

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

FILED/ACCEPTED

JUN 30 2011

Federal Communications Commission
Office of the Secretary

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

To: Marlene H. Dortch, Secretary

Attention: Richard L. Sippel, Chief Administrative Law Judge

AMENDED STIPULATION STATUS REPORT

Pursuant to the Presiding Judge's Order in the above-captioned proceeding (FCC11M-15, rel. June 16, 2011), the Enforcement Bureau of the Federal Communications Commission ("Bureau") and the undersigned applicants (the "Applicants") have engaged in negotiations for a Stipulation re Party Status.

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List A B C D E

Attached hereto is the Applicants' June 22, 2011, proposed Stipulation (as Exhibit A). The Bureau has asked to keep its June 24, 2011 counterproposal confidential.¹

The Applicants and the Bureau discussed their proposed Stipulations by teleconference on June 22 and 24, 2011. The Applicants pointed out that the Hearing Designation Order ("HDO") alleges no wrongdoing or other misconduct regarding the Applicants and does not identify for resolution during the hearing any issues specific to the Applicants -- except whether their pending applications should be granted.² Nor, the Applicants pointed out, does the HDO allege that the Applicants possess any particular knowledge regarding any alleged wrongdoing or misconduct by Maritime.

In light of the absence of any allegations in the HDO specific to the Applicants, the Applicants offered to limit discovery by certifying under penalty of perjury that they know nothing about the allegations against Maritime. The Bureau refused. The Bureau also refused to limit discovery by identifying any areas where the Bureau believes the Applicants have any particular knowledge regarding any of the issues raised against Maritime in the HDO. Instead, the Bureau offered only to abide by the Commission's discovery rules and, to an extent, the Federal Rules of Civil Procedure.

As a result, the Applicants hereby report that they and the Bureau have been unable to agree on a stipulation as to the scope, amount and timing of discovery that the Bureau can request from the Applicants during the hearing.

The Applicants urge the Presiding Judge to direct the Bureau to accept certifications from the Applicants under penalty of perjury that they know nothing about the allegations against

¹ As a courtesy to the Bureau, by separate Motion filed contemporaneously, the Applicants request the withdrawal of their previous Stipulation Status Report which contained a copy of the Bureau's counterproposal as Exhibit B.

² *Maritime Communications/Land Mobile, LLC* ("Maritime"), Order to Show Cause, Hearing Designation Order, and Notice of Opportunity for Hearing, FCC 11-64 (*rel.* Apr. 19, 2011). See, Para. 62, Issues (a) through (j).

Maritime and to limit discovery accordingly. Additionally, the Bureau should be directed in good faith to identify any specific areas where the Bureau believes the Applicants have any particular knowledge regarding any of the issues raised against Maritime in the HDO, so that discovery of the Applicants may be so limited.

The Applicants would, of course, be subject to discovery by the Bureau should the Bureau, in the course of its discovery directed to Maritime, determine that any Applicant may have discoverable information. In that event, the Bureau would be permitted to submit requests to the Applicant(s) (which would include a demonstration of the basis of the Bureau's belief concerning the likely availability of discoverable evidence), and the Applicant(s) to whom such requests are directed would respond in accordance with the conventional rules governing discovery.

Respectfully submitted,



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June 30, 2011

CERTIFICATE OF SERVICE

I, Charles A. Zdebski, hereby certify that on this 30th day of June, 2011, I served copies of the foregoing Amended Stipulation Status Report by first class mail, postage prepaid, and by email, upon the parties listed below:

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Hon. Richard L. Sippel
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(Via facsimile and email)

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Pamela S. Kane, Deputy Chief
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(Via Hand Delivery)

A handwritten signature in black ink, appearing to read 'Charles A. Zdebski', written over a horizontal line. The signature is stylized and extends to the right of the line.

