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

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

ORDER TO SHOW CAUSE,
HEARING DESIGNATION ORDER,
AND
NOTICE OF OPPORTUNITY FOR HEARING

Adopted: April 18, 2011 **Released: April 19, 2011**

By the Commission:

I. INTRODUCTION

1. In this Order to Show Cause, Hearing Designation Order, and Notice of Opportunity for Hearing, we commence a hearing proceeding before the Administrative Law Judge to determine

ultimately whether Maritime Communications/Land Mobile, LLC ("Maritime") is qualified to be and to remain a Commission licensee, and as a consequence thereof, whether any or all of its licenses should be revoked, and whether any or all of the applications to which Maritime is a party should be denied.[1] In addition, we direct the Administrative Law Judge to determine whether Maritime should be ordered to repay to the United States Treasury the full amount of the bidding credit, plus interest, that it received as a result of claiming designated entity status in Auction No. 61; whether a forfeiture not to exceed the statutory maximum should be issued against Maritime for apparent violations of the Commission's rules; and whether Maritime and its principals should henceforth be prohibited from participating in FCC auctions.[2]

2. As discussed more fully below, based on the totality of the evidence, there are substantial and material questions of fact as to whether Maritime: (i) violated the designated entity rules and received a credit on its obligations to the United States Treasury of approximately $2.8 million to which it was not entitled; (ii) repeatedly made misrepresentations to and lacked candor with the Commission in connection with its participation in Auction No. 61 and the claimed bidding credit; (iii) failed to maintain the continuing accuracy and completeness of information furnished in its still pending long-form application; and (iv) purports to hold authorizations that have cancelled automatically for lack of construction or permanent discontinuance of operation.

3. Sections 1.2110 and 1.2112 of our rules require Maritime, in seeking designated entity status, to have disclosed in its pre-auction short-form application and in its post-auction long-form application its gross revenues and those of its affiliates, its controlling interests, and the affiliates of its controlling interests.[3] Despite repeated Commission requests for the needed information over the last six years, substantial factual questions remain regarding Maritime's eligibility for a small business bidding credit. Indeed, it is still not clear whether all required disclosures of interests and revenues have been made.

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[1] A list of the authorizations held by Maritime that are the subject of this Order is appended hereto as Attachment A. A list of the pending applications filed by or on behalf of Maritime that are the subject of this Order is appended hereto as Attachment B.

[2] We note that Maritime and its principals have made various requests for confidential treatment of certain information and submissions pursuant to section 0.459 of the Commission's rules, 47 C.F.R. § 0.459. *See, e.g.*, Letter and Request for Confidential Treatment from Patricia J. Paoletta and Jonathan B. Mirsky, Counsel to Wireless Properties of Virginia, Inc. and Maritime Communications/Land Mobile, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, dated February 10, 2011; Letter and Request for Confidential Treatment from Patricia J. Paoletta and Jonathan B. Mirsky, Counsel to Wireless Properties of Virginia, Inc. and Maritime Communications/Land Mobile, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, dated January 25, 2011; Letter and Request for Confidential Treatment from Patricia J. Paoletta and Jonathan B. Mirsky, Counsel to Wireless Properties of Virginia, Inc. and Maritime Communications/Land Mobile, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, dated December 29, 2010; Letter and Request for Confidential Treatment from Dennis C. Brown, Esq., Counsel to MCLM, to Michele Ellison, Chief, Enforcement Bureau, Federal Communications Commission, dated March 29, 2010. Pursuant to 47 C.F.R. § 0.459(d)(3), we are deferring action on such confidentiality requests, and are according confidential treatment to the relevant information until such time as a ruling is made. *See* 47 C.F.R. § 0.459(d)(3). Therefore, we will release to the public a redacted version of the Order, where "[REDACTED]" will indicate information for which the submitter has requested confidential treatment. The unredacted version of this Order will be made available to Maritime.

[3] 47 C.F.R. §§ 1.2110, 1.2112.

4. In both its short-form and long-form applications filed in 2005, Maritime disclosed only the interests of Maritime's named principal Sandra M. DePriest and her affiliates. Maritime claimed that Sandra DePriest was the sole officer and key employee of Maritime and appears to have concluded that because her husband, Donald R. DePriest, was not an "officer" or "director" of Maritime, his interests were not relevant to the designated entity analysis. However, Maritime was obligated to disclose Donald DePriest's revenues pursuant to the spousal affiliation requirements set forth in section 1.2110 of our rules. Furthermore, there is credible evidence suggesting that Donald DePriest was a real party in interest behind Maritime and exercised *de facto* control of Maritime – both of which would also require attribution of his interests under our designated entity rules. Among other things, Donald DePriest incorporated Maritime, **[REDACTED]**.

5. Even after the Commission directed Maritime to disclose Mr. DePriest's interests, Maritime's submissions appear to have lacked candor. It was more than a year after its initial auction filing before Maritime amended its long-form application (at staff direction) to disclose what the company represented, at that time, were the gross revenues of Donald DePriest and his affiliates. In the amendment, Maritime stated, among other things, that Donald DePriest controlled a single revenue-producing company: American Nonwovens Corporation. Several weeks later – and only in response to ongoing administrative litigation – Maritime belatedly acknowledged that Donald DePriest actually controlled three more entities: Charisma Broadcasting Co., Bravo Communications, Inc., and Golden Triangle Radio, Inc. Some three years later – and again only in response to a written request for information from the Wireless Telecommunications Bureau ("WTB") under section 308(b) of the Communications Act – Maritime divulged more than two dozen additional affiliates of Donald DePriest. Several months thereafter – and only in response to an Enforcement Bureau letter of inquiry – Maritime disclosed information about Donald DePriest's involvement in a large multinational corporation, MCT Corp., which had potentially attributable revenue **[REDACTED]**. The timing and substance of these disclosures raise material questions of fact about whether Maritime and its principals engaged in a pattern of deception and misinformation designed to obtain and conceal an unfair economic advantage over competing auction bidders through the misappropriation of monies that would otherwise have flowed to the United States Treasury.

6. There are also substantial and material questions of fact about whether Maritime made repeated and affirmative misrepresentations and provided false certifications to the Commission in both its short- and long-form applications, as well as in various filings submitted over the last six years, in violation of sections 1.17 and 1.2105 of the Commission's rules.[4]

7. The integrity of our auctions program is of paramount importance, and we take allegations and evidence of auction misconduct very seriously. The Commission relied to its detriment on Maritime's initial and purportedly "corrective" filings – including in its dismissal of a petition to deny. As the Commission has stated, "[we rely] heavily on the truthfulness and accuracy of the information provided to us. If information submitted to us is incorrect, we cannot properly carry out our statutory responsibilities."[5] Consistent with our obligations under sections 309(d) and (e) of the Communications

[4] 47 C.F.R. §§ 1.17, 1.2105.

[5] *In the Matter of Amendment of Section 1.17 of the Commission's Rules Concerning Truthful Statements to the Commission,* Notice of Proposed Rulemaking, 17 FCC Rcd 3296, 3297 ¶ 3 (2002).

Act of 1934, as amended ("Communications Act" or "Act"),[6] we hereby designate this matter for administrative hearing.[7]

II. BACKGROUND

8. In order to "promote and facilitate the participation of small businesses in the public coast auctions and in the provision of service," bidding credits were made available to "very small businesses" and "small businesses" in Auction No. 61.[8] A bidder with attributed average annual gross revenues of $3 million or less for the preceding three years was characterized as a "very small business" and eligible to receive a 35 percent discount on its winning bids. A bidder with attributed average annual gross revenues of more than $3 million but less than $15 million for the preceding three years was considered a "small business" and eligible to receive a 25 percent discount on its winning bids. A bidder with attributed revenues of $15 million or more for the preceding three years was not eligible for any bidding credit.[9]

A. Maritime's Claimed Eligibility to Receive a Bidding Credit

9. On June 9, 2005, Maritime filed pre-auction FCC Form 175 (the short-form application).[10] In its short-form application, Maritime sought a 35 percent bidding credit, declaring under penalty of perjury that it was eligible for the bidding credit based on its status as a "very small business" with gross revenues of less than or equal to $3 million.[11] The short-form application included a "Gross Revenues Confirmation," which required Maritime to certify that it "provided separate gross revenue information for itself, for each of [its] officers and directors; for each of [its] other controlling interests; for each of [its] affiliates; and for each affiliate of each of [its] officers, directors, and other controlling interests."[12]

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[6] 47 U.S.C. 309(d), (e).

[7] We note that on March 11, 2010, Maritime and Southern California Regional Rail Authority ("Metrolink," and together with Maritime, the "Parties") sought Commission consent to assign certain spectrum. *See Application for Assignment of Authorization,* File No. 0004144435. Metrolink has represented that it plans to use such assigned spectrum to comply with the Rail Safety Improvement Act of 2008. *See Rail Safety Improvement Act of 2008*, Pub. L. No. 110-432, filed Oct. 16, 2008, 122 Stat. 4848, 4856-57 § 104(a) (2008). This law requires, among other things, that by 2015, passenger trains implement positive train control systems and other safety controls to enable automatic braking and to help prevent train collisions. Given the potential safety of life considerations involved in the positive train control area and therefore attendant to the Metrolink application, we will, upon an appropriate showing by the Parties, consider whether, and if so, under what terms and conditions, the public interest would be served by allowing the Metrolink application to be removed from the ambit of this Hearing Designation Order.

[8] *Amendment of the Commission's Rules Concerning Maritime Communications*, Third Report and Order and Memorandum Opinion and Order, 13 FCC Rcd 19853 ¶ 65 (1998) (confirming the use of the two tier bidding credit to "allow current public coast licensees to compete favorably with larger entities, without denying entities with relatively small gross revenues the opportunity to participate meaningfully in the auctions," and denying a proposal made by MariTEL to use a one-tier system to determine small business status).

[9] 47 C.F.R. §§ 1.2110, 80.1252. *See Auction of Automated Maritime Telecommunications System Licenses Scheduled for August 3, 2005,* Public Notice, 20 FCC Rcd 7811, 7828-29 (WTB 2005).

[10] Short-form application, FCC File No. 0002191807, filed June 9, 2005 (short-form application).

[11] *Id. See also* 47 C.F.R. §§ 1.2110, 1.2105(a)(2)(iv).

[12] *See* short-form application, FCC File No. 000219807. *See also Maritime Communications/ Land Mobile LLC*, Order, 21 FCC Rcd 13735, 13737 (Nov. 27, 2006) ("WTB November 2006 Order") (stating that, "for the purposes of determining the affiliates of an applicant claiming designated entity status, both spouses are deemed to own or

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Maritime asserted that the only gross revenues requiring disclosure were those of Sandra DePriest (valued at less than $450,000 for any given year in the relevant period), and her affiliates Communications Investments, Inc. and S/RJW Partnership, Ltd. (both reporting no revenue).[13] On September 6 and 7, 2005, Maritime filed post-auction FCC Forms 601 and 602 (the long-form application), in which it reasserted its entitlement to the 35 percent bidding credit on the basis of its status as a "very small business."[14]

10. In both its short- and long-form applications, Maritime identified Sandra DePriest as its "sole officer, director and key management personnel."[15] In its short-form application, Maritime identified its counsel, Dennis Brown, as well as John S. Reardon and Ronald Fancher, as authorized bidders for Maritime.[16]

11. Notably, Maritime failed to list Sandra DePriest's spouse, Donald DePriest, as a disclosable interest holder, on either the short-form or the long-form applications, and thus none of the companies controlled by Mr. DePriest were disclosed.[17] Maritime filed an addendum to its long-form application entitled "Disclosable Interest Holders," where the company sought to provide additional information based on the claim that the "information concerning disclosable interest holders was not carried over from the Form 175 application."[18] In this filing, Maritime again asserted that the only disclosable interest holders were Sandra DePriest, Communications Investments, Inc., and S/RJW Partnership, L.P. Maritime also certified for each of the three disclosed interest holders that "unaudited financial statements [were] prepared in accordance with Generally Accepted Accounting Practices and certified by Applicant's chief financial officer," notwithstanding Maritime's apparent failure to name such officer in any of its filings.[19]

12. Based on this limited disclosure, Maritime received a bidding credit valued at $2,737,000 which had the effect of reducing the amount owed to the Commission for Maritime's $7,820,000 winning bid to $5,083,000.

