

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

In the Matter of
WIRELESS PROPERTIES OF VIRGINIA, INC.
Assignor
And
NEXTEL SPECTRUM ACQUISITION CORP.
Assignee
Applications for Assignment of Broadband Radio
Service Stations WMY290 and WMY291, Martinsburg,
West Virginia and Educational Broadband Service
Station WQCP982, Strasburg, Virginia
File Nos. 0002695270, 0002755676

ORDER ON RECONSIDERATION

Adopted: May 6, 2008

Released: May 7, 2008

By the Acting Chief, Broadband Division, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. We have before us a petition filed on February 28, 2007 by Warren Havens (Havens), individually and as the President of AMTS Consortium LLC, Telesaurus Holdings GB LLC, Telesaurus VPC LLC, and Intelligent Transportation and Monitoring Wireless LLC, seeking reconsideration of the dismissal of the petition to deny filed by Havens on October 11, 2006 against the above captioned applications to assign Broadband Radio Station (BRS) Stations WMY290 and WMY291, Martinsburg, West Virginia, and Educational Broadband Service (EBS) Station WQCP982, Strasburg, Virginia, from Wireless Properties of Virginia Inc. (WPV) to Nextel Spectrum Acquisition Corp. (Nextel Spectrum), a

1 Warren C. Havens, AMTS Consortium LLC, Telesaurus Holdings GB LLC, Telesaurus VPC LLC, and Intelligent Transportation and Monitoring Wireless LLC, Petition for Reconsideration (Feb. 28, 2007) (PFR). We herein refer to the petitioning parties collectively as petitioners or Havens.

2 Wireless Properties of Virginia, Inc., Assignor, and Nextel Spectrum Acquisition Corp., Assignee, Memorandum Opinion and Order, 22 FCC Rcd 1287 (WTB BD 2007) (MO&O). In the MO&O, the Broadband Division (Division) of the Wireless Telecommunications Bureau (Bureau) also denied and dismissed, respectively, petitions to deny filed by NTELOS Licenses, Inc. (NTELOS) against the Martinsburg Application and the Strasburg Application. NTELOS has not sought reconsideration of the Division's actions. Accordingly, we do not discuss the petitions to deny filed by NTELOS herein.

3 Warren C. Havens, AMTS Consortium LLC, Telesaurus Holdings GB LLC, Telesaurus VPC LLC, and Intelligent Transportation and Monitoring Wireless LLC, Petition to Deny and in the Alternative Informal Request to Dismiss or Deny (filed Oct. 11, 2006) (Havens PTD). Havens requested therein that, if we were to find the petition to be untimely filed, we consider the petition as an informal request for Commission action.

wholly owned subsidiary of Sprint Nextel Corp. (Sprint Nextel).⁴ For the reasons discussed below, we dismiss the PFR.

II. BACKGROUND

2. WPV has been the licensee of BRS Stations WMY290 and WMY291, Martinsburg, West Virginia, since February 10, 1999⁵ and commercial EBS Station WQCP982, Strasburg, Virginia, since April 27, 2005.⁶ On July 31, 2006, WPV filed an application to assign BRS Stations WMY290 and WMY291 to Nextel Spectrum.⁷ Public notice of the acceptance for filing of the Martinsburg Application was given on August 9, 2006.⁸ On August 22, 2006, WPV filed an application to assign EBS Station WQCP982 to Nextel Spectrum.⁹ On September 19, 2006, Nextel Spectrum requested that the Commission waive the eligibility restrictions set-forth in Section 27.1201 of the Commission's Rules¹⁰ to permit it to take assignment of the EBS Station WQCP982 and deploy the commercial B Group channels for BRS operations.¹¹ Public notice of the acceptance for filing of the Strasburg Application was given on September 27, 2006.¹²

3. On October 11, 2006, Havens filed a petition to deny the applications. Havens argued that Nextel Spectrum failed to demonstrate that a waiver was warranted.¹³ Havens also alleged that Donald DePriest (DePriest), the controlling interest holder of WPV, lacked the necessary character and fitness to be a Commission licensee.¹⁴ Havens noted and incorporated by reference those pleadings filed by the petitioners challenging the basic character qualifications of DePriest in other proceedings.¹⁵ Havens claimed that DePriest and his wife, Sandra DePriest, concealed pertinent information for the purpose of improperly claiming a bidding credit for Maritime Communications/Land Mobile, LLC in Auction No. 61.¹⁶ Havens also alleged that DePriest controls a company that was "fraudulently maintaining bogus and/or defective AMTS incumbent stations, laundering them, and . . . [using] them to reduce competition

⁴ File No. 0002695270 (filed Jul. 31, 2006) (Martinsburg Application); File No. 00027555676 (filed Aug. 22, 2006) (Strasburg Application).

