

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

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 )  
)  
**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

FILED/ACCEPTED

JUL - 8 2011

Federal Communications Commission  
Office of the Secretary

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  
Attention: Richard L. Sippel, Chief Administrative Law Judge

APPLICANTS' COMMENTS ON MARITIME'S MOTION

Pursuant to the Presiding Judge's Order in the above-captioned proceeding (FCC11M-15, rel. June 16, 2011), the undersigned applicants (the "Applicants") hereby file these Comments in response to the "Motion Proposing Procedures For Participation Of The Petitioning Parties" ("Motion") filed by Maritime Communications /Land Mobile LLC ("Maritime") on June 29, 2011. In its Motion Maritime, suggests procedures to limit the participation in this proceeding of

Warren C. Havens and the entities controlled by him (the ‘Petitioning Parties’).<sup>1</sup> With the additional protections set forth below, the Applicants support the Motion of Maritime limiting the participation of the Petitioning Parties to ensure that discovery does not become overly burdensome with no countervailing public interest benefit.

**The Petitioning Parties Have No Right To Discovery On Issues (a) Through (i)**

The Enforcement Bureau has the responsibility of prosecuting the case against Maritime. That case as set forth in issues (a) through (i) of the Hearing Designation Order (“HDO”)<sup>2</sup> revolves around alleged actions by Maritime in connection with Auction No. 61. There are no allegations of wrongdoing against any of the Applicants in the HDO and no indication that any of them possess any particular knowledge regarding issues (a) through (i). The Applicants have offered to limit discovery by the Enforcement Bureau by certifying under penalty of perjury that they know nothing about the allegations against Maritime.<sup>3</sup> As noted by Maritime, the Petitioning Parties have no right to seek discovery of the Applicants relating to issues (a) through (i).

**The Petitioning Parties Should Be Primarily Limited To Pursuing Discovery Through The Enforcement Bureau**

The only issue that involves the Applicants is issue (j) which asks whether the captioned applications should be granted in the public interest. As proposed by Maritime, discovery requests that the Petitioning Parties seek to pursue on this issue should, in the first instance, be coordinated with and, if appropriate, pursued through the Enforcement Bureau. This procedure should be the primary avenue for participation by the Petitioning Parties in discovery.

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<sup>1</sup> Environmental LLC; Intelligent Transportation and Monitoring Wireless LLC; Skybridge Spectrum Foundation; Telesaurus Holdings GB LLC; Verde Systems LLC; and V2G LLC.

<sup>2</sup> *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 (i).

<sup>3</sup> See Amended Stipulation Status Report, filed June 30, 2011.

Maritime proposes allowing supplementary, non-duplicative discovery by the Petitioning Parties subject to objections by the Applicants that the discovery request is beyond the scope of issue (j) or duplicative of the discovery requests by the Enforcement Bureau. The potential benefit of any proposed supplemental discovery must be weighed against the burden on the Applicants in responding to these requests and the unnecessary lengthening of this proceeding. The Petitioning Parties will have ample opportunity to submit discovery requests to the Enforcement Bureau for consideration. In light of this filtering process, the benefit of supplemental discovery by the Petitioning Parties will be minimal at best.

To the extent that the Petitioning Parties seek supplemental discovery, they should face a very high burden in demonstrating the probative value of this discovery and should only be allowed supplemental discovery in rare and unusual circumstances. Notices of depositions of additional witnesses by the Petitioning Parties that are not called by the Enforcement Bureau should face a similar showing with a high burden.

