

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

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)	
Authorizations in the Wireless Radio Services)	
)	
Applicant with ENCANA OIL AND GAS (USA),)	
INC.; DUQUESNE LIGHT COPANY; DCP)	
MIDSTREAM, LP; JACKSON COUNTY RURAL	)	Application File Nos.
MEMBERSHIP ELECTRIC COOPERATIVE; PUGET	)	0004030479,
SOUND ENERGY, INC.; ENBRIDGE ENERGY	)	0004144435, 0004193028,
COMPANY, INC.; INTERSTATE POWER AND	)	0004193328, 0004354053,
LIGHT COMPANY; WISCONSIN POWER AND	)	0004309872, 0004310060,
LIGHT COMPANY; DIXIE ELECTRIC	)	0004314903, 0004315013,
MEMBERSHIP CORPORATION, INC.; ATLAS	)	0004430505, 0004417199,
PIPELINE – MID CONTINENT, LLC; DENTON	)	0004419431, 0004422320,
COUNTY ELECTRIC COOPERATIVE, INC., DBA	)	0004422329, 0004507921,
COSERV ELECTRIC; AND SOUTHERN	)	0004153701, 0004526264,
CALIFORNIA REGIONAL RAIL AUTHORITY	)	0004636537, and
	)	0004604962
For Commission Consent to the Assignment of)	
Various Authorizations in the Wireless Radio)	
Services)	
)	

To: Marlene H. Dortch, Secretary
Filed on ECFS under FCC 12M-43
Attention: Chief Administrative Law Judge Richard L. Sippel

Warren Havens Comments on FCC 12M-44

Judge Sippel, in multiple statements in Orders in on the record in prehearings, acted to limit, bar, revoke, and threaten sanctions for employing, the party rights in this Hearing that the Commission established for myself in the HDO FCC 11-64 (“HDO”). (The rights include

presentation of fact and arguments, among other things, as meant by the term “party.” It did not mean only the “right” to be a fact provider.) The Commission established said party rights for good cause shown in the years of proceedings that lead to the HDO, including in the “Petitions” cited often in the HDO and recognized by Maritime (I held AMTS license applications, and are still pursuing some on appeal, I held other licenses in competition with Maritime and affiliates, etc.).¹

There is no hearing rule or other FCC rule that requires an individual party in a formal hearing to participate via an attorney at law. The rule the Judge cited was in regard to an individual representing a legal entity in a formal hearing. While in extreme cases, any party may be barred or curtailed in a formal hearing for serious repeated violations, in my case, the Commission made clear in the HDO that it has a sound basis for making me a party, and the Judge in this Hearing also commented on my beneficial contributions (see Attachment 5, for example). There is no cause for any sanctions, but was cause to allow or even encourage my participation. Muzzling then barring that was prejudicial to me, and in the circumstance I believe, is reversible error.

¹ No party asked the Commission to reconsider the designation in the HDO that I had individual party rights. The Judge does not have authority to reverse the Commission, or second guess it on this designation. (This is especially uncalled for, apart from lacking authority, since the Judge [apparently due to lack of staff support or budget] does not show an understanding of these petitions cited in the HDO, which is apparent, such as by the recent Glossary exercise, and not understanding the Wireless Bureau’s past declaratory rulings on the terms central to issue (g) which were presented in said petitions, and further presented by me in prehearings discussion—but to no avail—and with my “proffer” cut off). I was always a party (accepted by the Wireless Bureau) in all of the proceedings captioned in the HDO that lead to the HDO. Maritime itself challenged Warren Havens’ own licensing actions, and even cited to that in this Hearing. I have other basis for legal standing and party status, also. But that status was decided by the Commission, and the parties and Judge in this case did not lawfully engage in attempting to reverse that, long after the time for a petition for reconsideration of the HDO has passed.

After my multiple attempts over this year to retain party rights, in recent months, the Judge reiterated his decision, and further acted upon it, and stated in a Ruling that I had acted in violation, even willful violation of his Orders that I could not retain and use the party rights the Commission established (I cite these actions and decisions below). The Judge took these actions at the repeated request of Maritime, Pinnacle and other aligned parties (via their counsel).

Reserving all rights (partly indicated herein), I practically accepted the Judge's last decisions and actions in this (cited below) since it was futile to further attempt to keep and use party rights, and since the threat of allegation of willful violation of course meant that the Judge could and probably would impose sanctions that would have to be beyond what he already had decided and acted on (the denial of party rights, in fact).

Based thereupon, as I previously informed the Enforcement Bureau (which I had attempted to support before and during this Hearing) in matters under this Hearing, that I believe this revocation of party rights is reversible error and I intended to thus undertake appropriate action to seek reversal at any appropriate time. And also based thereupon, I have not take action in this Hearing.

