

**Before the
Federal Communications Commission
Washington, DC 20554**

FCC 14M-34
10165

In the Matter of	)	EB Docket No. 11-71
)	
MARITIME COMMUNICATIONS/LAND	)	File No. EB-09-1H-1751
MOBILE, LLC	)	FRN: 0013587779
)	
Participant in Auction No. 61 and Licensee of)	
Various Authorizations in the Wireless Radio)	
Services)	
	)	Application File Nos. 0004030479,
Applicant for Modification of Various	)	0004193028, 0004193328,
Authorizations in the Wireless Radio Services	)	0004354053, 0004309872,
	)	0004310060, 0004314903,
Applicant with ENCANA OIL AND GAS (USA),	)	0004315013, 0004430505,
INC.; DUQUESNE LIGHT COMPANY, DCP	)	0004417199, 0004419431,
MIDSTREAM, LP; JACKSON COUNTY	)	0004422320, 0004422329,
RURAL MEMBERSHIP ELECTRIC	)	0004507921, 0004526264,
COOPERATIVE; PUGET SOUND ENERGY,	)	and 0004604962
INC.; ENBRIDGE ENERGY COMPANY,)	
INC.; INTERSTATE POWER AND LIGHT)	
COMPANY; WISCONSIN POWER AND)	
LIGHT COMPANY; DIXIE ELECTRIC)	
MEMBERSHIP CORPORATION, INC.; AND)	
ATLAS PIPELINE-MID CONTINENT, LLC)	
)	
For Commission Consent to the Assignment of)	
Various Authorizations in the Wireless Radio)	
Service)	

ORDER ON EVIDENTIARY RULINGS

Issued: November 13, 2014

Released: November 14, 2014

Preliminary Statement

An Evidence Admission Session was scheduled for November 4, 2014, and held on even date. At that Session, the Enforcement Bureau (“Bureau”) identified and offered its direct case, which was admitted into evidence in its entirety. Maritime Communications/Land Mobile, LLC (“Maritime”) identified and offered as its sole exhibit the Joint Stipulation Between the Enforcement Bureau and Maritime on Discontinuance of Operations of Previously Stipulated Site-Based Facilities dated September 11, 2014 and accepted by the Presiding Judge on October

8, 2014.¹ That exhibit was admitted into evidence. Attorney James A. Stenger of Chadbourne & Parke, LLP, representing Environmental LLC (“Environmental”) and Verde Systems LLC (“Verde”), identified and offered the exhibits of Environmental, Verde, and Warren Havens (collectively “EVH”).² Those exhibits are ruled on herein.

I. Admitted Exhibits

The following exhibits shall be admitted. They shall be received and used only for the facts they contain and not for any legal authority.

Exhibits 1, 27, 32, 40, 56-59, 62, 67, 69, 75, 226, 260, 292, 340, 428, and 429 are relevant and admitted. Maritime’s objection that EVH failed to identify specific portions of these Exhibits is overruled. These Exhibits are of reasonable length and relevance can be determined by inspection.

Exhibits 2, 39, 240, and 278 are relevant and admitted. Objections of Maritime and the Bureau as to relevance are overruled. The Bureau’s objection to Exhibit 2 as hearsay is overruled. The Exhibit is an opposing party’s statement and thus not hearsay.

Exhibit 44 at Paragraphs 2-4 are relevant and admitted. The objections of Maritime and the Bureau as to relevance are sustained for the remainder.

Exhibit 46 at Paragraphs 2-7 and 10, footnotes 2, 7, is relevant and admitted. The objections of Maritime and the Bureau as to relevance are sustained for the remainder.

Exhibits 47, 431, and 435 are relevant. Their probative value is not outweighed by any countervailing factor. They are admitted over objections of Maritime and the Bureau, which are overruled.

Exhibit 48 at Paragraph 1-5 admitted solely as background information. Paragraphs 6, 8, 9, 11, 15, and 16 are relevant and admitted for all purposes. Objections of Maritime and the Bureau as to relevance are sustained for the remainder.

Exhibit 50 at Paragraph 1 is admitted solely as background information. Paragraphs 5, 6, 9, and 10, as well as footnote 6, are relevant and admitted. Objections of Maritime and the Bureau as to relevance are sustained for the remainder.

