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

FCC 14M-3

In the Matter of	)	EB Docket No. 11-71
	)	
MARITIME COMMUNICATIONS/LAND 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	)	
	)	Application File Nos. 0004030479, 0004144435, 0004193028, 0004193328, 0004354053, 0004309872, 0004310060, 0004314903, 0004315013, 0004430505, 0004417199, 0004419431, 0004422320, 0004422329, 0004507921, 0004153701, 0004526264, and 0004604962
Applicant for Modification of Various Authorizations in the Wireless Radio Services	)	
	)	
Applicant with **ENCANA OIL AND GAS (USA), INC.; DUQUESNE LIGHT COMPANY, DCP MIDSTREAM, LP; JACKSON COUNTY RURAL MEMBERSHIP ELECTRIC COOPERATIVE; PUGET SOUND ENERGY, INC.; ENBRIDGE ENERGY COMPANY, INC.; INTERSTATE POWER AND LIGHT COMPANY; WISCONSIN POWER AND LIGHT COMPANY; DIXIE ELECTRIC MEMBERHIP CORPORATION, INC.; ATLAS PIPELINE-MID CONTINENT, LLC; AND SOUTHERN; CALIFORNIA REGIONAL RAIL AUTHORITY**	)	
	)	
For Commission Consent to the Assignment of Various Authorizations in the Wireless Radio Service	)	

ORDER

Issued: January 17, 2014 **Released: January 17, 2014**

In the prehearing conference held January 17, 2014, Warren Havens repeatedly asserted attorney-client privilege ("privilege") with respect to questions directed to him and counsel associated with him in this proceeding.

To successfully assert that a communication subject to privilege, a party must establish (1) the existence of an attorney-client relationship; (2) the existence of a communication from the

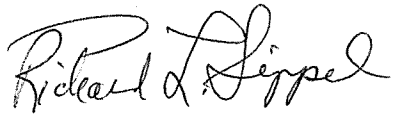
client to his or her attorney; (3) that the communication is legally related; and, (4) that there is an expectation of confidentiality as to that communication.[1]

When asked to present qualifying factual circumstances surrounding Mr. Havens' relationships and communications with counsel, Mr. Havens repeatedly asserted privilege with respect to such circumstances. Generally, Mr. Havens did not assert privilege with regard to the specific questions asked, but consistently referred to a pre-emptive, blanket assertion of privilege that he made in his letter to the Presiding Judge dated January 15, 2014, and his Motion For Relief Regarding Order FCC 14M-1 ("Motion") filed that same day.[2] In other instances, Mr. Havens failed to assert privilege at all. Rather, Mr. Havens, who asserts that he is participating *pro se*, refused questions presented to him by the Presiding Judge regarding not only the factual circumstances supporting his assertion of attorney-client privilege, but also whether he was invoking privilege at all, until such time that he is represented by an attorney.

Mr. Havens and related counsel, current and former, have refused to provide the necessary unprotected information that would be used in order to assert any of the elements of an attorney-client privilege assertion. Accordingly, Mr. Havens' claims of attorney-client and other privilege **ARE OVERRULED**.[3]

SO ORDERED.

FEDERAL COMMUNICATIONS COMMISSION[4]



Richard L. Sippel
Chief Administrative Law Judge

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[1] *WWOR-TV, Inc.*, 5 FCC Rcd 6261, 6262 ¶ 11 (1990).

[2] In his Motion, Mr. Havens claims that he and the SkyTel parties, which he has from time to time claimed not to represent in this proceeding, are "fully [protected by] attorney-client communication and relation [sic] privileges." Motion at 2 ¶ 2. At the prehearing conference of January 17, 2014, Mr. Havens asserted that the protection he sought was much broader than attorney-client privilege. The Presiding Judge will not consider such an ill-defined, blanket assertion of "[privileges] as to communications, work product, confidentiality, and other matters," Motion at 2 n.5, that were not raised by Mr. Havens or any of his counsel with respect to particular questions asked in the January 17, 2014, prehearing conference.

[3] Additional support for this ruling can be found in the forthcoming transcript of the prehearing conference. Further questioning by the Presiding Judge is withheld until all interlocutory appeals of this *Order* to the Commission are resolved.

[4] Courtesy copies of this *Order* are e-mailed on issuance to each counsel and to Mr. Havens.