The first order of business in this Hearing that the Judge undertook was to allow the other parties (but for the Enforcement Bureau and Puget Sound Energy, that is, the Maritime and closely aligned applicants listed in the HDO caption ("Maritime and Assignees") affiliates group to seek to limit or revoke participation by myself and companies I manage (in this Hearing, initially called together "SkyTel"). See FCC 11M-15 (ALJ, reI. June 16,2011). The HDO that commenced the Hearing made clear that it was these SkyTel parties that were largely responsible for the investigation and presentation of facts and law, over the course of a decade (form before Auction 61) that lead to the HDO and thus the Hearing. Yet, the Judge commenced the Hearing in this way, which is the opposite of what was called for, and eve since has acted to limit, discourage and

ultimately bar the person that was most responsible for the contributions, and that stood ready to contribute to the Hearing. In response to FCC 11M-15, the Enforcement Bureau expressed its views that any such limitation or bar would be improper, would damaged the Bureau's own prosecution of the case, and may well be reversible error. See Attachment 3 hereto.

The Bureau also is concerned that Maritime's and the Proposed Assignees' proposals, if effectuated, could be construed as unwarranted sanctions against Mr. Havens (who has not even been alleged to have engaged in any misbehavior in the course of this hearing) and could form the basis for a finding of reversible error.

I agreed then, and based on the actions of the Judge noted herein, I believe the limitation, frustration and the barring of my party rights is reversible error including reasons the Bureau presented in Attachment 3. I reserve all right to pursue this position and intend to do so. I did not petition for reinstatement of denial of party rights, and the time has passed to do that. I am not seeking here special relief for reinstatement.

I am willing, if I see value to any fair prosecution of the actual issues (which is another matter I don't address here) to participate as a non-party, either upon request by the Judge or the Enforcement Bureau (or possibly other parties), or by filings on ECFS I choose to make (ECFS is public) understanding those may be ignored by the Judge and expecting that (based upon the record of this case to date). However, I believe the course of conduct that repeatedly limited and barred my party rights, and threaten sanctions if I continued, caused irreparable injury and cannot be remedied (apart from a new hearing). After this course, I do not have any sound basis to believe that any further attempts to be reinstated as and act as a party will be properly and equitably considered, but I do have a sound basis to believe that such further attempt will lead to further violation of my rights (explained below) and suggestions that I was always accorded suitable participation rights and cannot assert reversible error.

I attach here (upload separately) several attachments or exhibits, with some items marked, supporting of points I make herein: the relevance is apparent and need not be restated here. (There are other relevant items, but I am not attempting here to present a whole case, or seek relief.)

As to the issue in FCC 12M-44 regarding whether I have separate interests form companies I manage that were also, separately, designated as parties in the HDO, I have several comments.

As I present above, the Commission established myself, and each said company, as separate parties, based on a decade of “petitions” cited in the HDO. The Judge lacks the authority to reverse that, or make me or any of these companies loose separate party rights, including by hiring the same attorney.

The Judge has no authority, nor does the Commission, to disrespect corporate existence and distinctions. Those are under State law. The SkyTel legal entities have separate FCC licenses and other assets, ownership (I do not even have any ownership in Environmental LLC directly, and none in Skybridge Spectrum Foundation), and activities. They chose their own legal counsel as they see fit. These distinctions are reflected in their FCC licensing applications, and Forms 602. The Commission has in Orders recognized these distinctions, when Maritime attempted to suggest they be deemed the same. This is part of the record underlying the HDO.

Each of the above companies is a separate business entity under Delaware law. See the State of Delaware online corporate database: <https://delecorp.delaware.gov/tin/GINameSearch.jsp>

I may submit other comments latter. A few follow.

I have separate financial resources and time from the (full time) I commit to managing SkyTel legal entities. I apply that as I chose and did that in this Hearing.

Skybridge Spectrum Foundation is a non-profit entity. It is managed by me. Under law, it cannot be managed or undertake commercial activity and has clearly separate “interests” from the for-profit companies I manage, and myself personally.

Each of the above Skytel-O and Skytel-H entities has their own unique FCC Registration Number and IRS Federal Employer Identification Number.

FCC Ownership reports can be viewed for each of the above entities at:

<https://fjallfoss.fcc.gov/coresWeb/simpleSearch.do;jsessionid=QrdNWnPXqGvzQ8LVIXkC03yYnL3vjQHt9XPqMP7p2p0pKwyy8913!1472010659!-1742122572>

Corporate law in the country and in State of Delaware has been in existence and is not subject to FCC jurisdiction in terms of creating and maintaining legal entities under state law.

Legal entities are created to limit the economic assets and actions and liability of the contributors and owners. Even if one individual fully owns a corporate entity, there is still an entirely clear legal distinction.

Apparently, the Judge (“ALJ”) believes that holding licenses or acting through a legal entity gives him the authority to determine whether a legal entity’s manager has pro se rights as a separate, individual party. However, under FCC rules, the ALJ does not have that authority. It was already decided in the HDO by the Commission that “each” Skytel entity is a party and so is Warren Havens, as supported by the Enforcement Bureau’s consolidated comments filed on July 21, 2011 noting that Havens’ exclusion could be reversible error. That was a Commission determination. ALJ does not have authority to make an inquiry about or determination contrary to the HDO findings.

Respectfully submitted,

DATED: October 2, 2012