The Petitioning Parties should be required to seek the Presiding Judge's approval before issuing any supplemental discovery requests to the Applicants. In order to issue the proposed discovery requests, the Petitioning Parties should be required to demonstrate to the Presiding Judge that the probative value of the requested discovery outweighs the burden on the Applicants in responding to the requests. This will allow the Presiding Judge to efficiently "[r]egulate the course of the hearing," which is consistent with the Commission's rules.<sup>4</sup>

The Petitioning Parties have an interest in issue (j) only by virtue of the Petitions to Deny they filed against the captioned applications. Applicants have objected to the pending Petitions to Deny by the Petitioning Parties on the grounds that those Petitions to Deny are unlawful "strike petitions." To the extent that any of these petitions are unlawful "strike petitions" the Petitioning Parties should be denied standing and not be allowed to proceed with any discovery.

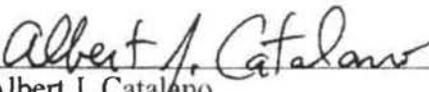
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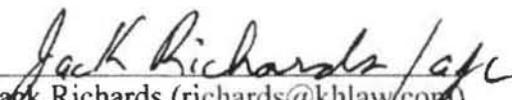
<sup>4</sup> 47 C.F.R. § 1.243(f) (2010).

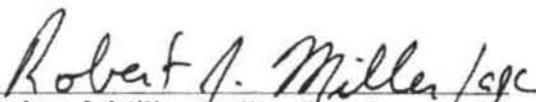
Accordingly, where the Petitioning Parties seek supplemental discovery or notice a deposition against an Applicant, that Applicant should be allowed to make a showing to pursue its own discovery and/or notices of deposition of the Petitioning Parties, consistent with its filings already before the Commission, demonstrating the filing of an unlawful "strike petition" by the Petitioning Parties.

Like the Petitioning Parties, the Applicants will seek approval of the Presiding Judge before issuing discovery requests to the Petitioning Parties. The Applicants' discovery requests to the Petitioning Parties will be permitted only if the probative value of those requests outweighs the burden on the Petitioning Parties in responding to the requests.

Respectfully submitted

  
Albert J. Catalano  
([ajc@catalanoplache.com](mailto:ajc@catalanoplache.com))  
Matthew J. Plache  
([mjp@catalanoplache.com](mailto:mjp@catalanoplache.com))  
Catalano & Plache, PLLC  
3221 M Street, NW  
Washington, DC 20007  
p: (202) 338-3200  
f: (202)338-1700  
*Counsel for Dixie Electric Membership Corporation, Inc.*

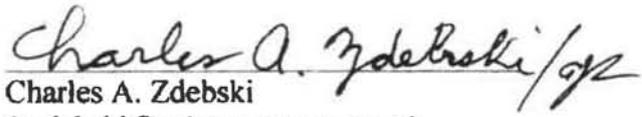
  
Jack Richards ([richards@khlaw.com](mailto:richards@khlaw.com))  
Wesley K. Wright ([wright@khlaw.com](mailto:wright@khlaw.com))  
Keller and Heckman LLP  
1001 G Street NW  
Suite 500 West  
Washington, DC 20001  
p: (202) 434-4210  
f: (202) 434-4646  
*Counsel for Atlas Pipeline Mid-Continent LLC; DCP Midstream, LP; Enbridge Energy Company, Inc.; EnCana Oil & Gas (USA) Inc.; and Jackson County Rural Electric Membership Cooperative*

  
Robert J. Miller ([rmiller@gardere.com](mailto:rmiller@gardere.com))  
Gardere Wynne Sewell LLP  
1601 Elm Street, Suite 2800  
Dallas, TX 75201  
p: (214) 999-4219  
f: (214) 999-3219  
*Counsel for Denton County Electric Cooperative, Inc. dba CoServ Electric*

  
Kurt E. DeSoto ([kdesoto@wileyrein.com](mailto:kdesoto@wileyrein.com))  
Joshua S. Turner ([jturner@wileyrein.com](mailto:jturner@wileyrein.com))  
Wiley Rein LLP  
1776 K Street, NW  
Washington, DC 20006  
p: (202) 719-7235  
f: (202) 719-7049  
*Counsel for Interstate Power and Light Company and Wisconsin Power and Light Company*



