

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

In the Matter of
MARITEL, INC.
and
MOBEX NETWORK SERVICES, LLC
Petitions for Rule Making to Amend the
Commission's Rules to Provide Additional
Flexibility for AMTS and VHF Public Coast
Station Licensees
WARREN C. HAVENS
Request to Extend Reply Comment Period
WT Docket No. 04-257
RM-10743

ORDER

Adopted: December 2, 2004

Released: December 6, 2004

By the Deputy Chief, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau:

1. We have before us a Request to Extend Reply Comment Period (Extension Request) filed jointly by Warren Havens, Telesaurus Holdings GB, LLC (THL), Telesaurus-VPC, LLC (TVL) and AMTS Consortium, LLC (ACL) (together, Havens)1 on November 10, 2004, seeking an extension of the deadline for filing reply comments in the captioned proceeding until thirty days after grant of the long form applications submitted by TVL and ACL in Auction No. 57, the auction of automated maritime telecommunications system (AMTS) station licenses. For the reasons discussed below, we dismiss the Extension Request.

2. On July 30, 2004, the Commission released a Notice of Proposed Rule Making (NPRM) in the above-captioned proceeding, proposing to amend the Commission's Rules to permit VHF public coast (VPC) station licensees and AMTS station licensees to provide private mobile radio service to units on land.2 The NPRM specified that responsive comments were to be filed no later than sixty days after publication of the NPRM in the Federal Register, and that reply comments were to be filed no later than ninety days after the Federal Register publication. The NPRM was published in the Federal Register on August 10, 2004, fixing the comment due date as October 12, 2004, and the reply comment due date as November 8, 2004.3

3. Havens contends that it would be inappropriate to proceed with the rulemaking when the

1 Warren Havens is the President of THL, TVL and ACL. TVL and ACL are each winning bidders for AMTS licenses in FCC Auction 57. Extension Request at 1 n.1

2 Maritel, Inc. and Mobex Network Services, LLC, Petitions for Rule Making to Amend the Commission's Rules to Provide Additional Flexibility for AMTS and VHF Public Coast Station Licensees, Notice of Proposed Rule Making, WT Docket No. 04-257, 19 FCC Rcd 15225 (2004).

3 69 Fed. Reg. 48440 (Aug. 10, 2004).

licensing process for Auction No. 57 AMTS has not been completed.⁴ According to Havens, the requested extension is needed because only after TVL and ACL obtain their Auction No. 57 AMTS licenses can Havens, TVL and ACL “justify the time and expense to fully consider the comments in this matter, and the NPRM, and formulate and submit their views.”⁵ Havens also submits that he and his companies have had insufficient time to review the comments filed in this rulemaking proceeding because they have been occupied with Auction No. 57 matters.⁶

4. The Extension Request is untimely. The Commission’s Rules expressly provide that motions for an extension of time in which to file comments or reply comments in response to a notice of proposed rule making shall be filed at least seven days before the relevant filing deadline.⁷ In this case, as noted, the deadline for filing reply comments was November 8, 2004. The Extension Request was filed two days after this date, and Havens neither requested nor demonstrated justification for a waiver to permit the filing of an untimely extension request. We therefore dismiss the Extension Request as untimely.⁸

5. Accordingly, IT IS ORDERED that pursuant to Sections 1.46(b) and 1.415(e) of the Commission’s Rules, 47 C.F.R. §§ 1.46(b), 1.415(e), the Request to Extend Reply Comment Period filed by Warren Havens, Telesaurus Holdings GB, LLC, Telesaurus-VPC, LLC (TVL) and AMTS Consortium, LLC on November 10, 2004, IS DISMISSED.

6. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission’s Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Scot Stone
Deputy Chief
Public Safety and Critical Infrastructure Division
Wireless Telecommunications Bureau

⁴ Extension Request at 1-3. The Auction No. 57 long form applications have been accepted for filing. Wireless Telecommunications Bureau Announces that Applications for Automated Maritime Telecommunication System Licenses Are Accepted for Filing, *Public Notice*, DA 04-3850 (WTB rel. Nov. 8, 2004). Petitions to deny applications and other filings relating to Auction No. 57 remain pending.

⁵ Extension Request at 1. Additional time is sought only for the purpose of addressing the Commission’s proposals with respect to AMTS. *Id.* (stating “[t]he Parties do not seek to delay this proceeding with regard to VPC”).

⁶ *Id.* at 2.

⁷ See 47 C.F.R. §§ 1.46(b), 1.415(e).

⁸ We note, moreover, that the Extension Request does not provide a public interest basis for extending the reply comment deadline in this proceeding on our own motion. In particular, we reject Havens’s argument that he should not be expected to expend the time and expense to fully consider the comments in this proceeding until no uncertainties remain as to whether TVL and ACL will receive AMTS licenses from Auction No. 57. We do not believe it serves the public interest to delay a rulemaking proceeding simply to provide a potential commenter with additional time so that he is better able to ascertain whether his interest in the matter is sufficiently strong to warrant the submission of reply comments. We also note that Havens holds a number of incumbent AMTS licenses, and thus would appear already to have a sufficient interest to participate in this proceeding. See licenses for Call Signs WHV211, WHV257, WHV287, WHV523, WHV653, WPSQ413.