⁵ File Nos. BLMD-9950135, BLMD-9950136 (granted Feb. 10, 1999).

⁶ File No. 920938 (granted Apr. 27, 2005).

⁷ See Martinsburg Application.

⁸ Wireless Telecommunications Bureau Assignment of License Authorization Applications, Transfer of Control of Licensee Applications, De Facto Transfer Lease Applications, and Designated Entity Reportable Eligibility Event Applications Accepted for Filing, Report No. 2607, *Public Notice* (Aug. 9, 2006).

⁹ See Strasburg Application.

¹⁰ 47 C.F.R. § 27.1201.

¹¹ Nextel Spectrum Acquisition Corp., Request for Waiver of Section 27.1201 (filed Sep. 19, 2006) (Nextel Spectrum Waiver Request).

¹² Wireless Telecommunications Bureau Assignment of License Authorization Applications, Transfer of Control of Licensee Applications, De Facto Transfer Lease Applications, and Designated Entity Reportable Eligibility Event Applications Accepted for Filing, Report No. 2884, *Public Notice* (Sep. 27, 2006) at 2.

¹³ Havens PTD at 3.

¹⁴ Havens PTD at 4-6.

¹⁵ Havens PTD at 4, Maritime Communication/Land Mobile, LLC and Paging Systems, Inc., *Order*, 21 FCC Rcd 8794 (WTB PS&CID 2006), Mobex Network Services, Inc., *Order*, 20 FCC Rcd 17957 (WTB PS&CID 2005).

¹⁶ Havens PTD at 4-6. Sandra DePriest indirectly controls 100% of Maritime Communications/Land Mobile, LLC. See File No. 0002303355, Disclosable Interest Holder Amendment (filed Aug. 21, 2006).

at FCC auction.”¹⁷ In addition, Havens contended that WPV failed to adhere to the Commission’s rules governing the Commercial Mobile Radio Service (CMRS) and was warehousing spectrum.¹⁸

4. WPV and Nextel Spectrum filed oppositions, individually, to the Havens PTD on October 23, 2006.¹⁹ WPV argued that Havens lacked standing to challenge the Applications and that the Havens PTD was untimely filed with respect to the Martinsburg Application.²⁰ WPV also vehemently denied the allegation that DePriest lacked the character and fitness necessary to be a Commission licensee.²¹ Moreover, WPV noted that the stations at issue are not CMRS stations.²² Nextel Spectrum and WPV argued that they demonstrated that a waiver of the eligibility requirements of Section 27.1201 of the Commission’s Rules²³ was warranted.²⁴ On November 6, 2006, Havens filed a reply to the oppositions filed by both WPV and Nextel Spectrum.²⁵

5. On January 29, 2007, the Division dismissed the Havens PTD.²⁶ Specifically, the Division found that the Havens PTD was untimely filed after the deadline for filing petitions to deny against the Martinsburg Application.²⁷ Although Havens claimed that he was presenting evidence that was not available to him until after the filing deadline,²⁸ the Division found that such a claim was “contradicted by the fact that his allegations are based on pleadings dated prior to the filing of the Martinsburg Application.”²⁹ The Division concluded that Havens failed to justify his failure to file a timely petition against the Martinsburg Application and dismissed his pleading with respect to the Martinsburg Application.³⁰ In addition, the Division also found that the Havens PTD failed to demonstrate that the petitioners had standing with respect to either the Martinsburg Application or the Strasburg Application.³¹

¹⁷ Havens PTD at 6.

¹⁸ Havens PTD at 7.

¹⁹ Wireless Properties of Virginia, Inc., Opposition (Oct. 23, 2006) (WPV Opposition to PTD); Nextel Spectrum Acquisition Corp., Opposition to Petition to Deny (Oct. 23, 2006) (Nextel Spectrum Opposition to PTD).

²⁰ WPV Opposition to PTD at 2.

²¹ WPV Opposition to PTD 3-4.

²² WPV Opposition to PTD 3-5.

²³ 47 C.F.R. § 27.1201.

