

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In re )  
)  
MARITIME COMMUNICATIONS/LAND MOBILE, ) EB Docket No. 11-71  
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 ) Application File Nos. 0004030479,  
) 0004144435, 0004193028, 0004193328,  
) 0004354053, 0004309872, 0004310060,  
Applicant with ENCANA OIL AND GAS (USA), ) 0004314903, 0004315013, 0004430505,  
INC.; DUQUESNE LIGHT COMPANY; DCP ) 0004417199, 0004419431, 0004422320,  
MIDSTREAM, LP; JACKSON COUNTY RURAL ) 0004422329, 0004507921, 0004153701,  
MEMBERSHIP ELECTRIC COOPERATIVE; PUGET ) 0004526264, 0004636537,  
SOUND ENERGY, INC.; ENBRIDGE ENERGY ) and 0004604962  
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

PROPOSED SCHEDULE  
From Warren Havens<sup>[\*]</sup>

1. Order, FCC 13M-17 (ALJ, rel. Aug. 14, 2013) directed the Enforcement Bureau, Maritime, and Mr. Havens (the undersigned) to respond by submitting proposed scheduling (“Response”), jointly if possible. As shown in Exhibit 2 hereto, Maritime and the Bureau first

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[\*] This is filed under the short deadline extension granted by Judge Sippel in response to my email request today as to a short time extension. See Exhibit 2 as to why I am about 40 minutes late versus the 3 pm extended filing time.

communicate among themselves as to a Response, as well as potential settlement “to resolve [settle] the remaining substantive questions pertaining to Issue G,” as described to me. Thereafter, last Friday afternoon, I was provided a copy of their proposed Response. (See Exhibit 2.) In my responsive emails, I requested certain relevant information, but they declined to provide substantive responses as to the related settlement potential and the schedule for the hearing. My requests were for the purpose of a possible joint Response, and to try to find out what they meant by a potential settlement, and if they indeed wanted to include me in that on some reasonable basis.<sup>1</sup> The discussions that included me, indicated above, were all in email. As Exhibit 2 below, I attach a copy of the email string showing this discussion, since it is relevant to my attempt to meet and confer and to parts of this Response below.

2. I am willing to further attempt with the Bureau and Maritime (and believe this must include Choctaw as well: see below) to agree on a joint schedule, if the Judge so orders. I do not believe that, short of such an Order, the Bureau and Maritime will seriously do that. Exhibit 2 reflects this conclusion, as well as past attempts by me to communicate with Maritime’s counsel and the Bureau’s counsel in this hearing on matters where the Judge instructed joint or coordinated submissions (e.g. on the Glossary exercise).<sup>2</sup>

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<sup>1</sup> I do not herein disclose content of any such settlement discussion, and I have no such content at this time, and no SkyTel legal entity has any such content at this time.

<sup>2</sup> As background, and as substantially shown in pleadings in this hearing (and in the Havens-parties’ “petition” proceedings described in FCC 11-64): Over most of a decade, I have tried to get the simple issues of fact and law, now called “issue (g)” in this proceeding, to be resolved by accurate required disclosures of Maritime and its predecessor Mobex, its persons in control, and the FCC including the Enforcement Bureau. This has been resisted directly and indirectly, and to this day is resisted. Critical evidence is hidden, spoiled, and when presented avoided. Information shared by Maritime and its affiliates with the Bureau and other parts of the FCC are withheld to me, by assertions of FOIA exemptions, as to information that must be provided in the subject public FCC filings (other information could have been redacted). Since I have not changed my position on these (no good cause has been shown to me to change), and the Bureau

3. To be clear, the Bureau and Maritime are not, at this time, engaged in discussions with me to resolve or settle the remaining substantive questions pertaining to Issue G. It is not clear if their bilateral settlement discussions will later involve me. To date, they have declined. This is reflected in Exhibit 2 hereto. I thus have no current basis to factor this in to a proposed schedule. I do not know, until I review the filed Response of the Bureau and Maritime, if I will oppose elements of their Response. I will likely oppose a settlement proposal they come up with for submission to the Judge that did not include me under reasonable protocols including since it may unacceptably compromise the interests I have, and the public interest, and cause substantial further pleadings in many pending proceedings on Maritime's site-based licenses before the Wireless Bureau and Commission (which I believe may, in turn, affect issue (g) matters in this hearing under 11-71).

