

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

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;)	
)	
Applicant with 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; PUGET	)	0004354053, 0004309872,
SOUND ENERGY, INC.; ENBRIDGE ENERGY	)	0004310060, 0004314903,
COMPANY, INC.; INTERSTATE POWER AND	)	0004315013, 0004430505,
LIGHT COMPANY; WISCONSIN POWER AND	)	0004417199, 0004419431,
LIGHT COMPANY; DIXIE ELECTRIC	)	0004422320, 0004422329,
MEMBERSHIP CORPORATION, INC.; ATLAS	)	0004507921, 0004153701,
PIPELINE—MID CONTINENT, LLC; DENTON	)	0004526264, 0004636537,
COUNTY ELECTRIC COOPERATIVE, INC., DBA	)	and 0004604962
COSERV ELECTRIC; AND SOUTHERN)	
CALIFORNIA REGIONAL RAIL AUTHORITY)	
)	
For Commission Consent to the Assignment of Various)	
Authorizations in the Wireless Radio Services)	

To: Hon. Richard L. Sippel, Chief Administrative Law Judge

**STATUS REPORT ON DISCOVERY AND
REQUEST FOR PARTIAL EXTENSION OF TIME**

Maritime Communications/Land Mobile, LLC (“Maritime”), by its attorney, hereby tenders this report on the status of discovery productions pursuant to the presiding judge’s January 27, 2012 *Order* (FCC 12M-7), pursuant to which Maritime is to produce documents and respond to interrogatories within ten days, i.e., by today, February 6, 2012. Responses to the interrogatories will be timely served today. For the reasons discussed below, however, Maritime hereby seeks a partial extension and modification of the terms regarding document production.

As discussed at the prehearing conference held on January 25, 2012, Maritime has twelve boxes of documents that are responsive to the outstanding joint discovery request. Although Maritime is in the process of having the documents scanned into electronic form, the Enforcement Bureau has stated its desire to have Commission staff scan or copy the documents. In order to accommodate this plan, Maritime will be able to make approximately half of the documents available to the Bureau no later than close of business tomorrow, Tuesday, February 7, 2012. The balance of the documents should be available later this week, but certainly no later than Monday, February 13, 2012.

Maritime will also make arrangements whereby either (a) SkyTel may purchase an electronic form of the complete set of scanned documents from the copying firm used by Maritime, or (b) Maritime will make the documents available to SkyTel for inspection and copying after they are retrieved from the Bureau. Alternatively, SkyTel may be able to acquire a copy of the documents as scanned by the Bureau. The cost for obtaining a set of the scanned documents from either Maritime's printer or the Bureau has yet to be determined.

By way of background, as explained at the January 25 prehearing conference, Maritime received estimates that it could cost as much as six thousand dollars (\$6,000.00) to have the documents scanned and/or copied and to make copies available to both the Bureau and SkyTel. Making copies available to any of the applicant parties who might want them would increase the cost. Maritime literally does not have the funds for this and, even if it did, such an expenditure would likely require prior bankruptcy court approval.¹ Maritime is not legally obligated to pay

¹ It is not clear whether this would be considered the kind of routine or "ordinary course" expense that generally would not require approval, but insofar as Maritime does not have the funds on hand, this would most likely have to be included in the budget for DIP (debtor-in-possession) financing that would definitely require prior court approval.

the cost of copying documents for the other parties, but merely “to permit inspection and copying” of the documents.²

In a brief discussion immediately following the prehearing conference, Maritime suggested that the Bureau might inspect the documents at the printer where they were being stored awaiting scanning or copying,³ have copies made there of any documents it might want, or alternatively purchase from the printer a scanned copy of the entire set. The Bureau advised that there were limitations on what copying firms the government could use and what rates it was permitted to pay. In consideration of this, on Thursday, January 26, 2012, counsel for Maritime sent an email message to counsel for the Bureau suggesting some alternatives. It was proposed that Maritime would go ahead and arrange to have the documents scanned and authorize the printer to release a copy to the Bureau for whatever the prescribed GSA schedule permitted. Maritime also provided the Bureau with the name and location of the printer, and advised that it could go and make an initial inspection of the documents to assess the situation.

The Bureau never responded to Maritime’s proposal, and the *Order* was then released requiring production within ten days. With that deadline fast approaching, Maritime authorized the printer to begin scanning the documents.⁴ On Friday, February 3, 2012, counsel for Maritime left a voice mail for Bureau counsel advising that, because there had been no response to the

² 47 C.F.R. § 1.325(a).

