

Before the
Federal Communications Commission
Washington, D.C. 20554

AUG 21 2014

Federal Communications Commission
Office of the Secretary

In re)	
)	
MARITIME COMMUNICATIONS/LAND MOBILE, LLC)	EB Docket No. 11-71
)	File No. EB-09-IH-1751
)	FRN: 0013587779
Participant in Auction No. 61 and Licensee of Various Authorizations in the Wireless Radio Services)	
)	
Applicant for Modification 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, 0004636537, and 0004604962
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 MEMBERSHIP CORPORATION, INC.; ATLAS PIPELINE – MID CONTINENT, LLC; DENTON COUNTY ELECTRIC COOPERATIVE, INC., DBA COSERV ELECTRIC; AND SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY)	

To: Marlene H. Dortch, Secretary
Attention: The Commission

**ENFORCEMENT BUREAU'S OPPOSITION TO MR. HAVENS'
INTERLOCUTORY APPEAL**

1. On August 11, 2014, the Presiding Judge ordered Mr. Havens and counsel for two of Mr. Havens' companies to comply with a number of directives designed to avoid the possibility that Mr. Havens and his companies would file redundant submissions.¹ Mr. Havens

¹ See Order, FCC 14M-25 (ALJ, rel. Aug. 11, 2014) at 3-4.

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filed an interlocutory appeal of that *Order*, FCC 14M-25, on August 18, 2014.² The Acting Chief, Enforcement Bureau (Bureau), by his attorneys, herein responds to Mr. Havens' appeal.

2. *Order*, FCC 14M-25, is not appealable as a matter of right. Section 1.301(a) of the Commission's rules enumerates only five categories of interlocutory rulings that are appealable as a matter of right.³ Despite Mr. Havens' assertions to the contrary, *Order*, FCC 14M-25, does not deny or terminate his right to participate as a party. Rather, it acknowledges the Presiding Judge's concern that with Mr. Havens acting *pro se* while two of his six companies in the hearing proceeding are represented by counsel, there is a greater likelihood of "duplicative pleadings, ... [and] duplicative evidentiary and trial brief submissions as this proceeding moves forward."⁴ In an effort to avoid the confusion and delay that would result from such duplication, the Presiding Judge reiterated the directives he imposed nearly two years ago requiring Mr. Havens and his companies to coordinate their participation and to submit joint pleadings when they take identical positions,⁵ and further cautioned Mr. Havens and his companies' counsel that, at the hearing, they would need to coordinate objections and would not be allowed to "double team" the witnesses.⁶

3. Indeed, Mr. Havens' right to represent himself is not absolute. As the Presiding Judge recognized previously, "an individual cannot represent himself or herself in an individual capacity while simultaneously represented by an attorney in a corporate capacity if the interests

² See Havens' Request Under Section 1.301(a), filed on August 18, 2014.

³ See 47 C.F.R. § 1.301(a).

⁴ *Order*, FCC 12M-52 (ALJ, rel. Nov. 15, 2012) at 3.

⁵ See *id.* at 4. Notably, Mr. Havens did not file an interlocutory appeal of *Order*, FCC 12M-52, when the Presiding Judge first imposed these directives in November 2012. His attempt to do so now is untimely. See, e.g., 47 C.F.R. § 1.301(c)(2).

⁶ See *Order*, FCC 14M-25, at 3.

of the individual and the corporation are the same.”⁷ The Presiding Judge thus ordered Mr. Havens to demonstrate “how his interests as an individually named party in this proceeding differ from the interests of those corporate parties with which he has a relationship.”⁸ Mr. Havens failed to do so. Consistent with his prior rulings, the Presiding Judge has now ordered Mr. Havens and counsel for the Havens corporate entities to comply with the directives discussed above.⁹ The Presiding Judge plainly has the discretion to manage the proceedings before him in a manner that serves “the interests of efficiency and expediency.”¹⁰ Mr. Havens fails to demonstrate otherwise.

4. For the foregoing reasons, the Bureau respectfully requests that the Commission deny Mr. Havens’ interlocutory appeal.

Respectfully submitted,

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⁷ *Memorandum Opinion and Order*, FCC 12M-44 (ALJ, rel. Sep. 25, 2012) at 5, ¶ 16 (citing *In the Matter of Black Television Workshop of Los Angeles, Inc.*, Memorandum Opinion and Order, MM Docket No. 88-420, 7 FCC Rcd 6868, 6870 ¶ 6 (1992)).

⁸ *Memorandum Opinion and Order*, FCC 12M-44 at 5, ¶ 18.

⁹ *See Order*, FCC 14M-25, at 3. *See also Order*, FCC 12M-52, at 3-4.

¹⁰ *Order*, FCC 12M-52, at 2 (citing *In re Applications of Warren Price Communications Inc. et al.*, Memorandum Opinion and Order, 4 FCC Rcd 1992, 1992 ¶ 4 (1989) (quoting *Hillebrand Broadcasting, Inc.*, 1 FCC Rcd 419, 419 ¶ 3 (1986))).

CERTIFICATE OF SERVICE

Rana Shuler, an Enforcement Analyst in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has on this 21st day of August, 2014, sent by first class United States mail copies of the foregoing "ENFORCEMENT BUREAU'S OPPOSITION TO MR. HAVENS' INTERLOCUTORY APPEAL" to:

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