

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION
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 Of Various)	FRN: 001358779
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, <i>Et al.</i>)	0004193328, 0004354053, etc.

To: Marlene Dortch, Secretary. Attn: the Commission

Interlocutory Appeal Under § 1.301(a), [Errata Copy](#)^[*]

The undersigned (“Havens”) hereby appeals under §1.301(a)(1) the ~~January 8,~~ [February 26,](#) 2014 Order FCC 14M-7 of ALJ Sippel (the “ALJ”) (“M7”) (“M7 Appeal”). Please review this with other pending interlocutory appeals I filed regarding other Orders of the ALJ in this docket.

M7 “denies or terminates the right of any person to participate as a party to a hearing proceeding,” namely my rights, since (i) it upheld the ALJ’s preceding full rejection, as allegedly tardy, of my December 2, 2013 timely opposition to the Maritime and Enforcement Bureau joint motion for a full settlement and summary decision (“M-EB Motion for Settlement- Decision”) (“Dec 2 Opposition”),¹ of the sole matter in this hearing as it has been conducted by the ALJ (i.e., “issue (g)” from FCC 11-64), [and](#) (ii) it ignored the simple facts I presented in my appeal to the ALJ under §1.301(b) which was decided on in M7 that the Dec 2 Opposition was filed *13 days early*, and it found no reason to deny my request to reverse the previous rejection and to reinstate for processing the Dec 2 Opposition. When a judge entirely skirts the simple facts of a pleading of decisional importance that show it was procedurally sound both initially, and in a

^[*] [This is an errata copy: changes shown in dark blue.](#) / This is submitted on EFCS. The office of Secretary has informed me that an interlocutory appeal in this docket may be filed on due day up to midnight, under standard EFCS procedure, and I showed in the preceding, still pending interlocutory appeals in this docket.

¹ This was stated as my initial opposition, and its content was an opposition, but for a minor part that was a motion. M7 did not find or suggest otherwise, or has the ALJ in any other release found or suggested otherwise, apparently since it is a simple fact shown by a direct reading.

proper appeal, and rejects the pleading two times, without even addressing said simple facts shown on the face of the pleading, and again in the proper appeal, it is no different than, and clearly worse than, an order that outright rejects the participation rights of the party that filed the pleading for no cause. That is what the ALJ did in M7.

That is worse than said outright denial or termination of the party's participant rights since the ALJ in M7 attempts to mask the denial and termination by extensive smokescreens including spurious accusations against me, and it sends prejudicial and damaging signals to Maritime and the Enforcement Bureau, and to new counsel I am seeking for this hearing (as I have often told the ALJ in writing), that no matter what I file, this ALJ will find a way to avoid it, strike it, suggest I am causing excessive litigation, and anything but dealing with the substance, and accepting proper procedure involved.^{2/3}

As noted above, the M-EB Motion for Settlement- Decision seeks to fully dispose of the subject hearing, and my Dec 2 Opposition⁴ thus is of decisional importance to my participation. By rejecting ~~ed~~ that initially and in M7 without cause, and in this manner, the ALJ denies or terminates my participation rights.

I request that the Commission grant appropriate relief, including instructing the ALJ to

² The assertions of this sentence are further demonstrated in my pending interlocutory appeals from this proceeding, and the underlying matters those appeals summarily describe.

³ While this may not have been the ALJ's intent and signaling earlier in the hearing, it has now become clear, and coincides with my preceding interlocutory appeals in this docket in which I challenge the ALJ and indicate that I have good cause to, and plan to, file a motion to disqualify. M7, and the ALJ's immediately preceding Orders, appear to be in response to, and attempt to muddy and ward off, those challenges since they (*those ALJ decisions*) contain a lot of irrelevant, misleading, unsupported and unsupportable characterizations of my pleadings and participation in this proceeding, and unjustified encroachments into my right to use assisting counsel prior, at times: it is apparent that these would not be included but for such a purpose.

