

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

In the Matter of Applications of)	
)	
MOBEX NETWORK SERVICES, LLC)	
)	
To Modify Licenses for Automated Maritime)	File Nos. 0001438800, 0001439011
Telecommunications System (AMTS) Stations in)	
Chicago, Illinois, Rockfish, North Carolina and)	
Hillsborough, North Carolina, and)	
)	
To Renew AMTS License Call Signs WHV733,)	File Nos. 0002363519, 0002363520,
WHV740, and WHV843)	0002363521

ORDER

Adopted: January 29, 2007

Released: January 29, 2007

By the Chief, Mobility Division, Wireless Telecommunications Bureau:

1. On December 9, 2005, Warren C. Havens (Havens), Intelligent Transportation & Monitoring Wireless LLC (ITL), AMTS Consortium, LLC (ACL), Telesaurus-VPC, LLC (TVL), and Telesaurus Holdings GB LLC (THL) (collectively, Petitioners) filed a petition for reconsideration of a November 9, 2005 *Order*¹ by the Wireless Telecommunications Bureau, Public Safety and Critical Infrastructure Division² (Division). The *Order* denied Warren Havens' petition to deny an application to modify the license of Mobex Network Services, LLC (Mobex) for Automated Maritime Telecommunications System stations (AMTS) in North Carolina, and granted a petition filed by KM LPTV of Chicago-13 LLC's (KM LPTV) to deny an application to modify Mobex's license for an AMTS station in Chicago. Also on December 9, 2005, Petitioners filed a petition to deny applications filed by Mobex to renew its licenses for AMTS stations in the Carolinas.³ The December 9, 2005 petition for reconsideration and petition to deny generally raise the same arguments. For the reasons that follow, we deny both petitions.

2. AMTS facilities must be constructed within a specified time and must remain operational for the license to remain valid, or the license cancels automatically.⁴ Petitioners argue that the licenses at issue should be deemed to have canceled automatically for failure to construct. Specifically, Petitioners argue that Mobex did not satisfy the requirement, in effect when the licenses were granted, that AMTS licensees

¹ Mobex Network Services, LLC, *Order*, 20 FCC Rcd 17959 (WTB PSCID 2005) (*Order*).

² Pursuant to a Commission reorganization effective September 25, 2006, certain duties of the Public Safety and Critical Infrastructure Division were assumed by the Mobility Division. See Establishment of the Public Safety and Homeland Security Bureau, *Order*, 21 FCC Rcd 10867 (2006).

³ Call Sign WHV733, WHV740 and WHV843. See File No. 0002363519, 0002363520, and 0002363521 (filed Oct. 31, 2005).

⁴ See 47 C.F.R. §§ 1.955(a), 80.49(a)(3).

provide continuity of coverage to the served waterways⁵ because Mobex did not construct all of the stations it proposed in its application, resulting in coverage gaps; and because, even in areas where Mobex constructed all planned stations, the coverage contours do not overlap, resulting in coverage gaps.⁶ We have addressed both of these arguments in connection with pleadings filed by Petitioners with respect to other AMTS licenses.⁷ We again reject the arguments, and need not address them further.

3. Petitioners also argue, in the petition for reconsideration, that the decision denying Mobex's application to modify its Chicago license should have gone further, and deemed the Chicago license to have canceled automatically because Mobex did not meet the construction and operational requirements for that station.⁸ The issue presented in the petition to deny the modification application was whether to permit relocation of the station, not whether the station was constructed and operational. Petitioners' argument, therefore, is not relevant to the decision.

4. In addition, Petitioners argue that Mobex lacks the character qualifications to be a Commission licensee.⁹ We have considered these arguments previously,¹⁰ and will not repeat the discussion in this proceeding.

5. Finally, Petitioners also argue that some of the licenses at issue should not have been granted in the first place, because the grants conflicted with Commission policies then in effect.¹¹ The grants of the initial applications are final actions. Mobex in opposition contends that Petitioners' submission is an untimely filed petition for reconsideration of the initial grants of the instant licenses.¹² We agree. We will not address the propriety of the initial license grants in the context of renewal and modification applications.

6. Petitioners have not demonstrated that the licenses for the stations at issue should be deemed to have canceled automatically for failure to meet construction/coverage requirements, or that Mobex otherwise should be disqualified from modifying the licenses. None of the other matters raised in the petitions, individually or collectively, raise a legitimate issue as to whether it is in the public interest to grant the pending applications. We therefore deny the petition for reconsideration and the petition to deny ,

⁵ See 47 C.F.R. 80.475(a) (2001).

⁶ Petition for Reconsideration at 2-4; Petition to Deny at 2-4.

⁷ See Paging Systems, Inc., *Order*, 21 FCC Rcd 7225, 7229 n.41 (WTB PSCID 2006) (citing Mobex Network Services, LLC, *Order*, 19 FCC Rcd 24939, 24943 n.34 (WTB PSCID 2004)) (*Mobex 2004 Order*) (rejecting the argument that AMTS licenses should be terminated for failure to meet a construction requirement that is no longer in effect), *recon. pending*; Mobex Network Services, LLC, *Order*, DA 07-148, ¶ 11 (rel. Jan. 23, 2007) (rejecting argument that AMTS stations should be deemed not to have been constructed as required because the stations failed to provide the coverage required under former Section 80.475(a) based on coverage gaps appearing on contour maps using contours adopted by the Commission at a later date and for a different purpose).

⁸ Petition for Reconsideration at 5.

⁹ Petition for Reconsideration at 2-3; Petition to Deny at 9-10.

¹⁰ See Mobex Network Services, LLC, *Order*, 20 FCC Rcd 17957, 17957-58 ¶ 2 (WTB PSCID 2005) (citing *Mobex 2004 Order*, 19 FCC Rcd at 24941-43 ¶¶ 6-9), *recon. pending*.

¹¹ Petition for Reconsideration at 6; Petition to Deny at 3.

¹² Opposition at 3.

and will process Mobex's renewal applications FCC File Nos. Files Nos. 0002363519, 0002363520 and 0002363521.

7. Accordingly, IT IS ORDERED, pursuant to Sections 4(i), 303(r), and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), 405, and Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, that the petition for reconsideration filed by Warren C. Havens, AMTS Consortium LLC, Telesaurus-VPC LLC, Intelligent Transportation and Monitoring Wireless LLC, and Telesaurus Holdings GB LLC on December 9, 2005 IS DENIED.

8. IT IS FURTHER ORDERED the petition to deny filed by Warren C. Havens, AMTS Consortium LLC, Telesaurus-VPC LLC, Intelligent Transportation and Monitoring Wireless LLC, and Telesaurus Holdings GB LLC on December 9, 2005 with respect to FCC File Nos. 0002363519, 0002363520 and 0002363521 IS DENIED, and FCC File Nos. 0002363519, 0002363520, and 0002363521 SHALL BE PROCESSED consistent with this *Order* and the Commission's Rules.

9. 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

Roger S. Noel
Chief, Mobility Division
Wireless Telecommunications Bureau