²⁴ WPV Opposition to PTD at 5, Nextel Spectrum Opposition to PTD at 2-3.

²⁵ Warren C. Havens, AMTS Consortium LLC, Telesaurus Holdings GB LLC, Telesaurus VPC LLC, and Intelligent Transportation and Monitoring Wireless LLC, Reply to Oppositions to Petition to Deny and in the Alternative Informal Request to Dismiss or Deny (filed Nov. 6, 2006).

²⁶ As an initial matter, the Division explained that Nextel Spectrum did not need a waiver of the EBS eligibility restrictions set-forth in 47 C.F.R. § 27.1201 to permit it to take assignment of EBS Station WQCP982 because existing commercial EBS stations, such as Station WQCP982, may be freely assigned. *See MO&O*, at 22 FCC Rcd at 1290 ¶ 6 (*citing* Amendment of Parts 1, 21, 73, 74 and 101 of the Commission’s Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, WT Docket No. 03-66 *et al.*, *Order on Reconsideration and Fifth Memorandum Opinion and Order and Third Memorandum Opinion and Order and Second Report and Order*, 21 FCC Rcd 5606, 5756 ¶ 366 (2006)). Because the Division found that Nextel Spectrum did not need a waiver to be eligible to hold an EBS license, it found no need to consider the arguments made by the parties concerning this matter.

²⁷ *MO&O*, 22 FCC Rcd at 1291 ¶ 9.

²⁸ Havens PTD at 1 n.1.

²⁹ *MO&O*, 22 FCC Rcd at 1291 ¶ 9 (*citing* Havens PTD at 2).

³⁰ *See MO&O*, 22 FCC Rcd at 1291 ¶ 9.

³¹ *See MO&O*, 22 FCC Rcd at 1291-1292 ¶ 10.

The Division rejected Havens attempt to broadly establish standing by generally referencing licenses³² held by the petitioners in the Location and Monitoring Service (LMS),³³ Automated Maritime Telecommunications System (AMTS),³⁴ and 220-222 MHz Service³⁵ that may offer services competitive to those offered by BRS Stations WMY290, WMY291, and WQCP982.³⁶ The Division found that the Havens PTD failed to explain how the referenced stations provide services that are competitive with services offered by BRS³⁷ and EBS³⁸ stations.³⁹ Accordingly, the Division dismissed the Havens PTD for lack of standing.

6. However, in the *MO&O*, the Division exercised its discretion to consider the allegations raised in the Havens PTD as an informal request for Commission action.⁴⁰ In so doing, the Division determined that the remaining arguments made by the petitioners provided no basis for denying the Applications.⁴¹ The Division specifically noted that the petitioners have not alleged that WPV engaged in any misconduct with respect to the stations at issue.⁴² The Division further noted that “Havens’ allegations concerning Auction 61 and the AMTS stations have been rejected in other contexts and that his arguments will be considered when his pending petitions challenging those orders are resolved.”⁴³ In addition, the Division found that “Havens has offered no credible evidence that WPV is in fact

³² See Havens PTD at 2 nn. 3,4.

³³ LMS provides for the use of non-voice signaling methods to locate or monitor mobile radio units. LMS systems may transmit and receive voice and non-voice status and instructional information related to such units. 47 C.F.R. § 90.7.

³⁴ AMTS stations provide automated, integrated, interconnected ship-to-shore communications similar to a cellular phone system for tugs, barges and other maritime vessels. Amendment of Parts 2 and 80 of the Commission’s Rules Applicable to Automated Maritime Telecommunications Systems (AMTS), GEN Docket No. 88-732, *First Report and Order*, 6 FCC Rcd 437, 437 ¶ 3 (1991).

³⁵ The 220-222 MHz band provides federal government and private land mobile service. Amendment of Part 90 of the Commission’s Rules to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Services, PR Docket No. 89-552, *Report and Order*, 6 FCC Rcd 2356, 2356 ¶ 1 (1991).

³⁶ See *MO&O*, 22 FCC Rcd at 1291-1292 ¶ 10.

³⁷ BRS provides integrated access to broadband technologies, including high-speed digital technologies that provide consumers integrated access to voice, high-speed data, video-on-demand, and interactive delivery services. Amendment of Parts 1, 21, 73, 74 and 101 of the Commission’s Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands, WT Docket No. 03-66, *Report and Order and Further Notice of Proposed Rulemaking*, 19 FCC Rcd 14165, ¶ 9 (2004).

