause various damages each day to my LLCs, in particular cases, your perpetuation of the invalid claims can cause particular irreversible damages at given points in time. One such case is explained below.

4. My LLCs and their members have determined that they will donate by the end of this year 2007 certain non-controlling interests in the LLCs, and /or certain geographic spectrum held by the LLCs, that is subject to MCLM Encumbered Spectrum, to a nonprofit organization, Skybridge Spectrum Foundation (set up to develop and operate Intelligent Transportation System ["ITS"] wireless networks in the US to reduce accidents, pollution, congestion, fuel consumption, and other public-interest purposes) (and possibly to another nonprofit organization also) for which said donors will obtain, under IRS rules, valuable tax deductions based on the fair-market value of the donations at the time of the donations.

5. MCLM's invalid claims regarding the MCLM Encumbered Spectrum will cause major devaluations and damages to the legitimate fair market valuation of these donations to be made by the end of this year 2007. (While the reasons for said devaluation and damages are for the most part obvious, they include, among others: reduction in the geographic-licensed AMTS B-block spectrum that is not encumbered by the MCLM claims to site-based authorization of the same spectrum; the loss of use of the encumbered spectrum in time, which also reduces the utility and value of the adjacent, not-encumbered AMTS geographic spectrum, and of our companion 900 MHz spectrum that our LLCs hold nationwide for use in ITS wireless networks paired with our AMTS spectrum [as frequently described in public FCC filings, and in our public website]; the cost of legal action to clear invalidly encumbered spectrum; and other reasons.) The damages will be to both the donor LLCs and their members, and the recipient nonprofit organization(s). Based on research to date, I believe the direct, initial, irreversible damages will be a multi-million dollars sum, if MCLM does not perform the following request by the date noted below, and other, additional damages may be a multiple of that sum. My LLCs and their members, and possibly also the nonprofit organization involved, intend to pursue these initial and these other damages against MCLM (as defined above) to the full extent possible under law.

6. Thus, on behalf of my LLCs and its members making these donations, **I request and demand that MCLM immediately notify the FCC, with a copy to me, that MCLM turns in to the FCC for immediate cancellation all of the invalid AMTS licenses, with these clearly identified** (the "FCC Cancellation Notice") in order to mitigate the damages to said donations, and to said donors and recipient entities.

7. If I do not receive the above-requested copy of the above-requested FCC Cancellation Notice **by email before Noon on December 30, 2007** with cc's to the persons cc'ed in this email, who (as you know) assist me and my LLCs in FCC and other legal matters, then I will assume that MCLM elects to not take the actions requested and demanded above, and in any case, it will thereafter be beyond the time that, in this year, any such actions by MCLM will mitigate damages since all of the described donations must and will be concluded immediately after said day and time.

8. By addressing the above-noted donations and related damages in this email, I do not address other past and ongoing damages that MCLM has already caused and is causing to the LLCs I manage, or any other matter. In addition, by the above, I do not imply that MCLM has not already caused damages to the donations, donors, and recipient in this year, and with regard to previous periods of time.

9. MCLM has clearly been on notice by the undersigned parties as to MCLM's invalid claims noted above, and as to damages those have caused and are causing to the undersigned parties. This email is an attempt to mitigate further damages with regard to the specific transactions noted above.

Sincerely,

/ s /

Warren Havens

President

'Telesaurus' --

www.telesaurus.com

Telesaurus VPC LLC

AMTS Consortium LLC

Telesaurus Holdings GB LLC

Intelligent Transportation & Monitoring Wireless LLC

& Skybridge Spectrum Foundation, a nonprofit corporation
Berkeley, California
(510) 841 2220

cc: Litigation legal counsel for immediately above listed legal entities: Mr. Bernstein and Mr. Richards

From: warren havens [warren.havens@sbcglobal.net]
Sent: Thursday, December 27, 2007 3:49 PM
To: d.c.brown@att.net; ahartman@goodinmacbride.com
Cc: bernsteinlaw@earthlink.net; Patrick Richard; jstobaugh Stobaugh; warren havens
Subject: To MCLM-Mobex: Request to immediately turn-in invalid licenses, to mitigate year-end damages
By email and Fed Ex with delivery tracking

