

Before the
Federal Communications Commission
Washington, D.C. 20554

FILED/ACCEPTED

OCT 20 2011

Federal Communications Commission
Office of the Secretary

In re)
)
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) Application File Nos. 0004030479,
Authorizations in the Wireless Radio Services) 0004144435, 0004193028, 0004193328,
) 0004354053, 0004309872, 0004310060,
) 0004314903, 0004315013, 0004430505,
Applicant with **ENCANA OIL AND GAS (USA),**) 0004417199, 0004419431, 0004422320,
INC.; DUQUESNE LIGHT COMPANY; DCP) 0004422329, 0004507921, 0004153701,
MIDSTREAM, LP; JACKSON COUNTY) 0004526264, 0004636537,
RURAL MEMBERSHIP ELECTRIC) and 0004604962
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)

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

ENFORCEMENT BUREAU'S STATUS REPORT

1. In his September 26, 2011 Order,¹ the Presiding Judge scheduled a prehearing conference for October 25, 2011 to address at least the following issues: the status of Maritime's bankruptcy proceeding; Maritime's progress in obtaining purchaser(s) for the FCC licenses at

¹ See Order, FCC 11M-27 (ALJ, rel. Sept. 26, 2011).

No. of Copies rec'd 046
List ABCDE

issue in the above-captioned hearing; and the status and scope of the discovery already commenced by both the Enforcement Bureau (“the Bureau”) and Skytel/Havens and affiliated or related companies (“Skytel”) in this proceeding. In anticipation of this October 25 prehearing conference, the Presiding Judge’s Order also directed the parties to prepare a status report to identify further discovery that would be needed and any additional topics for discussion at the prehearing conference.² The Bureau hereby submits this status report.

2. In all practical effect, discovery in this proceeding has not yet commenced. Since the commencement of the discovery period on July 6, 2011, nearly four months ago, **Maritime has not provided any responses to any of the discovery requests it has received.**

Specifically, the Bureau served the following discovery on Maritime to no avail:

- July 6, 2011 First Set of Document Requests: UNANSWERED
- July 6, 2011 First Set of Interrogatories: UNANSWERED
- August 1, 2011 Second Set of Document Requests: UNANSWERED
- August 1, 2011 Second Set of Interrogatories: UNANSWERED

Among other things, the Bureau’s document requests and interrogatories seek information that is likely to be highly relevant in evaluating whether Maritime’s motion for extraordinary relief (whenever it may be filed) meets the *Second Thursday* requirements.³ For example, the Bureau asked Maritime for discovery concerning (i) the contracts with the Applicant Parties for the assignment or lease of spectrum at issue in this hearing; (ii) any valuation of the spectrum at issue in this hearing; (iii) the role of certain bankruptcy creditors, such as John Reardon and Tim

² *Id.*

³ The Commission will approve an assignment of a license without resolving outstanding character issues only when the alleged wrongdoers will derive no substantial direct or indirect benefit from the transaction or will derive only a minor benefit which is outweighed by the equities in favor of innocent creditors. *See Second Thursday Corp.*, 25 FCC 2d 1112 (1970).

Smith, in the alleged wrongdoing; and (iv) Maritime's efforts to solicit financing. Maritime also refused to respond to the document requests it received from Skytel on August 22, 2011, which seek related information. Additionally, Maritime refused to comply with the Presiding Judge's August 10, 2011 Order compelling Maritime to file corrected and clarified responses to each of the Bureau's Requests for Admission of Facts and Genuineness of Documents by noon on August 19, 2011.⁴ Moreover, the Applicant Parties refused to respond to Skytel's September 19, 2011 discovery requests.

3. Accordingly, with regard to the discovery that is still needed in this case, the Bureau requests, at a minimum, Maritime and the Applicant Parties' responses to the discovery requests both the Bureau and Skytel have already served. Specifically:

- Maritime's responses to the Bureau's July 6, 2011 First Set of Document Requests
- Maritime's responses to the Bureau's July 6, 2011 First Set of Interrogatories
- Maritime's responses to the Bureau's August 1, 2011 Second Set of Document Requests
- Maritime's responses to the Bureau's August 1, 2011 Second Set of Interrogatories
- Maritime's responses to Skytel's August 22, 2011 Document Requests; and
- the Applicant Parties' responses to Skytel's September 19, 2011 Document Requests

In addition, Maritime should be compelled to comply with the Presiding Judge's August 10, 2011 Order to provide responses to the Bureau's Requests for Admission of Facts and Genuineness of Documents. Upon receipt of this initial discovery, the Bureau anticipates it will need to proceed with depositions of the parties and of a number of third-parties. The Bureau also requests the opportunity to propound additional inquiries of Maritime that would relate to

⁴ See Order, FCC 11M-23 (ALJ, rel. August 10, 2011).

Maritime's eventual *Second Thursday* showing.

4. With regard to the Presiding Judge's request to identify any additional agenda items for the prehearing conference, the Bureau would welcome the opportunity to address Maritime's pending motion for deferral of the procedural dates.

Respectfully submitted,

P. Michele Ellison
Chief, Enforcement Bureau



Pamela S. Kane
Deputy Chief
Investigations and Hearings Division
Enforcement Bureau

Brian J. Carter
Attorney
Investigations and Hearings Division
Enforcement Bureau

Federal Communications Commission
445 12th Street SW
Room 4-C330
Washington, D.C. 20554
(202) 418-1420

October 20, 2011

CERTIFICATE OF SERVICE

Shonnetta Ennis, a Paralegal Specialist in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has on this 20th day of October, 2011, sent by first class United States mail copies of the foregoing "ENFORCEMENT BUREAU'S STATUS REPORT" to:

The Honorable Richard L. Sippel
Chief Administrative Law Judge
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554 (by hand, courtesy copy)

Sandra DePriest
Maritime Communications/Land Mobile LLC
218 North Lee Street
Suite 318
Alexandria, Virginia 22314

Dennis C. Brown
8124 Cooke Court
Suite 201
Manassas, VA 20109
Counsel for Maritime Communications/Land Mobile LLC

Jeffrey L. Sheldon
Fish & Richardson P.C.
1425 K Street, N.W.
11th Floor
Washington, D.C. 20005
Counsel for Puget Sound Energy, Inc.

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

Jack Richards
Wesley Wright
Keller & Heckman LLP
1001 G Street, N.W.
Suite 500 West
Washington, D.C. 20001

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

Charles A. Zdebski
Gerit F. Hull
Eckert Seamans Cherin & Mellott, LLC
1717 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Counsel for Duquesne Light Co.

Paul J. Feldman
Harry F. Cole
Fletcher, Heald & Hildreth, P.L.C.
1300 N. 17th Street – 11th Floor
Arlington, VA 22209

Counsel for Southern California Regional Rail Authority

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

Counsel for Interstate Power and Light Co. and Wisconsin Power and Light Co.

Matthew J. Plache
Albert J. Catalano
Catalano & Plache, PLLC
3221 M Street, N.W.
Washington, D.C. 20007

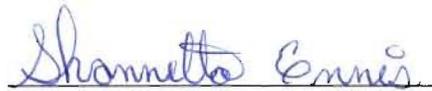
Counsel for Dixie Electric Membership Corp.

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

Howard Liberman
Patrick McFadden
Drinker Biddle 1500 K Street, N.W.
Washington, DC 20005-1209

**Counsel for Warren Havens; V2G LLC; Telesaurus Holdings GB; Verde Systems;
Intelligent Transportation and & Monitoring Wireless; Environmental LLC; and
Skybridge Spectrum Foundation**



Shonnetta Ennis