

1 procedure, I don't know, but the bankruptcy  
2 court has made it clear it is going to be  
3 looking at both proposals.

4 JUDGE SIPPEL: But the Commission  
5 is being represented by the Department of  
6 Justice.

7 MR. KELLER: Right.

8 JUDGE SIPPEL: Is that correct?

9 MR. KELLER: Right. Insofar as  
10 it's claimed. The Commission has filed a  
11 claim in the bankruptcy court. I think  
12 something like \$6 million, or something like  
13 that.

14 JUDGE SIPPEL: What does that \$6  
15 million represent?

16 MR. KELLER: It represents -- and  
17 I may be slightly off on the number. It  
18 represents the difference in the bidding  
19 credit that's at issue in the basic qualifying  
20 aspects of this hearing, the small business  
21 bidding credit.

22 JUDGE SIPPEL: Yes.

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1                   MR. KELLER:   Plus a number that  
2                   they sort of -- I don't want to be  
3                   disrespectful, but just for lack of a better  
4                   word they sort of estimated or made up in  
5                   terms of any potential forfeitures that might  
6                   have otherwise issued in this proceeding. So  
7                   it's a combination of --

8                   JUDGE SIPPEL:        Let's use  
9                   "estimated." Okay?

10                  MR. KELLER:        -- estimated  
11                  forfeitures and the bidding credit plus  
12                  interest.

13                  JUDGE SIPPEL: Forfeitures. Okay.

14                  MR. KELLER:    But they therefore  
15                  had input on the disclosure statement. In  
16                  fact, I've had discussions with counsel, the  
17                  Department of Justice counsel, on his concerns  
18                  about the disclosure statement, and we tried  
19                  to amend it accordingly.

20                  JUDGE SIPPEL:    But what about  
21                  bankruptcy counsel?

22                  MR. KELLER:    Oh, no, it was

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1 primarily bankruptcy counsel. I was just  
2 asked to deal with DOJ in terms of the FCC's  
3 comments on the disclosure statement --

4 JUDGE SIPPEL: I got it.

5 MR. KELLER: -- regarding FCC  
6 procedures. They wanted some other language  
7 in about second Thursday, about the process,  
8 etcetera.

9 JUDGE SIPPEL: Is there any reason  
10 why we shouldn't have a copy of the new  
11 proposal?

12 MR. KELLER: I believe you do, but  
13 I don't have the newest one that was just  
14 filed.

15 JUDGE SIPPEL: Well, that's what  
16 I'm interested in.

17 MR. KELLER: But I'll make sure I  
18 submit -- I'll get you a copy of it as soon as  
19 it's filed. I know the Bureau would be served  
20 with it because I think they're on the service  
21 list for the bankruptcy.

22 JUDGE SIPPEL: That true?

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1 MS. KANE: The Bureau is not on  
2 the service list. The Commission is on the  
3 service list. And as we've explained, because  
4 of the fact that the Commission is the  
5 ultimate decider in this case, there's a wall  
6 here so that the Bureau is not obtaining a lot  
7 of this information directly from the  
8 Commission.

9 MR. KELLER: Mr. Geno's office  
10 isn't serving it? I was to understand they  
11 put you on their list.

12 MS. KANE: They're serving us with  
13 anything that Maritime has served.

14 MR. KELLER: Okay. That's all I  
15 can --

16 MS. KANE: They're not serving us  
17 with anything that's in the bankruptcy court.

18 MR. KELLER: Okay. All the  
19 bankruptcy filings, by the way, unless they're  
20 subject to confidentiality or something on  
21 PACER --

22 JUDGE SIPPEL: On what? Oh, yes,

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1 I know that. I know people --