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control or have the power to control interests owned or controlled by either of them, unless they are subject to a legal separation recognized by a court of competent jurisdiction in the United States").

[13] *See* short-form application.

[14] *See* long-form application, FCC File No. 0002303355, filed Sept. 6 and 7, 2005 (long-form application).

[15] *See* short-form application and long-form application.

[16] *See* short-form application.

[17] *See* short-form application and long-form application.

[18] *See* Disclosable Interest Holders Addendum to long-form application.

[19] *Id.*

B. Investigations of Maritime Applications

1. Wireless Telecommunications Bureau Proceeding

13. Auction No. 61 concluded on August 17, 2005.[20] On November 14, 2005, Warren C. Havens and certain affiliated entities (collectively "Petitioners") filed a Petition to Deny Maritime's long-form application ("November 2005 Petition to Deny") based on assertions that "Maritime submitted, in its short-form and the [long-form application] fraudulent and false certifications and these included fraudulent and false identity of the real party in control, ... that Maritime deliberately and fraudulently failed to disclose many 'affiliates' (as defined in FCC auction rules) which, if disclosed, would have resulted in a loss of the 35% bidding credits and resulted in a different auction outcome."[21]

14. On August 3, 2006, WTB issued an order denying the November 2005 Petition to Deny, but determined that Maritime's failure to include Donald DePriest's interests and revenues in its designated entity showing contravened the spousal affiliation provision contained in section 1.2110(c)(5)(iii)(A) of the Commission's rules.[22]

15. Thereafter, on August 21, 2006, Maritime amended its long-form application to provide what Maritime represented were the gross revenues of Donald DePriest and his affiliates. In the amendment, Maritime stated, among other things, that Donald DePriest "controls American Nonwovens Corporation (ANC)" and that *"ANC is the only revenue producing entity that [Donald DePriest] owns or controls."*[23] Maritime further represented that Donald DePriest had no ownership interest in, was neither an officer nor a director of, and did not control Maritime.[24]

16. On September 18, 2006, Maritime submitted a pleading in response to the Petition for Reconsideration of WTB's August 3, 2006 order.[25] Therein, Maritime belatedly acknowledged that

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[20] *Auction of Automated Maritime Telecommunications System Licenses Closes, Winning Bidders Announced for Auction No. 61*, Public Notice, 20 FCC Rcd 17066 (August 23, 2005).

[21] *See Maritime Communications/Land Mobile, LLC*, Petition to Deny Application FCC File No. 0002303355, at 3 (filed November 2005). Petitioners also alleged that Maritime failed to construct and/or operate one or more of its site-based stations in compliance with sections 1.955(a) and 80.49(a) of the Commission's rules. *See* 47 C.F.R. §§ 1.955(a), 80.49(a).

[22] *Maritime Communications/Land Mobile, LLC*, Order, 21 FCC Rcd 8794, 8798 n.39 (WTB PSCID 2006). The spousal affiliation rule, 47 C.F.R. § 1.2110(c)(5)(iii)(A), provides that "[b]oth spouses are deemed to own or control or have the power to control interests owned or controlled by either of them, unless they are subject to a legal separation recognized by a court of competent jurisdiction in the United States."

[23] *See* long-form application, as amended Aug. 21, 2006 ("amended long-form application").

[24] *See* Attachment to amended long-form application at 1. According to the Attachment to the Amended Application, Mr. DePriest controls American Nonwovens Corporation ("ANC"), which had average gross revenues for the relevant three-year period of $9,838,403. As to Mr. DePriest's role in Maritime, we note that Maritime has variously claimed and denied that he served as an officer and a director of the company. *See Maritime Communications/Land Mobile LLC*, Order on Reconsideration, 22 FCC Rcd 4780, 4783 n.35 (WTB Mobility Division 2007), *recon and review pending* ("Order on Reconsideration").

[25] *Maritime Communications/Land Mobile, LLC*, Opposition to Petition for Reconsideration, filed September 18,

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Donald DePriest controlled three additional entities that Maritime had not previously disclosed: Charisma Broadcasting Co., Bravo Communications, Inc., and Golden Triangle Radio, Inc.[26] Maritime listed the average annual gross revenues for each of the three companies at less than $100,000, claiming that such aggregate amount had no effect on Maritime's designated entity status.[27] Maritime attributed its failure to initially identify the three companies to an oversight.[28] Specifically, Maritime stated that it "regrets its oversight of these revenues and trusts that the Commission will recognize that they are immaterial to any issue in the instant matter."[29]

17. On November 27, 2006, WTB ruled that Maritime's bidding credit should be reduced from 35 percent to 25 percent, and it ordered Maritime to pay the difference.[30] On December 26, 2006, Maritime paid $782,000 to the United States Treasury. Three days later, on December 29, 2006, WTB granted Maritime's long-form application, as well as those of the other winning bidders in Auction No. 61.

18. The Order reducing Maritime's bidding credit from 35 percent to 25 percent was the subject of a Petition for Reconsideration, filed by Petitioners, which alleged that Donald DePriest was an undisclosed real party in interest behind Maritime and challenged Maritime's entitlement to any bidding credit in Auction No. 61.[31] The Petitioners asserted, among other things, that Maritime should have disclosed additional entities controlled by Donald DePriest, including Wireless Properties of Virginia, Inc. (a Broadband Radio Service licensee) and MariTEL, Inc. (a VHF Public Coast licensee). Although WTB denied the Petition for Reconsideration in March 2007, in part based on a lack of supporting evidence, WTB stated that, while it appeared that the attribution of the relatively small gross revenues of three identified entities did not affect Maritime's designated entity status, the omission did constitute a violation of the Commission's rules.[32] In addition, WTB noted for the record the contradictory representations made by Maritime and Wireless Properties of Virginia, Inc. regarding whether Donald DePriest was an officer and/or director of Maritime and that Maritime had "offered no explanation for the inconsistent statements regarding Mr. DePriest's status."[33] WTB concluded that it remained concerned by Maritime's failure to provide accurate information on the first attempt, and stated that its actions "are without prejudice to further inquiry and action by the Commission's Enforcement Bureau."[34]

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2006 ("Maritime September 2006 Opposition").

[26] *Id.* at 10-11.

[27] *Id.*

[28] *Id.*

[29] *Id.*

[30] *See* WTB November 2006 Order.

[31] Petition for Reconsideration filed jointly by Warren C. Havens, Intelligent Transportation & Monitoring Wireless, LLC, AMTS Consortium, LLC, Telesaurus-VPC, LLC, Telesaurus Holdings GB, LLC, and Skybridge Spectrum Foundation (filed Dec. 27, 2006).

[32] *See* Order on Reconsideration, 22 FCC Rcd at 4783 n.35.

[33] *Id.*

[34] *Id.* On April 9, 2007, the Petitioners filed an Application for Review of the Order on Reconsideration, which is still pending.

19. Inconsistencies between Maritime's representations and those contained in the filings by MariTEL raise further questions about Maritime's truthfulness. In Maritime's initial filings, it failed to disclose MariTEL as an entity under Donald DePriest's control (affirmatively denying such control), and therefore never attributed MariTEL's revenues to Maritime for the purposes of its designated entity showing. There is evidence that, contrary to Maritime's assertions, Mr. DePriest controlled MariTEL through sophisticated corporate structuring.[35]

20. As a consequence of the myriad questions as to the ownership of Maritime and of the attributable revenues of Donald DePriest, WTB, on August 18, 2009, directed Donald DePriest to produce, among other things, the following information:

> Identify and describe all business entities, of whatever form, that have been controlled by you during the relevant period. For purposes of this question, you are deemed to have controlled any entity in which you held a 50.0% or more ownership interest, or served as a director or officer, or served as a general partner, or exercised *de facto* control in any way at any time during the relevant period.
>
> State whether all of the interests held by you that should have been disclosed in the [Maritime] Application, as amended, FCC File No. 0002303355, were disclosed in the [Maritime] Application. Identify any interests and entities that should have been disclosed in the [Maritime] Application as attributable to you, but were not so disclosed. To the extent you have personal knowledge of the matter, indicate the reason why each such entity was not disclosed in the [Maritime] Application. For each such entity, except those entities that were required to be disclosed only under 47 C.F.R. § 1.2112(b)(1)(ii) and no other rule, provide its annual gross revenues for each of the three calendar years 2002, 2003, and 2004.[36]

In his response, dated September 30, 2009, Donald DePriest revealed more than two dozen entities which he controlled or in which he served as an officer or director. He also indicated that he had served as Chairman of a company doing business as MCT Corp. during the relevant three-year period, but did not provide any revenue information related to this entity.[37]

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[35] On June 12, 2008, three years after the filing of Maritime's initial short-form application, MariTEL, Inc. filed a transfer of control application with the Commission. The application included an exhibit describing the transaction, which stated that "control of MariTEL . . . will pass from Donald DePriest and MCT Investors, LP to the shareholders of MariTEL as a group. Mr. DePriest has controlled MariTEL through a combination of direct investments and his role as General Partner of MCT Investors, LP." *See* MariTEL, Inc. Exhibit to FCC Form 603, Transfer of Control Application, filed June 12, 2008. Although Maritime argued that Donald DePriest did not control MariTEL, the representation in the MariTEL transfer of control application is consistent with information provided by MariTEL in earlier FCC Form 602 ownership disclosure filings. For example, in its FCC Form 602 ownership disclosure filings submitted on March 13, 2001, which apparently remained current up until the time the MariTEL transfer of control was consummated in 2008, MariTEL indicated that MCT Investors, LP held 58.3% of MariTEL's issued and outstanding voting stock (and 26.1% of all stock, voting and non-voting), that MedCom Development Corporation was the sole general partner of MCT Investors, LP, and that Donald DePriest was the sole shareholder of MedCom Development Corporation. *See, e.g.*, FCC File No. 0002080704 (filed Mar. 13, 2001).

[36] *See* Letter from Scot Stone, Deputy Chief, Mobility Division, Wireless Telecommunications Bureau, Federal Communications Commission, to Donald R. DePriest, dated August 18, 2009.

[37] *See* Letter from Donald R. DePriest, to Jeffrey Tobias, Esq., Attorney, Mobility Division, Wireless

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21. According to publicly available records, MCT Corp. was registered as a Delaware corporation on February 15, 2000.[38] Documents filed in the Commonwealth of Virginia, where MCT Corp. did business, identify Donald DePriest as having served as an officer, director, and the Chairman of MCT Corp.[39] MCT Corp. was dissolved in 2007, after being acquired by Teliasonera Acquisitions Corp. According to information provided by Donald DePriest, MCT Corp. was, among other things, **[REDACTED]**.[40]

22. Simultaneously with the letter to Donald DePriest, on August 18, 2009, WTB posed the same questions to Maritime set forth in paragraph 20 above. By letter dated September 30, 2009, Maritime responded to WTB,[41] revealing more than two dozen additional entities in which Donald DePriest was involved that it had not previously disclosed.[42] Maritime maintained that none of the additional entities had enough revenues during the applicable time period to undermine its claimed entitlement to a "small business" bidding credit in Auction No. 61.[43] Notably, Maritime made no mention of MCT Corp. in its response.

2. Enforcement Bureau Investigation

23. Given the lingering questions about Maritime's entitlement to a bidding credit in Auction No. 61 and Maritime's dilatory disclosures about the full range of Donald DePriest's interests, WTB referred the matter to the Enforcement Bureau ("EB") for investigation in late 2009. On February 26, 2010, EB directed a letter of inquiry ("LOI") to Maritime.[44] Among other things, the LOI directed the

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Telecommunications Bureau, Federal Communications Commission, dated September 30, 2009, at 11 ("Donald DePriest Response to WTB").

[38] Certificate of Incorporation of MCT Corp., filed February 15, 2000, with the State of Delaware, Secretary of State, Division of Corporations.

[39] *See* 2002-2004 Annual Reports filed by MCT Corp. with the Commonwealth of Virginia, State Corporation Commission.

[40] *See* Letter from Donald R. DePriest, to Marlene H. Dortch, Secretary, Federal Communications Commission, dated March 29, 2010.

[41] *See* Letter from Sandra DePriest, to Jeffrey Tobias, Esq., Attorney, Mobility Division, Wireless Telecommunications Bureau, Federal Communications Commission, dated September 30, 2009 ("Maritime Response to WTB").

