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

In the Matter of ) EB Docket No. 11-71

MARITIME COMMUNICATIONS/LAND MOBILE, LLC ) File No. EB-09-IH-1751

Participant in Auction No. 61 and Licensee of Various Authorizations in the Wireless Radio Services

Applicant for Modifications of Various Authorizations in the Wireless Radio Services ) Application File Nos.
Applicant with ENCANA OIL AND GAS (USA), INC.; DUQUESNE LIGHT COMPANY; DCP MIDSTREAM, LP; JACKSON COUNTY RURAL MEMBERSHIP ELECTRIC COOPERATIVE; PUGET SOUND ENERGY, INC.; ENBRIDGE ENERGY COMPANY, INC.; INTERSTATE POWER AND LIGHT COMPANY; DIXIE ELECTRIC MEMBERSHIP CORPORATION, INC.; ATLAS PIPELINE-MID CONTINENT, LLC; AND SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY

For Commission Consent to Assignment of Various Authorizations in the Wireless Radio Services

DUQUESNE LIGHT COMPANY’S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW ON ISSUE G

Duquesne Light Company (“Duquesne” or “DLC”), by its undersigned counsel, submits the following Proposed Findings of Fact and Conclusions of Law on Issue G.
I. **Proposed Findings of Fact**

1. Duquesne is an investor-owned electric utility serving approximately 584,000 residents, businesses, government institutions, and hospitals throughout Allegheny and Beaver Counties, in southwestern Pennsylvania, including in the City of Pittsburgh.¹

2. Duquesne’s business mission is delivering safe and reliable electric power service to its customers through its extensive network of 45,000 miles of overhead power lines, 250,000 distribution poles, and 103,000 transformers.²

3. The operations of Duquesne are at all times supported by, and dependent on the functions of its complex radio communications system, including: voice communications between and amongst Duquesne’s fixed and mobile storm recovery units, and other utilities, municipalities, police and fire departments, and first responders; internal data communications; and supervisory control and data acquisition (SCADA).³

4. Since early 2010, Duquesne has been making pronounced efforts to enhance its wireless communications capabilities, in particular, within certain rural portions of its service area where old copper lines are not well integrated into its communications network.⁴

5. In addition to serving Duquesne’s internal communications needs, wireless spectrum also is an essential component of the smart metering system constructed by Duquesne, pursuant to the 2008 mandate of the Commonwealth of Pennsylvania.⁵

6. For the stated purpose of reducing energy consumption and demand, Pennsylvania House Bill 2200, commonly known as Act 129 of 2008, required all electric distribution

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¹ Testimony of Lee Pillar ¶ 2, filed September 15, 2014 (“Pillar Direct Testimony”).
² Id.
³ Id; see also Transcript of the December 11, 2014 Hearing at 1662, Lines 11-19 (“Dec. Hearing Transcript”).
⁴ Pillar Direct Testimony, ¶ 3.
⁵ Id.
companies having greater than 10,000 customers to submit to the Pennsylvania Public Utility Commission (PAPUC) for approval a smart meter procurement and installation plan, including a full schedule for deployment, and statement of total implementation costs.6

7. Duquesne investigated smart meter spectrum options in the 900 MHz licensed and unlicensed bands, as well as Wi-Max and other alternatives.7

8. No solution proved as resilient – or as having as good a range – across the Duquesne service area as spectrum in or near the 220 MHz band.8

9. In addition, equipment was readily available, proven and affordable in this band. Thus, Duquesne concluded that the 217 MHz and 219 MHz bands offered the best smart meter capabilities for the company.9

10. Effective February 18, 2010, Duquesne entered into an Asset Purchase Agreement with Maritime for 500 kHz of the 1 MHz of the B block spectrum in the 217 MHz and 219 MHz bands licensed under call sign WHG750.10

11. On April 21, 2010, Duquesne and Maritime jointly filed a complete Application for Assignment of Authorization WHG750 to Duquesne.11 Duquesne leased the spectrum while waiting for the Commission to act on its application.12

12. Duquesne constructed multiple facilities within the coverage area of call sign WHG750, which began operating as early as May 2010.13

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6 Id.
7 Id.
8 Id; see also Dec. Hearing Transcript at 1660, Lines 6-13.
9 Pillar Direct Testimony, ¶ 3.
10 Id, ¶ 4.
11 Id.
12 Id.
13 Id, ¶ 5.