³⁸ EBS originally provided for the transmission of instructional material to accredited public and private schools, colleges, and universities for the formal education of students. The Commission also permits EBS licensees to use the channels to transmit cultural and entertainment material to educational institutions, and to transmit instructional material to non-educational institutions such as hospitals, nursing homes, training centers, clinics, rehabilitation centers, commercial and industrial establishments, and professional groups. System operators in this band typically provide these types of offerings: (1) downstream analog video; (2) downstream digital video; (3) downstream digital data; and (4) downstream/upstream digital data. Amendment of Parts 1, 21, 73, 74 and 101 of the Commission’s Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 And 2500-2690 MHz Bands, WT Docket No. 03-66, *Report and Order and Further Notice of Proposed Rulemaking*, 19 FCC Rcd 14165, ¶ ¶ 9-16 (2004).

³⁹ See *MO&O*, 22 FCC Rcd at 1291-1292 ¶ 10.

⁴⁰ *MO&O*, 22 FCC Rcd at 1292 ¶ 12, citing 47 C.F.R. § 1.41.

⁴¹ See *MO&O*, 22 FCC Rcd at 1292 ¶ 12.

⁴² See *MO&O*, 22 FCC Rcd at 1292 ¶ 12.

⁴³ *MO&O*, 22 FCC Rcd at 1292 ¶ 12.

warehousing spectrum for resale purposes.”⁴⁴ Accordingly, the Division concluded that the Havens PTD provided no basis for denying the Applications.⁴⁵

7. On February 28, 2007, Havens filed the instant petition seeking reconsideration of the *MO&O*. In the PFR, Havens contends that the Division erred in concluding that the Havens PTD “failed to explain how their licenses could offer competitive services to those of EBS (WQCP892) or BRS (WMY290 and WMY291) licenses.”⁴⁶ Havens argues that “AMTS and LMS are mobile services, however, mobile devices can be used in premises to replace fixed-installed wireless (or wired) communications devices.”⁴⁷ Havens therefore contends that “LMS and AMTS licenses and the equipment and services that are authorized can complete [*sic*] with any fixed wireless wideband or broadband licenses and services.”⁴⁸ Havens argues that he was not required to “prove what is permitted in the Commission’s rules . . . and feasible in the marketplace.”⁴⁹ In addition, the PFR states that the *MO&O* must be reconsidered since the matters raised regarding DePriest’s character must be addressed because the Bureau has allegedly ignored the facts and arguments presented by the petitioners in their respective proceedings.⁵⁰ Lastly, Havens contends that the PFR presents “[n]ew facts [that] have arisen since the last opportunity to present them and they are of decisional significance to require reconsideration.”⁵¹ On March 13, 2007, WPV filed an opposition to the PFR.⁵² Havens filed a reply on March 26, 2007 and an erratum on March 27, 2007.⁵³

III. DISCUSSION

8. Reconsideration is appropriate only where the petitioner either demonstrates a material error or omission in the underlying order or raises additional facts not known or not existing until after the petitioner’s last opportunity to present such matters.⁵⁴ A petition for reconsideration that simply reiterates

⁴⁴ *MO&O*, 22 FCC Rcd at 1292 ¶ 12. Section 1.948(i)(1) of the Commission’s Rules defines trafficking or warehousing as obtaining or attempting to obtain an authorization for the principal purpose of speculation or profitable resale of the authorization rather than for the provision of telecommunication services. 47 C.F.R. § 1.948(i)(1).

⁴⁵ *MO&O*, 22 FCC Rcd at 1292 ¶ 12.

⁴⁶ PFR at 2. Specifically, the PFR notes that “Petitioners are all FCC licensees as shown in Commission’s Records.” PFR at 1. The PFR elaborates that “Petitioners hold licenses in radios services in the same area as the Licenses that may offer competitive service to the Licenses.” PFR at 1 n.3.

⁴⁷ PFR at 3. The PFR further states that the petitioners have been describing their intent “to use wideband technologies for wideband services” “in FCC filings and in public releases including their website” PFR at 2-3.

⁴⁸ PFR at 3.

⁴⁹ PFR at 3.

⁵⁰ PFR at 3-4.

⁵¹ PFR at 4-5.

⁵² Wireless Properties of Virginia, Inc., Opposition to Petition for Reconsideration (Mar. 13, 2007).

