

**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	)	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: Office of Secretary. Attn: Administrative Law Judge Sippel

**Request Under § 1.301(b) Regarding and Comments on FCC 14M-18**

The undersigned (“I”) submit this request and related comments (the “Request”) under § 1.301(b) regarding MO&O FCC 14M-18, rel. 6-7-14 (“M18”) of Judge Sippel (“ALJ”), and provide comments for the ALJ’s consideration.<sup>1</sup>

Initially, I comment that the Enforcement Bureau (“EB”) filed earlier today a motion to reopen discover including on the issue of construction as to all or most all of the Issue G licenses (“Licenses”) given the M18 that denied summary decision including due to apparent violations or failures of Maritime under bankruptcy law and its approved Chapter 11 Plan. In this regard, while I do not yet have a position regarding the EB Motion as to reason it asserted to seek more evidence, I note as new evidence that the US District Court, NJ, in the case I previously reported to the ALJ, Havens et al. v Mobex, Maritime et al. (Sherman Act cause of action) completed a several week long trial dealing with the Licenses and issues as to construction and operation (and

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<sup>1</sup> This is a protective filing as to § 1.301(b) to meet the five-day deadline to the degree I later file a request for reconsideration or other filing that moots this filing in part or whole. While I partly disagree with M18, due to factual inaccuracies and what I believe are mistakes in law, I only present herein matters I believe are proper under 1.301(b). These matters are also comments.

the geographic licenses Maritime obtained in Auction 61). As to the Licenses, John Reardon, Sandra Depriest, and Donald Depriest testified at the trial for Maritime (and Reardon for Mobex as well, and to an extent for Choctaw as well), and I testified for the plaintiffs (including myself and FCC geographic AMTS licensees I manage). The testimony was public, but for short parts, and is available in transcripts with related exhibits. The final transcripts will be available soon: thus far, rough uncorrected transcripts are provided. The case resulted in thousands of produced documents, a minority of which were used in the trial. Comparing the Maritime testimony at the trial with its positions in this Issue G proceeding may be instructive.

For the above-noted protective reasons, I request permission to submit an appeal to the Commission as to the following which I believe are new and novel:

1. M18 granted summary decision as to the Issue G construction component on the basis of (i) no evidence in this hearing to support this, which appears to mean that the burden of proof is on the FCC which contravenes the ALJ earlier decision on that but also, I believe, contravenes applicable case law and the Administrative Procedures Act, as discussed in *Dept Labor v [various Petitioners]*, 512\_U.S.\_267,\_114\_S.\_Ct.\_2251,\_129\_L.\_Ed. See Attachment A hereto, and (ii) on the basis of FCC rulings that were not the result of evidentiary hearings and in which evidence was not taken, *and in any case*, were rulings *prior* to the HDO FCC 11-64 which directed the ALJ in this proceeding to get and decide on evidence as to this construction issue. M18 appears to stand for a new and novel assumption of authority and role by the ALJ at odds with the Commission's decision to include Issue G under FCC 11-64. It must be assumed that the Commission, in including Issue G for this formal evidentiary hearing, understood its past decisions that the ALJ now uses to grant summary judgment on the construction issue, and found those to be lacking or defective, indeed they are not even final orders. I and the "SkyTel" entities have challenges to those FCC decisions and they are not final and beyond appeal.

2. It also seems new and novel for the ALJ to encroach, from all I can tell, upon the

jurisdiction of the Wireless Bureau and full Commission as to those decisions still on appeal, by using them to grant summary decision in M18.

3. It also appears new and novel in M18 to reinstate licenses that the Wireless Bureau has cancelled: some of the licenses subject to M18's decision to reject past stipulations on cancellations of licenses have been cancelled. Others are submitted for cancellation and but for Maritime not paying yet the application fees, would have long ago been cancelled and may any day be cancelled.

4. It also appears new and novel for the ALJ to intercede by M18 in these submitted applications before the Wireless Bureau for cancellation that would have long ago been cancelled, but for that Maritime failure to pay what it easily could and should have paid, under good faith performance under the subject stipulation that the ALJ accepted and granted,

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Respectfully submitted,

/s/

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June 24, 2014

List of Appended Items

Exhibit 1. Maritime shows no evidence of construction of actual and timely construction in Dec. 2013 motion for summary decision.

Exhibit 3. Maritime admits to no evidence re: actual and timely construction, in interrog response

Exhibit 5. Maritime shows no evidence of construction of actual and timely construction in May 2013 motion for summary decision.

CERTIFICATE OF SERVICE

The undersigned certifies that he has on this 24<sup>th</sup> day of June 2014, caused to be served by first class United States mail copies of the foregoing Request to:

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

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