

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

|   |  |
|---|--|
| In the Matters of   |  |
| Applications and Licenses, including AMTS, of:<br>Paging Systems Inc.   | All active licenses, WHW244, KB35853,<br>etc. and pending applications on ULS        |
| Applications and licenses, including AMTS, of:<br>Maritime Communications Land/ Mobile LLC<br>(and Predecessors)    | All active licenses, WQGF315-18,<br>KA98265, etc. and pending applications on<br>ULS |
| Application long forms in Auction 61 of:<br>Environmental LLC, and<br>Intelligent Transportation & ... Wireless LLC | 0001889684<br>0002304206   |

To the Chief, Wireless Telecommunications Bureau

Report under Section 1.65

“Petitioners,” listed below, submit this report under FCC rule § 47 CFR §1.65. It will be filed on ULS under the Licenses and Applications indicated in the caption above.<sup>1</sup>

Background

Petitioners Environmental LLC (“ENL”) (formerly know as AMTS Consortium LLC) and Intelligent Transportation & Monitoring Wireless LLC (“ITL”) in Auction 61 pleadings that remain pending under 47 USC §405 petitions challenge the Auction 61 long forms of Maritime Communications / Land Mobile LLC (“MCLM”) and Paging Systems Inc. (“PSI”) on the basis that ENL and ITL were the rightful high bidders for the licenses awarded to MCLM and PSI in Auction 61 and that MCLM and PSI are disqualified from Auction 61 participation and licensing

---

<sup>1</sup> These are all clearly stated in the FCC current ULS database, and well known by and easy to access to the parties and FCC staff. Listing all above would cause an unnecessarily cumbersome caption, when in any case this pleading to be effective must be filed under said applicable licenses and applications on ULS.

if the relevant facts and law are applied; and further, ENL, ITL, and the other Petitioners, for those reasons, and similar and various other reasons (as to character and fitness, and particulars of applications involved, etc.) have pending challenges under 47 UCS §§ 309(d) and 405 regarding various MCLM and PSI licensing applications and actions. Since their challenges include challenges based on the character and fitness of PSI, MCLM, and MCLM predecessors (Mobex etc.) to hold any FCC licenses (in accord with the FCC policy on character and fitness cited in said challenges), all of the PSI and MCLM and MCLM predecessor licenses are effectively involved in said challenges.

In addition, the court litigation subject of this Section 1.65 Report, reflected in the attached Amended Complaint, just filed by court permission, involves as one cause of action violation of US antitrust law, which if the court finds has occurred, may result in revocation under 47 USC §313 of the FCC licenses of defendants' MCLM, Mobex, PSI (and their alter egos, and their affiliates including assignees and lessees found to have participated in said violations, as may be determined in the case).

Further, the litigation involves causes of action under 47 USC § 401(b) that may result in an injunction or injunctions against defendants MCLM and PSI to comply with FCC rules (including, among others, §80.385(b)(1)) and associated orders, as identified and described in the attachment hereto which would affect some of the above-captioned licenses and applications.

In addition, Petitioners and PSI have filed in the past Section 1.65 reports in cases where court litigation has arisen involving licensing matters captioned above, and FCC staff did not raise objections thereto. Likewise, MCLM has filed on ULS a pleading in the past addressing matters subject of said 47 USC §401(b) cause of action (which Mobex filing is among the appended materials in the attached Amended Complaint).

For above reasons, and other good cause, this Section 1.65 Report is filed on ULS on the

above-captioned licenses and applications.

Report Substance:

Amended Complaint in the US District Court, District of New Jersey,  
*In Havens, Skybridge, et. al. vs. Mobex, MCLM, PSI, Touch Tel, and Does and Alter Egos*

Attached is Petitioners' Amended Complaint in the above-indicated case. (By decisions of the court, this case was held in abeyance or suspension for some time, and was recently reactivated and will be given a new case number. The attached Amended Complaint was filed on February 18, 2001 by permission of the court.

This Amended Complaint is filed for reasons given above. Defendants have indicated in this case that they will jointly file a motion to dismiss similar to the motion to dismiss they previously filed, based on theories of field or similar full preemption by the FCC of any claim that related to Defendants' FCC licenses and licensee status.<sup>2</sup> That will of course be accessible on PACER as well subsequent pleadings and court actions.

---

<sup>2</sup> Petitioners have demonstrated that they will, based on their private interests and the public interest involved, vigorously pursue their claims before the FCC and in court since they are procedurally and substantively meritorious, including if needed in writs of certiorari to the US Supreme Court. E.g., see: <http://www.scotusblog.com/2010/08/notable-petitions-26/> *Havens v. Mobex* petition for writ to US Supreme Court. That writ was denied. A case where like issues are better framed and more likely to meet criteria for grant of a writ of certiorari will be presented by Petitioners to the US Supreme Court in the near future, based on the Ninth Circuit decision in *Telesaurus v. Power*: see.