⁵³ Warren C. Havens, AMTS Consortium LLC, and Telesaurus Holdings GB LLC, Telesaurus VPC LLC, and Intelligent Transportation and Monitoring Wireless LLC, Reply to Opposition to Petition for Reconsideration (Mar. 26, 2007); *see also* Erratum (filed Mar. 27, 2007).

⁵⁴ *See WWIZ, Inc.*, 37 FCC 685, 686 ¶ 2 (1964) (*WWIZ*), *aff’d sub. nom. Lorain Journal Co. v. FCC*, 351 F.2d 824 (D.C. Cir. 1965), *cert. denied*, 383 U.S. 967 (1966). A petitioner must state with particularity the respects in which petitioner believes the action taken by the Commission or the designated authority should be changed. *See* 47 C.F.R. § 1.106(d)(1). The petition for reconsideration shall also, where appropriate, cite the findings of fact and/or conclusions of law which petitioner believes to be erroneous, and shall state with particularity the respects in which he believes such findings and conclusions should be changed. *See* 47 C.F.R. § 1.106(d)(2). In addition, a petition for reconsideration which relies on facts not previously presented to the Commission or to the designated authority

arguments that were previously considered and rejected will be denied.⁵⁵ We find that the PFR neither demonstrates material error or omission in the *MO&O*, nor raises any new facts unavailable to the petitioners at their last opportunity to presents such matters.⁵⁶ Therefore, for the reasons explained below, we dismiss the PFR.

9. Based on the record in this proceeding, we find that the PFR simply reargues matters that the Division previously considered and rejected in the *MO&O*. It is well established that “rehearing will not be granted merely for the purpose of debating matters on which the tribunal has once deliberated and spoken.”⁵⁷ While Havens alleges that his arguments have been “ignored,”⁵⁸ a review of the pleadings shows that his arguments were thoroughly considered and rejected in the *MO&O*. While it is apparent that Havens believes that the *MO&O* is incorrect, he has not met the standards for reconsideration by demonstrating a material error or omission in the underlying order or raising additional facts not known or not existing until after the last opportunity he had to present such matters. Accordingly, we dismiss the PFR to the extent that it presents arguments previously considered and rejected.

10. To the extent that the PFR purports to present the Commission with “[n]ew facts [that] have arisen since the last opportunity to present them . . .,”⁵⁹ we disagree. Pursuant to Section 1.106(c) of the Commission’s Rules, a petition for reconsideration which relies on facts not previously presented may be granted only in three circumstances, such as when the new facts were unknown to the petitioner until after his last opportunity to present such matters which could not, through the exercise of ordinary diligence, have been learned prior to such opportunity.⁶⁰ In this instance, the pleadings referenced in the PFR as presenting “new” facts to the Commission were filed by Havens on December 27, 2006 – one month prior to the release of the *MO&O* in this proceeding.⁶¹ Furthermore, the pleadings in question were filed by Havens, so Havens presumably had access to the facts contained therein before that date. If Havens believed the facts therein presented to the Commission were of decisional significance in the instant matter, Havens should have brought such facts to the attention of the Division in a timely manner and not waited until after the Commission had issued a decision to present them.⁶² Moreover, it is unclear which

may be granted only if (i) the petition relies on facts which relate to events which have occurred or circumstances which have changed since the last opportunity to present such matters; (ii) the petition relies on facts unknown to petitioner until after his last opportunity to present such matters which could not, through the exercise of ordinary diligence, have been learned prior to such opportunity; (iii) or the Commission or the designated authority determines that consideration of the facts relied on is required in the public interest. *See* 47 C.F.R. § 1.106(c).

⁵⁵ *See WWIZ*, 37 FCC at 686 ¶ 2 (“it is universally held that rehearing will not be granted merely for the purpose of again debating matters on which the tribunal has once deliberated and spoken”).

⁵⁶ *See* 47 C.F.R. § 1.106(c).

⁵⁷ *WWIZ*, 37 FCC at 686 ¶ 2.

⁵⁸ PFR at 3.

⁵⁹ PFR at 4. Specifically, Havens contends that these new facts are contained in petitions for reconsideration filed on December 27, 2006 in File No. 0002303355. The PFR also seems to suggest that reconsideration is warranted because new facts were presented by WPV in its opposition to the Havens PTD filed in the instant proceeding on October 23, 2006. *See* PFR at 5-6. As the filings by WPV in this proceeding were considered by the Division, we cannot find that any facts therein would constitute newly discovered facts warranting reconsideration. In this respect, we also note that Havens had the “last opportunity to present such matters” when it filed a reply in this proceeding on November 6, 2006.