[42] *Id.* These companies included, among others, Wireless Properties, Inc., Wireless Properties of Virginia, Inc., Wireless Properties – East, Inc., Wireless Properties – West, Inc., Wireless Properties – Upper Midwest, Inc., Cellular and Broadcast Communications, Inc., MCT Investors, LP, BD Partners, CD Partners, Tupelo Broadcasting Corporation, Transition Funding, LLC, and WJG Telephone Co., Inc.

[43] *Id.* We note that the Commission's rules do not provide an exception to the designated entity ownership disclosure requirements for otherwise disclosable entities that have no gross revenues. *See* 47 C.F.R. § 1.2112(b)(1)(iv). Thus, Maritime was required to disclose information about all applicable entities, regardless of their gross revenues. Without such disclosures neither the Commission nor interested third-parties can test an applicant's eligibility claims.

[44] *See* Letter from Gary Schonman, Special Counsel, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Dennis C. Brown, Esq., counsel for Maritime Communications/Land

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production of supporting documentation to verify the revenues of all entities controlled by Donald DePriest, including MCT Corp. On March 29, 2010, Maritime responded to EB's LOI and provided records and financial data.[45] In its response, Maritime indicated, among other things, that it had not identified MCT Corp. previously as among those entities controlled by Donald DePriest because it had "relied on counsel to prepare and file the application and it did not receive any instructions regarding the bidding credit calculations or any information indicating that there would be spousal attribution of revenues."[46] Maritime further stated that "it was unaware of its need to supply revenue data."[47]

24. On February 26, 2010, EB also issued a letter of inquiry to Donald DePriest seeking additional information about his interests and revenues.[48] Specifically, EB's inquiry was designed to explore Mr. DePriest's prior statement that he had served as Chairman of MCT Corp. and sought documentation of the aggregate gross revenues of MCT Corp. during the 2002-2004 calendar years. In response to EB, Mr. DePriest provided financial information suggesting that MCT Corp. had gross revenues in each of the three relevant years **[REDACTED]**.[49] In addition, Mr. DePriest offered various explanations of his role in MCT: that he was a "non-executive chairman of MCT Corp.," that his "post as chairman carried no executive duties," and **[REDACTED]**.[50]

25. Subsequently, EB issued a supplemental letter of inquiry to Mr. DePriest to further investigate the extent of his participation in MCT Corp.[51] In a December 29, 2010 supplemental response – submitted more than four years after WTB directed disclosure of all attributable interests and providing information contrary to prior assertions – Mr. DePriest disclosed for the first time that **[REDACTED]**.[52]

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Mobile, LLC, dated February 26, 2010.

[45] *See* Letter from Sandra DePriest, to Marlene H. Dortch, Secretary, Federal Communications Commission, dated March 29, 2010 ("Sandra DePriest March 29 Response Letter").

[46] *See id.* at 8.

[47] *Id.*

[48] *See* Letter from Gary Schonman, Special Counsel, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Donald R. DePriest, dated February 26, 2010.

[49] Donald DePriest requested confidential treatment of the exact amounts of the company's gross revenues pursuant to section 0.459 of the Commission's rules, 47 C.F.R. § 0.459. *See* Letter and Request for Confidential Treatment from Dennis C. Brown, Esq., Counsel for Donald DePriest, to P. Michele Ellison, Chief, Enforcement Bureau, Federal Communications Commission, dated March 29, 2010. We need not disclose this information in the context of this Hearing Designation Order, and consequently, we will defer action on the confidentiality request. *See* 47 C.F.R. § 0.459(d)(3).

[50] *See* Letter from Donald DePriest, to Marlene H. Dortch, Secretary, Federal Communications Commission, dated March 29, 2010; *See also* Letter from Patricia J. Paoletta and Jonathan B. Mirsky, Counsel to Wireless Properties of Virginia, Inc. and Maritime Communications/Land Mobile, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, dated December 29, 2010, and Declarations at Exhibit B.

[51] *See* Letter from Gary Schonman, Special Counsel, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, to Donald R. DePriest, dated December 15, 2010.

[52] **[REDACTED]**.

The December 30, 2010 supplemental response also disclosed for the first time that, in his capacity as Chairman, he had the authority to **[REDACTED]**.[53]

26. Mr. DePriest also provided documentation related to MCT Corp., including but not limited to company bylaws, articles of incorporation, a listing of officers, directors and shareholders, MCT Corp.'s 2002 private placement memorandum, and related corporate documents. The documents also appear to conflict with Mr. DePriest's assertions that **[REDACTED]** and that, as Chairman, he did not have any executive duties. The materials indicate, among other things, that the Chairman of MCT Corp. **[REDACTED]**,[54] that Mr. DePriest was in fact listed as an officer and director of MCT Corp. in filings with the Commonwealth of Virginia, State Corporation Commission, **[REDACTED]**.[55]

III. DISCUSSION

A. Applicable Legal Standard

27. Section 312(a)(2) of the Communications Act provides that the Commission may revoke any license if "conditions com[e] to the attention of the Commission which would warrant it in refusing to grant a license or permit on the original application."[56] The character of the applicant is among those factors that the Commission considers in its review of applications to determine whether the applicant has the requisite qualifications to operate the station for which authority is sought.[57] Therefore, any character defect that would warrant the Commission's refusal to grant a license or permit in the original application would warrant the Commission's determination to revoke a license or permit.

28. In considering an applicant's character, one of the Commission's primary purposes is to ensure that licensees will be truthful in their future dealings with the Commission. Misrepresentation and lack of candor raise serious concerns as to the likelihood of such truthfulness.[58] Section 1.17(a)(1) of the rules states that no person shall, "in any written or oral statement of fact, intentionally provide material factual information that is incorrect or intentionally omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading."[59] In addition, section

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[53] **[REDACTED]**.

[54] **[REDACTED]**.

[55] *See* Letter and Request for Confidential Treatment from Patricia J. Paoletta and Jonathan B. Mirsky, Counsel to Wireless Properties of Virginia, Inc. and Maritime Communications/Land Mobile, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, dated February 10, 2011.

[56] 47 U.S.C. § 312(a)(2).

[57] *See, e.g., Worldcom, Inc.*, 18 FCC Rcd 26484, 26493 ¶ 13 (2003) (endorsing the use of the Commission's character policy in the wireless and other common carrier contexts); *see also Policy Regarding Character Qualifications in Broadcast Licensing*, Report, Order and Policy Statement, 102 FCC 2d 1179, 1210-11, ¶ 60 (1986), *recon. denied*, 1 FCC Rcd 421 (1986), *appeal dismissed sub nom. National Ass'n for Better Broadcasting v. FCC*, No. 86-1179 (D.C. Cir. 1987), *recon. granted in part*, 5 FCC Rcd 3252 (1990), *recon. on other grounds*, 6 FCC Rcd 3448 (1991), *modified on other grounds*, 7 FCC Rcd 6564 (1992) ("Character Policy Statement").

[58] *Character Policy Statement*, 102 FCC 2d 1179 (1986). The fundamental importance of truthfulness and candor on the part of applicants and licensees in their dealings with the Commission is well established. *See FCC v. WOKO, Inc.*, 329 U.S. 223 (1946); *Lebanon Valley Radio, Inc.*, Decision, 35 FCC 2d 243 (Rev. Bd. 1972); *Nick J. Chaconas*, Decision, 28 FCC 2d 231 (Rev. Bd. 1971).

[59] 47 C.F.R. § 1.17(a)(1).

1.17(a)(2) of the rules provides that no person shall, "in any written statement of fact, provide material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading."[60] In assessing an applicant's character, the Commission may consider a range of evidence, including the truthfulness of an applicant's responses to Commission forms and inquiries, and the accuracy of an applicant's certifications.[61]

29. Pursuant to section 1.2112 of the Commission's rules,[62] an auction applicant is required to disclose certain ownership information to the Commission in its pre-auction short-form and post-auction long-form applications. Generally, under section 1.2112(a), the applicant must identify, among other things, the real parties in interest to the application, including the identity of all persons or entities directly or indirectly owning or controlling the applicant. Indeed, the Commission has stated that "we continue to believe that detailed ownership information is necessary to ensure that applicants claiming designated entity status in fact qualify for such status, and to ensure compliance with spectrum caps and other ownership limits. Disclosure of ownership information also aids bidders by providing them with information about their auction competitors and alerting them to entities subject to our anti-collusion rules."[63] The Commission has further noted that its rules "provide specific guidance to applicants, to provide transparency at all stages in the competitive bidding and licensing process; and, finally to ensure that the Commission, the public, and interested parties, are aware of the real party or parties in interest before the Commission acts on a pending application."[64]

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[60] 47 C.F.R. § 1.17(a)(2).

[61] *See supra* note 57.

[62] 47 C.F.R. § 1.2112.

[63] *Amendment of Part 1 of the Commission's Rules - Competitive Bidding Procedures*, Third Report and Order, Memorandum Opinion and Order and Second Further Notice of Proposed Rule Making, 13 FCC Rcd 10274 ¶73 (1997).

[64] *Amendment of Part 1 of the Commission's Rules - Competitive Bidding Procedures*, Second Order on Reconsideration of the Third Report and Order and Order on Reconsideration of the Fifth Report and Order (2003), 18 FCC Rcd 10180, 10214 ¶ 50 (citations omitted). The Commission has explained that the test for determining the real party in interest to an application is whether that party has an ownership interest in the applicant or will be in a position to actually or potentially control the operation of the station. *See Video/Multipoint, Inc. for Authority to Construct and Operate Multichannel Multipoint Distribution Service Stations on the F-Group Channels at Richmond, Virginia and Syracuse, New York*, Memorandum Opinion and Order, 7 FCC Rcd 5313 ¶ 7 (1992) (citing *San Joaquin Television Improvement Corp.*, 2 FCC Rcd 7004, 7008 (1987) and *KOWL, Inc.*, 49 FCC 2d 962, 964 (1974)); *Applications of David Lausten and Broadcast Data Corporation for Authority to Construct and Operate Two Multichannel Multipoint Distribution Service Stations on the E-Group Channels and the F-Group Channels for Aberdeen, South Dakota*, Memorandum Opinion and Order, 3 FCC Rcd 2053 ¶ 8 (1988); Instructions to FCC Form 601 at 15 (defining real party in interest as a person who "has an ownership interest, or will be in a position to actually or potentially control the operation of the station.") (citing *Astroline Communications Co. Ltd. Partner v. FCC*, 857 F.2d 1556, 1564 (D.C. Cir. 1988), citing Applications of Georgia Public Telecommunications Commission, et al., MM Docket No. 89-337, 7 FCC Rcd 7996 (1992); Applications of Madalina Broadcasting, et al., MM Docket No. 91-100, 8 FCC Rcd 6344 (1993)); *Heitmeyer v. FCC*, 95 F. 2d 91, 99 (D.C. Cir. 1937) (stating that "one of the most powerful and effective methods of control of any business, organization, or institution, and one of the most potent causes of involuntary assignment of its interests, is the control of its finances"); *see also* Black's Law Dictionary 874 (6th ed. 1991) (A "real party in interest" is "a person who will be entitled to benefits of action if successful, that is, the one who is actually and substantially interested in subject matter as distinguished from one who has only nominal, formal, or technical interest in or connection with it").

30. In the auction context, the Commission may award bidding credits to eligible designated entities.[65] Accordingly, the standard disclosures required by section 1.2112(a) are expanded in section 1.2112(b) for entities claiming designated entity status.[66] Pursuant to section 1.2112(b), if the applicant is seeking designated entity status, it must also provide additional ownership-related information in the form of, among other things, a list of any FCC-regulated entities in which any controlling principal of the applicant owns a 10 percent or greater interest or a total of 10 percent or more of any class of stock, warrants, options, or debt securities.[67] In addition to this requirement, however, section 1.2112(b) also requires that applicants seeking designated entity status list separately and in the aggregate the gross revenues of the applicant, its affiliates, its controlling interests, the affiliates of its controlling interests, and the entities with which it has an attributable material relationship.[68] Applicants seeking designated entity status must satisfy these two disclosure requirements in both their short- and long-form applications.

