

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

FILED/ACCEPTED

MAY 11 2011

Federal Communications Commission  
Office of the Secretary

In the Matter of )  
)  
MARITIME COMMUNICATIONS/LAND )  
MOBILE, LLC )  
)  
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 )  
)  
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 )

EB Docket No. 11-71  
File No. EB-09-IH-1751  
FRN: 0013587779

Application File Nos.  
0004030479, 0004144435,  
0004193028, 0004193328,  
0004354053, 0004309872,  
0004310060, 0004314903,  
0004315013, 0004430505,  
0004417199, 0004419431,  
0004422320, 0004422329,  
0004507921, 0004153701,  
0004526264, 0004636537,  
and 0004604962

TO: Marlene H. Dortch, Secretary

For transmission to: Steven VanRoekel, Managing Director

**CONDITIONAL REQUEST FOR WAIVER OR DEFERRAL OF HEARING FEES**

Southern California Regional Rail Authority (“SCRRA”), pursuant to Section 1.1119 of the Commission's Rules, by and through undersigned counsel, hereby requests files this conditional request for waiver or deferral of any fees due under Section 1.221(f) and 1.1102 of

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the Commission's Rules in connection with its Notice of Appearance in the above-captioned matter.

This request is conditional because SCRRA believes that a hearing fee is not due in this case. A hearing fee is not required for parties designated for hearing in a renewal, assignment/transfer, or revocation proceeding, because these actions are "in the nature of an enforcement action against a licensee and the imposition of a fee against the licensee would be inconsistent with the licensee's right to a hearing."<sup>1</sup> Accordingly, SCRRA, as a party designated for hearing in an enforcement action against a licensee, is not required to pay a hearing fee.

In an abundance of caution, however, SCRRA conditionally requests that if for some reason the Managing Director determines that a fee is due, that such fee be waived, or, alternatively, deferred. Section 1.1119(a) of the Commission's rules provides that the fees established by Subpart G may be waived or deferred in specific instances "where good cause is shown and where waiver or deferral of the fee would promote the public interest." Section 1.925 of the Commission's rules provides that a waiver may be granted where "[i]n view of the unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative."

Here, waiver would be appropriate because application of the hearing fee requirements would be inequitable, unduly burdensome, and contrary to the public interest, for the same reasons that the Commission exempted revocation hearings from the fee in the first instance. Imposition of a fee under these circumstances would in essence be "requiring a party to pay a fee

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<sup>1</sup> *Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985*, Report and Order, 2 FCC Rcd 947, 966 (1987).

to defend itself,” the result the Commission sought to avoid in the 1987 Order.<sup>2</sup> It would be inconsistent with SCRRA’s right to a hearing, especially in a case where there are no allegations of wrongdoing by SCRRA.

Additionally, SCRRA is in an unusual procedural posture with respect to this hearing. In response to the Commission’s invitation in Footnote 7 of the Hearing Designation Order, SCRRA has submitted a Showing Pursuant to Footnote 7 (the “Showing”). In its Showing, the SCRRA establishes that the public interest would be served by removing the SCRRA applications from the ambit of the hearing. Waiver of any hearing fee would be particularly appropriate in view of SCRRA’s pending request for its application to be removed from the proceeding.

SCRRA’s pending request to be removed from the hearing also establishes good cause under Section 1.1119 to defer any hearing fee until at least after the Commission makes a determination on SCRRA’s Showing. Should SCRRA remain a party to the hearing, however, waiver would be the appropriate remedy.

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<sup>2</sup> *Id.*

In conclusion, although SCRRA believes that a hearing fee is not required in this case, good cause exists for waiver or deferral of any hearing fees that may be otherwise imposed.

Respectfully submitted,

SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY

By: 

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May 11, 2011

## CERTIFICATE OF SERVICE

I, Emily Borkholder, hereby certify that on this 11<sup>th</sup> day of May, 2011, I caused copies of the foregoing Request for Deferral and Waiver of Hearing Fees to be placed in the U.S. mail, first class postage prepaid, or transmitted by facsimile or email (as indicated below), addressed to the following:

The Honorable Richard L. Sippel  
Chief Administrative Law Judge  
Federal Communications Commission  
445 12th Street, S.W.  
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Skybridge Spectrum Foundation  
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Telesaurus Holdings GB LLC  
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Verde Systems LLC  
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V2G LLC  
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