Charles A. Zdebski

Exhibit A

PRIVILEGED AND CONFIDENTIAL
SUBJECT TO COMMON INTEREST AGREEMENT
APPLICANTS DRAFT PROPOSED STIPULATION
6-22-11

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

In the Matter of)

MARITIME COMMUNICATIONS/LAND)
MOBILE, LLC)

EB Docket No. 11-71
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Participant in Auction No. 61 and Licensee of Various)
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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)
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and 0004604962

For Commission Consent to the Assignment of Various)
Authorizations in the Wireless Radio Services)

To: The Honorable Richard L. Sippel
Presiding Judge

STIPULATION

PRIVILEGED AND CONFIDENTIAL
SUBJECT TO COMMON INTEREST AGREEMENT
APPLICANTS DRAFT PROPOSED STIPULATION
6-22-11

Pursuant to the Presiding Judge's instructions during the prehearing conference on June 15, 2011, and his Order released on June 16, 2011,¹ Atlas Pipeline Mid-Continent, LLC ("Atlas"); DCP Midstream, LP ("DCP"); Denton County Electric Cooperative, Inc. d/b/a CoServ Electric ("CoServ"); Dixie Electric Membership Corporation, Inc. ("DEMCO"); Enbridge Energy Company, Inc. ("Enbridge"); Encana Oil & Gas (USA) Inc. ("Encana"); Interstate Power and Light Company ("IPL"); Jackson County Rural Electric Membership Corporation ("Jackson County REMC"); Wisconsin Power and Light Company ("WPL"); Duquesne Light Company ("Duquesne") [?], Southern California Regional Rail Authority ("SCRRA") [?] (collectively, the "Applicants") and the Enforcement Bureau ("Bureau") hereby enter into this Stipulation regarding the party status of Applicants and the limitation of issues specified for hearing in the Hearing Designation Order ("HDO") in the above-captioned proceeding.²

WHEREAS, the lead official(s) responsible for negotiating their respective company's acquisition of spectrum from Maritime resulting in the filing of the Applications as captioned in the instant proceeding are identified below ("Corporate Officials");

WHEREAS, the Corporate Officials have reviewed the HDO and the specific issues designated for hearing in this proceeding;³

WHEREAS, the Presiding Judge has ordered that the Applicants and the Bureau cooperate in limiting discovery by entering into a Stipulation re Party Status;⁴

¹ *In Re Maritime Communications/Land Mobile, LLC*, Order, FCC 11M-15, File No. EB-09-IH-1751, (rel. June 16, 2011).

² *Maritime Communications/Land Mobile, LLC* ("Maritime"), Order to Show Cause, Hearing Designation Order, and Notice of Opportunity for Hearing, FCC 11-64 (rel. Apr. 19, 2011).

³ *Id* at ¶ 62, (a) – (j) (copy attached).

PRIVILEGED AND CONFIDENTIAL
SUBJECT TO COMMON INTEREST AGREEMENT
APPLICANTS DRAFT PROPOSED STIPULATION
6-22-11

**THEREFORE, THE BUREAU AND THE APPLICANTS STIPULATE AS
FOLLOWS:**

1. The Corporate Officials certify under penalty of perjury that to the best of their knowledge, information and belief, they are unaware of and do not possess any testimonial, documentary or other information relevant to the issues designated for hearing in this proceeding regarding Maritime and its dealings with the Commission that is not already publicly available, including but not limited to Maritime's real parties in interest, its ownership, its attribution information, its certifications to the Commission, its alleged failure to amend its applications, its alleged misrepresentations and/or lack of candor with the Commission, its written statements of fact to the Commission, the construction and operational status of its stations licensed by the Commission or any other issues regarding Maritime that are specified for hearing in this proceeding;⁵
2. The Applicants shall not be subject to discovery except to the extent that information developed by the Bureau during the course of discovery with Maritime first provides reason to believe that the Applicants or any of them in fact may have information relevant to the issues designated for hearing regarding Maritime and its dealings with the Commission, in which case the Applicants shall respond appropriately to any discovery requests by the Bureau, provided that nothing in the foregoing shall constitute a waiver of any objections that the Applicants may be entitled to assert; and

⁴ Order, EB Docket No. 11-71, FCC 11M-15, June 16, 2011.

⁵ HDO at ¶ 62, (a) – (i).

PRIVILEGED AND CONFIDENTIAL
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APPLICANTS DRAFT PROPOSED STIPULATION
6-22-11

3. The Applicants shall remain parties to the above-captioned proceeding unless formally removed from the proceeding, but shall not be obligated to appear at, or participate in, the hearing unless specifically directed to do so by the Presiding Judge.

Respectfully submitted,

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Enbridge Energy Company, Inc.

By: _____

Encana Oil & Gas (USA) Inc.

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June 27, 2011

Attachments:

Hearing Designation Order, Para. 62,
Certificate of Service