To:

Susan Depriest and Donald DePriest,
and any other owners, controllers, and officers of:
Maritime Communications / Land Mobile LLC ("MCLM")

Owners, controllers, and officers of:
Mobex Network Services LLC ("Mobex")

[Via email their FCC legal counsel:](#)

Dennis Brown
(The following information is taken off of the current MCLM licenses on the FCC ULS database:)
Dennis C Brown
8124 Cooke Court, Suite 201
Manassas, VA 20109-7406
Email: d.c.brown@att.net
Anne Hays Hartman,

(The following is from the firm's website and information the firm provided today by phone:)
Anne Hays Hartman
GOODIN, MACBRIDE, SQUERI, DAY & LAMPREY LLP
505 SANSOME STREET, SUITE 900
SAN FRANCISCO, CA 94111
Email: ahartman@goodinmacbride.com

Addressed parties:

(i) Herein below, by "MCLM," I mean both (i) the entity Maritime Communications / Land Mobile LLC but also all persons and entities that are related and are liable along with the entity for the direct and other damages noted herein, and (ii) the entity Mobex Network Services LLC along with all persons and entities that are related and are liable along with the entity for the direct and other damages noted herein.

1. As you know, the LLCs I manage, listed below, including AMTS Consortium LLC, own FCC geographic licenses for AMTS B-block spectrum in most areas of the nation, and for A-block spectrum in lesser but still major parts of the nation. In many of these geographic areas MCLM claims to have validly obtained and constructed AMTS A-block and/or B-block incumbent site-based licenses that also have never been permanently discontinued and which thus encumber (restrict the use of) the geographic licenses' for the same spectrum block(s) in said MCLM site-based licenses within and near their service-coverage contours ("MCLM Encumbered Spectrum").

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4. My LLCs and their members have determined that they will donate by the end of this year 2007 certain non-controlling interests in the LLCs, and/or certain geographic spectrum held by the LLCs, that is subject to MCLM Encumbered Spectrum, to a nonprofit organization, Skybridge Spectrum Foundation (set up to develop and operate Intelligent Transportation System ["ITS"] wireless networks in the US to reduce accidents, pollution, congestion, fuel consumption, and other public-interest purposes) (and possibly to another nonprofit organization also) for which said

donors will obtain, under IRS rules, valuable tax deductions based on the fair-market value of the donations at the time of the donations.

5. MCLM's invalid claims regarding the MCLM Encumbered Spectrum will cause major devaluations and damages to the legitimate fair market valuation of these donations to be made by the end of this year 2007. (While the reasons for said devaluation and damages are for the most part obvious, they include, among others: reduction in the geographic-licensed AMTS B-block spectrum that is not encumbered by the MCLM claims to site-based authorization of the same spectrum; the loss of use of the encumbered spectrum in time, which also reduces the utility and value of the adjacent, not-encumbered AMTS geographic spectrum, and of our companion 900 MHz spectrum that our LLCs hold nationwide for use in ITS wireless networks paired with our AMTS spectrum [as frequently described in public FCC filings, and in our public website]; the cost of legal action to clear invalidly encumbered spectrum; and other reasons.) The damages will be to both the donor LLCs and their members, and the recipient nonprofit organization(s). Based on research to date, I believe the direct, initial, irreversible damages will be a multi-million dollars sum, if MCLM does not perform the following request by the date noted below, and other, additional damages may be a multiple of that sum. My LLCs and their members, and possibly also the nonprofit organization involved, intend to pursue these initial and these other damages against MCLM (as defined above) to the full extent possible under law.

