TRANSCRIPT OF PROCEEDINGS

BEFORE THE

FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

In the Matter of:

Maritime Communications/Land Mobile, LLC et al.

For commission consent to assignment of various authorizations in wireless radio service

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JUDGE SIPPEL: That is right.

Some --

MR. KELLER: We've given everything we have.

JUDGE SIPPEL: I don't like that answer.

MR. KELLER: Well, we can't give more than we have.

JUDGE SIPPEL: Well, I don't think that you tried hard enough to get all of the information she needs. I can't believe that you have licenses to stations and nobody knows anything about it.

MR. REARDON: Your Honor, that's the truth.

JUDGE SIPPEL: All right. Well, if that's the truth, then that's the truth. That might be. But I think it's going to be your problem. It's not going to be the Bureau's problem.

MR. HAVENS: Your Honor, could I make a few more points on the long
presentation by Mr. Keller and Ms. Kane on
this construction and operation issue?

JUDGE SIPPEL: Well, I guess you
can. I will let you do it, but I'm not going
to make anybody stay around for it. We'll
hear it on the record.

MR. HAVENS: Sure. Thank you.

One of the points that Mr. Keller
asserted is that the construction has been
adjudicated. That is not correct. I know all
of these proceedings. I'll be glad to show
you.

There has never been a showing by
either Maritime or Mobex or any of the
predecessors that they know anything at all by
any construction deadline.

Construction does not mean an
operating station. It means they built it
with equipment and in the case of --
interconnect at the construction deadline.

Mr. Keller also made a long
argument about the geographic licenses that
Maritime has are subject to some of the site-based licenses. That presupposes that there is a definition of the coverage area of the site-based licenses.

The Wireless Bureau has issued to Maritime two orders that Maritime turn over to SkyTel entities because we hold the geographic licenses in most -- in large part of the country subject to the Maritime site-based licenses.

But under FCC rules 80.385B, we have the right -- according to two orders from down at the Wireless Bureau, we have the right to get from Maritime these details on its actual operating site-based stations so that we know how we can use our geographic spectrum up to the limits of its F-5050 contour. We can't determine the F-5050 contour without those details.

Maritime counsel has written back to us several times in its documents in our New Jersey litigation that we will not
provide, Maritime will not give us, those
details.

The issue is that Maritime cannot
state that only its geographic licenses are
subject to the site-based licenses. That is
all. Those site-based licenses are in the
middle. Many of them are in the middle of my
companies' geographic licenses. And we're
being barred from using our geographic
licenses around the country for that reason.

And, plus, there are some on the
borders between the geographic licenses that
my company holds and Maritime holds. Some of
their site-based station coordinates are near
the borders. And we can't tell, nor can
Maritime, how that site-based license affects
the geographic licenses, ours and theirs,
until they produce evidence and give it to us
of what they are actually operating.

Now, if they are not operating at
all and they don't have any evidence of
construction and, yet, they are trying to
maintain those stations, the whole thing just breaks apart. The whole purpose of the site-based versus the incumbent breaks apart. I mean, that gets back to the issue of why does Maritime not have any evidence of the construction?

It answered that. It said the information that it had when it bought the stations from the licenses and the physical stations from Mobex, those documents were -- Maritime has stated that it was satisfied looking at those documents of construction and operation. It was satisfied. It chose not to keep those documents. Let them remain with Mobex.

Mobex put them in storage, didn't pay the storage fee. Mr. Keller testified that he believed that his company -- his client believed that it was in storage. All the client had to do throughout this whole hearing or at any time, you know, since Maritime bought these, all it had to do is
make one phone call to the storage company, whose name they knew, to find out if those documents were still there.

Those are the 100 boxes we're getting.

JUDGE SIPPEL: Are you finished?

MR. HAVENS: Yes, sir.

JUDGE SIPPEL: Okay. Hold on a second. We've got a question.

MR. PLACHE: From Pinnacle's --

JUDGE SIPPEL: Yes. Pinnacle's counsel. Yes, sir. Say your name again, sir.

MR. PLACHE: Matthew Plache.

JUDGE SIPPEL: All right. Thank you.