2 MR. KELLER: Right.

3 JUDGE SIPPEL: -- that can dig  
4 after it. I'm trying to just move it along a  
5 little bit.

6 MR. KELLER: But if there's --

7 JUDGE SIPPEL: Are you interested  
8 in that?

9 MS. KANE: Yes, sir.

10 JUDGE SIPPEL: Are you interested  
11 in this report?

12 MS. KANE: We're absolutely  
13 interested in any of the reports that are  
14 being filed or anything that's being --

15 MR. KELLER: Well, the disclosure  
16 statement would have been filed by Craig Geno,  
17 so I'm sure it's on your --

18 MS. KANE: Yes, I'm pretty sure  
19 we've gotten Maritime's reports, but in terms  
20 of any of the other reports, I think some of  
21 the other parties to the bankruptcy have been  
22 serving us just out of courtesy, you know,

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1 where they've received it and they think we  
2 might be interested in it, but we're not  
3 getting anything from Maritime directly.

4 JUDGE SIPPEL: Okay. But this is  
5 a final disclosure statement, is that correct?

6 MR. KELLER: This is the  
7 disclosure statement that goes along with the  
8 reorganization plan, yes.

9 JUDGE SIPPEL: That's been  
10 amended? So it's the current --

11 MR. KELLER: It's a current  
12 disclosure statement, right.

13 JUDGE SIPPEL: So --

14 MS. KANE: I believe we have a  
15 copy of that, Your Honor.

16 JUDGE SIPPEL: You do?

17 MS. KANE: Yes.

18 JUDGE SIPPEL: That was filed  
19 on --

20 MR. KELLER: The one that was  
21 filed the other day? I don't even have that,  
22 but that's --

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1 MS. KANE: Oh, well then maybe  
2 not. I thought we had it.

3 MR. KELLER: It's the final  
4 version of what was filed a month ago, yes.

5 MS. KANE: Well then, no, we don't  
6 have it.

7 MR. KELLER: I don't have it yet  
8 either. My understanding it was filed on the  
9 30th, so maybe it hasn't gotten here yet.

10 JUDGE SIPPEL: Yes, sir?

11 MR. RICHARDS: Your Honor, Jack  
12 Richards. I'm wondering whether in light of  
13 the status of the bankruptcy proceeding Mr.  
14 Keller could give us an estimate of when a  
15 second Thursday filing might be made at the  
16 Commission.

17 MR. KELLER: I was getting to  
18 that.

19 JUDGE SIPPEL: Well, I want to get  
20 this out of the way first. Does anybody want  
21 a copy of that final report? I'm going to ask  
22 for a copy of it.

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1 MR. KELLER: I'll just submit a  
2 copy of the proceeding and therefore people  
3 can --

4 JUDGE SIPPEL: Give it to  
5 everybody. And I'm talking now about the  
6 latest one.

7 MR. KELLER: The latest one.

8 JUDGE SIPPEL: The one that was  
9 filed yesterday. Now, let's get to Mr.  
10 Richards' question.

11 MR. KELLER: So at any rate,  
12 that's on that. The bottom line is there's a  
13 lot of other procedures going on in the  
14 bankruptcy court, but the confirmation trial;  
15 that is, a trial on confirming the  
16 reorganization plan is currently scheduled for  
17 sometime between November 14th and 16th.

18 JUDGE SIPPEL: Of this year?

19 MR. KELLER: Of this year. It's  
20 anticipated that as a result of that trial,  
21 shortly thereafter the plan will be confirmed.  
22 And it's at that point that applications for

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1 assignment of license would be filed and the  
2 application for assignment of license of  
3 course would be accompanied by the second  
4 Thursday showing or the motion for  
5 extraordinary relief, however you want to call  
6 it.

7 JUDGE SIPPEL: What does that do  
8 for a date then? I mean, on our time frame  
9 what --

10 MR. KELLER: Well, first of all,  
11 it's going to depend, because it's going to  
12 depend on who the buyer ends up being and who  
13 we're working with on that, because this will  
14 not be primarily just a Maritime filing. It  
15 will be Maritime and Choctaw, or possibly  
16 Maritime and Council Tree, or, you know,  
17 whoever the court ultimately approves as the  
18 buyer.

