



Federal Communications Commission
Washington, D.C. 20554

April 30, 2004

DA 04-1245

Robert M. Gurss, Esq.
Raymond J. Quianzon, Esq.
Counsel to Mobex Communications, Inc.
Fletcher, Heald & Hildreth, P.L.C.
1300 North Seventeenth Street
Arlington, VA 22209

Re: Mobex Communications, Inc. Emergency Motion for Extension of Time – Deadline for Reply Comments on Proposed Auction Procedures for Auction No. 57 (Automated Maritime Telecommunications System)

Dear Messrs. Gurss and Quianzon:

This letter responds to an Emergency Motion for Extension of Time (“Motion”) submitted on April 28, 2004, by Mobex Communications, Inc. (“Mobex”).¹ Mobex requests that the Wireless Telecommunications Bureau postpone the April 30, 2004, deadline for the submission of reply comments in response to the Bureau’s public notice² that sought comment on proposed auction procedures for the assignment of Automated Maritime Telecommunications System (“AMTS”) licenses in Auction No. 57. Warren C. Havens opposes Mobex’s Motion, and Mobex replied.³ For the reasons expressed below, we deny Mobex’s request.

Mobex makes two principal arguments in support of its request to extend the reply deadline by one week (to May 7, 2004). First, Mobex asserts that the reply period provides “a very limited time” for commenters to prepare reply comments and that “technical problems” may have delayed the availability of some comments until the second day of the reply period.⁴ Second, Mobex argues that the comments in the record make “extensive reference to documents and issues which are not available as part of this proceeding, as well as a novel proposal . . .,” which “go well beyond the ‘normal’ content of comments of proposed auction rules.”⁵

¹ Emergency Motion for Extension of Time submitted electronically on April 28, 2004, by Mobex Communications, Inc. (“Motion”).

² See “Automated Maritime Telecommunications System Spectrum Auction Scheduled for September 15, 2004; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedures,” *Public Notice*, Report No. AUC-04 57-A (Auction No. 57), DA 04-954 (rel. April 5, 2004); 69 FR 21110 (April 20, 2004) (“*Auction 57 Comment Public Notice*”). That public notice established deadlines of April 23, 2004, for initial comments and April 30, 2004 for replies.

³ See Opposition to “Emergency” Motion for Extension of Time submitted electronically on April 29, 2004 by Warren C. Havens; Reply to Opposition to Emergency Motion for Extension of Time submitted electronically on April 28, 2004, by Mobex Communications, Inc.

⁴ See Motion at 2.

⁵ See *id.*

As the Motion acknowledges, the Commission's general policy is that extensions of time are not routinely granted.⁶ The Commission specifically disfavors requests for extensions of time filed on such short notice.⁷ Only two sets of comments were filed in response to the *Auction 57 Comment Public Notice*; one set was filed by Mobex and the other by Mr. Havens. Significantly, Mobex does not claim that it had any difficulty in obtaining a copy of Mr. Havens's comments. Indeed, we note that Mr. Havens took the additional step of serving his comments on one of Mobex's attorneys.⁸ Further, it appears that the external materials referenced in Mr. Havens's comments are publicly-available documents, such as statutes, Commission regulations, and prior Commission decisions. We are not persuaded that Mobex has demonstrated cause for postponement of the reply comment deadline. We note, however, that the Bureau may, in its discretion, consider written *ex parte* presentations, if filed within a reasonable period after the reply comment deadline.⁹

IT IS HEREBY ORDERED that, pursuant to Section 1.46 of the Commission's Rules, 47 C.F.R. § 1.46, the Emergency Motion for Extension of Time of Mobex Communications, Inc. is DENIED. This action is taken pursuant to authority delegated by Section 0.131 of the Commission's rules, 47 C.F.R. § 0.131.

Sincerely,

William W. Huber
Associate Chief
Auctions and Spectrum Access Division
Wireless Telecommunications Bureau

cc: Mr. Warren Havens
2509 Stuart Street
Berkeley, CA 94705

⁶ See 47 C.F.R. § 1.46(a); see also Motion at 2.

⁷ See 47 C.F.R. § 1.46(b).

⁸ See Comments of Warren C. Havens in response to *Auction 57 Comment Public Notice* at 13 (submitted April 23, 2004).

⁹ This proceeding has been designated as a "permit but disclose" proceeding in accordance with the Commission's *ex parte* rules. See *Auction 57 Comment Public Notice* at 11 (citing 47 C.F.R. §§ 1.1200(a), 1.1206). As such, interested parties are permitted to make oral or written *ex parte* presentations in a manner consistent with Section 1.1206(b) of the Commission's rules. See 47 C.F.R. § 1.1206(b).