4. I intend to have, but have not yet fully secured, legal counsel for the hearing and some pre-hearing matters. I believe that, on balance, this will better enable me and interests I represent (I am the President of "SkyTel" legal entities designated as parties in FCC 11-64) to effectively participate in the procedures and substantive matters to complete the hearing. Once I secure counsel, they may request a modest extension of time on some items I propose below, if in the circumstance there is good cause to request that.

5. I propose the following schedule. An explanation of the first three rows is given below. It is modestly extended in time verses the draft given to me by the Bureau and Maritime.

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apparently has more limited interests and other interests than what I present in my filings, this has apparently lead the Bureau to have little interest in communication with me on matters I believe and try to show are at the heart of this hearing in docket 11-71, except occasionally short instructions and communications that lack meaningful exchange. (The Bureau will, I am sure, disagree.) As for Maritime, its counsel have never been willing to discuss with me substantively, even when Ordered to do so by Judge Sippel. Said counsel in this hearing, Mr. Keller, explained his reasons. I opposed those reasons. On my side, I continue to attempt to communicate with the Bureau, and from time to time with Maritime counsel and Choctaw.

In this regard, the issue (g) matters are decades in the making, and years long since they have been before the Bureau and thereafter Judge Sippel. Maritime has obtained extensive additional time, directly and indirectly, in a final resolution of these matters, including by its bankruptcy (the results of which are on appeal by Skytel, success of which will effect actions taken by Maritime and Choctaw before the FCC including in this hearing). There does not appear to be good cause for a hearing schedule that is accelerated verses what I propose below.

[Go to next page.]

Substantive Motions regarding matters that should precede a hearing on issue (g) (see discussion below)	October 31, 2013
Response to Substantive Motions matters that should precede a hearing on issue (g) (see discussion below)	November 21, 2013
Determinations of the above may cause change in the below	
Direct Cases Exchanged – direct case exhibits and written direct testimony to be exchanged	6 weeks after the Presiding Judge rules on any Substantive Motions to Resolve Issue G (but excluding December 21-January 2)
Witness Notification for Cross Examination – exchange of witness lists	14 calendar days after Direct Cases exchanged
Objections to Witnesses for Cross Examination – exchange of witness lists	14 days after Witness Notification exchanged
Evidence Admission Session  Objections to Direct Case exhibits and/or testimony  Response to Objections to Direct Case exhibits and/or testimony  Presiding Judge to Rule on Exhibit Objections	Three weeks after Objections to Witnesses for Cross Examination
Trial Briefs EB, Maritime, Skytel	Three weeks after Evidence Admission Session
Hearing Commences	A Tuesday three weeks after Trial Briefs are filed

6. As to the first item in the table above: I urge the presiding judge to permit additional time for the consideration of the following matters for reasons that are substantially apparent, including in the interest of maximizing judicial efficiency and minimizing potential conflict among decisions within the Federal Communications Commission. The proposed pending settlement may hinge upon the presentation and resolution of relevant motions affecting some or all of the following issues or matters:

1. What interests Warren Havens may assert, either on his own behalf or on behalf of the SkyTel companies, in this matter. (There is an open issue before the Judge in this regard: my last response has not been acted upon. I also note here that I am seeking to secure counsel, as noted above. But I may proceed pro se, to some extent.)

2. Whether Choctaw Telecommunications is an indispensable party to these proceedings. (I have raised this issue in this hearing, and before the Wireless Bureau. It is pending in both cases.)

3. Whether MCLM, in accordance with the Chapter 11 plan confirmed by the federal bankruptcy court for Mississippi, may proceed on its own in this matter. (I have raised this issue in this hearing, and before the Wireless Bureau. It is pending in both cases.)

4. Whether MCLM and Choctaw may proceed with their petitions, currently pending before the Wireless Telecommunications Bureau, for authorization to transfer licenses, including all of the site-based licenses, under relief they seek characterized as being pursuant to the *Second Thursday* doctrine, or footnote 7 of the Order to Show Cause/Hearing Designation Order, or other special relief, notwithstanding the presiding judge's denial of summary decision in FCC 13-M16 and intention to resolve issue (g) in this hearing in docket 11-71. (I have raised this issue also, and it is pending.)