14. As of September 2012, Duquesne was still operating these facilities in the 217-219 MHz band except for the Mt. Washington, Clinton, and Valley sites.\(^\text{15}\)

15. In response to this hearing proceeding, and the uncertainty it caused for Duquesne’s operations, Duquesne replaced its 217-219 MHz antennas at the Mt. Washington, Clinton, and Valley sites in February 2012 with 900 MHz antennas which Duquesne operates pursuant to other operating authority.\(^\text{16}\)

16. Due to the critical infrastructure needs and the requirements of the Pennsylvania PUC, Duquesne later decided that it could not risk operating on call sign WHG750 at any of its sites until this proceeding is resolved and the risk of losing the access to the spectrum is removed.\(^\text{17}\)

17. Duquesne decided to temporarily turn off its towers operating within the 217-219 MHz coverage of call sign WHG750 until the regulatory uncertainty regarding this authorization is removed.\(^\text{18}\)

18. Duquesne is leasing other spectrum from another company to fill-in its coverage requirements within the coverage parameters of call sign WHG750.\(^\text{19}\) All of the

\(^{14}\) *Id.* see also Dec. Hearing Transcript at 1663, Lines 4-8. \\
\(^{15}\) *Pillar Direct Testimony, ¶ 6.* \\
\(^{16}\) *Id.* \\
\(^{17}\) *Id., ¶ 7.* \\
\(^{18}\) *Id.* \\
\(^{19}\) *Id.*
equipment necessary to operate pursuant to the 217-219 MHz coverage of call sign WHG750 remains in place and capable of operation.\textsuperscript{20}

19. Call sign WHG750 was used, and hopefully will be used again, to provide smart meter system reliability support particularly in connection with the Mt. Washington area of Pittsburgh, which has a population of approximately 9,000, and also to provide system reliability support to several hospitals serving the metropolitan Pittsburgh area.\textsuperscript{21}

20. The 220 MHz band provided by call sign WHG750 provides the best smart meter capabilities for the company in terms of range, coverage over the unique terrain of southwestern Pennsylvania, and the cost and availability of equipment.\textsuperscript{22}

II. CONCLUSIONS OF LAW

1. Pursuant to Section 1.955(a)(3) of the Commission's rules, "[a]uthorizations automatically terminate, without specific Commission action, if service is permanently discontinued.

2. Because the service rules governing Maritime’s site-based AMTS licenses do not define “permanent discontinuance,” the Commission evaluates claims arising under Section 1.955(a)(3) on a case-by-case basis.\textsuperscript{23}

3. In Northeast Utilities Service Co., the Wireless Telecommunications Bureau concluded that “permanent discontinuance” of service had not occurred where the subject AMTS licensee exercised due diligence in its efforts to resume service following the destruction of its licensed site.\textsuperscript{24}

\textsuperscript{20} Id.
\textsuperscript{21} Id. ¶ 8.
\textsuperscript{22} Id.
\textsuperscript{23} See 47 C.F.R. Part 80.
\textsuperscript{24} In the Matter of Applications of Northeast Utilities Service Co. to Modify License for Station WQEJ718, File No. 0003026497, Order, DA 09-643, 24 FCC Red 3310 (rel. Mar. 20, 2009) at ¶¶ 9-10.
4. Similarly, Maritime has acted with the clear intention of restoring operations pursuant to its licenses, in: maintaining equipment and electrical power at those licensed sites where service was discontinued; engaging consultants and spectrum brokers to actively pursue new opportunities for use of the licensed spectrum; and entering into multiple lease arrangements with third parties, including Duquesne.25

5. Furthermore, the facts set forth above demonstrate that the sub-bands of call sign WHG750 leased to Duquesne have been operating since 2010, and have served as an essential component of Duquesne’s smart metering system, and internal communications network.26

III. CONCLUSION

For the reasons set forth above, Duquesne respectfully requests that the Presiding Judge issue an order concluding that call sign WHG750 was constructed and operated in accordance with the Commission’s rules, and disposing of Issue G in Duquesne’s favor.

Respectfully submitted,

[Signature]

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DATED: April 8, 2015

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25 Joint Motion at ¶ 27.
26 See also Joint Motion at ¶ 28.
CERTIFICATE OF SERVICE

I, Charles A. Zdebski, certify that on this 8th day of April, 2015, I caused a true and correct copy of the foregoing Proposed Findings Of Fact And Conclusions Of Law On Issue G to be filed via the Federal Communications Commission’s Electric Comment Filing System and to be served on the following (service method indicated):

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