

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 )

**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 )**

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

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

**FILED/ACCEPTED**

**SEP 23 2011**

Federal Communications Commission  
Office of the Secretary

To: Marlene H. Dortch, Secretary  
Attention: Richard L. Sippel, Chief Administrative Law Judge

**MOTION FOR LEAVE TO FILE**  
**JOINT MOTION FOR PROTECTIVE ORDER**

The undersigned Applicants (the "Applicants") respectfully request leave to file a Joint Motion for Protective Order. Applicants seek a protective order from the Presiding Judge deferring responses to requests for the production of documents ("Requests") recently served upon each of the Applicants in this proceeding by Skybridge Spectrum Foundation; ATLIS Wireless, LLC; Environmental LLC; Intelligent Transportation & Monitoring Wireless; Verde

No. of Copies rec'd 0+4  
List ABCDE

Systems LLC; Telesaurus Holdings; V2G LLC and Warren Havens.

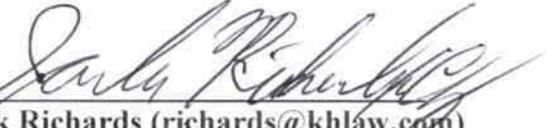
WHEREFORE, it is requested that leave be granted and that the Joint Motion for Protective order be accepted for filing in this proceeding.

Respectfully submitted,

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

  
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*

  
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*

  
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; Enbridge Energy Company, Inc.; EnCana Oil & Gas (USA) Inc.; and Jackson County Rural Electric Membership Cooperative*

  
Kurt E. DeSoto ([kdesoto@wileyrein.com](mailto:kdesoto@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*



---

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*

September 23, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that on this 23rd day of September, 2011, I served copies of the foregoing Motion for Leave to File Joint Motion for Protective Order by first class mail, postage prepaid, and by email, upon the parties listed below:

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.*

Kurt E. DeSoto, Esq.  
Wiley Rein LLP  
1776 K Street, N.W.  
Washington, DC 20006  
*Counsel for Interstate Power and Light  
Company and Wisconsin Power & Light Company*

Paul J. Feldman  
Christine Goepf  
Fletcher Heald & Hildreth, PLC  
1300 N. 17<sup>th</sup> Street, 11<sup>th</sup> Floor  
Arlington, VA 22209  
*Counsel for Southern California Regional Rail Authority*

Robert J. Miller  
Gardere Wynne Sewell LLP  
1601 Elm Street  
Suite 3000  
Dallas, TX 75201  
*Counsel for Denton County Electric Cooperative, Inc.  
d/b/a CoServ Electric*

Albert Catalano  
Catalano & Plache, PLLC  
3221 M Street, N.W.  
Washington, DC 20007  
*Counsel for Dixie Electric Membership Corporation, Inc.*

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 for Skybridge Spectrum Foundation,  
ATLIS 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*

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

Hon. Richard L. Sippel  
Chief Administrative Law Judge  
Office of the Administrative Law Judge  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554  
*(Via facsimile and email)*

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

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room TW-A325  
Washington, DC 20554  
*(Via Hand Delivery)*



Charles A. Zdebski

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

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

**JOINT MOTION FOR PROTECTIVE ORDER**

Pursuant to Commission Rule 1.313, 47 C.F.R. § 1.313, the undersigned applicants (the “Applicants”) hereby seek a protective order from the Presiding Judge deferring responses to requests for the production of documents (“Requests”) recently served<sup>1</sup> upon each of the

<sup>1</sup> Emailed courtesy copies of the Requests were provided to counsel for the Applicants on September 19, 2011. The Requests also were mailed to the Applicants, thereby establishing a putative response date of October 4, 2011. See 47 C.F.R. § 1.4(h). The Applicants further request either an expedited ruling on this Joint Motion for Protective

Applicants in this proceeding by SkyTel.<sup>2</sup> As set forth in further detail below, as a practical matter the discovery process appears to have come to a halt in this case as the parties await a ruling by the Presiding Judge regarding whether this proceeding will move forward in light of the filing for bankruptcy made by Maritime Communications / Land Mobile LLC (“Maritime”). The Applicants seek an order deferring their responses (including any objections) to the Requests until the Presiding Judge has ruled upon the extant motion to defer all procedural dates.<sup>3</sup> Further, if the proceeding does move forward, the Applicants request a ruling that they are entitled to at least ten (10) days from the date of such order to respond or object to the Requests.