19 JUDGE SIPPEL: Yes.

20 MR. KELLER: But assuming the  
21 court confirms the plan in mid-November, I  
22 would suppose that these filings would be made

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1 no later than the end of the year, possibly as  
2 soon as possible after confirmation of the  
3 plan.

4 JUDGE SIPPEL: That's what you  
5 would hope to do?

6 MR. KELLER: That's what I would  
7 hope to do.

8 JUDGE SIPPEL: Does that answer  
9 your question, Mr. Richards?

10 MR. RICHARDS: Yes, sir. Thank  
11 you.

12 JUDGE SIPPEL: Okay. Let me see,  
13 anything else to add to the bankruptcy  
14 situation?

15 MR. HAVENS: Your Honor, this is  
16 Warren Havens. I have something to add if you  
17 would permit.

18 JUDGE SIPPEL: Well, let me first  
19 start with counsel for Maritime and see if  
20 he's finished.

21 MR. KELLER: Well, that's the  
22 basic thing. I just wanted to let you know a

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1 couple of other things. Since the bankruptcy  
2 docket is kind of packed with this matter, I  
3 don't know how relevant this is going to end  
4 up being to those dates, whether it's going to  
5 cause any problems, but as you know the  
6 bankruptcy court had previously approved a  
7 number of the executory agreements, the basic  
8 assignment agreements, some of which are part  
9 of this proceeding, you know, the assignment  
10 applications. The court had granted its  
11 approval for the sale of those licenses.

12 My understanding is that Mr.  
13 Havens or his entities filed an appeal of that  
14 ruling, which in and of itself is we would --  
15 apparently the court needed to provide a  
16 record for that appeal. And it turns out they  
17 had a problem with that. The information that  
18 I got is it turns out that the court reporter;  
19 a very unfortunate case apparently, had  
20 Alzheimer's or something and there was a mess  
21 with the record.

22 So my understanding is that on

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1       September the 13th Judge Houston has scheduled  
2       a new hearing to redo those. He's going to  
3       have no new witnesses, no new exhibits. I  
4       think he said out of town witnesses and  
5       attorneys could attend by teleconference and  
6       he's going to rule the same way, but this is  
7       simply for the purpose of compiling the record  
8       that should have been there.

9                     It looks to me like, since that's  
10       September the 13th, there's a September 18th  
11       hearing scheduled on Mr. Havens' claim. So as  
12       far as I can tell -- excuse me, that's October  
13       the 15th. So as far as I can tell, this  
14       shouldn't interfere with the estimated  
15       November date, but I just wanted to disclose  
16       that in case this mess ends up pushing things  
17       forward.

18                    JUDGE SIPPEL: Is it appropriate  
19       now to ask Mr. Havens about what --

20                    MR. KELLER: That's all I have.

21                    JUDGE SIPPEL: Mr. Havens, two  
22       things: First of all, you said you had a

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1 question or something, but let me ask you up  
2 front, you want to explain what this hearing  
3 is involving yourself on the 18th of  
4 September?

5 MR. HAVENS: Yes, Your Honor,  
6 there's two hearings -- there are three  
7 hearings actually involving SkyTel and the  
8 bankruptcy, but the hearing you're talking  
9 about, that Mr. Keller briefly noted --

10 JUDGE SIPPEL: The one for  
11 September the 18th.

12 MR. HAVENS: Yes, my understanding  
13 -- I don't have all my files in front of me,  
14 but that's a hearing, like Mr. Keller said, to  
15 redo two hearings in the past where Maritime  
16 license assignment contracts were at issue.  
17 And in the past hearings the court did not  
18 have a court reporter who performed properly,  
19 and therefore there isn't a record of those  
20 past hearings.

21 And because SkyTel has challenged  
22 the court's approval of certain of these

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