¹ *Order*, FCC 14M-31 (rel Oct. 9, 2014).

² Mr. Havens chose not to appear at the Evidence Admissions Session. On November 3, 2014, the day before the Session, Mr. Havens submitted by an e-mail a request to participate in the conference by speakerphone. The Presiding Judge denied the request, as (1) the Session was deemed to be too complex to permit participation by phone and (2) the Presiding Judge had previously ruled that Mr. Havens must personally attend all conferences. *Order*, FCC 12M-52 at 4 (rel. Nov 15, 2012); *Order*, FCC 14M-25 at 3 (rel. Aug. 11, 2014) (ruling that the directives established by *Order*, FCC 12M-52 were still in effect). A similar request to participate by speakerphone by counsel for Pinnacle Wireless was also denied by the Presiding Judge.

Exhibit 51 at Paragraph 1, including subparagraphs 1-3, is admitted solely as background information. Paragraphs 3-5 and footnotes 7 and 11 are relevant and admitted. The objections of Maritime and the Bureau as to relevance are sustained for the remainder.

Exhibit 74 at Paragraphs 2 and 5-10 are relevant and admitted. The objections of Maritime and the Bureau as to relevance are sustained for the remainder.

Exhibit 77 at Pages 8-30 including footnotes are relevant and admitted. The objections of Maritime and the Bureau as to relevance are sustained for the remainder.

Exhibits 84, 243, 259, 319, and 444 are relevant and admitted. The objections of Maritime as to relevance are overruled.

Official Notice is taken of Exhibits 89, 139, 150, 154, 209, and 218. Maritime's objections as to relevance are overruled.

Exhibit 295 at Paragraphs 2-8 are relevant and admitted. The objections of Maritime and the Bureau as to relevance are sustained for the remainder.

Exhibit 333 at Paragraphs 17-34 is relevant and probative and therefore admitted. The objections of Maritime and the Bureau as to relevance are sustained for the remainder.

Exhibit 341 at Page 1 and the included Explanation of Notification and Public Interest Statement are relevant and admitted. The objections of Maritime are sustained for the remainder.

Exhibit 344 at Page 1 and the included Public Interest Statement, "Foreign Ownership" Statement, and Certification Pursuant to Section 20.9(b) are relevant and admitted. The objections of Maritime are sustained for the remainder.

Exhibit 345 at Page 1 and the included Amendment – Notification of Lease Extension - are relevant and admitted. The objections of Maritime are sustained for the remainder.

Exhibit 347 at Page 1 and the included Explanation of Notification and Public Interest Statement are relevant and admitted. The objections of Maritime are sustained for the remainder.

Exhibit 350 at Page 1-4 and the included Explanation of Notification and Public Interest Statement are relevant and admitted. The objections of Maritime are sustained for the remainder.

Exhibit 352 at Page 1 as well as the included Explanation of Notification and Public Interest Statement are relevant and admitted. The objections of Maritime are sustained for the remainder.

Exhibit 354 at Page 1 and the included Explanation of Notification and Public Interest Statement are relevant and admitted. The objections of Maritime are sustained for the remainder.

Exhibit 364 Pages 1, 2 and 5 and the included Public Interest Statement, “Foreign Ownership” Statement, and Certification Pursuant to Section 20.9(b) are relevant and admitted. The objections of Maritime are sustained for the remainder.

II. Rejected Exhibits

The objections of Maritime and the Bureau as to relevance are sustained for the following Exhibits: Exhibits 3-26, 28, 33-38, 41-43, 45, 54, 55, 60, 61, 65, 70-72, 82, 83, 85, 86, 88, 90-138, 140-149, 15 1-153, 155-208, 210-217, 220, 222-225, 227, 238, 239, 241, 242, 244, 246-251, 253-257, 261, 263-267, 272, 273, 277, 280-283, 286, 287, 290, 291, 293, 294, 296, 298, 299, 303-307, 311, 312, 314-316, 320-322, 324, 327-332, 334-339, 357, 366, 378, 380, 381, 384, 391, 393, 394, 399, 403-417, 420-427, 430 and 432-434.