5. Other issues or matters. See Exhibit 1 below.

Respectfully submitted,

/s/

Warren Havens

2509 Stuart Street, Berkeley CA 94705 / (510) 848 7797, 841 2220.

August 27, 2013

I submit these at this time as only as matters that may be subject to proper motions in the first row of the proposed schedule chart above. I am seeking legal counsel on these matters. Some of these may be included in par. 6 above (in other language):

1. Determination by Wireless Bureau (WB) re MCLM-Choctaw motion to allow site based to be kept and sold under Second T and FN7 special relief requests. Consider conflict re 11-71. Potentially: Either MCLM-Choctaw have to withdraw that request, as to the site based licenses, or the Judge and the Chief of WB have to decide which comes first. The WB put this matter on PN, and and got a lot of pleadings, and thus, Chief of WB seems to think that WB can decide this.

2. FCC decision on MCLM-Choctaw special request (docket \_\_ ) for Second T and FN7 relief. FCC decision on MCLM assignment of the site based licenses to Choctaw.

3. Judge Sippel decides on Glossary. Otherwise, the whole purpose of this is lost. The need for this is shown in the Order on MSJ.

4. Determination by Wireless Bureau (B) on the pending issue presented by Skytel: if under the Ch 11 Plan, MCLM has full authority vs Choctaw to take any action with the MCLM icenses involved, including defend issue (g) in a Hearing. If not, then the effective transfer of control is not approved by Wireless Bureau and this issue (g) cannot go to Hearing. This is an issued since (a) Choctaw entered the hearing, acted for MCLM on its own (its pleadings not signed by MCLM), was hit by EB discovery, then left the Hearing, and (b) the Order on MSJ did not address Choctaw.

5. Determination of open issue in the hearing, presented by Skytel, of the evidence regarding the NCASS boxes, and the evidence from the NJ case discovery, and of MCLM withholding this in discovery in the hearing.

6. Determination by Wireless B/ Commission on Skytel's pending petitions: To find all the site based licenses auto terminated for lack of required continuity of service. Secondly, to find under 80.70 and the cooperation orders, not only failure to cooperate and thus reduction of spectrum and coverage limits, but also no construction at all. The Wireless B can, indeed, make negative inferences and this finding.

7. Determinations on our pending FOIA request that relate to MCLM. Have to check to see if any still pending before any part of the FCC.

8. Wireless B decisions re pending renewals of site based licenses.

9. The Northeast Utilities Order cited in the Judge's decision on the motion for summary decision is on appeal, including its standard to allow case by case, and what is sufficient attempt to get back on the air. Decision in this may affect this hearing in issue (g).

10. Wireless B decision on pending appeal by SkyTel re rule 80.385 coverage, as extended at request of Mobex by a rule change. This pertains to construction and permanent discontinuance. This is on appeal. This was appealed to to DC Circuit, then back to FCC and is still pending.

11. New discovery based on FRCP 56(d) considerations. Re the "100 NCASS boxes," the hundreds of other boxes per testimony of Mr. Predmore in the New Jersey case (Skytel entities v Maritime and Mobex), and perjury informed / instructed by Mr. Reardon (per Predmore testimony), MCLM counsel protecting the apparent fraud, crime. The site based licenses not constructed and in operation before sold to MCLM, etc. Knowledge of issue (g) facts held by Applicants, and not presented, or misrepresented. E.g., SCRRA knew site based not in operation with customers. These matters are substantially pending in this 11-71 hearing and the Wireless B.

12. The default of Mobex and thus its admissions in the New Jersey case. Admissions of violation of US antitrust law by Mobex and Maritime in concert as set forth in the SkyTel entities complaint. Ramifications under 47 USC §§314, 313 in the pending FCC proceedings including issue (g) in this 11-71 hearing.

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Exhibit 2

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Attached in pages below.

For unknown reasons, my Adobe Pro program would not, in the PDF of this filing, insert the PDF of this Exhibit 2 (an 8 page email text). I rebooted but that did not solve the problem. I then selected the text and pasted it below. But it causes loss of some of the original email formatting. I am thus submitting this Exhibit 2 as a separate PDF.

This took me an extra half hour, otherwise, I would have filed this on time.

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## CERTIFICATE OF SERVICE

The undersigned certifies that he has on this 27<sup>th</sup> day of August, 2013, caused to be served by first class United States mail copies of the foregoing “PROPOSED SCHEDULE” to:

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/s/  
Warren Havens