

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI**

In re:)
)
 MARITIME) **Case No. 11-13463-NPO**
 COMMUNICATIONS/LAND)
 MOBILE, LLC) **Chapter 11**
)
 Debtor.)

ORDER DENYING MOTION FOR A LIMITED STAY PENDING APPEAL
(Dkt. ## 1055, 1089, 1090)

This matter came before the Court for hearing on May 2, 2013 (the “Hearing”) on the Motion for a Limited Stay Pending Appeal, Docket No. 1055 (the “Motion”)¹ filed by Warren Havens, Skybridge Spectrum Foundation, Verde Systems LLC, Environmental LLC, Intelligent Transportation & Monitoring LLC, and Telesaurus Holdings GB LLC (collectively, “SkyTel”), the Objection to Motion for a Limited Stay Pending Appeal, Docket No. 1089 (the “Objection”) filed by Choctaw Telecommunications, LLC (“Choctaw”) as a party in interest, and together with Southeastern Commercial Finance, LLC (“SECF”), and joined by Maritime Communications/Land Mobile, LLC (the “Debtor”). The Court, having considered the matter, finds that the Motion should be denied and the Objection should be sustained for the reasons set forth in the Court’s bench opinion delivered on the record on May 2, 2013 (the “Bench Opinion”).

Findings of Facts

1. On August 1, 2011, Maritime Communications/Land Mobile, LLC (the “Debtor”) filed a voluntary petition pursuant to Chapter 11, Title 11, United States Code, 11 U.S.C. § 101, *et seq* (the “Bankruptcy Code”).

¹ Unless otherwise defined herein, all defined terms shall have the meaning ascribed to such terms in the Motion.

2. On September 25, 2012, the Debtor filed its First Amended Plan of Reorganization, Docket No. 669 (the “Plan”).

3. On November 14, and November 15, 2012, the Honorable David W. Houston, III² conducted a confirmation hearing on the Plan.

4. On January 11, 2013, the Court entered its Order Confirming Plan of Reorganization, Docket No. 980 (the “Confirmation Order”).

5. Pursuant to the Confirmation Order, the Court confirmed the Plan.

6. On January 25, 2013, SkyTel filed its Notice of Appeal of the Confirmation Order, Docket No. 999 (the “Notice of Appeal” and the appeal commenced thereby, the “Appeal”), and on February 8, 2013, SkyTel filed its Notice of Appeal of the Order Denying SkyTel’s Motion to Exclude Testimony of the Debtor’s Alleged Expert, Robert J. Keller, Docket No. 995.

7. Additionally, on March 18, 2013, SkyTel filed the Motion.

8. Pursuant to the Motion, SkyTel seeks a stay pending the Appeal of the following (collectively, the “Stayed Acts”):

- a. Payments of Class 8 Administrative Claims (as that term is defined in the Plan), but excluding properly approved payments (administrative or otherwise) to: (a) Bankruptcy Professionals; (b) parties to the Confirmation Order and Confirmation Order Appeal who are before the Court (including those parties' attorneys); and (c) the Liquidating Agent;
- b. Payments called for under the Plan in connection with Class 6 Priority Tax Claims;

² This Bankruptcy Case was originally assigned to the Honorable David W. Houston, III, but was reassigned to the undersigned as of January 16, 2013, Docket No. 983.

- c. Any sale, transfer, or assignment of Licenses to Choctaw Telecommunications, LLC, to Choctaw Holdings, LLC, or to any other person or entity, unless and until the FCC approves any such sale, transfer, or assignment;
- d. The payment of any cure amounts in connection with asset purchase agreements (or other executory contracts or unexpired leases) assumed, or assumed and assigned, pursuant to the Plan or pursuant to orders entered prior to Plan confirmation, but excluding (a) any such payments which can only be made after the FCC has approved the underlying transaction and after such underlying transaction has been consummated, and (b) any such properly approved payments to parties to the Confirmation Order and Confirmation Order Appeal who are before the Court (including those parties' attorneys); and
- e. Any other actions, items, issues, or payments, if any, not expressly excluded from the Limited Stay requested herein.

9. In addition to requesting a stay of the Stayed Acts, SkyTel sought to require the Debtor and Choctaw to give written notice of the pending FCC Proceedings, the New Jersey Litigation, and the Appeal, and of the potential effects thereof on the Licenses, to any third-parties not party to the Confirmation Order and Confirmation Order Appeal with whom the Debtor and Choctaw do business that is contemplated under or connected with the Plan or Confirmation Order (the "Notice Requirement").

Conclusions of Law

1. The Court hereby SUSTAINS the Objection and DENIES the Motion, for the reasons set forth herein and more fully in the Bench Opinion.

2. When considering a motion to stay an order pending appeal, courts consider factors similar for granting a preliminary injunction. Those factors include (1) the appellant's showing of likelihood of success on the merits, (2) whether the appellant will suffer irreparable injury without the stay, (3) whether granting the stay would substantially harm the appellee, and (4) whether the granting of a stay would serve any public interest. *See Arnold v. Garlock*, 278 F.3d 426, 438-39 (5th Cir. 1991).

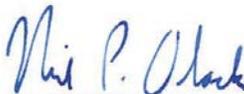
3. Each of the Stayed Acts is conditioned and contingent upon FCC approval of the transfer of the Debtor's licenses.

4. Accordingly, none of the Stayed Acts can or will occur until such time as the FCC determines whether the Debtor can transfer its licenses to Choctaw or otherwise.

5. The Court concludes that SkyTel will not suffer irreparable injury without the stay as none of the Stayed Acts will occur prior to FCC approval of the transfer of the Debtor's licenses.

6. The Court further concludes that the Notice Requirement is beyond the scope of Rule 8005, Fed. R. Bankr. P.

SO ORDERED.



Neil P. Olack
United States Bankruptcy Judge
Dated: June 12, 2013

APPROVED AS TO FORM AND SUBMITTED BY:

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