31. In addition to strict compliance with the Commission's general ownership disclosure provisions in section 1.2112(a), and expanded, designated entity-related, ownership requirements in section 1.2112(b), all auction applicants seeking designated entity status for the purpose of claiming a bidding credit must also comply with section 1.2110 of the Commission's rules.[69] Section 1.2110 sets forth, among other things, attribution disclosure requirements.[70] Pursuant to section 1.2110(b), an applicant seeking designated entity status must disclose in its pre-auction short-form and post-auction long-form applications the gross revenues for each of the previous three years of the applicant, its affiliates, its controlling interests, the affiliates of its controlling interests, and the entities with which it has an attributable material relationship.

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[65] *Implementation of Section 309(j) of the Communications Act - Competitive Bidding*, Second Report and Order, 9 FCC Rcd 2348.

[66] 47 C.F.R. § 1.2112.

[67] 47 C.F.R. § 1.2112(b)(1)(ii) (for the short-form application); 47 C.F.R. § 1.2112(b)(2)(ii) (for the long-form application).

[68] 47 C.F.R. § 1.2112(b)(1)(iv) (for the short-form application); 47 C.F.R. § 1.2112(b)(2)(v) (for the long-form application). It is important to note that, unlike section 1.2112(b)(ii), this requirement extends to all such entities and is not limited to FCC-regulated entities.

[69] 47 C.F.R. § 1.2110.

[70] While the attribution disclosure requirements in section 1.2110 apply equally to all auction applicants seeking designated entity status, the extent of the bidding credit to which a particular auction applicant might be entitled varies from service to service. In the instant case, Auction No. 61 involved the auction of licenses in the AMTS service. Under the AMTS service-specific provisions contained in section 80.1252 of the Commission's rules, 47 C.F.R. § 80.1252, bidding credits were available to very small businesses and small businesses. A bidder with attributed average annual gross revenues of $3 million or less for the preceding three years was characterized as a very small business and eligible to receive a 35 percent discount on its winning bids. A bidder with attributed average annual gross revenues of more than $3 million but less than $15 million for the preceding three years was considered a small business and eligible to receive a 25 percent discount on its winning bids. A bidder with attributed revenues of $15 million or more for the preceding three years was not eligible for any bidding credit. *See also Auction of Automated Maritime Telecommunications System Licenses Scheduled for August 3, 2005*, Public Notice, 20 FCC Rcd 7811 (WTB 2005).

32. For the purposes of sections 1.2110 and 1.2112, a controlling interest includes individuals with either *de jure* or *de facto* control of the applicant.[71] Both spouses are deemed to own or control or have the power to control interests owned or controlled by either of them under the spousal affiliation provisions of section 1.2110(c)(5)(iii)(A).[72] Pursuant to section 1.2110(c)(5)(i), an individual or entity is an affiliate of an applicant or of a person holding an attributable interest in an applicant if such individual or entity directly or indirectly controls or has the power to control the applicant.[73] In this regard, the Commission has stated unequivocally that affiliates of controlling interests will be considered affiliates of the applicant.[74] In addition, pursuant to section 1.2110(c)(5)(ii)(B), control can arise through stock ownership; occupancy of director, officer or key employee positions; contractual or other business relations; or combinations of these and other factors.[75] Consequently, entities that the spouse of an applicant either directly or indirectly controls or has the power to control must be disclosed to the Commission, and the gross revenues for each of the previous three years of such entities will be considered in determining whether the applicant is entitled to a bidding credit. An applicant that applies as a designated entity pursuant to section 1.2110 must, under section 1.2105(a)(2)(iv) of the Commission's rules, provide a statement to that effect and a declaration under penalty of perjury that it is qualified as a designated entity under section 1.2110.[76]

33. Under section 1.65 of the Commission's rules,[77] an applicant is responsible for the continuing accuracy and completeness of the information furnished in a pending application or in Commission proceedings involving a pending application. Whenever the information furnished in the pending application is no longer substantially accurate and complete in all significant respects, the applicant must, within 30 days, amend its application so as to furnish the additional or correct information.[78] For the purposes of section 1.65, an application is "pending" before the Commission from

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[71] 47 C.F.R. § 1.2110(c)(2).

[72] 47 C.F.R. § 1.2110(c)(5)(iii)(A).

[73] 47 C.F.R. § 1.2110(c)(5)(i).

[74] *See Amendment of Part 1 of the Commission's Rules - Competitive Bidding* Procedures, Order on Reconsideration of the Third Report and Order, Fifth Report and Order, and Fourth Further Notice of Proposed Rule Making, 15 FCC Rcd 15293, 15323-24, ¶ 59 (2000) (citations omitted), in which the Commission stated:

> We will adopt as our general attribution rule a "controlling interest" standard for determining which applicants qualify as small businesses. Under this standard, we will attribute to the applicant the gross revenues of its controlling interests and their affiliates in assessing whether the applicant is qualified to take advantage of our small business provisions, such as bidding credits. We note that operation of our definition of "affiliate" will cause all affiliates of controlling interests to be affiliates of the applicant. We believe that this approach is simpler and more flexible than the previously used control group approach, and thus will be more straightforward to implement. Moreover, application of the "controlling interest" standard will ensure that only those entities truly meriting small business status qualify for our small business provisions. We used this same approach in the attribution rules for the LMDS, 800 MHz SMR, 220 MHz, VHF Public Coast and LMS auction proceedings.

[75] 47 C.F.R. § 1.2110(c)(5)(ii)(B).

[76] 47 C.F.R. § 1.2105(a)(2)(iv).

[77] 47 C.F.R. § 1.65.

[78] *Id.*

the time it is accepted for filing until a Commission grant (or denial) is no longer subject to reconsideration by the Commission or review by any court.[79]

34. Finally, pursuant to section 309(e) of the Act,[80] the Commission is required to designate an application for evidentiary hearing if a substantial and material question of fact is presented regarding whether grant of the application would serve the public interest, convenience, and necessity. Therefore, if there exists a substantial and material question of fact as to any of the matters enumerated above, the Commission must designate the matter for an evidentiary hearing.

B. Analysis of Relevant Facts

1. Failure to Disclose Real Party in Interest

35. As indicated above, under section 1.2112(a)(1) of the Commission's rules, Maritime was required to identify, among other things, the real parties in interest to its application, including the identity of all persons or entities directly or indirectly owning or controlling the applicant.[81] Section 1.2112(a)(1) states in pertinent part:

> (a) Each application to participate in competitive bidding (*i.e.*, short-form application (*see* 47 CFR 1.2105)), or for a license, authorization, assignment, or transfer of control shall fully disclose the following:
>
> > (1) List the real party or parties in interest in the applicant or application, including a complete disclosure of the identity and relationship of those persons or entities directly or indirectly owning or controlling (or both) the applicant;

36. The requirement to disclose the real party in interest has been a longstanding requirement for wireless licenses.[82] The focus of the Commission's real party in interest analysis is whether there has been an accurate and complete identification of the true principals of the applicant.[83] As the Commission has stated, "a real party in interest issue, by its very nature, is a basic qualifying issue in which the

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[79] *Id.*

[80] 47 U.S.C. § 309(e).

[81] 47 C.F.R. §1.2112(a)(1).

[82] *See e.g.*, 47 C.F.R. §§ 21.13, 25.522, 25.531, 90.123 (1993) (Domestic Public Fixed Radio Services); 47 C.F.R. § 101.19 (1998) (Fixed Microwave Services); 47 C.F.R. § 22.108 (1998) (Public Mobile Services); 47 C.F.R. § 1.914 (1994) (generally requiring that applications "contain full and complete disclosures with regard to the real party or parties in interest and as to all matters and things required to be disclosed by the application forms"). Although section 1.914 was subsequently deleted in 1999, the real party in interest disclosure language was incorporated into section 1.919(e) and applied to applicants for wireless licenses where section 1.2112 was not applicable. 47 C.F.R. § 1.919(f). In 1994, the requirement to fully disclose the real party in interest was incorporated into the competitive bidding rules. *Competitive Bidding Fifth Report and Order*, 9 FCC Rcd 5532, 5656 (1994); 47 C.F.R. § 24.813 (1994).

[83] *Intermart Broadcasting Pocatello, Inc.*, Memorandum Opinion and Order, 23 FCC Rcd 8822, 8826-27 (2008); *See also Arnold L. Chase,* Decision, 5 FCC Rcd 1642, 1648 n.5 (1990) (concern in a real party in interest inquiry is whether an applicant is, or will be, controlled in a manner that differs from the proposal before the Commission).

element of deception is necessarily subsumed."[84] Similarly, the Commission has noted that "both the potential for deception and the failure to submit material information can undermine the Commission's essential licensing functions."[85]

37. In its short- and long-form applications filed in 2005, Maritime identified only Sandra DePriest as having an interest in the company. Maritime did not disclose any involvement by Sandra DePriest's husband, Donald DePriest. Maritime's short-form application states:

> One hundred percent of the membership interests in Maritime Communications/Land Mobile, LLC are owned by S/RJW Partnership, Ltd. The general partner in S/RJW Partnership, Ltd. is Communications Investments, Inc. One hundred percent of the shares in Communications Investments, Inc. are owned by Sandra M. DePriest. One hundred percent of the partnership shares in S/RJW Partnership, Ltd. are owned by Sandra M. DePriest.
>
> Sandra M. DePriest is the sole officer, director and key management personnel of Maritime Communications/Land Mobile, LLC. Sandra M. DePriest is the sole key management personnel of S/RJW Partnership, Ltd. Sandra M. DePriest is the sole officer, director and key management personnel of Communications Investments, Inc.[86]

38. Maritime's long-form application reiterated these claims and included further certifications as to Maritime's ownership disclosures and bidding credit eligibility, including that "all statements made in this application and in the exhibits, attachments, or documents incorporated by reference are *material*, . . . and are true, complete, correct, and made in good faith."[87] In various other pleadings, Maritime repeatedly represented that Sandra DePriest has held 100 percent control of Maritime at all relevant times.[88] Maritime also claimed that Donald and Sandra DePriest "live separate economic lives" and that Donald DePriest has no ownership interest in and is not an officer nor a director of Maritime.[89] While Sandra DePriest may have been the nominal owner, these statements, when considered in light of the evidence, appear to be misleading because they suggest that Donald DePriest played a limited role in Maritime and therefore that his interests were not relevant to the designated entity and bidding credit analysis. Contrary to these claims, disclosure of Donald DePriest (and attribution of

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[84] *See Fenwick Island Broadcast Corp. & Leonard P. Berger*, Decision, 7 FCC Rcd 2978, 2979 (Rev. Bd. 1992) (citation omitted); *see also Lowrey Communications, L.P.*, Decision, 7 FCC Rcd 7139, 7147 n.32 (Rev. Bd. 1992) (subsequent history omitted) (*sine qua non* of a real party in interest issue is a showing that a party not named as a principal holds either an undisclosed ownership interest or the functional equivalent thereof).

[85] *Intermart Broadcasting Pocatello, Inc.*, 23 FCC Rcd at 8827 ¶ 8.

[86] *See* short-form application, Explanation of Ownership. Maritime also certified that it had provided separate gross revenue information for itself, for each of its officers, directors, controlling interests and the affiliates of its controlling interests, and for each affiliate of each of its officers, directors, and other controlling interests. *See* short-form application, Gross Revenues Confirmation.

[87] *See* long-form application.

[88] *See, e.g., Maritime Communications/Land Mobile, LLC*, Opposition to Petition to Deny Application FCC File No. 0002303355 (September 18, 2006) ("[a]t all times from the filing of [Maritime's] Form 175 application to the date of the filing of the instant opposition, Sandra M. DePriest has held one hundred percent control of [Maritime]").

[89] *See* amended long-form application.

associated revenues) appears to have been required by two independent sections of our rules -- the spousal affiliation rule in section 1.2110(c)(5)(iii)(A) and the real party in interest disclosure requirements of section 1.2112(a). Maritime's apparent failure to identify either Donald DePriest or his associated revenues in its pre-auction short-form and post-auction long-form applications, together with the fact that Maritime repeatedly provided incomplete and potentially misleading information concerning Donald DePriest during the course of WTB's and EB's investigations, raise significant and material questions of fact about Maritime's qualifications, including its basic character qualifications, to hold Commission licenses.

