

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In re)	
)	
MARITIME COMMUNICATIONS/LAND MOBILE, LLC)	
)	
Participant in Auction No. 61 and Licensee of Various	)	EB Docket No. 11-71
Authorizations in the Wireless Radio Services)	
	)	File No. EB-09-IH-1751
Applicant for Modification of Various Authorizations in the)	
Wireless Radio Services	)	FRN: 0013587779
)	
Applicant with ENCANA OIL AND GAS (USA), INC.;	)	Application File Nos.
DUQUESNE LIGHT COMPANY; DCP MIDSTREAM, LP;	)	0004030479, 0004144435,
JACKSON COUNTY RURAL MEMBERSHIP ELECTRIC	)	0004193028, 0004193328,
COOPERATIVE; PUGET SOUND ENERGY, INC.;	)	0004354053, 0004309872,
ENBRIDGE ENERGY COMPANY, INC.; INTERSTATE	)	0004310060, 0004314903,
POWER AND LIGHT COMPANY; WISCONSIN POWER	)	0004315013, 0004430505,
AND LIGHT COMPANY; DIXIE ELECTRIC MEMBERSHIP	)	0004417199, 0004419431,
CORPORATION, INC.; ATLAS PIPELINE – MID	)	0004422320, 0004422329,
CONTINENT, LLC; DENTON COUNTY ELECTRIC	)	0004507921, 0004153701,
COOPERATIVE, INC., DBA COSERV ELECTRIC; AND	)	0004526264, 0004636537,
SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY	)	and 0004604962

To: Marlene H. Dortch, Secretary

Attention: Chief Administrative Law Judge Richard L. Sippel

Havens-SkyTel¹ Additional Motions Under Order 13M-19

Warren Havens (“Havens”) concurrently submits in two pleadings multiple motions of the nature contemplated by Order 13M-19 that are due today, December 2, 2013. This Order granted, with some changes, the Havens proposed schedules: the one before and the one after the government shutdown, the first of which summarized the nature of scope of motions Havens was

¹ This is submitted by Warren Havens, a previously defined “SkyTel” entity. Herein, “Havens” and “SkyTel” each mean Warren Havens, unless explained otherwise in any usage. As previously reported, Havens expects to secure representative counsel for or before the hearing. In addition, Havens actions in this hearing on a pro se basis have been informed by assisting counsel as to procedure and substance.

considering. The motions submitted herewith are within that nature and scope.² Havens First Motion is separately submitted.

Background, Nature and Scope

I refer to and incorporate herein the section in my First Motion under this subtitle since it substantially applies to this pleading as well. The Summary in the First Motion is also relevant to this pleading.

The First Motion including its appended materials and Declaration, provide a foundation for supported of the Additional Motions below.

Motion 2

Request for a Declaration that Any Relief From a Full Hearing on Any HDO Issue, Including Issue (g), Must be in this Hearing

I request a declaration binding on Maritime that it cannot obtain any relief from any issue in the HDO, including issue (g), outside of this hearing under the HDO in docket 11-71, absent grant by the full Commission of any such relief, and thus, that Maritime's attempt to obtain relief by submitting before the Wireless Bureau Chief requests relating to the so-called "Second Thursday" doctrine, "footnote 7" in the HDO, rule waivers, and any other basis, be deemed ineffective and moot. While the Wireless Bureau may have properly asked for public comments on the request by Maritime for the relief just noted, no FCC official has ruled that Maritime may obtain any relief from issues in the HDO from the Wireless Bureau.

The Commission established a hearing by the HDO before Judge Sippel. FCC rule §0.031 provides in pertinent part (emphasis added):

(a) After an administrative law judge has been designated to preside at a hearing and until he has issued an initial decision or certified the record to the

² Neither Judge Sippel, nor the Enforcement Bureau, Maritime or any other party issued any statement objecting to this nature and scope.

Commission for decision, or the proceeding has been transferred to another administrative law judge, all motions, petitions and other pleadings shall be acted upon by such administrative law judge, except the following:

(1) Those which are to be acted upon by the Commission. See § 1.291(a)(1) of this chapter.

