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-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 & 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
Attn: Chief Administrative Law Judge Richard L. Sippel

COMMENTS OF MARITIME ON RECENT SUBMISSION BY ENFORCEMENT BUREAU, ENL-VSL, AND HAVENS

Maritime Communications/Land Mobile, LLC ("Maritime"), by its attorney, hereby offers these comments on submissions made on Friday, September 12, 2014, by the Enforcement Bureau ("Bureau")[1] and Environmentel LLC and Verde Systems LLC (collectively, "ENL-

[1] *Enforcement Bureau's Request for a Prehearing Conference*, filed Sept. 12, 2014.

VSL”),[2] relative to the Commission’s ruling on the request of Choctaw Holdings, LLC (“Chcoctaw”) for Second Thursday relief.[3]

1. Maritime supports the Enforcement Bureau’s request for a prehearing conference to discuss the Commission’s recent order.

2. Maritime strongly disagrees with most of the assertions set forth in the ENV-VSL filings. In view of the pending schedule with its imminent deadlines, however, Maritime will offer only a few very brief comments for consideration by the Presiding Judge.

3. Maritime opposes the request that the existing procedural schedule for Issue G be stayed or otherwise delayed. Issue G has been bifurcated from the rest of this case since the Presiding Judge’s order staying other aspects of the matter pending a ruling on Second Thursday. The parties have been working to meet the current deadline of submitting direct case exhibits by tomorrow, Tuesday, September 16, 2014. There is no basis for deferring that date or suspending other aspects of the Issue G hearing schedule at this time.[4]

4. ENV-VSL raises various objections relative to the *Protective Order* in this proceeding. But nothing about the Commission’s recent Second Thursday ruling has any bearing on this matter. The Presiding Judge adopted a *Protective Order* in this proceeding more than two years ago, and well prior to the stay of the basic qualifications aspects of the proceeding.

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[2] *ENL-VSL Request for a Brief Stay in Relation to the Commission’s Decision in FCC 14-113 [sic] and the Bureau’s Request for Prehearing Conference* , filed Sept. 12, 2014, and *ENL-VSL Request for Clarification and Relief Regarding the Protective Order and Mobex Documents*, filed Sept. 12, 2014.

[3] *Memorandum Opinion and Order* (FCC 14-133) in WT Docket No. 13-85, released Sept. 11, 2104. See also *Enforcement Bureau’s Notice Regarding Commission Order Regarding Application to Assign Licenses from Maritime to Choctaw Holdings, LLC*, filed Sept.12, 2014.

[4] This is particularly true in light of the Presiding Judge’s most recent order accepting stipulations between the Bureau and Maritime, with the result that the only thing remaining to be determined under Issue G is whether operations of the sixteen designated facilities has been permanently discontinued. *See* the September 11, 2014, email message from Austin Randazzo (clerk to the Presiding Judge) to all the parties.

Protective Order (FCC 11M-21; rel. July 20, 2011). Throughout this proceeding, when documents restricted by the *Protective Order* were produced made available to any outside legal counsel of record for Mr. Havens or his entities at the time, subject to the terms of the *Protective Order*. Counsel for ENV-VSL was that he would likewise have upon providing the declaration required by the Presiding Judge's *Order* (FCC 12M-20; rel. March 19, 2012). For whatever he has declined to comply with that order.

5. This is not the first time Mr. Havens and his interests have complained about the confidentiality attached to certain materials. The Presiding Judge has made it abundantly clear that this "problem" is one of Mr. Havens' own creation: "Mr. Havens could have access to … unredacted [documents] by retaining (and keeping) qualified legal representation." *Memorandum Opinion and Order* (FCC 13M-10; rel. May 7, 2013) at ¶ 7. The Presiding Judge further noted:

> It is conceivable that Mr. Havens may argue in the future that he has not had a full opportunity to engage in discovery because he was barred from viewing the unredacted versions of documents that the parties have designated as Confidential or Highly Confidential. But the Protective Order in this proceeding, Order, FCC IIM-21 (July 20,2011), and Order, FCC 12M-52 (November 15, 2012) provide the only answer of how Mr. Havens may utilize the material so designated-namely through counsel.

Id. at n.18.

6. The argument that the *Protective Order* precludes counsel from being able to reveal protected documents to Mr. Havens, thereby handicapping his ability to prepare for trial, is without merit. The *Protective Order* accommodates this. Confidential documents may be (and have been) provided to a party's legal counsel in accordance with the terms of the order. If it is believed after review of such documents that certain claims of confidentiality are too broad, the matter may be raised with counsel for the producing party and, if necessary, be presented to the Presiding Judge for in camera review. But a blanket refusal by Havens, his entities, and his legal counsel, to comply with any aspect of the *Protective Order*, and to instead demand unfettered access to all confidential materials is absurd and highly improper.

7. ENV-VSL also complains of the so-called "Mobex" records, i.e., the infamous "100+ boxes" of documents that Mobex Network Services, Inc. ("Mobex") had placed in storage years ago. As Maritime has repeatedly stated, it never owned these documents, it does not have any greater access to or control over them than does Mr. Havens, and it has no knowledge about the alleged removal of some of the boxes from the third-party storage contractor's facilities. The Presiding Judge has considered all the arguments and very clearly ruled:

> The Presiding Judge finds that [Maritime's] representations are credible. For his part, Mr. Havens has not presented any facts demonstrating that Maritime knew that the boxes still existed, or that Maritime hid that knowledge from the Presiding Judge or the other parties. Mr. Havens has not shown any facts that even suggest that the documents contained within those boxes were improperly withheld from discovery requests. Furthermore, the November 20,2012, conference ended with the Presiding Judge indicating from the bench that Mr. Havens had ample opportunity to acquire and examine the contents of those boxes?9 In the months that followed the conference and prior to the closing of discovery, opportunity was available for Mr. Havens to request by adequate showing his need for further discovery relating to the boxes. As the Presiding Judge finds that Maritime did not conceal the existence of the boxes from Mr. Havens or their contents from any other party to this proceeding/o and since appropriate and timely discovery efforts were never precluded, it would not be productive to reopen discovery of the boxes.

Memorandum Opinion and Order (FCC 13M-22; rec. Dec 19, 2013) at ¶ 11. Neither last week's Commission order nor anything else changes that.

WHEREFORE, Maritime concurs in the Enforcement Bureau's request for a prehearing conference, but it opposes the request by ENV-VSL to stay the existing Issue G schedule.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of September, 2014, I caused copies of the foregoing pleading to be served, by U.S. Postal Service, First Class postage prepaid, on the following:

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