39. *Spousal Affiliation.* In 2006, WTB concluded that Maritime should have disclosed Donald DePriest and his revenues under the spousal affiliation provisions of section 1.2110(c)(5)(iii)(A).[90] Maritime had claimed that the spousal affiliation rule did not apply because of the separation between Donald and Sandra DePriest's economic lives, but filed a request for waiver of the rule "in an abundance of caution." In rejecting Maritime's claims, WTB explained that the spousal affiliation rule is a "bright-line standard,"[91] emphasizing the Commission's longstanding conclusion that "[it] will in every instance attribute the financial interests of an applicant's spouse to the applicant."[92] WTB stressed that section 1.2110(c)(5)(iii)(A) of the Commission's rules required the attribution of Donald DePriest's revenues to Maritime for the purposes of determining Maritime's designated entity status.[93]

40. Although section 1.2110(c)(5)(iii)(A) establishes a bright-line standard that would apply to Maritime irrespective of any claim of the DePriests' supposed "separate economic lives," this claim itself appears to be inaccurate. The record suggests that since as early as the 1980s, the DePriests' professional and economic interests have been intertwined. This apparent inconsistency raises further questions as to whether Maritime's disclosure failures were calculated to mislead the Commission into awarding Maritime a higher bidding credit than was warranted, and thus bears on its qualifications to hold Commission licenses.

41. *Real Party in Interest.* Furthermore, even if the DePriests had not been married, the information before us suggests that Donald DePriest may have been an undisclosed real party in interest behind Maritime. In this regard, the record indicates that Donald DePriest often acted on behalf of Maritime, binding the company in significant respects.[94] For example, in his role as "Manager" of Maritime, Donald DePriest signed the incorporation filings for Maritime;[95] **[REDACTED]**;[96] issued **[REDACTED]**;[97] **[REDACTED]**;[98] **[REDACTED]**.[99]

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[90] 47 C.F.R. § 1.2110(c)(5)(iii)(A).

[91] WTB November 2006 Order at 13736 ¶ 5 ("section 1.2110(c)(5)(iii)(A) of the Commission's rules clearly requires that the revenues of Mr. DePriest . . . be attributed to [Maritime]").

[92] *See Implementation of Section 309(j) of the Communications Act – Competitive Bidding,* Second Memorandum Opinion and Order, 9 FCC Rcd 7245, 7262 ¶ 100 (1994).

[93] WTB November 2006 Order at 13736 ¶ 1.

[94] *See* Letter from Sandra DePriest to Jeffrey Tobias, Esq., Attorney, Mobility Division, Wireless Telecommunications Bureau, Federal Communications Commission, dated September 30, 2009 (indicating that nine days after Maritime was formed, Mrs. DePriest designated Mr. DePriest to serve as manager/signer on behalf of Maritime); *See* Letter from Sandra DePriest to Marlene H. Dortch, Secretary, Federal Communications Commission, dated March 29, 2010 at 5-7 (see March 10, 2009 Maritime Meeting Minutes **[REDACTED]**).

[95] *See* Certificate of Formation, dated February 15, 2005, filed with the Delaware Secretary of State's Office (executed by Donald DePriest).

42. In addition, it appears that Communications Investments, Inc. – which indirectly owns Maritime – was until recently still led by Mr. DePriest as President. While Mr. DePriest claims to have transferred the stock of Communications Investments, Inc. to his wife, Sandra DePriest, and to have resigned as President just less than four months prior to the filing of Maritime's short-form application,[100] contemporaneous submissions to the state of Mississippi (signed by either Sandra or Donald DePriest) reflect that Mr. DePriest was President of Communications Investments Inc. until 2008.[101] Therefore, during Auction No. 61 Mr. DePriest appears to have served as President of the general partner of Maritime. In sum, while Mrs. DePriest was nominally identified as the "sole officer, director, and key management personnel" of Maritime, it appears that Donald DePriest may have been a real party in interest behind Maritime -- especially given the evidence about Maritime's corporate structure as well as the evidence suggesting that Mr. DePriest was integrally involved in significant financial and operational decisions and otherwise played a much larger role in Maritime than the DePriests initially disclosed. Accordingly, an appropriate issue will be designated to determine whether Maritime willfully violated section 1.2112 of the Commission's rules.

2. Failure to Disclose Attributable Interests and Revenues

43. As indicated above, section 1.2110 establishes the core requirements for obtaining bidding credits as a designated entity. It requires any entity seeking a bidding credit to establish that it is entitled to such a credit by providing the gross revenues (for each of the three years prior to an auction) of the applicant, its affiliates, its controlling interests, the affiliates of its controlling interests, and the entities with which it has an attributable material relationship.[102] Pursuant to section 1.2110, Maritime was required to disclose upfront in its short- and long-form applications the gross revenues of Donald DePriest and those of his affiliates. The record before us indicates that not only did Maritime fail to make the required disclosures, it appears to have engaged in a continued practice of obfuscation and misdirection, incrementally disclosing tidbits of information about the nature and extent of Donald DePriest's affiliates.

(...continued from previous page)

[96] **[REDACTED]**.

[97] **[REDACTED]**.

[98] **[REDACTED]**.

[99] There is credible evidence suggesting that **[REDACTED]**.

[100] *See* Maritime Response to WTB, Exhibit 6.

[101] *See* Communications Investments Inc., 2002 Annual Corporate Report, filed with the Mississippi Secretary of State on Mar. 20, 2002 (listing Donald DePriest as the President of Communications Investments, Inc.); Communications Investments Inc., 2003 Annual Corporate Report, filed with the Mississippi Secretary of State on April 1, 2003 (same); Communications Investments Inc., 2004 Annual Corporate Report, filed with the Mississippi Secretary of State on Mar. 16, 2004 (same); Communications Investments Inc., 2005 Annual Corporate Report, filed with the Mississippi Secretary of State on Feb. 16, 2005 (same); Communications Investments Inc., 2006 Annual Corporate Report, filed with the Mississippi Secretary of State on Mar. 10, 2006 (same); Communications Investments Inc., 2007 Annual Corporate Report, filed with the Mississippi Secretary of State on Mar. 19, 2007 (same); Communications Investments Inc., 2008 Annual Corporate Report, filed with the Mississippi Secretary of State on Jan. 20, 2008 (showing a change in the President from Donald DePriest to Sandra DePriest).

[102] 47 C.F.R. § 1.2110.

The piecemeal and selective nature of Maritime's disclosures not only wasted precious Commission resources but essentially forced the Commission to repeatedly seek information which Maritime was legally required to provide.

44. Furthermore, we must question the plausibility of Maritime not understanding its legal disclosure obligations. In administering the initial stages of Auction No. 61, the Commission adopted several measures to ensure that participants knew and understood the relevant auction service rules and disclosure requirements, and made available several aids to assist bidders with the auction process.[103] For example, in an April 21, 2005 Public Notice, the Commission explained in great detail the rules and procedures attendant to participation in the auction. In relevant part, the Commission explained that "[p]rospective applicants must familiarize themselves thoroughly with the Commission's rules [and] with the procedures, terms and conditions ... contained in [the] Public Notice."[104] The Public Notice emphasized, for example, that "[s]ection 1.65 of the Commission's rules requires an applicant to *maintain* the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that application."[105] The Public Notice also provided guidance to those participants seeking a bidding credit by explaining that, "for Auction No. 61, if an applicant claims eligibility for a bidding credit, the information provided will be used in determining whether the applicant is eligible for the claimed bidding credit," and that submission of the initial application "constitutes a representation by the certifying official ... that the contents of the application, its certifications and any attachments are true and correct."[106] Finally, the Public Notice gave detailed explanations for (a) determining the size standards for bidding credits, (b) understanding ownership disclosure requirements, and (c) calculating bidding credit revenue disclosures.[107] The above-mentioned measures are only a sampling of the efforts that the Commission made to ensure that participants knew and understood the rules and requirements of Auction No. 61.[108]

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[103] Auction No. 61 was also the first to employ an extensive redesign of the Commission's Integrated Spectrum Auction System. The newly redesigned system included enhancements to the FCC Form 175 such as "discrete data elements in place of free-form exhibits and improved data accuracy through automated checking of FCC Form 175 applications" and allowed for easier navigation, customizable results, and improved functionality.

[104] *Auction of Automated Maritime Telecommunications System Licenses Scheduled for August 3, 2005, Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Auction Procedures for Auction No. 61*, Public Notice, 20 FCC Rcd 7811, 7816, (WTB 2005) ("Auction No. 61 Procedures Public Notice").

[105] Auction No. 61 Procedures Public Notice at 7818 (citing 47 C.F.R. § 1.65).

[106] The Public Notice also put bidders on notice that "[s]ubmission of false certification to the Commission may result in penalties, including monetary forfeitures, license forfeitures, ineligibility to participate in future auctions, and/or criminal prosecution." *Id.* at 7828.

[107] *Id* at 17.

[108] On May 25, 2006, the Commission hosted an auction seminar (made available via webcast) and made available supplemental materials on the Commission's website. The Auction seminar included various presentations and accessible materials such as PowerPoint presentations on the Pre-Auction Process, Overview of AMTS Rules and Due Diligence, Legal, Technical Auction Rules, and Payment Process, Auction Bidding Procedures, and Post-Auction Process. On June 28, 2005, the Commission issued a second Public Notice that reiterated the need to update pending applications to maintain the completeness and accuracy of the application pursuant to section 1.65 of the Commission's rules. *See Auction of Automated Maritime Telecommunications Systems Licenses,* Public Notice, 20 FCC Rcd 11431, 11434 (2005). On July 22, 2005, the Commission released a further Public Notice, which, in addition to restating the section 1.65 requirement, also reminded participants that applicants claiming eligibility to receive a "small or very small business bidding credit should be aware that, following the auction they [would] be

(continued....)

45. Notwithstanding extensive Commission guidance directing otherwise, in its applications filed in 2005, Maritime disclosed only the interests of Sandra DePriest and her affiliates.[109] It took more than a year – and only after WTB determined that Maritime had run afoul of the "bright-line" spousal attribution provisions in section 1.2110 – for Maritime to amend its application, at staff direction, to disclose what the company represented, at that time, were the gross revenues of Donald DePriest and his affiliates.[110] In this amendment, Maritime stated, among other things, that Donald DePriest controlled just one company: American Nonwovens Corporation.[111] Several weeks later – and only in response to ongoing administrative litigation – Maritime belatedly acknowledged that Donald DePriest actually controlled three more entities: Charisma Broadcasting Co., Bravo Communications, Inc., and Golden Triangle Radio, Inc.[112] Some three years later – and only in response to a written request for information from WTB – Maritime divulged more than two dozen additional affiliates of Donald DePriest.[113] Several months thereafter – and only in response to an Enforcement Bureau letter of inquiry – Maritime disclosed information about Donald DePriest's involvement in MCT Corp.[114] The timing and substance of these disclosures raise material questions of fact about whether Maritime and its principals engaged in a pattern of deception and misinformation carefully designed to obtain and conceal an unfair economic advantage over competing auction bidders through the receipt of designated entity status and the associated bidding credit to which it may not have been entitled.

46. Moreover, the evidence reflects a conflict between Donald DePriest's assertions regarding the role that he played in MCT Corp. and other evidence received by the Commission. As noted above, in the record before us, Mr. DePriest initially acknowledged to WTB that he served as Chairman of MCT Corp.[115] When faced with EB's further inquiry, however, Mr. DePriest claimed that his role as MCT's Chairman was a limited one, *i.e.,* that he **[REDACTED]**.[116] Similarly, Mr. DePriest claimed **[REDACTED]**, while simultaneously submitting documentation MCT Corp. had filed with the Commonwealth of Virginia, State Corporation Commission reporting that he served as officer, director

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subject to more extensive reporting requirements contained in the Commission's Part 1 ownership disclosure rule" pursuant to section 1.2112(b)(2) of the Commission's rules. *See Auction of Automated Maritime Telecommunications Systems Licenses,* Public Notice, 20 FCC Rcd 12373, 12379 (2005). All of the Auction No. 61 materials made clear the rules, requirements, and procedures for participation, and emphasized the need for strict compliance with the rules.

[109] *See* short-form application and long-form application.

[110] *See* amended long-form application.

[111] *Id.*

[112] *See* Maritime September 2006 Opposition.

[113] *See* Maritime Response to WTB.

[114] *See* Sandra DePriest March 29 EB Response Letter.