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Sincerely,

/ s /

Warren Havens

President

'Telesaurus' --

www.telesaurus.com

Telesaurus VPC LLC

AMTS Consortium LLC

Telesaurus Holdings GB LLC

Intelligent Transportation & Monitoring Wireless LLC

& Skybridge Spectrum Foundation, a nonprofit corporation

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cc: Litigation legal counsel for immediately above listed legal entities: Mr. Bernstein and Mr. Richards

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

In the Matter of)
MARITIME COMMUNICATIONS/LAND)
MOBILE, LLC)
WARREN HAVENS, ENVIRONMENTEL LLC,)
INTELLIGENT TRANSPORTATION &)
MONITORING LLC, SKYBRIDGE SPECTRUM)
FOUNDATION)
Petitions for Reconsideration)

ORDER ON RECONSIDERATION

Adopted: April 16, 2010

Released: April 19, 2010

By the Deputy Chief, Mobility Division, Wireless Telecommunications Bureau:

1. Introduction. This Order on Reconsideration denies two petitions for reconsideration of a declaratory ruling interpreting two rules governing Automated Maritime Telecommunications System (AMTS) operations. We have before us two petitions for reconsideration, one filed by Maritime Communications/Land Mobile, LLC (MC/LM),1 and one filed jointly by Warren Havens, Environmental LLC, Intelligent Transportation & Monitoring LLC, and Skybridge Spectrum Foundation (collectively, Havens),2 each seeking reconsideration of a Letter Ruling by the Mobility Division (Division), Wireless Telecommunications Bureau.3 For reasons discussed below, we deny both petitions for reconsideration.

2. Background. Section 80.215 of the Commission's Rules sets forth the AMTS transmitter power limits. Coast stations are limited to fifty watts transmitter output power (TPO),4 with an additional limit5 of one thousand watts effective radiated power (ERP) for certain coast stations.6 Ship stations generally are limited to twenty-five watts TPO and eighteen watts ERP,7 but Section 80.215(i) permits a TPO of fifty watts under certain conditions.8

1 Petition for Partial Reconsideration, filed May 8, 2009 (MC/LM Petition).

2 Petition for Reconsideration and Comments Erratum Copy, filed May 8, 2009 (Havens Petition). MC/LM filed an opposition. Maritime Communications/Land Mobile, LLC, Opposition to Petition for Reconsideration, filed May 21, 2009 (MC/LM Opposition).

3 Dennis C. Brown, Letter, 24 FCC Rcd 4135 (Letter Ruling).

4 See 47 C.F.R. § 80.215(c)(1), (h)(5).

5 See MariTEL, Inc. and Mobex Network Services, LLC, Report and Order, WT Docket No. 04-257, 22 FCC Rcd 8971, 8986 ¶ 24 (2007).

6 Specifically, stations with an antenna height of 61 meters or less that are more than 169 kilometers from a Channel 13 television (TV) station or more than 129 kilometers from a Channel 10 TV station. See 47 C.F.R. § 80.215(h)(1).

7 See 47 C.F.R. § 80.215(e)(2), (i).

8 Specifically, increases exceeding twenty-five watts are made only by radio command from the controlling coast station, and the TPO is twenty-five watts or less when external radio commands are not present. See 47 C.F.R. § 80.215(i)(1), (2).

3. Section 80.385(b)(1) of the Commission's Rules sets forth the co-channel interference protection that AMTS geographic area licensees must afford site-based incumbents. Generally, a geographic licensee must locate its stations at least 120 kilometers from co-channel site-based incumbent stations, but shorter separations are permitted if at least 18 dBu protection will be provided to the site-based licensee's predicted 38 dBu signal level contour.⁹

4. In 2008, MC/LM asked the Division to clarify Sections 80.385(b)(1) and 80.215(i). With respect to Section 80.385(b)(1), MC/LM requested that the Division clarify that, for purposes of calculating a site-based station's predicted 38 dBu contour, the site-based station should be assumed to operate with one thousand watts ERP, irrespective of its actual ERP.¹⁰ The Division denied this request, concluding that the Commission intended for an AMTS geographic licensee to provide interference protection to a co-channel site-based licensee of the basis of the latter's actual ERP.¹¹ The Division observed that the AMTS co-channel interference protection standard was based on the standard for the spectrally adjacent 220-222 MHz (220 MHz) service, and that the Commission has stated that the 38 dBu contours of incumbent 220 MHz stations are to be calculated on the basis of their actual, rather than theoretical maximum, operating parameters.¹² The Division further noted that adopting MC/LM's interpretation of Section 80.385(b)(1) would run counter to the goal of promoting efficient spectrum use, because it could foreclose AMTS geographic licensees from providing service even in areas that were not receiving service from an incumbent site-based station.¹³