⁶⁰ 47 C.F.R. § 1.106(c)(1)-(2), *see discussion supra* note 54.

⁶¹ PFR at 4-6.

⁶² *See* Herbert L. Schoenbohm, WT Docket No. 95-11, *Order*, 13 FCC Rcd 23774, 23775-23776 ¶ 4 (1998) (argument not considered when petitioner had evidence available prior to Commission decision but waited to present evidence until after Commission issued decision); Nick J. Chaconas, *Memorandum Opinion and Order*, 35 FCC 2d

facts in the referenced pleadings were allegedly “new,” what level of diligence was undertaken by Havens to discover such facts, and on what specific date such new facts were discovered by Havens. In this respect, Havens states in the PFR that “new admissions” were disclosed in amendments to the FCC Form 601 filed by Maritime Communications/Land Mobile, LLC on August 21, 2006⁶³ – months before Havens filed pleadings in the instant proceeding. Accordingly, we find that Havens could have, in the exercise of ordinary diligence, discovered and apprised the Division of any pertinent facts or developments with respect to the application prior to the release of the *MO&O*. For similar reasons, we cannot find that the public interest requires consideration of such new facts at this stage of the instant proceeding.

11. Lastly, we find Havens’ attempt to establish standing by presenting additional arguments at the reconsideration stage that were not presented in the Havens PTD to be untimely. Havens was required to specifically plead and establish standing in the Havens PTD.⁶⁴ The Division found that the precedent cited by Havens was clearly distinguishable and failed to support Havens’ broad presumption that holding a license in any wireless service in the Martinsburg, West Virginia or Strasburg, Virginia areas was sufficient to afford standing to file the Havens PTD.⁶⁵ Havens contends that we should in this proceeding address specific allegations that he has made in other licensing proceedings because he believes that the Bureau has ignored the facts and arguments that he has presented in those proceedings.⁶⁶ However, we decline to address allegations raised in other proceedings, as we find that those proceedings remain the more appropriate venues for addressing those specific allegations.⁶⁷

IV. CONCLUSION AND ORDERING CLAUSES

12. For the reasons discussed above, we find that the PFR presents no new arguments that were not previously considered and rejected by the Division in the *MO&O*. The petitioners have not identified any error or omissions in the *MO&O* warranting reconsideration of the action taken by the Division in this matter. We therefore dismiss the PFR.

698, 699 ¶ 6 (1972) (“The purposes of administrative finality are not served by entertaining petitions for reconsideration or petitions to reopen the record only to correct oversights in the presentation of a particular case.”)

⁶³ See PFR at 5. Although the PFR does not state the specific date of the amendment to File No. 0002303355, Universal Licensing System (ULS) records indicate that only one amendment for this application was filed. See Maritime Communications/Land Mobile, LLC, File No. 0002303355 (filed Sep. 7, 2005; amended Aug. 21, 2006). We note that the Havens PTD sought to incorporate various pleadings associated with this Maritime Communications/Land Mobile, LLC application. See Havens PTD at 4. .

⁶⁴ See 47 C.F.R. § 1.939(d)(1) (requiring that a petition to deny contain specific allegations of fact sufficient to make a *prima facie* showing that the petitioner is a party in interest and that a grant of the application would be inconsistent with the public interest, convenience and necessity).

⁶⁵ See *MO&O*, 22 FCC Rcd at 1291-1292 ¶ 10.

⁶⁶ PFR at 3-4.

⁶⁷ On March 9, 2007, the Chief, Mobility Division, Wireless Telecommunications Bureau denied petitions for reconsideration filed by petitioners concerning the qualifications of Maritime Communications/Land Mobile, LLC and Donald R. DePriest. Maritime Communications/Land Mobile LLC, *Order on Reconsideration*, 22 FCC Rcd 4780 (WTB MD 2007). Havens has filed an application for review of that order, which is pending.

13. Accordingly, IT IS ORDERED that pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 405, and Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, the Petition for Reconsideration filed by Warren C. Havens, AMTS Consortium LLC, Telesaurus Holdings GB LLC, Telesaurus VPC LLC, and Intelligent Transportation and Monitoring Wireless LLC on February 28, 2007 IS DISMISSED.

14. 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

Blaise A. Scinto
Acting Chief, Broadband Division,
Wireless Telecommunication Bureau