## ARGUMENT

### A. SkyTel’s Requests Are Poorly Timed

Maritime’s unexpected bankruptcy has injected considerable confusion into this proceeding. Maritime argues in its Motion to Defer that this proceeding should be stayed (or is in fact automatically stayed) in light of its bankruptcy pursuant to the *Second Thursday* doctrine.<sup>4</sup> Accordingly, Maritime generally has ceased participation in this hearing and has neither served nor responded to discovery since its bankruptcy filing. The Enforcement Bureau, meanwhile, has sought to compel such responses, and has vigorously objected to use of *Second Thursday* as grounds for deferral of this proceeding. Although the Applicants take no position on the merits of Maritime’s Motion to Defer, it is apparent that now, seven (7) weeks after Maritime’s bankruptcy filing, Maritime, SkyTel and the Enforcement Bureau have substantial unresolved

---

Order in advance of October 4, 2011, or grant of a stay of the time for individual responses to discovery until such time as the Presiding Judge has ruled upon this motion, and as further set forth herein.

<sup>2</sup> “SkyTel” is the assumed name of Warren C. Havens; Environmental, LLC; Skybridge Spectrum Foundation; Telesaurus Holdings GB, LLC; Verde Systems, LLC, and V2G LLC.

<sup>3</sup> See, e.g., “Maritime’s Motion to Defer All Procedural Dates,” filed in this proceeding on August 1, 2011 (“Motion to Defer”). Maritime, the FCC’s Enforcement Bureau, and SkyTel have filed several cross briefs and motions regarding discovery that all relate back to this pending motion.

<sup>4</sup> *Second Thursday Corp.*, 22 FCC 2d 515, recon. granted, 25 FCC 2d 112 (1970).

disagreements as to whether or not this case should move forward.

SkyTel has now entered the void and exacerbated the confusion with its bevy of new discovery requests directed *to the Applicants*. These Requests, which seek much of the same information Skytel has requested from Maritime, have placed the Applicants in an untenable position:

*On one hand*, if the Applicants respond to the Requests, and the Presiding Judge subsequently rules that no additional action can or should be taken in this case during the pendency of Maritime's bankruptcy, then the Applicants will have unnecessarily expended the time and effort of responding to SkyTel's wide-ranging document requests and will have incurred unwarranted costs in responding to the Requests. Worse, the Applicants could be forced to provide documents that Maritime—the target of this hearing—arguably would not have been required to provide at this juncture. This scenario could be prejudicial to Maritime and could serve to complicate its bankruptcy proceeding. As a result, the Applicants might be required to address possible motions from Maritime, should it object to the release of certain Applicant information as privileged or protected.

*On the other hand*, if the Applicants do not respond to the Requests, they may be forced to defend motions to compel from SkyTel and ultimately produce documents that Maritime so far has declined to produce. This outcome would be manifestly unjust in this proceeding, given that it is Maritime's conduct that is the sole subject of the inquiry. SkyTel and Maritime should not be permitted to shift the cost and burden of discovery in this matter onto the Applicants, and should not be permitted to use the Applicants as proxies pending resolution of their discovery dispute.<sup>5</sup>

Thus, the Applicants object to the timing of the SkyTel Requests and seek from the

---

<sup>5</sup> Further, Skytel and the Enforcement Bureau might also be required to address related motions from Maritime regarding the release of Applicant information.

Presiding Judge an order that prevents them from having to provide any response (or objection) to the Requests until after the Motion to Defer is ruled upon. The specifics of the Applicants' request for deferral are set forth below.

**B. Deferral of Response to the Requests is Merited**

The Applicants take no position here with regard to the *substance* of the SkyTel Requests. Rather, if this case moves forward, each Applicant will have to determine the extent to which its particular set of Requests may be answered, and whether some or all of the particular document requests are overly broad, unlikely to lead to admissible evidence, or are covered by legal privilege or other objection. For the purposes of this Joint Motion for Protective Order, the Applicants simply agree that requiring a response to the Requests by October 4, 2011, would be inequitable for the reasons stated above.

Thus, the Applicants request that: (1) the Presiding Judge defer the Applicants' response to the Requests until the Motion to Defer has been decided; and (2) if the Presiding Judge decides that the case should move forward, allow the Applicants at least ten (10) days from the date of such order to provide their individual responses and objections to the SkyTel Requests.

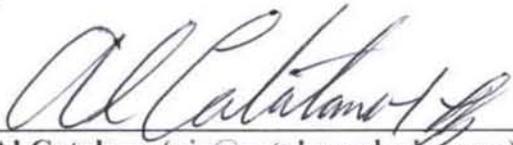
**C. Grant of the Joint Motion for Protective Order will not Prejudice any Party**

No prejudice will be caused to any party by grant of the Joint Motion for Protective Order. Neither Maritime nor the Enforcement Bureau has sought discovery from the Applicants and will not be affected by grant of this motion. With regard to SkyTel, its Requests to the Applicants generally seek the same information it has requested from Maritime. In light of Maritime's position with regard to *Second Thursday*, SkyTel already must effectively await a decision from the Presiding Judge as to whether the case against Maritime will move forward in order for discovery responses to flow to it from Maritime. No additional prejudice, therefore, can be caused to SkyTel by its having to await the same determination vis-à-vis its Requests for these same documents made to the Applicants.