<http://www.scribd.com/doc/49199720/Telesaurus-v-Power-Petition-Rehearing-9th-Circuit-void-license-can-t-cause-FCC-preemption>

The two just-noted cases involved court findings of FCC preemption under 47 USC §332 of "entry" of the underlying FCC license and licensees-- even where the subject licenses were terminated or void based on FCC determinations. Petitioners are confident the courts erred, since, among other reasons, terminated and void federal licenses cannot be the basis of preemption. This and other issues will be presented to the US Supreme Court in the writ indicated above.

However, the attached Amended Complaint, unlike the two cases indicated in this footnote above, do not involve state law claims that may be subject to 47 USC §332 preemption, but claims under private rights of action under 47 USC 206, 207, 401(b) and under federal antitrust law.

Also, this case is subject of a pending petition for declaratory ruling filed by Petitioners before the FCC on October 14, 2009.<sup>3</sup>

Respectfully submitted,



---

Warren C. Havens  
President of each Petitioner

---

<sup>3</sup> *In the Matter of Skybridge Spectrum Foundation (et al) Petition for a declaratory ruling whether the Communications Act including §332, or the jurisdiction of the Federal Communications Commission, preempts State or Federal court jurisdiction and awarding of monetary damages and other action sought by one CMRS or PMRS service provider against another, for violation of State or Federal antitrust law, tort law, and certain other law.*

This Petition has not been opposed. Petitioners commented in this Petition and otherwise to the FCC that if the FCC takes no position on this, it is likely to create a substantially greater need for carriers to file complaints with the FCC, under 47 UCS §208 and otherwise, final decisions of which may be appealed to a Circuit Court under 47 USC §402.

## Attachment

---

Petitioners have posted a full copy of the above-discussed Amended Complaint at the following link.

Any person reviewing this link can review the document in full, and can also easily and at no cost download it by following the direction given by the online publisher involved, SCRIBD.

The FCC will soon have put into effect the revised rule allowing service to parties by email.

In the case of this Report, for the same public interest reasons that the FCC decided to allow service by email, and since this Amended Complaint is 180 pages long and the service list is extensive, Petitioners present it electronically as just described.

The link is here:

<http://www.scribd.com/doc/49192121/Skybridge-v-MCLM-PSI-USDC-NJ-2011-Amended-Complaint-Sc>

- End of attachment.

### Certificate of Filing and Service

Note with initial email service of this copy to FCC staff and MCLM and PSI counsel:

The Certificate of Service will completed later today, 2.21.11, and also filed on ULS today.<sup>4</sup>

---

<sup>4</sup> Petitioners' office will be seeking today confirmation or modification from some parties as to the person and address to use for service. The service list is long and some parties have not been active in the involved proceedings for some time, and, using emails available, Petitioners thus will seek confirmation or changes. This is also called for due to the exchange between the undersigned and Mr. Jack Richards of the Keller & Heckman law firm in recent weeks, copied to some FCC staff, relating to required service procedure in connection with his letter to Ruth Milkman dated 1.21.11.

## Certificate of Service

I, Warren C. Havens, certify that I have, on this 22<sup>nd</sup> day of February 2011, caused to be served, by placing into the USPS mail system with first-class postage affixed, unless otherwise noted, a true copy of the foregoing “*Report Under Section 1.65*”, unless otherwise noted, to the below-listed parties.<sup>1</sup>

This *Report Under Section 1.65* was prepared yesterday, February 21, 2011; however, since yesterday was a Federal Holiday and the FCC’s offices were closed, it is being filed and served today.

Copies served by email, indicated below, are for convenience. (Petitioners attempt, on their side, to expedite FCC proceedings they are involved with by said complimentary email service.)

### **1 — FCC**

By ULS filing and by email to the following FCC staff:

Marlene H. Dortch  
Secretary, Office of the Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554  
*Via ULS*

Ruth Milkman  
Chief, Wireless Telecommunications Bureau  
Federal Communications Commission  
Via email to: [ruth.milkman@fcc.gov](mailto:ruth.milkman@fcc.gov)

Michelle Ellison  
Chief, Enforcement Bureau  
Federal Communications Commission  
Via email to: [michelle.ellison@fcc.gov](mailto:michelle.ellison@fcc.gov)

Julius Knapp  
Chief, Office of Engineering and Technology  
Federal Communications Commission  
Via email to: [julius.knapp@fcc.gov](mailto:julius.knapp@fcc.gov)

Scot Stone  
Deputy Chief, Mobility Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
Via email to: [scot.stone@fcc.gov](mailto:scot.stone@fcc.gov)

---

<sup>1</sup> Said delivery to the US Postal Service may be after business hours, and if so, the postmark will be the following business day.