Maritime’s objections as to relevance of Exhibits 29-31, 262, 268-271, 274-276, 279, 284, 285, 288, and 297 are sustained.

Exhibits 49, 258, 343, 346, 351, and 353 are duplicates of other Exhibits and not admitted.

Objections of Maritime and the Bureau as to the relevance of Exhibit 52 and 68 are sustained. In addition, the Presiding Judge finds that the Exhibits’ probative value is substantially outweighed by their being needlessly cumulative when considered alongside other admitted exhibits.

Exhibits 53, 63, 73, 76, 245, 289, 302, 308, 310, 313, 317, 323, 325, 326, 356, 358-362, 379, 382, 383, 385-387 and 419 are rejected as argumentative, hearsay, and self-serving. The probative value of these Exhibits is substantially outweighed by being cumulative and confusing. Objections of Maritime and the Bureau to these Exhibits are sustained. While the Hamlet quote in Exhibit 302 is noted, it has no probative value.

Exhibit 64’s probative value is significantly outweighed by being confusing and cumulative. Maritime’s objection is sustained.

Bureau’s objections to Exhibits 66, 228-236, 300, 301, 309, 318, 355, 395-397, and 400-402 are sustained. The Exhibits’ relevance is unclear and any probative value is significantly outweighed by the confusion of issues and waste of time.

Bureau’s objections to Exhibit 80 as to relevance and hearsay are sustained.

Exhibit 87 appears to be proffered as citable legal authority and is not admitted.

Bureau’s objection to Exhibit 252 is sustained, as the Exhibit’s probative value is significantly outweighed by being needlessly cumulative and dated when considered alongside other admitted exhibits.

Maritimes' objections to Exhibits 342, 348, 349, 363, 365, and 368-377 are sustained as it is noted that the Exhibits lack clarity as to their relevance. These Exhibits also appear cumulative when compared with those admitted.

The probative value of Exhibits 79, 390, 441, and 443 are significantly outweighed by their nature as cumulative and repetitive and will not be admitted.

Exhibit 392 is self-serving, unauthenticated, lacks relevance and therefore will not be admitted.

Exhibit 418 is an unsigned declaration. It is hearsay that does not fall under any exception, has not been authenticated, and therefore will not be admitted.

III. Other Exhibits

Exhibits CE1-4 will not be considered until the hearing.

Exhibit 78 is admitted for cross-examination purposes only, subject to a proffer of relevance at hearing.

The Presiding Judge will only permit the use of depositions for cross-examination and only if the portions of the depositions sought to be used are specified ahead of time. Exhibit 81 is a deposition transcript that will not be admitted at this time, but portions may be used at cross-examination upon a proper showing the Presiding Judge's requirements have been met.

Exhibits 219, 221, 237, 367, and 388 may be admitted subject to a satisfactory proffer of relevance at hearing.

Exhibits 389 and 398 may be admitted subject to a satisfactory proffer of relevance and authentication at hearing.

Exhibits 436-440 and 442 may be admitted subject to a satisfactory proffer at hearing that they are relevant and not cumulative.

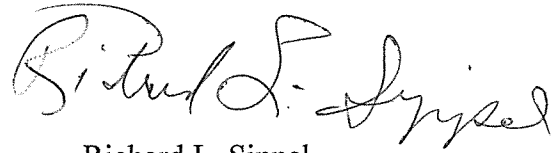
The direct testimony of Steve Calabrese modified by the Presiding Judge's order is marked as Bench Exhibit 1 and received into evidence.

IV. Directive

The admitted EVH exhibits must be marshaled, organized, and marked in accordance with their current numbering, as well as paginated internally. Counsel is authorized to direct any questions he has regarding this process to OALJ staff. Copies will be delivered to the parties and to the Presiding Judge before trial and delivered to the Court Reporter on the first day of trial for inclusion in the hearing record.

SO ORDERED.

FEDERAL COMMUNICATIONS COMMISSION³

A handwritten signature in black ink, appearing to read "Richard L. Sippel". The signature is written in a cursive style with a large initial "R".

Richard L. Sippel
Chief Administrative Law Judge

³ Courtesy copies of this *Order* sent by e-mail on issuance to each counsel and to Mr. Havens.