5. With respect to Section 80.215(i), MC/LM requested that the Division clarify that a ship station operating with a TPO of fifty watts pursuant to Section 80.215(i) is permitted to operate with an ERP of up to thirty-six watts.¹⁴ The Division so clarified the rule, agreeing that "[a]lthough Section 80.215(i) expressly authorizes only an increase in [TPO] under the specified circumstances, and not an increase in ERP, it is evident that the Commission contemplated a corresponding increase in ERP."¹⁵

⁹ See 47 C.F.R. § 80.385(b)(1).

¹⁰ See Letter dated Dec. 18, 2008, from Dennis C. Brown to Scot Stone, Deputy Chief, Mobility Division, Wireless Telecommunications Bureau, at 2 (MC/LM Request).

¹¹ See *Letter Ruling*, 24 FCC Rcd at 4135-36.

¹² *Id.*, citing Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Service, *Third Report and Order; Fifth Notice of Proposed Rule Making*, PR Docket No. 89-552, GN Docket No. 93-252 & PP Docket No. 93-253, 12 FCC Rcd 10943, 11026 ¶ 174 (1997).

¹³ *Id.* at 4136 & n.6. The Division also observed that assuming that site-based incumbent AMTS stations are operating with one thousand watts ERP would underprotect stations not subject to the ERP limit that are operating with a higher ERP. *Id.* at 4136. The Division further noted that basing AMTS geographic licensees' interference protection obligations on the site-based stations' actual operating parameters was consistent with a recent Division decision in a licensing matter. *Id.*, citing *Northeast Utilities Service Company, Order*, 24 FCC Rcd 3310 (WTB MD 2009) (*NUSCO Order*), *recon. pending*. (MC/LM faults the Division's reliance on the *NUSCO Order*, inasmuch as the question of how to calculate a site-based incumbent's predicted 38 dBu contour was not contested in that case. See MC/LM Petition at 8. The Division did not rely on the *NUSCO Order*; rather, it only noted that the *NUSCO Order* and *Letter Ruling* were consistent in this regard. There is no reason to believe that the Division would have resolved MC/LM's declaratory ruling request any differently in the absence of the *NUSCO Order*.)

¹⁴ See MC/LM Request at 2.

¹⁵ See *Letter Ruling* at 4137, citing Amendment of Parts 2, 81 and 83 of the Commission's Rules to Allocate Spectrum for an Automated Inland Waterways Communications System (IWCS) along the Mississippi River and Connecting Waterways, *Memorandum Opinion and Order*, Gen Docket No. 80-1, 88 FCC 2d 678, 685 ¶ 24, 686 ¶ 28 (1981). The Division reasoned that interpreting Section 80.215(i) as limiting ERP to eighteen watts even when the ship station is permitted to operate with fifty watts TPO "would defeat the Commission's purpose in allowing the exceptions to the general twenty-five watt TPO limit." *Id.*

6. *Discussion.* MC/LM seeks reconsideration of the Division's first holding, that AMTS geographic licensees need only provide co-channel interference protection on the basis of incumbent site-based licensees' actual ERP, rather than an assumed ERP of one thousand watts. First, MC/LM contends that the Division's interpretation is based on a misplaced reliance on the 220 MHz rules.¹⁶ The Division did not, itself, rely on the 220 MHz rules. Rather, the Division correctly noted that the Commission, when it adopted Section 80.385(b)(1), expressly stated that the rule was based on the 220 MHz rules.¹⁷ MC/LM further argues that the 220 MHz interference rules are not instructive because the authorized station ERP is set forth on the face of each 220 MHz license, but not on AMTS licenses.¹⁸ MC/LM's observation regarding the absence of authorized ERP from AMTS licenses is correct, but does not require that we abandon the use of actual ERP for determining co-channel interference protection. Indeed, the Division directly addressed this issue, pointing out that AMTS site-based licensees are expected to cooperate with geographic licensees in avoiding and resolving interference issues, and that this obligation requires, at minimum, that the site-based licensee "provid[e] upon request sufficient information to enable geographic licensees to calculate the site-based station's protected contour."¹⁹

