

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

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AUG 19 2011

In the Matter of)	EB Docket No. 11-71	FCC Mail Room
)		
MARITIME COMMUNICATIONS/LAND)	File No. EB-09-IH-1751	
MOBILE, LLC	)	FRN: 0013587779	
)		
Participant in Auction No. 61 and Licensee of)		
Various Authorizations in the Wireless Radio)		
Services)		
)		
Applicant for Modification of Various	)	Application File Nos.	
Authorizations in the Wireless Radio Services	)	0004030479, 0004144435,	
	)	0004193028, 0004193328,	
	)	0004354053, 0004309872,	
Applicant with ENCANA OIL AND GAS (USA),	)	0004310060, 0004314903,	
INC.; DUQUESNE LIGHT COMPANY, DCP	)	0004315013, 0004430505,	
MIDSTREAM, LP; JACKSON COUNTY	)	0004417199, 0004419431,	
RURAL MEMBERSHIP ELECTRIC	)	0004422320, 0004422329,	
COOPERATIVE; PUGET SOUND ENERGY,	)	0004507921, 0004153701,	
INC.; ENBRIDGE ENERGY COMPANY,	)	0004526264, 0004636537,	
INC.; INTERSTATE POWER AND LIGHT	)	and 0004604962	
COMPANY; WISCONSIN POWER AND)		
LIGHT COMPANY; DIXIE ELECTRIC)		
MEMBERHIP 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)		
Service)		

MEMORANDUM OPINION AND ORDER

Issued: August 10, 2011

Released: August 10, 2011

Preliminary Statement

This is a ruling on the Enforcement Bureau's ("Bureau") Motion To Compel Maritime To Properly Respond To Admission Of Facts And Genuineness of Documents ("Motion") filed on July 7, 2011. Maritime Communications Land Mobile, LLC ("Maritime") filed Maritime's

The Motion To Compel

The prescribed procedure to respond to a Request for Admission of Fact is set forth at 47 C.F.R. §1.246(b) which provides:

Each of the matters of which an admission is requested shall be deemed admitted unless the party to whom the request is directed serves upon the party requesting the admission (1) a sworn statement denying specifically the matters of which an admission is requested or setting forth in detail the reasons why he cannot truthfully admit or deny those matters, or (2) written objections on the ground that some or all of the requested admissions are privileged or irrelevant or that the request is otherwise improper in whole or in part.

Maritime's Response to the Bureau's Request For Admissions is non-compliant with the Rule. Maritime's response: "The FCC is the custodian of documents officially filed and is best able to discern authentic copies" is a foisting of Maritime's authentications back on the Bureau which does not provide a means for authenticating documentary evidence for use as exhibits in a hearing. Also, the information sought is not shown to be privileged, irrelevant, or improper. Maritime provides no authority to support its argument that Maritime is not obligated to answer a request (e.g. Request Nos. 115) because it is alleged to be a pure question of law and not at least a mixed question of fact and law. Regarding referenced answers to Request Nos. 2-3 and 7-15, the standard rule requires that for *each inquiry*, a respondent is required to affirm, deny, or object. See FRCP 36 (a)(4) (Emphasis added.) Referring back to a prior answer as Maritime has done is neither responsive nor conducive to discovery, and is not a permissible response. *Id.* And Maritime even fails to provide any authority demonstrating that leaving an answer subject to correction is an accepted practice or is authorized by the Commission's rules or the *FRCP*.

Rulings

Accordingly, based on the foregoing, IT IS ORDERED that Motion To Compel Maritime To Properly Respond To Requests For Admissions of Facts and Genuineness of Documents filed by the Enforcement Bureau on July 7, 2011, IS GRANTED.

IT IS FURTHER ORDERED that Maritime Communication/Land Mobile LLC shall review and reconsider each of its Responses To The Bureau's Request For Admissions, and **by 12 noon on August 19, 2011** re-file Corrected and/or Clarified Responses to each of the Enforcement Bureau's Request For Admission Of Facts And Genuineness Of Documents.

FEDERAL COMMUNICATIONS COMMISSION³



Richard L. Sippel
Chief Administrative Law Judge

³ Courtesy copies of *Order* sent on issuance by e-mail to each counsel.