Erica Myers  
Telecom Access Policy Division  
Wireline Competition Bureau  
Federal Communications Commission  
Via email to: [Erica.myers@fcc.gov](mailto:Erica.myers@fcc.gov)

Jeff Tobias, Mobility Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
Via email to: [jeff.tobias@fcc.gov](mailto:jeff.tobias@fcc.gov)

Lloyd Coward  
Wireless Telecommunications Bureau  
Federal Communications Commission  
Via email to: [Lloyd.coward@fcc.gov](mailto:Lloyd.coward@fcc.gov)

Hillary S. DeNigro, Chief  
Investigations & Hearings Division  
Enforcement Bureau  
Federal Communications Commission  
Via email to: [Hillary.denigro@fcc.gov](mailto:Hillary.denigro@fcc.gov)

Gary Schonman, Special Counsel  
Investigations and Hearings Division  
Enforcement Bureau  
Federal Communications Commission  
Via email to: [gary.schonman@fcc.gov](mailto:gary.schonman@fcc.gov)

Brian Carter  
Investigations and Hearings Division  
Enforcement Bureau  
Federal Communications Commission  
Via email to: [brian.carter@fcc.gov](mailto:brian.carter@fcc.gov)

Jon Stover  
Office of Inspector General  
Federal Communications Commission  
Via email to: [jon.stover@fcc.gov](mailto:jon.stover@fcc.gov)

## **2 — MCLM and Related Parties**

Dennis Brown (legal counsel for MCLM and Mobex)  
8124 Cooke Court, Suite 201  
Manassas, VA 20109-7406  
(Courtesy copy via email to [d.c.brown@att.net](mailto:d.c.brown@att.net) )



Dixie Electric Membership Corporation, Inc.  
ATTN John Vranic  
PO Box 15659  
Baton Rouge, LA 70895  
(Courtesy copy via email to [johnv@demco.org](mailto:johnv@demco.org) )

Catalano & Plache, PLLC (legal counsel to Dixie Electric Membership Corporation)  
Attn: Albert J. Catalano & Matthew J. Plache  
3221 M Street, NW  
Washington, DC 20007  
(Courtesy copy via email to: [ajc@catalanoplache.com](mailto:ajc@catalanoplache.com) )

Catalano & Plache, PLLC (legal counsel to Pinnacle Wireless, Inc.)  
Attn: Albert J. Catalano & Matthew J. Plache  
3221 M Street, NW  
Washington, DC 20007

Wiley Rein LLP (Legal counsel for IPLC and WPLC—Alliant Energy Corporation)  
Kurt E DeSoto & Robert L. Pettit  
1776 K Street, N.W.  
Washington, DC 20006  
(Courtesy copy via email to [kdesoto@wileyrein.com](mailto:kdesoto@wileyrein.com) and [rpettit@wileyrein.com](mailto:rpettit@wileyrein.com) )

Wiley Rein LLP  
Kurt E. DeSoto & Robert L. Pettit  
Legal Counsel for Motorola, Inc.  
1776 K Street NW  
Washington, DC 20006

Keller and Heckman LLP (Legal counsel for DCP Midstream, LP)  
ATTN: Wesley K. Wright & Jack Richards  
1001 G Street, NW, Suite 500 West  
Washington, DC 20001  
(Courtesy copy via email to: [Richards@khlaw.com](mailto:Richards@khlaw.com) and [wright@khlaw.com](mailto:wright@khlaw.com) )

Keller and Heckman LLP (Legal counsel for Enbridge Energy Company Inc.)  
ATTN: Wesley K. Wright & Jack Richards  
1001 G Street, NW, Suite 500 West  
Washington, DC 20001

Keller and Heckman LLP (Legal counsel for EnCana Oil & Gas, (USA), Inc.)  
ATTN: Wesley K. Wright & Jack Richards  
1001 G Street, NW, Suite 500 West  
Washington, DC 20001

Keller and Heckman LLP (Legal counsel for National Rural Telecommunications Cooperative)  
ATTN: Wesley K. Wright & Jack Richards  
1001 G Street, NW, Suite 500 West  
Washington, DC 20001

DCP Midstream LP  
ATTN Mark Standberry  
Telecommunications Department  
6175 Highland Avenue  
Beaumont, TX 77705  
(Courtesy copy via email to: [mjstandberry@dcpmidstream.com](mailto:mjstandberry@dcpmidstream.com) )

Fletcher Heald & Hildreth (Legal counsel to Southern California Regional Rail Authority)  
Paul J Feldman  
1300 N. 17th St. 11th Fl.  
Arlington, VA 22209  
(Courtesy copy via email to: [feldman@fhhlaw.com](mailto:feldman@fhhlaw.com) )