7. Finally, MC/LM argues that the Commission's interpretation of Section 80.385(b)(1) is inconsistent with the statutory mandate for equal treatment of licensees in the same service, regardless of whether the licenses were obtained through auction or other means.²⁰ MC/LM contends that the Division's interpretation of Section 80.385(b)(1) effectively permits AMTS geographic licensees, but not AMTS site-based licensees, to operate with an ERP of one thousand watts, notwithstanding that Section 80.215 does not differentiate between geographic and site-based licensees.²¹ We disagree. Section 80.215 imposes the same maximum power limit on geographic and site-based licensees, regardless of the Division's interpretation of how to calculate an incumbent's predicted 38 dBu contour for purposes of co-channel interference protection pursuant to Section 80.385(b)(1). As discussed above, that interpretation is based on the Commission's decision to protect site-based incumbents' existing operations, rather than

¹⁶ See MC/LM Petition at i, 3-8.

¹⁷ See *Letter Ruling*, 24 FCC Rcd at 4135, citing Amendment of the Commission's Rules Concerning Maritime Communications, *Second Memorandum Opinion and Order and Fifth Report and Order*, PR Docket No. 92-257, 17 FCC Rcd 6685, 6700 ¶ 31 (2002) (*AMTS 5th R&O*) ("AMTS geographic licensees should adhere to the co-channel interference protection standard that is used in the adjacent 220-222 MHz band"), *on recon.*, *Third Memorandum Opinion and Order*, 18 FCC Rcd 24391 (2003). MC/LM argues that the paragraph cited by the Division, read in its entirety, reflects that the Commission's concern was to protect incumbent licensees from geographic licensees, and not *vice versa*, and therefore "supports MC/LM's position." See MC/LM Petition at 6. That both Section 80.385(b)(1) and the cited paragraph address a concern over interference from geographic licensees to site-based incumbents is evident, and the Division suggested nothing to the contrary. MC/LM infers, from the Commission's statement in the referenced paragraph that incumbent licensees should be permitted to operate under the terms of their current licenses, an intent to protect incumbents on the basis of an ERP of one thousand watts. *Id.* at 7. We conclude, however, that the Commission's concern was to avoid disruption of *existing* AMTS service, rather than to indefinitely preserve an incumbent licensee's ability to expand its facilities to the maximum permitted ERP. See *AMTS 5th R&O*, 17 FCC Rcd at 6699 ¶ 31 ("allowing incumbent licensees to continue operating under the terms of their current station licenses will further the public interest by avoiding interruption of the services they provide"), 6701 ¶ 34 (prohibiting incumbents from modifying their licenses in any manner that extends the service area).

¹⁸ See MC/LM Petition at 6-7. AMTS site-based licenses authorize a maximum power based on TPO. MC/LM asserts that, in contrast to the situation in the 220 MHz service, a geographic AMTS licensee would not be able to ascertain the protected area of a site-based AMTS station if the protected area is based on actual ERP rather than the maximum ERP allowed under Part 80. *Id.* at 7.

¹⁹ See *Letter Ruling*, 24 FCC Rcd at 43136 n.9, citing *NUSCO Order*, 24 FCC Rcd at 331 n.12, citing *AMTS 5th R&O*, 17 FCC Rcd at 6704 ¶ 39.

²⁰ See MC/LM Petition at 8-9, citing 47 U.S.C. § 309(j)(6)(D).

²¹ *Id.* at 9-10.

protecting the maximum possible contour. We accordingly deny the MC/LM petition for reconsideration.

8. Havens seeks reconsideration of the Division's second holding, that ship stations operating with an output power of fifty watts pursuant to Section 80.215(i) may operate with an ERP of up to thirty-six watts, to the extent that the holding is applicable to land mobile units.²² Havens argues that power limits established for the maritime service are not appropriate for land mobile radio operations.²³ We note, however, that Section 80.123(e) specifically provides that transmitter power for land mobile units associated with AMTS coast stations "shall be set in accordance with the limits set in Section 80.215 for ship stations."²⁴ This forecloses any argument that Section 80.215(i) should be construed to apply differently to land mobile units.²⁵ We accordingly deny the Havens petition.