MR. PLACHE: From the standpoint of Pinnacle Wireless and its concerns, Pinnacle is concerned about station WRV374. And we would want to make sure that any information in those 100 boxes relevant to construction of WRV374 is being preserved.

JUDGE SIPPEL: WRV374?
MR. PLACHE: Three seventy-four.

JUDGE SIPPEL: Where is that station located?

MR. PLACHE: Up and down the East Coast. The Pinnacle Wireless is using it in New Jersey to operate its system for the turnpike authority and for the Meadowlands.

JUDGE SIPPEL: I remember reading that story as I was going to go drive up the turnpike.

MR. PLACHE: We don't have information on the original construction twenty years back.

JUDGE SIPPEL: You don't?

MR. PLACHE: We don't because there is no way we would have information on that. We know that a company called Regionette owned the license at one point and actually was the tenant paying for the lease who was listed as the lessee at one of the sites that as operating under that license. So we know that Regionette was operating just
based on that information.

JUDGE SIPPEL: But does this have anything to do with anything that Mr. Havens has, any of his geographic licenses?

MR. PLACHE: Apparently Mr. Havens holds the geographic license for part of the coverage in New Jersey.

JUDGE SIPPEL: Is that right, Mr. Havens?

MR. HAVENS: One of my companies has the --

MR. PLACHE: Actually, not Mr. Havens. One of his companies that he is not acting as counsel for.

JUDGE SIPPEL: Well, but --

MR. HAVENS: Look, I represent my companies in the licensing matters before the FCC. That is what you are asking about. I can certainly address that.

JUDGE SIPPEL: Well, as a fact witness, not as a lawyer and not as an expert.

MR. HAVENS: Fine. You know, the
issue here is Maritime issue G. We have gone over these boxes.

JUDGE SIPPEL: Are you going to answer? Wait a minute. Now, wait a minute. Mr. Plache has a question or he made a point about station WRV374 in the New Jersey geographic area.

MR. HAVENS: Sure. Yes.

JUDGE SIPPEL: Do you have anything to do with that station?

MR. HAVENS: Yes. One of my companies holds the A block, geographic, and CF license for the Northeast, which extends down into roughly half of New Jersey. And in that northern half of New Jersey and along the border, Maritime has certain stations under its site-based license WRB374. So Pinnacle counsel is correct to that extent.

JUDGE SIPPEL: Okay. So Maritime has the site-based and you have the geographic. Now, what is the name of the company that you say that has that?
MR. HAVENS: Let me think. I think -- you know, I would have to look that up because we have one -- we have the A block and the B block in the Northeast. And one of them is Environmental, LLC. I believe that has the B block. The other one I believe is Intelligent Transportation and Monitoring Wireless, LLC. That has A block. I'd have to verify that.

JUDGE SIPPEL: Well, I got you stumped on one. Go ahead. You verify and let us know. Email would be fine.

MR. HAVENS: Okay. Email is fine. I will send an email, and I will verify.

In terms of the preservation of the boxes, that is our first goal. And we are doing that in a way that -- you know, we are not going to touch the boxes. My companies and my counsel will have a bonded third party contractor to take all action with the storage company to scan and preserve on a CD all of the boxes, all of the contents as they are at
this time so that all of the parties will be assured that the evidence is exactly as it has been.

JUDGE SIPPEL: I am going to ask you this. Actually, I am going to require it. I want to get from you a pre-status report on all business about those documents by the 31st. I'm not saying you have to have everything done. I'm just saying let me know what actually is the status of getting things done at that point.

And just again you can do it by email. Send copies to all of the other parties and lawyers. Okay?

MR. HAVENS: Yes, sir.

JUDGE SIPPEL: All right. And let me ask you one other question. You cited to a rule, 80. something.

MR. HAVENS: Yes, 80.385B. And that rule, in essence, provides that the geographic licensee will provide a defined protected area around a co-channel or same
channel site-based station.

And the FCC Wireless Bureau ruling on that -- in fact, Maritime asked for a declaratory ruling that the Bureau permit its site-based stations to be protected from the co-channel geographies surrounding licensee by the maximum assumed parameters permitted under the granted license.