Harry F. Cole ([cole@fhhlaw.com](mailto:cole@fhhlaw.com))  
Fletcher Heald & Hildreth, P.L.C.  
1300 N. 17th Street-11th Floor  
Arlington, VA 22209  
p: (703) 812-0400  
Counsel for Southern California Regional Rail  
Authority



Charles A. Zdebski  
([czdebski@eckertseamans.com](mailto:czdebski@eckertseamans.com))  
Eric J. Schwalb  
([eschwalb@eckertseamans.com](mailto:eschwalb@eckertseamans.com))  
Eckert Seamans Cherin & Mellott, LLC  
1717 Pennsylvania Ave., N.W.  
Washington, D.C. 20006  
p: (202) 659-6605  
f: (202) 659-6699  
Counsel for Duquesne Light Company

July 8, 2011

**CERTIFICATE OF SERVICE**

I, Albert J. Catalano, an attorney in the law firm of Catalano & Plache, PLLC, hereby certify that on this 8th day of July, 2011, I sent by first class United States mail copies of the foregoing Comments to the parties listed below:

Marlene H. Dortch\*  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room TW-A325  
Washington, DC  
\*(Via hand delivery)

Honorable Richard L. Sippel\*\*  
Chief Administrative Law Judge  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554  
\*\* (Via facsimile and email)

Michele Ellison  
Chief, Enforcement Bureau  
Pamela S. Kane, Deputy Chief  
Brian Carter  
Investigations and Hearings Division  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Robert J. Keller  
Law Offices of Robert J. Keller, P.C.  
P.O. Box 33428  
Washington D.C. 20033  
*Counsel for Maritime Communications/Land Mobile, LLC*

Laura H. Phillips  
Howard M. Liberman  
Patrick R. McFadden  
Drinker Biddle & Reath LLP  
1500 K Street, N.W.  
Suite 1100  
Washington, DC 20005-1209  
*Counsel fo Skybridge Spectrum Foundation, AT&T Wireless LLC,  
Environmental LLC, Intelligent Transportation & Monitoring Wireless,  
Verde Systems LLC, Telesaurus Holdings, V2G LLC and Warren Havens*

Jack Richards  
Wesley K. Wright  
Keller and Heckman LLP  
1001 G Street, NW  
Suite 500 West  
Washington, DC 20001

*Counsel for Atlas Pipeline Mid-Continent, LLC, DCP Midstream, LP,  
Enbridge Energy Company, Inc., EnCana Oil & Gas (USA) Inc. and  
Jackson County Rural Electric Membership Cooperative*

Kurt E. DeSoto  
Joshua S. Turner  
Wiley Rein LLP  
1776 K Street, N.W.  
Washington, DC 20006

*Counsel for Interstate Power and Light Company and Wisconsin Power  
and Light Company*

Jeffrey L. Sheldon  
Fish and Richardson P.C.  
1425 K Street, N.W.  
11<sup>th</sup> Floor  
Washington, DC 20005

*Counsel for Puget Sound Energy, Inc.*

Robert J. Miller  
Gardere Wynne Sewell LLP  
1601 Elm Street  
Suite 2800  
Dallas, TX 75201

*Counsel for Denton County Electric Cooperative, Inc.  
dba CoServe Electric*

Charles A. Zdebski  
Eric J. Schwalb  
Eckert Seamans Cherin & Mellott, LLC  
1717 Pennsylvania Ave., N.W.  
Washington, DC

*Counsel for Duquesne Light Company*

Robert M. Gurss  
Paul J. Feldman  
Harry F. Cole  
Christine Goepp  
Fletcher, Heald & Hildreth, P.L.C.  
1300 N. 17<sup>th</sup> Street -- 11<sup>th</sup> Floor  
Arlington, VA 22209

*Counsel for Southern California Regional Rail Authority*

  
\_\_\_\_\_  
Albert J. Catalano