9. *Conclusion and Ordering Clauses.* We conclude that the Division properly interpreted Section 80.385(b)(1) as specifying that a geographic AMTS licensee locating a station within 120 kilometers of a co-channel site-based AMTS station must make a showing that at least 18 dB protection will be provided to the site-based station's predicted 38 dBu signal level contour, as determined by reference to the site-based station's actual operating ERP, rather than an assumed ERP of one thousand watts. We also conclude that the Division's clarification, that AMTS ship stations operating with a transmitter power output of fifty watts under the conditions set forth in Section 80.215(i) may exceed eighteen watts ERP, applies equally to land mobile stations associated with an AMTS coast station. We therefore deny the petitions for reconsideration.

10. Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 405, and Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, the Petition for Partial Reconsideration filed by Maritime Communications/Land Mobile, LLC, on May 8, 2009, and the Petition for Reconsideration and Comments Erratum Copy filed on May 8, 2009, by Warren Havens, Environmental LLC, Intelligent Transportation & Monitoring LLC, and Skybridge Spectrum Foundation, ARE DENIED.

11. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Scot Stone
Deputy Chief, Mobility Division
Wireless Telecommunications Bureau

²² See Havens Petition at 2-3.

²³ *Id.* at 3. According to Havens, more "refined" rules are required for today's land mobile radio systems, with, for example, higher power levels in rural areas than in urban areas, and a separate standard for maritime service along coastlines and major waterways. *Id.*

²⁴ See 47 C.F.R. § 80.123(e).

²⁵ As Havens and MC/LM both acknowledge, any party who believes that the rules governing TPO and/or ERP limits for land mobile units authorized under AMTS licenses should be modified can file a petition for rulemaking to that end. See Havens Petition at 3; MC/LM Opposition at 3.



Federal Communications Commission
Washington, D.C. 20554

April 8, 2009

DA 09-793

Dennis C. Brown, Esq.
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RE: Request by Maritime Communications/Land Mobile, LLC for clarification of Sections 80.385 and 80.215 of the Commission's Rules

Dear Mr. Brown:

This letter responds to your December 18, 2008, request, filed on behalf Maritime Communications/Land Mobile, LLC (MC/LM), that we clarify certain rules governing the Automated Maritime Telecommunications System (AMTS) service.¹ As set forth below, we agree in part with your proposed interpretations.

First, you request that we clarify Section 80.385(b)(1) of the Commission's Rules, which provides that AMTS geographic licensees may locate stations within 120 kilometers of co-channel site-based AMTS licensees only upon a showing that at least 18 dB protection will be provided to the site-based licensee's predicted 38 dBu signal level contour.² You note that the maximum permissible effective radiated power (ERP) for many AMTS stations is one thousand watts,³ and propose that, for purposes of calculating a site-based AMTS station's predicted 38 dBu signal contour, the site-based station be assumed to operate with one thousand watts ERP, rather than the maximum ERP of which the station is actually capable.

We decline to adopt your proposed interpretation. Instead, we conclude that the Commission intended for an AMTS geographic licensee's obligation to provide co-channel interference protection to an incumbent site-based station to be based on the site-based station's actual operating parameters. The Commission based the AMTS co-channel interference protection rules on the analogous rules governing the spectrally adjacent 220-222 MHz service.⁴ When it adopted those rules, the Commission expressly stated that the 38 dBu contours of incumbent licensees were to be calculated on the basis of actual

¹ Letter dated Dec. 18, 2008 from Dennis C. Brown to Scot Stone, Deputy Chief, Mobility Division, Wireless Telecommunications Bureau.

² See 47 C.F.R. § 80.385(b)(1).

³ Specifically, AMTS stations with an antenna height up to 61 meters that are located more than 129 or 169 kilometers, respectively, from a Channel 10 or 13 television station. See 47 C.F.R. § 80.215(h)(1).