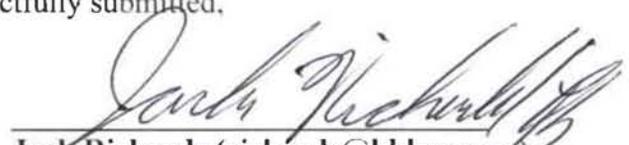
Moreover, no prejudice will be caused whatsoever if the Presiding Judge rules upon the Motion to Defer, which will resolve this and the other discovery issues. If the Presiding Judge decides to move this case forward, the Applicants would be required to provide their responses or objections in as few as ten (10) days from such an order. If the Presiding Judge decides to uphold a stay of the proceeding in light of *Second Thursday*, the matter of whether the parties need to participate in discovery will similarly be decided. In all events, grant of the Joint Motion for Protective Order will save the Applicants the considerable burden of responding prematurely to the Requests and will avoid any conflict with the Maritime bankruptcy.

FOR THE FOREGOING REASONS, the undersigned Applicants respectfully request a protective order be entered in this case deferring the Applicants' responses and objections to the SkyTel Requests until such time as it is determined whether this proceeding will move forward. If a determination is made that the proceeding will continue, the Applicants further request that they be provided at least ten (10) days from the date of such order to provide their individual responses and objections to the SkyTel Requests.

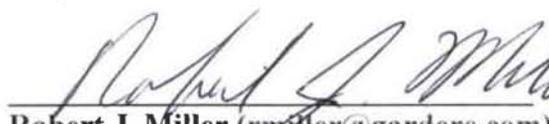
Respectfully submitted,



Al Catalano (ajc@catalanoplahe.com)  
Catalano & Plache, PLLC  
3221 M Street, NW  
Washington, DC 20007  
p: (202) 338-3200  
*Counsel for Dixie Electric Membership Corporation, Inc.*



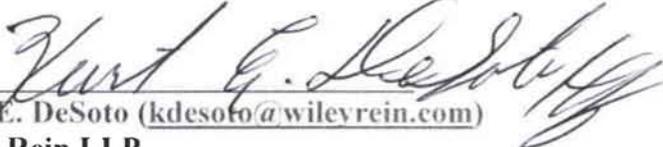
Jack Richards (richards@khlaw.com)  
Wesley K. Wright (wright@khlaw.com)  
Keller and Heckman LLP  
1001 G Street NW  
Suite 500 West  
Washington, DC 20001  
p: (202) 434-4210  
f: (202) 434-4646



Robert J. Miller (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*

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

  
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*

  
Kurt E. DeSoto ([kdesoto@wileyrein.com](mailto:kdesoto@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*

  
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*

September 23, 2011

## CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of September, 2011, I served copies of the foregoing Joint Motion for Protective Order by first class mail, postage prepaid, and by email, upon the parties listed below:

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.*

Kurt E. DeSoto, Esq.  
Wiley Rein LLP  
1776 K Street, N.W.  
Washington, DC 20006  
*Counsel for Interstate Power and Light  
Company and Wisconsin Power & Light Company*

Paul J. Feldman  
Christine Goepf  
Fletcher Heald & Hildreth, PLC  
1300 N. 17<sup>th</sup> Street, 11<sup>th</sup> Floor  
Arlington, VA 22209  
*Counsel for Southern California Regional Rail Authority*

Robert J. Miller  
Gardere Wynne Sewell LLP  
1601 Elm Street  
Suite 3000  
Dallas, TX 75201  
*Counsel for Denton County Electric Cooperative, Inc.  
d/b/a CoServ Electric*

Albert Catalano  
Catalano & Plache, PLLC  
3221 M Street, N.W.  
Washington, DC 20007  
*Counsel for Dixie Electric Membership Corporation, Inc.*

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 for Skybridge Spectrum Foundation,  
ATLIS 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, Enbridge Energy Company, Inc.,  
EnCana Oil & Gas (USA) Inc. and Jackson County  
Rural Electric Membership Cooperative*

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

Hon. Richard L. Sippel  
Chief Administrative Law Judge  
Office of the Administrative Law Judge  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, DC 20554  
*(Via facsimile and email)*

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

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room TW-A325  
Washington, DC 20554  
*(Via Hand Delivery)*

Charles A. Zdebski

A handwritten signature in black ink, consisting of several overlapping loops and strokes, positioned above a horizontal line. The signature is written over the printed name 'Charles A. Zdebski'.