[115] *See* Letter from Donald R. DePriest to Jeffrey Tobias, Esq., Attorney, Mobility Division, Wireless Telecommunications Bureau, Federal Communications Commission, dated September 30, 2009.

[116] *See* Letter from Patricia J. Paoletta and Jonathan B. Mirsky, Counsel to Wireless Properties of Virginia, Inc. and Maritime Communications/Land Mobile, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, dated December 29, 2010, Exhibit B ("December 29 Letter").

and as Chairman.[117] When confronted with this apparent inconsistency, Mr. DePriest claimed that **[REDACTED]**.[118] In addition, while Mr. DePriest eventually conceded that **[REDACTED]**, he simultaneously asserted that he **[REDACTED]**.[119] We find that these various factual conflicts continue to raise questions, including with respect to overall credibility.

47. In light of the repeated inconsistencies between and among Mr. DePriest's own statements and the other evidence before us, we are unable to conclude that he did not control or have the ability to control MCT Corp. Mr. DePriest is variously identified as an officer and director of the company and there is no question that at various times he served as Chairman of the Board, **[REDACTED]**. The record also indicates that **[REDACTED]**,[120] **[REDACTED]**. Furthermore, MCT Corp.'s bylaws indicate that **[REDACTED]**.[121] Given our broad definition of "control" in the designated entity context which, pursuant to section 1.2110(c)(5), can arise through stock ownership, occupancy of director, officer or key employee positions; contractual or other business relations; or combinations of these and other factors, substantial and material questions of fact as to Mr. DePriest's control of MCT Corp. remain, which are properly resolved by an independent trier of fact.

48. We also question whether Maritime has yet to provide a definitive list of, and accompanying financial data for, all of Donald DePriest's affiliates, as required by section 1.2110.[122] Maritime was absolutely required to provide all relevant information about the revenues of Donald DePriest and his affiliates in the first instance, and its demonstrated propensity to withhold pertinent and requisite information raises questions about Maritime's basic qualifications to be and remain a Commission licensee.

49. Maritime's multiple failures to fulfill its disclosure obligations under sections 1.2110 and 1.2112 raise particular concerns given the importance of maintaining the integrity of our spectrum auctions. We adopted carefully structured disclosure rules to ensure that our auctions are conducted in a fair and transparent manner and that all applicants participate on an even playing field. When auction applicants undermine our disclosure rules, such actions threaten the very foundation upon which we conduct our auctions. While Maritime and its principals claim that these disclosure failures resulted from "mistaken beliefs,"[123] "oversights,"[124] or "good faith reliance on counsel,"[125] they have provided no

[117] *See* 2002-2004 Annual Reports filed by MCT Corp. with the Commonwealth of Virginia, State Corporation Commission.

[118] *See* Letter from Patricia J. Paoletta and Jonathan B. Mirsky, Counsel to Wireless Properties of Virginia, Inc. and Maritime Communications/Land Mobile, LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission, dated January 25, 2011, Exhibit A.

[119] *See* December 29 Letter.

[120] **[REDACTED]**.

[121] **[REDACTED]**.

[122] The evidence suggests that Donald DePriest may have had an interest in several other companies not previously disclosed, including International Telecommunications Holdings Corporation, International Telecommunications Services Corporation, MCT Sibi Corp., UZLC Corp., and MCT Uzbekistan.

[123] *See* Letter from Sandra DePriest to Brian J. Carter, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, dated March 29, 2010, at 9.

[124] *Maritime Communications/Land Mobile, LLC*, Opposition to Petition for Reconsideration, filed September 18, 2006, at 11.

substantiation of these claims. We are also mindful that Maritime's principals are sophisticated business people,[126] that Maritime had multiple opportunities to provide the required information, and that Maritime had a significant financial motive to conceal Donald DePriest's revenues. When these realities are coupled with the allegations of the Petitioners and the corroborating information in the record, we conclude that there are material questions of fact as to whether all attributable interests and revenues were disclosed.

50. Accordingly, an appropriate issue will be designated to determine whether Maritime failed on multiple occasions to reveal material information in support of its claimed entitlement to a designated entity bidding credit, in willful and repeated violation of section 1.2110 of the Commission's rules. In addition, if it is determined that Maritime was not entitled to a bidding credit in Auction No. 61, the Administrative Law Judge shall determine whether Maritime should be ordered to repay the entire amount of its bidding credit plus all accrued interest to the United States Treasury.

3. Misrepresentations and Lack of Candor

51. *False Certification and Section 1.2105.* As indicated above, section 1.2105 of the Commission's rules requires an applicant that applies as a designated entity pursuant to section 1.2110 to provide a statement to that effect and a declaration under penalty of perjury that it is qualified as a designated entity under section 1.2110.[127] In its short-form application, Maritime made several certifications that now appear to have been false, or at a minimum, made without a reasonable basis for believing that the statements were correct and not misleading.[128] For example, Maritime certified that it provided gross revenues for all relevant interests, a statement later shown to be incorrect.[129] Maritime also asserted that it was eligible for a "very small business" bidding credit which was later partially rescinded.[130] In addition, in its long-form application, Maritime certified that "all statements made in the application and in the exhibits, attachments, or documents incorporated by reference are material, are part of [the] application, and are true, complete, correct, and made in good faith."[131] Maritime further certified

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[125] *See* Letter from Sandra DePriest to Marlene H. Dortch, Secretary, Federal Communications Commission, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, dated March 29, 2010, at 8.

[126] Donald DePriest has extensive experience in the communications industry and a long history of investing in multiple communications-related companies and ventures. Sandra DePriest is a former communications attorney. Donald DePriest founded Charisma Communications Corporation in 1982, serving as Chairman of the Board and President through the sale of its operations to McCaw Communications in 1986 and 1987. Charisma developed and operated eleven cellular systems. Mr. DePriest created MCT Investors, LP in 1987 to develop, among other things, telecommunications ventures. He also served as Chairman of the Board of American Telecasting, Inc. which was sold to Sprint in 1999.

[127] 47 C.F.R. § 1.2105. *See also* 47 C.F.R. § 1.2110.

[128] *See* short-form application; *see also* notes 140-147 and accompanying text (discussing section 1.17(a)(2) of the Commission's rules, which require due diligence in preparing written submissions to the Commission).

[129] *See* short-form application.

[130] *Id. See also Maritime Communications*, 21 FCC Rcd at 13735.

[131] *See* long-form application.

that it "ha[d] current required ownership data on file with the Commission, [was] filing updated ownership data simultaneously with the application, or [was] not required to file ownership data under the Commission's rules."[132] In filing its long-form application, Maritime also took the opportunity to correct the name of one of the affiliate interests listed in its short-form application, but failed to provide any additional information regarding other disclosable interest holders.[133] Given the material and substantial questions that remain about Maritime's eligibility for designated entity status in Auction No. 61, we have grave concerns about whether Maritime falsely certified to such eligibility, in willful violation of section 1.2105. Accordingly, an appropriate issue will be designated.

52. *Misrepresentation/Lack of Candor and Section 1.17.* Section 1.17(a)(1) of the rules states that no person shall, in any written or oral statement of fact, intentionally provide material factual information that is incorrect or intentionally omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading.[134] We note that a misrepresentation is a false statement of fact made with the intent to deceive the Commission.[135] Lack of candor is a concealment, evasion, or other failure to be fully informative, accompanied by an intent to deceive the Commission.[136] A necessary and essential element of both misrepresentation and lack of candor is intent to deceive.[137] Fraudulent intent can be found from "the fact of misrepresentation coupled with proof that the party making it had knowledge of its falsity."[138] Intent can also be found from motive or logical desire to deceive.[139]

53. Section 1.17(a)(2) of the rules further requires that no person may provide, in any written statement of fact, "material factual information that is incorrect or omit material information that is necessary to prevent any material factual statement that is made from being incorrect or misleading without a reasonable basis for believing that any such material factual statement is correct and not misleading."[140] Any person who has received a letter of inquiry from the Commission or its staff or is

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[132] *Id.*

[133] *Id.*

[134] 47 C.F.R. §1.17(a)(1).

[135] *Fox River Broadcasting, Inc.*, Order, 93 FCC 2d 127, 129 (1983); *Discussion Radio, Incorporated*, Memorandum Opinion and Order and Notice of Apparent Liability, 19 FCC Rcd 7433, 7435 (2004).

[136] *Fox River Broadcasting, Inc.*, 93 FCC 2d at 129; *Discussion Radio*, 19 FCC Rcd at 7435.

[137] *Trinity Broadcasting of Florida, Inc.*, Initial Decision, 10 FCC Rcd 12020, 12063 (1995); *Discussion Radio*, 19 FCC Rcd at 7435.

[138] *David Ortiz Radio Corp. v. FCC*, 941 F.2d 1253, 1260 (D.C. Cir. 1991)(quoting *Leflore Broadcasting Co. v. FCC*, 636 F.2d 454, 462 (D.C. Cir. 1980); *see also Discussion Radio*, 19 FCC Rcd at 7435.

[139] *See Joseph Bahr*, Memorandum Opinion and Order, 10 FCC Rcd 32, 33 (Rev. Bd. 1994); *Discussion Radio*, 19 FCC Rcd at 7435; *Black Television Workshop of Los Angeles, Inc.*, Decision, 8 FCC Rcd 4192, 4198 n. 41 (1993)(citing *California Public Broadcasting Forum v. FCC*, 752 F.2d 670, 679 (D.C. Cir. 1985); *Scott & Davis Enterprises, Inc.*, 88 FCC 2d 1090, 1100 (Rev. Bd. 1982)). Intent to deceive can also be inferred when the surrounding circumstances clearly show the existence of an intent to deceive. *Commercial Radio Service, Inc.*, Order to Show Cause, 21 FCC Rcd 9983, 9986 (2006)(citing *American International Development, Inc.*, Memorandum Opinion and Order, 86 FCC 2d 808, 816 n.39 (1981), *aff'd sub nom. KXIV, Inc. v. FCC*, 704 F.2d 1294 (D.C. Cir. 1983)).

[140] 47 C.F.R. § 1.17(a)(2).

otherwise the subject of a Commission investigation is subject to this rule.[141] In expanding the scope of section 1.17 in 2003 to include written statements that are made without a reasonable basis for believing the statement is correct and not misleading, the Commission explained that this requirement was intended to more clearly articulate the obligations of persons dealing with the Commission, ensure that they exercise due diligence in preparing written submissions, and enhance the effectiveness of the Commission's enforcement efforts.[142] Thus, even absent an intent to deceive, a false statement may constitute an actionable violation of section 1.17 of the rules if provided without a reasonable basis for believing that the material factual information it contains is correct and not misleading.[143]

54. The Commission and the courts have recognized that "[t]he FCC relies heavily on the honesty and probity of its licensees in a regulatory system that is largely self-policing."[144] Full and clear disclosure of all material facts in every application is essential to the efficient administration of the Commission's licensing process, and proper analysis of an application is critically dependent on the accuracy and completeness of information and data which only the applicant can provide. Further, an applicant has a duty to be candid with all facts and information before the Commission, regardless of whether that information was elicited.[145] Similarly, a false certification may constitute a misrepresentation.[146] As the Commission has noted, "misrepresentation and lack of candor raise immediate concerns as to whether a licensee will be truthful in future dealings with the Commission.[147]

55. In the instant case, Maritime claimed an entitlement in both its short-form and long-form auction applications to a "very small business" bidding credit in Auction No. 61, amounting to 35 percent of its winning bids. In support of this claimed entitlement, Maritime was required to provide to the Commission full and complete information, including information relating to gross revenues, about all entities having an attributable interest in Maritime.[148] The information before us indicates, however, that Maritime did not do so. Rather, in its short-form and long-form applications, as initially filed, Maritime disclosed only the personal interests of Sandra DePriest as well as the gross revenues of only two entities: Communications Investments, Inc., and S/RJW Partnership, L.P. Through its responses to WTB's and

[141] 47 C.F.R. § 1.17(b)(4).

[142] *In the Matter of Amendment of Section 1.17 of the Commission's Rules Concerning Truthful Statements to the Commission,* Report and Order, 18 FCC Rcd 4016, 4016 ¶ 1-2, 4021 ¶ 12 (2003), *recon. denied,* Memorandum Opinion and Order, 19 FCC Rcd 5790, *further recon. denied,* Memorandum Opinion and Order, 20 FCC Rcd 1250 (2004) ("Amendment of Section 1.17").