(2) Those which are to be acted upon by the Chief Administrative Law Judge under § 0.351.

As to the Wireless Bureau's authority, § 0.131 provides in pertinent part (emphasis added):

... The Bureau also performs the following specific functions:

(a) [A]cts for the Commission under delegated authority, in.... adjudicatory proceedings, including licensing and complaint proceedings for matters not within the responsibility of the Enforcement Bureau; ... compliance and enforcement activities for matters not within the responsibility of the Enforcement Bureau....

Since the Commission established in the HDO that that Judge Sippel will conduct and rule on matters in this hearing, and delegated to the Enforcement Bureau the task of prosecuting the case for the Commission, and since the Commission did not delegate to the Wireless Bureau authority under §0.131 of any matter under the HDO, "all pleadings" including for any relief from an HDO issues, including issue (g) must be before and "acted upon by ... administrative law judge" Sippel.

In addition, § 0.331 provides in pertinent part (emphasis added):

The Chief, Wireless Telecommunications Bureau, is hereby delegated authority to perform all functions of the Bureau, described in § 0.131, subject to the exceptions and limitations in paragraphs (a) through (d) of this section, and also the functions described in paragraph (e) of this section.

(a) Authority concerning applications. (1) The Chief, Wireless Telecommunications Bureau shall not have authority to act on any radio applications that are in hearing status.

(2) The Chief, Wireless Telecommunications Bureau shall not have authority to act on any complaints, petitions or requests, whether or not accompanied by an application, when such complaints, petitions or requests present new or novel questions of law or policy which cannot be resolved under outstanding Commission precedents and guidelines.

The above-noted Maritime relief requests all deal with “applications that are in hearing status (the applications captioned in the HDO, and Maritime license applications submitted during this hearing on licenses in this hearing, including the renewal of license WRV374 for multiple stations along the Atlantic Coast) and also present “new or novel questions of law or policy” including attempts to greatly expand the so-called “Second Thursday” doctrine purpose and scope, and a newly asserted “footnote 7”³ doctrine (that a self-proclaimed critical-service assignee can assert unproven needs, and then be entitled to purchase spectrum otherwise subject to revocation or termination and the Jefferson Radio policy), and rule “waiver” relief that can trump enforcement of rules and their purposes.

Thus, as shown above (i) Maritime cannot validly seek, and cannot obtain, such relief from the Wireless Bureau Chief, (ii) nor otherwise before the Wireless Bureau.

³ HDO footnote 7. In addition, this provided that any relief under this footnote must be submitted to the Commission (“we will ... consider,” the Commission wrote), not to the Wireless Bureau or to Judge Sippel.

Motion 3

Motion to Rule on the Glossary Submissions and Related Construction-Authorities Memo from attorney Jim Chen for Havens.

I request that Judge Sippel rule on these matters so that the parties can proceed more efficiently in this hearing to its conclusion.

Alternatively, I request permission to supplement the Havens-SkyTel submissions on these matters, including in light of the Maritime-Enforcement Motion filed today which further asserts interpretations of the fundamental terms involved in said Glossary and Construction-Authority submissions. I believe such assertions are at odds with and add to those already submitted by Maritime and the Enforcement Bureau, and are an effective late-filed opposition to the already submitted Havens-SkyTel submissions indicated above in the time period allowed by the Judge.

Conclusion

For good cause shown above, I request grant of the requests submitted above.

Respectfully,

/s/

Warren Havens
2509 Stuart Street, Berkeley CA 94705
(510) 841 2220

December 2, 2013

Declaration

I declare under penalty of perjury that the facts in the pleading above, and its appended materials, that are attributed or attributable to my actions or knowledge are true and correct.

Submitted December 2, 2013

/s/

Warren Havens

2509 Stuart Street, Berkeley CA 94705

CERTIFICATE OF SERVICE

The undersigned certifies that he has on this 2nd day of December, 2013, caused to be served by first class United States mail copies of the foregoing “Motion to Amend Schedule” to:

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Chief Administrative Law Judge
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