⁴ See Amendment of the Commission's Rules Concerning Maritime Communications, *Second Memorandum Opinion and Order and Fifth Report and Order*, PR Docket No. 92-257, 17 FCC Rcd 6685, 6700 ¶ 31 (2002) (*Fifth Report and Order*) (holding that "AMTS geographic licensees should adhere to the co-channel interference protection standard that is used in the adjacent 220-222 MHz band"), *on recon.*, *Third Memorandum Opinion and Order*, 18 FCC Rcd 24391 (2003). We note, moreover, that the language of Section 80.385(b)(1) follows the analogous 220-222 MHz service rules. Compare 47 C.F.R. § 80.385(b)(1) with 47 C.F.R. §§ 90.723(k), 90.763(b)(1)(ii).

operating parameters, rather than maximum permissible operating parameters.⁵ In denying reconsideration of those rules, the Commission noted that providing protection to incumbents based on their theoretical maximum operating facilities, rather than on their actual operating facilities, would be spectrally inefficient and disserve the public interest.⁶ This concern applies equally to the AMTS service.⁷ Moreover, assuming that incumbent site-based stations are operating with one thousand watts ERP would underprotect any stations not subject to the ERP limit that are operating with a higher ERP, which also would be contrary to the Commission's intent.⁸ Finally, basing the AMTS geographic licensee's co-channel interference protection obligations on the site-based station's actual operating parameters is consistent with our recent decision applying the AMTS interference protection rules to determine whether a geographic licensee's proposed stations provided the requisite protection to co-channel site-based stations.⁹

⁵ See Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Service, *Third Report and Order; Fifth Notice of Proposed Rule Making*, PR Docket No. 89-552, GN Docket No. 93-252 & PP Docket No. 93-253, 12 FCC Rcd 10943, 11026 ¶ 174 (1997) (stating that "[t]he predicted 38 dBuV/m contour of the Phase I licensees will be calculated based on the licensee's authorized effective radiated power (ERP) and antenna height-above-average-terrain (HAAT) – not on the maximum allowable ERP and HAAT provided in our rules for the 220-222 MHz band").

⁶ See Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Service, *Memorandum Opinion and Order on Reconsideration*, PR Docket No. 89-552, GN Docket No. 93-252 & PP Docket No. 93-253, 13 FCC Rcd 14569, 14604 ¶ 73 (1998) ("If we were to assume that all 220 MHz Phase I licensees are operating at the maximum power and antenna height for the 220 MHz service . . . when many are not operating at such parameters and may never operate at such parameters, we could force Phase II licensees to provide considerably greater protection to co-channel Phase I licensees than necessary, and thereby potentially deny service to the public in areas beyond the Phase I licensee's actual 38 dBu service contour").

⁷ It is our understanding that MC/LM is concerned that, unless Section 80.385(b) is interpreted as requested, there exists the potential for a geographic AMTS licensee to interpose a station between two of the incumbent's stations. The Commission has concluded, however, that such a scenario will not occur if the incumbent licensee constructed its system in compliance with the then-existing requirement to maintain continuity of service, *see* 47 C.F.R. § 80.475(a) (1999). See Amendment of the Commission's Rules Concerning Maritime Communications, *Third Memorandum Opinion and Order*, PR Docket No. 92-257, 18 FCC Rcd 24391, 22401 ¶¶ 23-24 (2003).

⁸ See *Fifth Report and Order*, 17 FCC Rcd at 6699-6700 ¶ 31 ("We conclude that allowing incumbent licensees to continue operating under the terms of their current station licenses will further the public interest by avoiding interruption of the services they provide."); *cf.* Ralph Haller, *Letter*, 23 FCC Rcd 4714, 4716 (WTB/PSHSB 2008) (declining to adopt interpretation of Section 90.187 of the Commission's Rules that would underprotect incumbents with respect to new mobile-only stations).