[143] *See id.* at 4017 ¶ 4 (stating that the revision to section 1.17 is intended to "prohibit incorrect statements or omissions that are the result of negligence, as well as an intent to deceive").

[144] *See*, e.g., *Contemporary Media Inc. v. FCC*, 214 F.3d 187, 193 (D.C. Cir. 2000) (citation omitted).

[145] *Fox River Broadcasting, Inc.*, 93 FCC 2d at 129.

[146] *San Francisco Unified School District,* Hearing Designation Order and Notice of Apparent Liability for Forfeiture, 19 FCC Rcd 13326, 13334 ¶ 19 nn. 40-41 (2004).

[147] *Commercial Radio Service, Inc*, 21 FCC Rcd at 9986 (citing *Policy Regarding Character Qualifications in Broadcast Licensing Amendment of Rules of Broadcast Practice and Procedure, Relating to Written Responses to Commission Inquiries and the Making of Misrepresentation to the Commission by Applicants, Permittees, and Licensees, and the Reporting of Information Regarding Character Qualifications,* Report, Order and Policy Statement, 102 FCC 2d 1179, 1210-11 ¶ 60 (1986).

[148] 47 C.F.R. §1.2110.

EB's investigations, Maritime has revealed that its initial short-form[149] and long-form[150] auction applications failed to present full and complete information about Maritime's interests.

56. As discussed in detail above, the information before us further indicates that Maritime failed to identify Donald DePriest as a disclosable interest holder in its Auction No. 61 applications as originally filed, notwithstanding that the power to control Maritime was imputed to him under the spousal affiliation rule[151] and that there are other indicia of control. For instance, as detailed in paragraph 41 above, the record shows that Donald DePriest appears to have acted as more than just an agent for Maritime, developing financial contacts, suggesting equipment vendors, and attending conventions on behalf of Maritime.[152] In addition, he guaranteed some of Maritime's debt obligations[153] and was

[149] Among other things, on its short-form application Maritime made statements that now appear to be misrepresentations or to lack candor, including: (1) claiming eligibility as a "very small business" with gross revenues "between $0.00 and $3,000,000.00" in the "Bidding Credit Eligibility" section; (2) certifying that it "provided separate gross revenue information for itself, for each of [its] officers and directors, for each of [its] other controlling interests, for each of [its] affiliates, and for each affiliate of each of [its] officers, directors, and other controlling interests in the "Gross Revenues Confirmation" section; (3) stating that Sandra DePriest is the "sole officer, director and key management personnel of Maritime," although Mrs. DePriest later admits that Donald DePriest served as a manager for Maritime carrying out high-level tasks (*see supra* para. 41); (4) stating that Sandra DePriest is also the "sole officer, director and key management personnel of Communications Investments Inc.," although Donald DePriest is listed as the President and sole Director of Communications Investments Inc. on Annual Corporate Reports filed with the Secretary of the State of Mississippi until 2008 (*see supra* para. 42) in the attachment titled "Explanation of Ownership."

[150] Among other things, in its FCC 602 long-form application, Maritime made repeated statements (similar to those in its short-form application) that now appear to be misrepresentations or to lack candor. In addition, in an August 21, 2006 amendment to the long-form application submitted to "inform the Commission of the gross revenues of an entity controlled by Donald R. DePriest," Maritime stated that (1) "ANC is the only revenue producing entity which Don owns or controls;" (*see supra* para. 45) (2) "Sandra and Don live separate economic lives," although (a) many of the companies listed in the Mississippi Secretary of State database for which Donald DePriest served as an officer or director also list Sandra DePriest as having been an officer or agent, and (b) in one of Mr. DePriest's answers to the Feb. 26, 2010 EB inquiry, Mr. DePriest states that he and Sandra DePriest "have been involved in multiple radio services which are regulated by the Commission...."; (3) "Don DePriest does not, in fact, have any ownership interest in or control of MC/LM," although as referenced above, in addition to being one of three signatories on Maritime's bank account, Donald DePriest appears to have made significant corporate decisions and performed various management functions for Maritime (*see supra* para. 41). The amendment to the long-form application also fails to include certain Maritime employees listed in minutes executed on January 26, 2006, who by their titles appear to be officers. On March 29, 2009, in answer to EB's inquiry as to why MCT Corp. and its revenues had not been disclosed and declared under penalty of perjury, Donald DePriest stated that he "had no reason to believe that [his] role as non-executive chairman of MCT Corp. or any of the other entities in which [he] had an interest affected Sandra DePriest's position with the Commission." Donald DePriest made this statement after the November 2006 Order that required him to be listed as a disclosable interest holder for the purpose of determining Maritime's eligibility for bidding credits as a designated entity (irrespective of whatever actual role he played in Maritime), and prior to the Commission learning that Donald DePriest served as one of three members on the Executive Committee at MCT Corp.

[151] *See supra* para. 39 and 40 for discussion of the spousal affiliation rule.

[152] *See* Maritime Response to WTB at 7.

[153] *Id.*

authorized to enter into contracts on behalf of Maritime.[154] Clearly, Donald DePriest was more involved in what was nominally characterized as his wife's company than Maritime led the Commission to believe.

57. Moreover, it appears that, on a number of occasions, Maritime withheld information from the Commission related to the interests of Donald DePriest. In its auction applications as originally filed, Maritime revealed no interests of Donald DePriest. On August 21, 2006, at the prodding of WTB, Maritime revealed that Donald DePriest held an interest in just one company – American Nonwovens Corporation.[155] Subsequently, on September 18, 2006, Maritime revealed three more companies in which Donald DePriest was involved – Charisma Broadcasting Co., Bravo Communications, Inc., and Golden Triangle Radio, Inc.[156] Questions continued to be raised about the veracity of Maritime's disclosures to the Commission even after its Auction No. 61 licenses were granted. Thus, on September 30, 2009, in its response to WTB's inquiry, Maritime acknowledged, for the first time, the existence of more than two dozen additional entities in which Donald DePriest was involved that it had not disclosed previously.[157] Even then, Maritime's representations failed to present full and complete information concerning its attributable interests. Most significantly, Maritime failed to disclose the existence of MCT Corp., an entity in which Donald DePriest served as an officer, as Chairman of the Board of Directors, and as a member of the company's Executive Committee. Maritime only disclosed MCT Corp. after the matter of Maritime's behavior became the subject of an Enforcement Bureau investigation.

58. The information before us indicates that MCT Corp. had revenues during each of the relevant years from 2002-2004 of **[REDACTED]**. Maritime had an obligation to disclose its attributable interests to the Commission in the first instance, without the Commission having to elicit the information from Maritime over the course of multiple requests spanning several years. The fact that many of the companies in which Donald DePriest was involved posted annual revenues **[REDACTED]** is of no significance in determining whether Maritime ignored the Commission's auction disclosure obligations. To the contrary, the evidence suggests that Maritime was not merely careless in ignoring its auction disclosure obligations; rather, we recognize that it had a clear financial incentive in the form of a substantial bidding credit for dissembling to the Commission with regard to the revenues of the entities in which Donald DePriest was involved. Such conduct, if proven at hearing, is patently inconsistent with the basic character qualifications of a Commission licensee. Accordingly, appropriate issues will be specified herein to determine whether Maritime misrepresented or lacked candor in its dealings with the Commission, either with an intent to deceive and/or in willful and repeated violation of section 1.17 of the Commission's rules.

4. Failure to Maintain Completeness and Accuracy of Pending Applications

59. As indicated above, under section 1.65 of the Commission's rules, an applicant is responsible for the continuing accuracy and completeness of the information furnished in a pending application or in Commission proceedings involving a pending application.[158] Whenever the information furnished in the pending application is no longer substantially accurate and complete in all significant

[154] *See* Donald DePriest Response to WTB at 10.

[155] *See* amended long-form application.

[156] *See* Maritime September 2006 Opposition.

[157] *See* Maritime Response to WTB.

[158] 47 C.F.R. § 1.65.

respects, the applicant must, within 30 days, amend its application so as to furnish the additional or correct information. For the purposes of section 1.65, an application is "pending" before the Commission from the time it is accepted for filing until a Commission grant (or denial) is no longer subject to reconsideration by the Commission or review by any court.[159]

60. In the instant case, Maritime's long-form application remains pending because it is the subject of ongoing administrative litigation. Thus, Maritime has been under a continuing obligation to ensure the continuing accuracy of its application and to amend its application accordingly with new information. The record before us indicates that Maritime only once amended its application, on August 21, 2006, to purportedly provide information about the affiliates of Donald DePriest. Although Maritime appears to have further refined the list of all such affiliates of Donald DePriest via subsequent disclosures, Maritime has failed to amend its pending application to reflect such additional information. Accordingly, an appropriate issue will be designated to determine whether Maritime willfully and/or repeatedly violated section 1.65 of the Commission's rules.

5. Termination of Authorizations

61. Pursuant to section 1.955(a) of the Commission's rules, an authorization will terminate automatically without affirmative Commission action for failure to construct or, if constructed, for failure to operate pursuant to the service-specific rules for that authorization.[160] In the instant case, one of the petitioners challenging Maritime alleges that Maritime's licenses for site-based AMTS stations have canceled automatically because stations either were never constructed by Maritime's predecessor-in-interest or because operation of the stations has been permanently discontinued.[161] Maritime generally denies these allegations.[162] We conclude that there is a disputed issue of material fact with respect to whether the licenses for any of Maritime's site-based AMTS stations have canceled automatically for lack of construction or permanent discontinuance of operation.[163] Accordingly, an appropriate issue will be designated to determine whether any of Maritime's site-based licenses were constructed or operated in violation of sections 1.955(a) and 80.49(a) of the Commission's rules.[164]

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[159] *Id.*

[160] *See* 47 C.F.R. §§ 1.955(a) and 80.49(a) (providing the specific conditions and time periods governing the automatic cancellations of AMTS station licenses).

[161] *See, e.g., Maritime Communications/Land Mobile, LLC*, Petition to Deny Application FCC File No. 0004193328, at 57-60 (filed May 12, 2010).

[162] *See, e.g., Maritime Communications/Land Mobile, LLC*, Opposition to Petition to Deny Application FCC File No. 0004131898 (filed Apr. 7, 2010).

[163] We note that the Commission previously concluded that Maritime's authorization for a site-based station in Chicago had canceled due to permanent discontinuance of operation. *See Mobex Network Services, LLC*, Memorandum Opinion and Order, 25 FCC Rcd 3390, 3395 ¶ 10 (2010), *recon. pending.*

[164] If the Presiding Judge makes the fact-based determination that Maritime has constructed or operated any of its stations at variance with sections 1.955(a) and 80.49(a) of the Commission's rules, those authorizations will be deemed to have cancelled automatically, and the Presiding Judge need not take any affirmative action revoking, deleting, or otherwise terminating such licenses.

IV. ORDERING CLAUSES

62. Accordingly, **IT IS ORDERED** that, pursuant to sections 309(e), 312(a)(1), 312(a)(2), 312(a)(4), and 312(c) of the Act, 47 U.S.C. §§ 309(e), 312(a)(1), 312(a)(2), 312(a)(4), and 312(c), Maritime Communications/Land Mobile, LLC, **SHALL SHOW CAUSE** why the authorizations for which it is the licensee set forth in Attachment A should not be revoked, and that the above-captioned applications filed by Maritime Communications/Land Mobile, LLC, are **DESIGNATED FOR HEARING**, in a consolidated proceeding before an FCC Administrative Law Judge, at a time and place to be specified in a subsequent Order, upon the following issues:

(a) To determine whether Maritime failed to disclose all real parties in interest and other ownership information in its applications to participate in Auction No. 61, in willful and/or repeated violation of section 1.2112 of the Commission's rules, and whether Donald DePriest was such a real party in interest.

(b) To determine whether Maritime failed to disclose all attribution information in its applications to participate in Auction No. 61, in willful and/or repeated violation of section 1.2110 of the Commission's rules.

(c) To determine whether Maritime falsely certified to its eligibility as a designated entity, in willful and/or repeated violation of section 1.2105 of the Commission's rules.

(d) To determine whether Maritime failed to amend its Auction No. 61 long-form application, in willful and/or repeated violation of section 1.65 of the Commission's rules.

