

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 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	)	Application File Nos.
	)	0004030479, 0004144435,
Applicant for Modification of Various Authorizations in the Wireless Radio Services;	)	0004193028, 0004193328,
	)	0004354053, 0004309872,
	)	0004310060, 0004314903,
Applicant with ENCANA OIL AND GAS (USA), INC.; DUQUESNE LIGHT COMPANY; ET AL.	)	0004315013, 0004430505,
	)	0004417199, 0004419431,
	)	0004422320, 0004422329,
For Commission Consent to the Assignment of Various Authorizations in the Wireless Radio Services	)	0004507921, 0004153701,
	)	0004526264, and 0004604962

To: Marlene H. Dortch, Secretary
Attn: The Honorable Richard L. Sippel, Chief Administrative Law Judge

**CHOCTAW'S MOTION
TO CORRECT THE RECORD**

On January 23, 2013, Choctaw Telecommunications, LLC and Choctaw Holdings (hereinafter collectively "Choctaw") filed a Petition seeking a stay of the above-captioned hearing. On January 29, 2013, the Enforcement Bureau ("Bureau") opposed the Petition because "[t]he Presiding Judge has already considered and resolved this exact question."¹ The Bureau is incorrect and, as discussed below, omits from its Opposition key passages from the transcript discussing a prior stay request filed by a different party – Maritime Communications/Land Mobile, LLC ("MCLM") – on August 1, 2011. Choctaw thus seeks to correct the record.²

The Bureau states that the Presiding Judge's evaluation of the MCLM stay request are dispositive. However, a review of the transcript makes clear that the MCLM motion and the

¹ Opposition at 1-2.

² To the extent necessary, Choctaw respectfully requests leave to file this Motion.

Choctaw Petition are vastly different. During a status conference on October 25, 2011, MCLM indicated that it was not moving forward with discovery pending action on its stay request.³ In considering MLCM's request to stay the hearing and postpone discovery, the Presiding Judge stated:

. . . I understand the significance of your motion, and I don't intend to have any party do anything that's going to be, in the final analysis, a waste of time. . . . My job is to determine whether or not you've shown cause for delaying this proceeding. You can do what you want with the Second Thursday. And what I haven't seen, I haven't seen a clear delineation of facts that show you're really in a position to get that relief.

For example, do you have any buyers lined up that are ready, willing and able to go forward? Number two, where do the applications of all these parties stand, with respect to that? You can't force them to assign their interests to someone else.

*And that, alone, leads me to think that the issue is just not set to sit back say, well we don't have anything more to do in this case, unless Maritime gets turned down by the Commission and has to come back. I'm not there yet. . . .*⁴

Despite being the key discussion of MCLM's stay request, the Bureau fails to reference this passage at all in its Opposition. Moreover, approximately seventeen months have passed since MCLM filed its motion and the unresolved issues identified by the Presiding Judge now have answers:

- On November 15, 2012, the United States Bankruptcy Court, Northern District of Mississippi (the "Bankruptcy Court") confirmed the Chapter 11 reorganization of MCLM which called for the assignment of MCLM's licenses to Choctaw (the "Bankruptcy Plan");⁵

³ October 25, 2011 Prehearing Conference Transcript at 129-31 ("Transcript").

⁴ Transcript at 131-33 (emphasis added).

⁵ *In re Maritime Communications/Land Mobile, LLC*, Case No. 11-13463-DWH (N.D. Miss Bank. Ct., Nov. 15, 2012); *see also* Order Confirming Plan of Reorganization, *Maritime Communications/Land Mobile, LLC*, Case No. 11-13463-DWH (Bank. N.D. Miss., Jan. 11, 2013).

- On December 14, 2012, Choctaw intervened in this proceeding;⁶
- On January 23, 2013, MCLM and Choctaw filed applications with the FCC seeking approval to assign MCLM's licenses to Choctaw;⁷
- The assignment applications sought relief pursuant to the *Second Thursday* doctrine and demonstrated that Issue (g) could be addressed (i) as part of *Second Thursday* relief, (ii) by waivers granted by the Commission to accommodate *Second Thursday* relief, or (iii) by a determination that there is no legal basis upon which either the Presiding Judge or the Commission can lawfully conclude that the site-based licenses automatically cancelled due to permanent discontinuance.⁸

The facts and circumstances involved in Choctaw's Petition to Stay thus differ substantially from the MCLM motion previously considered by the Presiding Judge. Choctaw's Petition has not previously been "considered and resolved" by the Presiding Judge. In fact, the deficiencies identified by the Presiding Judge with regard to the prior MCLM motion do not exist with regard to the Choctaw Petition. Now that assignment applications are on file for the licenses at issue in the hearing and Choctaw has requested relief from the Commission that could potentially moot the need for the hearing, a stay is warranted.

Respectfully submitted,

CHOCTAW TELECOMMUNICATIONS, LLC
CHOCTAW HOLDINGS

By: /s/ Robert G. Kirk
Robert G. Kirk
J. Wade Lindsay
Mary N. O'Connor
WILKINSON BARKER KNAUER, LLP
2300 N Street, NW Suite 700
Washington, DC 20037
202.783.4141

Their Attorneys

January 30, 2013

⁶ Order, FCC 12M-60 (ALJ, rel. Dec. 14, 2012).

⁷ See FCC Assignment Application, ULS File No. 0005552500 (filed Jan. 23, 2013).

⁸ See *id.* at Description of Transaction, Public Interest Statement and *Second Thursday* Showing, at 10-12.

CERTIFICATE OF SERVICE

I, Paula Lewis, do hereby certify that on this 30th day of January 2013, the foregoing Motion for Leave to Correct the Record was served by email and first class mail, postage prepaid, on the following persons:

The Honorable Richard L. Sippel * Chief Administrative Law Judge Federal Communications Commission 445 12th Street, S.W., Room 1-C768 Washington, DC 20554	Sandra DePriest Maritime Communications/Land Mobile LLC 510 N. 7 th St. Columbus, MS 39701
Pamela A. Kane * Brian Carter Investigations and Hearing Division Enforcement Bureau Federal Communications Commission 445 12 th Street, S.W., Room 4-C3350 Washington, DC 20554	Jeffrey L. Sheldon Levine, Blaszak, Block & Boothby, LLP 2001 L Street, NW, Suite 900 Washington, DC 20036 Counsel for Puget Sound Energy, Inc.
Dennis C. Brown 8124 Cooke Court Suite 201 Manassas, VA 20109 Counsel for Maritime Communications/Land Mobile LLC	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.
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	Matthew J. Plache Albert J. Catalano Catalano & Plache, PLLC 3221 M Street, N.W. Washington, D.C. 20007 Counsel for Dixie Electric Membership Corp. Counsel for Pinnacle Wireless Corp.

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	James Ming Chen The Havener Law Firm, LLC 2904 Beaumont Road Louisville, KY 40205 Counsel for Warren Havens and SkyTel
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	

/s/ Paula Lewis
Paula Lewis

* Also served by hand delivery.