Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re

EB Docket No. 11-71
File No. EB-09-IH-1751
FRN: 0013587779

Maritime Communications/Land Mobile, LLC (“Maritime”), by its attorney, hereby responds to the Interlocutory Appeal Under § 1.301(a)(1) filed on December 29, 2014, by Mr. Warren C. Havens. This opposition is timely filed pursuant to Sections 1.4(g)-(h) and 1.301(b)(7) of the Commission’s Rules. 47 C.F.R. §§ 1.4(g)-(h) & 1.301(b)(7).

Rather than duplicating the arguments set forth in the Enforcement Bureau’s January 6, 2015, opposition pleading—in which Maritime fully concurs—Maritime here offers only a few additional comments.
Self-representation in formal hearing proceedings is not, as Mr. Havens erroneously asserts, a “right.” In hearing proceedings, a principal may represent a corporate party (or similar legal entity) only at the discretion of the presiding judge. 47 C.F.R. § 1.21(d). In this proceeding, the presiding judge has repeatedly ruled that the entities controlled by Mr. Havens must be represented by duly licensed legal counsel. E.g., Memorandum Opinion and Order (FCC 12M-16; rel. March 9, 2012), citing, inter alia, Black Television Workshop of Los Angeles, Inc., 7 FCC 2d 6868, 6870 (1992).

Mr. Havens nonetheless claims an independent right as an individual party to represent himself. In this regard, the presiding judge has, as a matter of discretion, permitted Mr. Havens to act pro se from much of the proceedings, but this discretionary deference was and remains conditioned on Mr. Havens demonstrating that his personal interests are non-identical, separate, and distinct from those of his entities. Memorandum Opinion and Order (FCC 12M-44; rel. Sept. 25, 2012) at ¶¶ 15-18. To date, Mr. Havens has not satisfied this condition, a failure that was acknowledged by the presiding judge at the December hearing and in the order being appealed. Mr. Havens merely utters the tautology that he and his companies are separate legal entities, a point that no one disputes. Mr. Havens has at times made nebulous statements about different purposes or business objectives, but in addition to being vague, this is beside the point. To justify dual representation, Mr. Havens must show not only that he has a separate legal interest from that of his entities, but that the cited interest is one legally cognizable in the context of this FCC proceeding. In other words, it must be an interest being adjudicated in the hearing.

Mr. Havens and his entities do not have separate grounds for their standing as parties in this proceeding. Both Mr. Havens and his entities were made parties because they were “petitioners,” having filed petitions to deny the above-captioned assignment of license applications also designated in this proceeding. Specifically, the Commission ordered that each
of the “entities shall be made parties to this hearing in its capacity as a petitioner to one or more of the captioned applications.” Maritime Communications/Land Mobile, LLC, Order to Show Cause, Hearing Designation Order, and Notice of Opportunity for Hearing (FCC 11-64), 26 FCC Rcd 6520, 6549 ¶ 72 (2011). Standing rests on alleged encumbrances and similar co-channel conflicts between authorizations held by the Havens entities on the one hand and Maritime on the other. But Mr. Havens personally holds no licenses, and thus does not, as an individual, have any such licensing conflicts with Maritime. Whatever standing Mr. Havens has is derived from the standing of his entities. Any unrelated separate interests Mr. Havens may conjure up are within the scope of the Commission’s jurisdiction or, at the very least, were not the basis on which he was made a party to this hearing proceeding.

For the reasons stated in the Enforcement Bureau’s opposition pleading, the order in question is not appealable as a matter of right, and the interlocutory appeal should therefore be dismissed. Alternatively, for the reasons stated above as well as in the Enforcement Bureau’s opposition, the interlocutory appeal is without merit and should be denied.

Respectfully submitted,

[Signature]

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Dated: January 9, 2015
CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of January, 2015, I caused copies of the foregoing report to be served, by U.S. Postal Service, First Class postage prepaid, on the following:

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