Mr. Stone of the Bureau ruled that that is not correct, that a site-based licensee is entitled to protection of its actual operating station.

JUDGE SIPPEL: Do you have a written ruling on that?

MR. HAVENS: Yes, sir, two rulings. And the last ruling was not challenged by Maritime in its final ruling. I'll be glad to identify those and provide copies.

JUDGE SIPPEL: That would be -- I would like those rulings, yes. Are they in the form of a letter ruling or an order?
MR. HAVENS: I believe the declaratory ruling is labeled a letter ruling. It did have lettering clauses at the end. And the order on reconsideration was an order on reconsideration.

JUDGE SIPPEL: I would like to get those as soon as you can.

MR. HAVENS: Yes. I will provide those.

JUDGE SIPPEL: With copies again to everybody. You can send it by email. But if you have them handy, it would do me a big service if you would just get them to me.

MR. HAVENS: I will do that right away.

JUDGE SIPPEL: Thank you, sir.

MR. PLACHE: Your Honor, I believe the two licensees are represented by Mr. Jackson.

JUDGE SIPPEL: The two --

MR. PLACHE: The two licensees mentioned, the two companies mentioned as
JUDGE SIPPEL: Well, give me the names of those licensees. We’re talking about WRV374. What else are you talking about?

MR. PLACHE: That’s what I was talking about.

MR. HAVENS: I’m only responding to the Judge’s request to provide status. I’m not going to make an argument.

JUDGE SIPPEL: That’s great. Thank you, Mr. Havens. We’re making progress.

Mr. Jackson?

MR. JACKSON: Yes. Just two very brief items, Your Honor.

JUDGE SIPPEL: Yes, sir.

MR. JACKSON: My clients would strongly support the position of the Bureau on the discovery extension. That proposal we would support also.

And, second, Mr. Plache indicated that apparently his client did some due diligence when they were going to release this
spectrum. And we’re looking for some
documents.

My clients have some outstanding
discovery to the applicants about certain
questions related to issue G. And I believe
they have not been responded to. And I don’t
think they have been directed to.

At some point, Your Honor, we
would like you to direct them to respond.

JUDGE SIPPEL: Was this in a
discovery interrogatories or --

MR. JACKSON: Yes. Last fall, I
believe, Your Honor, well before I became
involved in this case.

JUDGE SIPPEL: Could you resurrect
it and send me a copy?

MR. JACKSON: Yes, Your Honor.

JUDGE SIPPEL: It’s on it, I know,
but it would help.

MR. JACKSON: Yes, Your Honor.

JUDGE SIPPEL: I have limited
resources in my office I’m sure you know.
Okay. Okay.

Mr. Havens, you are cooking with gas, let me tell you.

MR. HAVENS: I appreciate it.

JUDGE SIPPEL: Okay. Let's keep it at that. Five months is what I going to -- is going to be the interim extension for discovery. And as I get further and further down the road and further status reports, you know, that date is going to be refined. Right now it's a maximum of five months, but asap is the standard.

MS. KANE: Your Honor?

JUDGE SIPPEL: Yes, ma'am?

MS. KANE: When we proposed the original 4 months, we didn't expect we would be getting 100 boxes of documents. The 4 months would have been difficult with the 12 boxes we got from Maritime. So to add another 100 boxes potentially, we have no idea whether any of that is relevant documents that we would have to still now go through to
determine if they are even responsive to anything in our requests could take considerable time. So I think we would be looking for at least a minimum of six months of discovery to have to go through those.

I mean, you're looking at the trial team. It's two people. So to go through 100 boxes of documents when we haven't had anybody go through them to determine if they are even relevant to this hearing --

JUDGE SIPPEL: All right. But five months is what we -- I'll go to six months, and that's it. I don't mean to say that you're going to live or die with six months. I'm saying you are going to have to come in and show me very good reason why it has to be beyond six months. Six months is a pretty decent time.

MS. KANE: We understand, Your Honor, but we don't even have the 100 --

JUDGE SIPPEL: That's why I'm saying. I mean, I'm saying I've got to set