⁹ See *Northeast Utilities Service Company, Order*, DA 09-643, ¶¶ 11-12 (WTB MD rel. Mar. 20, 2009). As we noted in that decision, we expect incumbent AMTS licensees "to cooperate with geographic licensees in order to avoid and resolve interference issues. This includes, at a minimum, providing upon request sufficient information to enable geographic licensees to calculate the site-based station's protected contour." *Id.* at n.12 (citing *Fifth Report and Order*, 17 FCC Rcd at 6704 ¶ 39). This is necessary because a station's predicted 38 dBu signal contour is a function of its ERP, *see* 47 C.F.R. § 73.699 Figs. 10-10c, but the power limit for site-based AMTS stations in the rules and on their licenses is based on transmitter output power rather than ERP, *see* 47 C.F.R. § 80.215(h)(5), and determining a station's ERP requires additional information, such as antenna gain and line loss. See Amendment of the Commission's Rules Concerning Airport Terminal Use Frequencies in the 450-470 MHz Band of the Private Land Mobile Radio Services, *Report and Order*, WT Docket No. 02-318, 20 FCC Rcd 1966, 1970 ¶ 9 (2005) (citing Amendment of Part 90 of the Commission's Rules and Policies for Applications and Licensing of Low Power Operations in the Private Land Mobile Radio 450-470 MHz Band, *Report and Order*, WT Docket No. 01-146, 18 FCC Rcd 3948, 3954 ¶¶ 12-13 (2003)).

Second, you request that we clarify that a ship station that is transmitting with an output power of fifty watts pursuant to Section 80.215(i)(1)-(2) of the Commission's Rules is permitted to operate with an ERP of up to thirty-six watts. We agree with this interpretation. Section 80.215 provides,

A ship station must have a transmitter output [(TPO)] not exceeding 25 watts and an ERP not exceeding 18 watts. The maximum transmitter output power is permitted to be increased to 50 watts under the following conditions: (1) Increases exceeding 25 watts are made only by radio command from the controlling coast stations; and (2) The application for an equipment authorization demonstrates that the transmitter output power is 25 watts or less when external radio commands are not present.¹⁰

Although Section 80.215(i) expressly authorizes only an increase in transmitter output power under the specified circumstances, and not an increase in ERP, it is evident that the Commission contemplated a corresponding increase in ERP.¹¹ Interpreting the rule to limit ERP to eighteen watts even when the station is operating with fifty watts TPO would defeat the Commission's purpose in allowing the exceptions to the general twenty-five watt TPO limit.¹² We accordingly clarify Section 80.215(i), as requested, concluding that ship station transmitters operating with a transmitter output power of fifty watts pursuant to that rule may have an ERP of up to thirty-six watts during such operation.

Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) and 5(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 155(d), and Section 1.2 of the Commission's Rules, 47

¹⁰ 47 C.F.R. § 80.215(i).

¹¹ See Amendment of Parts 2, 81 and 83 of the Commission's Rules to Allocate Spectrum for an Automated Inland Waterways Communications System (IWCS) along the Mississippi River and Connecting Waterways, *Memorandum Opinion and Order*, Gen Docket No. 80-1, 88 FCC 2d 678, 685 ¶ 24, 686 ¶ 28 (1981) (noting that the proponent of the rule, Waterway Communications Systems, Inc. (Watercom), expressly asked that the Commission "authorize[] ship station transmitter power be increased to a maximum of 50 watts provided the power is automatically reduced to produce an ERP not exceeding 18 watts within the grade B contour of a protected television station", and explaining that "Watercom requests that the rules be revised to allow ship transmitters to employ up to 50 watts output power provided the system is designed to automatically reduce power to an ERP not exceeding 18 watts when the vessel is in the grade B contour of protected television station").

¹² See *id.* at 688 ¶ 36 ("Accordingly, we will amend . . . the rules substantially as requested by Watercom to permit [AMTS] ship station transmitters [sic] to utilize maximum output power of 50 watts provided power is automatically reduced to an ERP not exceeding 18 watts wherever it has not been specifically shown that television reception within the grade B contour is unlikely to be affected").

Dennis C. Brown, Esq.
Request for Clarification of Sections 80.385 and 80.215

C.F.R. § 1.2, the request filed by Maritime Communications/Land Mobile, LLC on December 18, 2008 IS GRANTED IN PART and DENIED IN PART to the extent indicated herein.

This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. § 0.131, 0.331.

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Request for Clarification of Sections 80.385 and 80.215