⁴ I filed on December 16, 2013 a further Opposition. This was the due date under the ALJ's scheduling order. I filed it after consultation with the ALJ offices as to filing procedure, including filing by midnight, and attached that communication to this further Opposition. But in M7, the ALJ indicates, by my reading, that he will reject this further Opposition also, alleging that since it was filed after 5:30, it is untimely. Since the instant filing deals with avoidance by the ALJ of matters, to cause prejudice, I note here that the ALJ Order to require pleadings on ECFS, allows filing by standard EFCS procedure, which is by midnight. See Exhibit 1 below.

process my Dec 2 Opposition (that was filed 13 days early), and all other pleading filed on time on the due date in accord with Exhibit 1 below which is incorporated herein.

Respectfully submitted,

/s/

Warren Havens

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March 6, 2014

The following are Orders of the ALJ in this proceeding. (Emphasis added below.)

(1) FCC12M-43, dated 9-25-2012, contains the following (emphasis added):

For reasons of judicial and administrative effectiveness, the Presiding Judge hereby approves electronic filing of pleadings by counsel in this proceeding. Accordingly, IT IS ORDERED that, effective October 1, 2012, parties to this proceeding are authorized to file pleadings through the FCC Secretary's Electronic Comment Filing System - ECFS. In furtherance of ensuring a seamless transition and to assist the parties' compliance, the following guidelines are instituted: 1/ (1) Counsel for each party shall consult the Secretary's guidelines for electronic filing in docketed proceedings as found on the Secretary's page of the FCC website. (2) After filing the document electronically, counsel shall retain the electronic proof of filing receipt. (3) Counsel shall e-mail a courtesy copy of the electronically filed document to the Presiding Judge that includes a copy of the proof of filing receipt.... The Office of Administrative Law Judges is not responsible for monitoring EDOCS/ECFS system for documents that are filed in this proceeding.

1/ These guidelines may later be modified for good reason and suggestions may be offered informally via e-mail after full consultation among the parties, including the Enforcement Bureau.

(2) FCC12M-55 contains the following footnote:

² All filings in this proceeding shall be due on their designated submission dates at close of business (5:30 pm EST) unless otherwise indicated, with allowances for daylight savings time in the appropriate season.

(3) FCC13M-11 contains the following footnote:

¹ The deadline under Section 1.301 of the Commission's rules elapsed on May 8th. 47 CFR § 1.301(b). The Commission's Electronic Comment Filing System indicates that Mr. Havens filed his Request at precisely midnight, moments into May 9. Mr. Havens' pleading will not be rejected as untimely solely as a matter of discretion. Perhaps Mr. Havens' watch was running a few seconds behind. However, it is expected that he will obtain a properly set timepiece before his next midnight filing. It is recommended that Mr. Havens safely submit future pleadings before close of business to avoid the risk of untimely filing.”

Notes: Item (1) is the Order, and it instructs to follow~~ing~~ the Secretary's ECFS guidance which, following the full Commission decision in FCC 98-56, allows filing up to midnight. It also notes that any modification will only be for “good reason” “after full consultation among the parties”

and neither of those were ever done. Item (2) is a footnote, in the way of a reminder, and is not a new Order, and says “unless otherwise indicated,” and the ALJ’s standing Order (item (1) above) allows filing on EFCS up to midnight (paper copies, this footnote may be construed to mean, are by the “traditional” FCC closing time of 5:30 [that was later changed to 7:00 pm]). Item 3, which was directed to me, instructed me to not file right at midnight but get a good watch that is not “seconds behind” and only recommends I filed by close of business.

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CERTIFICATE OF SERVICE⁵

The undersigned certifies that he has on this 6th day of March, 2014 caused to be served by first class United States mail copies⁶ of the foregoing Appeal to:

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Chief Administrative Law Judge
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⁵ Only this errata copy is served. It contains in full the originally filed copy.

⁶ The email addresses herein are not for purposes of service of this pleading.

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/ s / [Electronically signed. Signature on file.]

Warren Havens