(e) To determine whether Maritime engaged in misrepresentation and/or lack of candor in its applications relating to Auction No. 61 and/or in its responses to official Commission inquiries for information relating to its participation in Auction No. 61.

(f) To determine whether Maritime made incorrect written statements of fact to, and/or omitted material information from, the Commission, in connection with matters arising from its participation in Auction No. 61, and/or in its responses to official Commission inquiries for information relating to its participation in Auction No. 61, in willful and/or repeated violation of section 1.17 of the Commission's rules.

(g) To determine whether Maritime constructed or operated any of its stations at variance with sections 1.955(a) and 80.49(a) of the Commission's rules.

(h) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether Maritime is qualified to be and remain a Commission licensee.

(i) To determine, in light of the foregoing issues, whether the captioned authorizations for which Maritime is the licensee should be revoked.

(j) To determine, in light of the foregoing issues, whether the captioned applications filed by or on behalf of Maritime Communications/Land Mobile, LLC, should be granted.

63. **IT IS FURTHER ORDERED** that, irrespective of the resolution of the foregoing issues, it shall be determined whether an order should be issued against Maritime directing it and its principal(s) to repay in full to the United States Treasury the entire amount of the bidding credit that it was awarded in Auction No. 61, plus all accrued interest.

64. **IT IS FURTHER ORDERED** that, irrespective of the resolution of the foregoing issues, it shall be determined whether an order should be issued against Maritime prohibiting it and its principal(s) from participating in future Commission auctions.

65. **IT IS FURTHER ORDERED** that, irrespective of the resolution of the foregoing issues, it shall be determined, pursuant to section 503(b)(1) of the Act, 47 U.S.C. § 503(b)(1), whether an **ORDER OF FORFEITURE** should be issued against Maritime in an amount not to exceed the statutory limit for the willful and/or repeated violation of each rule section above for which the statute of limitations in section 503(b)(6), 47 U.S.C. § 503(b)(6), has not lapsed.[165]

66. **IT IS FURTHER ORDERED** that, in connection with the possible forfeiture liability noted above, this document constitutes notice of an opportunity for hearing, pursuant to section 503(b)(3)(A) of the Act, 47 U.S.C. § 503(b)(3)(A), and section 1.80 of the rules, 47 C.F.R. § 1.80.

67. **IT IS FURTHER ORDERED** that, pursuant to section 312(c) of the Act and sections 1.91(c) and 1.221 of the rules, 47 U.S.C. § 312(c) and 47 C.F.R. §§ 1.91(c) and 1.221, to avail itself of the opportunity to be heard and to present evidence at a hearing in this proceeding, Maritime, in person or by an attorney, **SHALL FILE** with the Commission, within 20 calendar days of the release of this Order, a written appearance stating that it will appear at the hearing and present evidence on the issues specified above.

68. **IT IS FURTHER ORDERED** that, pursuant to section 1.91 of the rules, 47 C.F.R. § 1.91, if Maritime fails to file a timely appearance, its right to a hearing shall be deemed to be waived. In the event the right to a hearing is waived, the Chief Administrative Law Judge (or presiding officer if one has been designated) shall, at the earliest practicable date, issue an order reciting the events or circumstances constituting a waiver of hearing, terminating the hearing proceeding, and certifying the case to the Commission. In addition, pursuant to section 1.221 of the Commission's rules, 47 C.F.R. § 1.221, if any applicant to any of the captioned applications fails to file a timely written appearance, the captioned application shall be dismissed with prejudice for failure to prosecute.

69. **IT IS FURTHER ORDERED** that the Chief, Enforcement Bureau, shall be made a party to this proceeding without the need to file a written appearance.

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[165] Pursuant to section 20.9(b) of the Commissions rules, AMTS is presumed to be a commercial mobile radio service and will be treated as a common carriage service absent an interested party's satisfactory demonstration to the Commission that it be deemed otherwise. Therefore, for the purposes of any forfeiture that may be issued, Maritime shall be considered to be a common carrier. Pursuant to section 1.80(b)(2) of the Commission's rules, the maximum forfeiture shall not exceed $150,000 for each violation or each day of a continuing violation, except that the amount assessed for any continuing violation shall not exceed a total of $1.5 million for a single act for failure to act.

70. **IT IS FURTHER ORDERED** that pursuant to § 312(d) of the Act, 47 U.S.C. §312(d) and § 1.91(d) of the Commission's rules, 47 C.F.R. § 1.91(d), the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the Enforcement Bureau as to the issues at ¶ 62 (a) – (i), above, and that, pursuant to section 309(e) of the Act, 47 U.S.C. section 309(e), and section 1.254 of the Commission's rules, 47 C.F.R. § 1.254, the burden of proceeding with the introduction of evidence and the burden of proof shall be upon Maritime Communications/Land Mobile, LLC, as to the issue at ¶ 62 (j), above.

71. **IT IS FURTHER ORDERED** that each of the following entities shall be made a party to this hearing in its capacity as an applicant in one or more of the captioned applications: EnCana Oil and Gas (USA), Inc.; Duquesne Light Company; DCP Midstream LP; Jackson County Rural Membership Electric Cooperative; Puget Sound Energy, Inc.; Enbridge Energy Company, Inc.; Interstate Power and Light Company; Wisconsin Power and Light Company; Dixie Electric Membership Corporation, Inc.; Atlas Pipeline – Mid Continent LLC; Denton County Electric Cooperative, Inc. dba CoServ Electric; and Southern California Regional Rail Authority.

72. **IT IS FURTHER ORDERED** that each of the following entities shall be made parties to this hearing in its capacity as a petitioner to one or more of the captioned applications: Environmental LLC; Intelligent Transportation and Monitoring Wireless LLC; Skybridge Spectrum Foundation; Telesaurus Holdings GB LLC; Verde Systems LLC; V2G LLC; and Warren Havens.

73. **IT IS FURTHER ORDERED** that copies of this document shall be sent via Certified Mail - Return Receipt Requested to the following:

Patricia J. Paoletta, Esq.
Wiltshire & Grannis LLP
1200 18th Street, N.W., Suite 1200
Washington, DC 20036
Counsel for Maritime Communications/Land Mobile, LLC

EnCana Oil and Gas (USA), Inc.
ATTN: Dean Purcelli
1400 North Dallas Parkway, Suite 1000
Dallas, TX 75240

Duquesne Light Company
ATTN: Lee Pillar
2839 New Beaver Avenue
Pittsburgh, PA 15233

DCP Midstream LP
ATTN: Mark Standberry
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Beaumont, TX 77705

Jackson County Rural Membership Electric Cooperative
ATTN: Brad Pritchett
274 E. Base Road
Brownstown, IN 47220

Puget Sound Energy, Inc.
ATTN: Rudy Wolf
P.O. Box 97034
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Enbridge Energy Company, Inc.
ATTN: Telecom
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Washington, DC 20006
Counsel for Interstate Power and Light Company

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Counsel for Wisconsin Power and Light Company

Dixie Electric Membership Corporation, Inc.
ATTN: John D. Vranic
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Atlas Pipeline – Mid Continent LLC
ATTN: James Stepp
110 W 7th Street, Suite 2300
Tulsa, OK 74119

Mona Lee & Associates
ATTN: Mona Lee
3730 Kirby Drive, Suite 1200, PMB 165
Houston, TX 77098
Contact for Atlas Pipeline – Mid Continent LLC

Denton County Electric Cooperative, Inc. dba CoServ Electric
ATTN: Chris Anderson, Project Mgr. - IS
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Corinth, TX 76210-1842

Fletcher Heald & Hildreth, PLC
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Counsel for Denton County Electric Cooperative, Inc. dba CoServ Electric

Environmentel, LLC
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Intelligent Transportation and Monitoring Wireless LLC
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Berkeley, CA 94705

Skybridge Spectrum Foundation
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Southern California Regional Rail Authority
ATTN: Darrel Maxey
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Telesaurus Holdings GB LLC
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Verde Systems LLC
2509 Stuart Street
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V2G LLC
2509 Stuart Street
Berkeley, CA 94705

Warren Havens
2509 Stuart Street
Berkeley, CA 94705

74. **IT IS FURTHER ORDERED** that a copy of this document, or a summary thereof, shall be published in the Federal Register.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

ATTACHMENT A

The following authorizations of which Maritime Communications/Land Mobile, LLC is the licensee are the subject of this license revocation hearing:

1. WQGF315
2. WQGF316
3. WQGF317
4. WQGF318
5. KA98265
6. KAE889
7. KCE278
8. KPB531
9. KUF732
10. WFN
11. WHG693
12. WHG701
13. WHG702
14. WHG703
15. WHG705
16. WHG706
17. WHG707
18. WHG708
19. WHG709
20. WHG710
21. WHG711
22. WHG712
23. WHG713
24. WHG714
25. WHG715
26. WHG716
27. WHG717
28. WHG718
29. WHG719
30. WHG720
31. WHG721
32. WHG722
33. WHG723
34. WHG724
35. WHG725
36. WHG726
37. WHG727
38. WHG728
39. WHG729
40. WHG730
41. WHG731
42. WHG732
43. WHG733
44. WHG734
45. WHG735
46. WHG736
47. WHG737
48. WHG738
49. WHG739
50. WHG740
51. WHG741
52. WHG742
53. WHG743
54. WHG744
55. WHG745
56. WHG746
57. WHG747
58. WHG748
59. WHG749
60. WHG750
61. WHG751
62. WHG752
63. WHG753
64. WHG754
65. WHV733
66. WHV740
67. WHV843
68. WHW848
69. WHX877
70. WRD580
71. WRV374

ATTACHMENT B

The following pending applications are designated for hearing in this proceeding:

1. Maritime Communications/Land Mobile, LLC, and EnCana Oil and Gas (USA), Inc., Application for Assignment of Authorization, File No. 0004030479.

2. Maritime Communications/Land Mobile, LLC, and Southern California Regional Rail Authority, Application for Assignment of Authorization, File No. 0004144435.

3. Maritime Communications/Land Mobile LLC, Application for Modification of Facilities, File No. 0004193028.

4. Maritime Communications/Land Mobile LLC, and Duquesne Light Company, Application for Assignment of Authorization, File No. 0004193328.

5. Maritime Communications/Land Mobile, LLC, and DCP Midstream LP, Application for Assignment of Authorization, File No. 0004354053.

6. Maritime Communications/Land Mobile LLC, Application for Modification of Facilities, File No. 0004309872.

7. Maritime Communications/Land Mobile, LLC, and Jackson County Rural Membership Electric Cooperative, Application for Assignment of Authorization, File No. 0004310060.

8. Maritime Communications/Land Mobile LLC, Application for Modification of Facilities, File No. 0004314903.

9. Maritime Communications/Land Mobile, LLC, and Puget Sound Energy, Inc., Application for Assignment of Authorization, File No. 0004315013.

10. Maritime Communications/Land Mobile, LLC, and Enbridge Energy Company, Inc., Application for Assignment of Authorization, File No. 0004430505.

11. Maritime Communications/Land Mobile, LLC, and Interstate Power and Light Company, Application for Assignment of Authorization, File No. 0004417199.

12. Maritime Communications/Land Mobile, LLC, and Wisconsin Power and Light Company, Application for Assignment of Authorization, File No. 0004419431.

13. Maritime Communications/Land Mobile, LLC, and Wisconsin Power and Light Company, Application for Assignment of Authorization, File No. 0004422320.

14. Maritime Communications/Land Mobile, LLC, and Wisconsin Power and Light Company, Application for Assignment of Authorization, File No. 0004422329.

15. Maritime Communications/Land Mobile, LLC, and Dixie Electric Membership Corporation, Inc., Application for Assignment of Authorization, File No. 0004507921.

16. Maritime Communications/Land Mobile, LLC, Application for Modification of Facilities, File No. 0004153701.

17. Maritime Communications/Land Mobile, LLC, and Atlas Pipeline - Mid Continent LLC, Application for Assignment of Authorization, File No. 0004526264.

18. Maritime Communications/Land Mobile, LLC, and Denton County Electric Cooperative, Inc. dba CoServ Electric, Application for Assignment of Authorization, File No. 0004636537.

19. Maritime Communications/Land Mobile, LLC, and EnCana Oil and Gas (USA), Inc., Application for Assignment of Authorization, File No. 0004604962.