³ In preparation for eventual action on the joint motion for leave to conduct this discovery, Maritime had the documents delivered to a printer in Washington DC to be kept while it was determined how to finance reproduction.

⁴ Maritime believes it will be able to secure funding to pay \$3,000 (i.e., half the estimated cost) of the scanning. As a courtesy, the printer agreed to commence this job, understanding that Maritime may need to seek DIP financing and possible court approval for payment, especially if no other parties obtain copies to help defray the cost. Maritime nonetheless proceeded so as to minimize any delay in ultimate production, in the hope that parties desiring copies of the documents would share some portion of the cost. Alternatively, the originals (albeit unnumbered) would be made available for inspection and copying.

proposal, Maritime had authorized the commencement of scanning. Maritime further explained that the printer estimated it could take another week to complete the job, and that it would therefore be seeking an extension of time to Friday, February 17, to produce the documents. The expectation was that with the documents safely scanned, if the Bureau or SkyTel were unwilling or unable to pay for a set, the originals could then be made available for copying and inspection.

It was only after the above-described voice mail message was left, and more than a week after Maritime had made its initial proposal, that Bureau counsel contacted Maritime to discuss the matter. The Bureau advised that it had decided to request that the originals be delivered so they could be scanned in-house by Commission personnel. The Bureau further stated that it would oppose any request for an extension of time to February 17. Maritime stated that it would check with the printer to see if the ongoing scanning process could be stopped so that the original documents could be made available to the Bureau.

The printer advised Maritime that the initial process (which involves breakdown of the boxes, disassembly of the files, and preparation of the documents for scanning, followed by the initial scanning of the raw images) was nearly half way through the lot of documents.⁵ At this point it did not make sense to stop the scanning, because Maritime would need to retain a copy of the documents before making the originals available for inspection and copying at the FCC. The printer advised that, for various logistical reasons, it would be late Monday (i.e., today) or early Tuesday, February 7, 2012, before the already scanned documents would be re-boxed and available to the Bureau. The projected time for availability of the remaining documents was Monday, February 13, 2012.

⁵ Subsequent steps involve reassembly and re-boxing of the files, conversion of the scanned images to PDF format (including possible insertion of page numbering), and burning of one or more CDs.

In light of the foregoing discussion, and in a good faith effort to accommodate the Bureau's needs, Maritime proposes the following: (1) the first lot of approximately half the original documents will be made available to the Bureau for in-house inspection and copying by the close of business on Tuesday, February 7, 2012; (b) the balance of the documents will be made available to the Bureau by the close of business on Monday, February 13, 2012; (c) upon completion of the electronic reproduction process of the documents as scanned by Maritime's printer (as soon as possible but no later than Friday, February 17, 2012) a full set of the scanned documents will be made available to SkyTel at one-half of the cost charged by the printer; (d) alternatively, if SkyTel so elects, the original documents (after they are returned by the Bureau) will be made available for inspection and copying at a prearranged time and location in the Washington, D.C., area.

Finally, there is the issue of "Bates" numbering of copies. The cost estimate for manually numbering the original documents was at least \$2,000. It made more sense, therefore, to arrange for this to be done as part of the scanning and conversion process. This only works, however, if everyone is working from the same set of copies. Under the arrangement now proposed by the Bureau, the Bureau would scan and number its own copies, but as Maritime understands it, these copies may not be available to Maritime and the other parties or, if they are, there would be a cost. Insofar as Maritime has already incurred financial obligation to scan the documents prior to releasing the originals to the Bureau, it will not be purchasing a separate set from the Bureau. Maritime merely points this out by way of saying that it may not be possible or practical under this arrangement to have identical numbering on the copies held by the respective parties.

In addition, there is one box of documents in the possession of undersigned counsel that were not among those sent to the printer to be scanned. At the time of the prehearing conference, it was anticipated that Maritime would make copies of these and provide them to the parties,

subject to any applicable confidentiality restrictions under the consent decree. (A major portion of these documents are highly confidential.) The order, however, requires the “Bates” numbering of documents, and Maritime is not able to do this. Accordingly, in this case, Maritime requests that it be given a one day extension in which to make the originals available to the Bureau for inspection, numbering, and copying.

WHEREFORE, in light of the foregoing, Maritime respectfully requests that the January 27, 2012, *Order* (FCC 12M-7), be modified insofar as necessary to accommodate the timing and procedures outlined above.

Respectfully Submitted,



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Dated: February 6, 2012

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of February, 2012, I caused copies of the foregoing pleading to be served, by U.S. Postal Service, First Class postage prepaid, on the following:

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