Before the
FEDERAL COMMUNTCATIONS COMM1SSION
Washington, D.C. 20554

In re	)	
	)	
MARITIME COMMUNICATIONS/LAND MOBILE, LLC	)	EB Docket No. 11-71
	)	File No. EB-09-01-1751
Participation in Auction No. 61 and Licensee	)	FRN: 001358779
Of Various Authorizations in the Wireless	)	
Radio Services	)	
	)	
Applicant for Modification of Various	)	App. FNs 0004030479,
Authorizations in the Wireless Radio Services	)	0004144435, 0004193028,
Applicant with ENCANA OIL AND GAS	)	0004193328, 0004354053,
(USA), INC.; DUQUESNE LIGHT	)	0004309872, 0004310060,
COPANY; DCP MIDSTREAM, LP;	)	0004314903, 0004315013,
JACKSON COUNTY RURAL,	)	0004430505, 0004417199,
MEMBERSHIP ELECTRIC	)	0004419431, 0004422320,
COOPERATIVE; PUGET SOUND	)	0004422329, 0004507921,
ENERGY, INC.; INTERSTATE	)	0004153701, 0004526264,
POWER AND LIGHT COMPANY; ET AL.	)	0004636537, 0004604962.

To: Marlene H. Dorch, Secretary
Attention: Chief Administrative Law Judge Richard L. Sippel

Request under Section 1.301(b)

The undersigned, Warren Havens ("Havens") submits this request under and for purposes of rule section 1.301(b) with regard to the December 19, 2013 Order FCC 13M-22 ("the Order") of the Administrative Law Judge Sippel (the "ALJ") (the "Request"). Herein, "Maritime" means Maritime Communications/ Land Mobile LLC, and "EB" means the FCC Enforcement Bureau.

Initially, Havens' assisting counsel intend to take action to satisfy their respective obligations, if any, in connection with Paragraph No. 6 of the ALJ's December 19 Order (FCC 13M-22), no later than January 6, 2014. This filing does not purport to comment on what action assisting counsel will take in that regard."

The Order includes (1) a requirement upon Havens that his assisting counsel, noted in his December 2, 2013 pleading ("To Reject Settlement, Proceed with the Hearing…") which

opposed the "EB-Maritime Motion filed earlier on the same day[1] (the "EB-M Motion," for a settlement and summary decision) (the "Havens Initial Opposition"),[2] take action to appear in this hearing, (2) a full rejection of the Havens Initial Opposition deeming it untimely, and (3) a finding that the Havens Initial Opposition was subject to an alleged ALJ Order that all pleadings in this proceeding must be filed by 5:30 PM Eastern Time, and that it was a motion (only a motion) that was due on December 2, 2013.[3]

I seek to appeal these to the Commission as together presenting "new or novel question[s] of law or policy and that the Order is such that error would be likely to require remand should the appeal be deferred and raised as an exception"[4] (the "1.301(b) Standard").

I respectfully believe that '(1)' has no basis in law or equity including since the reasons given in the Order--alleged past "confusion" created by Havens's and SkyTel entities' participation in cases on a pro se basis, and to some degree via representative legal counsel, were resolved in the past,[5] and to use a settled matter as the basis to impose a sanction (see below) is a new and novel expansion of authority, and otherwise meets the 1.301(b) Standard; that '(2)' is the exercise of new and novel, and impermissible, unbridled authority, and otherwise meets the 1.301(b) Standard, in that it recharacterizes over 95% of a pleading to artificially create a defect (assuming in the first place that 5:30 pm was the deadline, and no extension of that after business hours was reasonable), then acts on the false characterization to entirely reject a major filing (the

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[1] It also contained a motion seeking that certain further discovery be permitted, stated on one of the 61 pages. The remainder was an opposition to the EB-M Motion.

[2] Also noted in Havens second, more full Opposition to the EB-M Motion filed 12-16-2013.

[3] It was in fact over 95% (all but for approximately one page that presented a motion) and opposition due two weeks after December 2. It was filed early, not late, and was the opposite of prejudicial to EB and Maritime.

[4] If these, or any of these, were in error, the ALJ can correct them. However, these each appear to be taken after substantial consideration, and thus do not appear to be inadvertent error.

[5] Havens complied with the Judge's orders as to his notice of appearance, and statement of why he chose to participate, and his ceasing (under protest) to represent any SkyTel entity pro se.

only one to pursue issue (g) prosecution as the Commission set out in the HDO, FCC 11-64), and that '(3)' is, likewise, an artificial imposition and with no benefit, imposed only on Havens, and thus is also part of the Order's new and novel expansion of authority and otherwise meets the 1.301(b) Standard.

In addition, (4) the Order effectively "denies or terminates the right ...[of Havens] ... to participate as a party to a hearing proceeding," as described in §1.301(a)(1), for reasons given above, and since it imposes "sanctions" and sanctions cannot be applied but when authorized by agency law, and no FCC law authorizes the above. Under the Administrative Procedures Act ("APA"): a "sanction" includes a "requirement, limitation, or other condition affecting the freedom of a person," "withholding relief," and "taking... restrictive action," and where "relief" means "recognition of a ...right". 5 USC §551. The APA, in 5 USC § 558, "Imposition of sanctions; determination of applications for licenses…" provides "(a) This section applies according to the provisions thereof, to the exercise of a power or authority, (b) A sanction may not be imposed or a substantive rule or order issued except within jurisdiction delegated to the agency and as authorized by law." I submit this issue '(4)' as a further matter under §1.301(b) that is new or novel, and otherwise meets the 1.301(b) Standard.

Further regarding issue '(1)': there is no FCC rule, and no case precedent I can find, that prohibits a pro se party acting before the FCC to use assisting counsel, or that provide authority to any FCC employee, Office or Bureau, or the Commission, to require an appearance of said assisting counsel. Doing so imposes time and cost on the pro se party, and places a chill and cloud on the party's participation and attempt to use assisting counsel to improve his participation.[6]

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[6] In addition, the Judge did not impose the same requirement on Maritime or the other parties: it is apparent that they have counsel other than representative counsel that are involved in their pleadings, for example, Maritime uses bankruptcy and licensing counsel, which are not Mr. Keller, and the same applies for the other or most of the other parties.

Further regarding issue ‘(3)’: The Judge established that pleadings in this proceeding be filed on EFCS filings which allows them up to midnight, and his later Orders’ footnotes read together only say that he "recommends" filing by close of business, and his Orders only requests that courtesy copies be sent by email. Filing by 5:30 pm or by midnight makes no practical difference and EFCS does not provide any filing confirmation receipt that has the time of filing (it does not even have the day of filing) and EFCS has no means to later ascertain the time of filing. In addition, as to Havens December 16 Opposition, I got permission to file from the Judge’s staff as I proposed (before midnight, and in multiple parts, etc.), citing the Judge’s last Order on this topic that had such a footnote that allowed ECFS filing by midnight, and only filing by close of business (this is shown in an attachment to this December 16 filing).

I intend to replace this with a filing on the next business day for reasons I will explain in that filing.

For the above reasons, I request permission to appeal these three issues to the Commission.

Respectfully submitted,

/s/
Warren Havens

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Dated: May 8, 2013

CERTIFICATE OF SERVICE

The undersigned certifies that he has on this 16th day of December, 2013 caused to be served by first class United States mail copies of the foregoing "Request" to:

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Chief Adminstrative Law Judge
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/ s / [Electronically signed. Signature on file.]

Warren Havens