Southern California Regional Rail Authority  
ATTN Darrell Maxey  
700 S. Flower St. Suite 2600  
Los Angeles, CA 90017  
(Courtesy copy via email to [maxeyd@scrra.net](mailto:maxeyd@scrra.net) )

EnCana Oil & Gas (USA), Inc.  
ATTN Dean Purcelli  
1400 North Dallas Parkway, Suite 1000  
Dallas, TX 75240

EnCana Oil & Gas (USA), Inc.  
792 Buckhorn Drive  
Rifle, CO 81650  
ATTN Dean Purcelli, Russell Buehrle  
Charles Lame, & Alven Frazier

NRTC, LLC  
ATTN General Counsel  
2121 COOPERATIVE WAY  
Herndon, VA 20171  
(Courtesy copy via email to: [SBERMAN@NRTC.ORG](mailto:SBERMAN@NRTC.ORG) )

Russell Fox (legal counsel for MariTel, Inc.)  
Mintz Levin  
701 Pennsylvania Ave., N.W.  
Washington, D.C. 20004  
(Courtesy copy via email to: [rfox@mintz.com](mailto:rfox@mintz.com) )

Jason Smith  
President & CEO  
MariTel, Inc.  
4635 Church Rd., Suite 100  
Cumming, GA 30028  
(Courtesy copy via email to: [jsmith@maritelusa.com](mailto:jsmith@maritelusa.com) )

National Rural Electric Cooperative Association  
Attn: Tracey Steiner, Deputy Chief Member Counsel  
& David Predmore  
4301 Wilson Blvd.  
Arlington, VA 22203  
(Courtesy copy via email to: [tracey.steiner@nreca.org](mailto:tracey.steiner@nreca.org) and [tracey.steiner@nreca.coop](mailto:tracey.steiner@nreca.coop) )

Joseph D. Hersey, Jr.  
Chief Spectrum Management  
U.S. National Committee Technical Advisor and,  
Technical Advisory Group Administrator  
United States Coast Guard  
Commandant (CG-622)  
Spectrum Management Division  
2100 2<sup>nd</sup> Street, S.W.  
Washington, DC 20593-0001  
(Courtesy copy via email to: [joe.hersey@uscg.mil](mailto:joe.hersey@uscg.mil) )

Larry Solomon  
United States Coast Guard  
Spectrum Management Division  
United States Coast Guard  
2100 Second Street, S.W.  
Washington, DC 20593  
(Courtesy copy via email to: [larry.s.solomon@uscg.mil](mailto:larry.s.solomon@uscg.mil) )

Sandra DePriest, Donald DePriest, and John Reardon  
Maritime Communications/ Land Mobile LLC  
206 North 8th Street  
Columbus, MS 39701

Jack Harvey  
Bob Fuhrer  
National Rural Telecommunications Cooperative  
2121 Cooperative Way  
Herndon, VA 20171  
(Courtesy copy via email to [jharvey@nrtc.org](mailto:jharvey@nrtc.org) and [bfuhrer@nrtc.org](mailto:bfuhrer@nrtc.org) )

Joel Prochaska  
Enbridge Energy Company, Inc.  
1001 G Street NW, Suite 500 West  
Washington, DC 20001  
(Courtesy copy via email to: [prochaska@khlaw.com](mailto:prochaska@khlaw.com) )

Stu Overby  
Motorola. Inc.  
1301 E. Algonquin Road  
Schaumburg, IL 60196  
(Courtesy copy via email to: [stu.overby@motorola.com](mailto:stu.overby@motorola.com) )

Michael R. Powers  
Interstate Power and Lighl Company & Wisconsin Power and Light Company  
PO Box 769  
1000 Main Street  
Dubuque, IA 52004  
(Courtesy copy via email to: [mikepowers@alliantenergy.com](mailto:mikepowers@alliantenergy.com) )

Brad Pritchett  
Jackson County Rural Electric Membership Cooperative  
274 E. Base Road  
Brownstown, IN 47220

Jim Stahl  
PacifiCorp  
825 NE Multnomah St., 1500 LCT  
Portland, OR 97232  
(Courtesy copy via email to: [jim.stahl@pacificorp.com](mailto:jim.stahl@pacificorp.com) )

Jeffrey L. Sheldon  
Legal Counsel for PacifiCorp  
Fish & Richardson  
1425 K St, N.W. 11th Floor  
Washington, DC 20005  
(Courtesy copy via email to: [sheldon@fr.com](mailto:sheldon@fr.com) and [cookler@fr.com](mailto:cookler@fr.com) )

Jeffrey L. Sheldon  
Legal Counsel for Puget Sound Energy  
Fish & Richardson  
1425 K St, N.W. 11th Floor  
Washington, DC 20005

Michael Hayford  
Pinnacle Wireless, Inc.  
80 Commerce Way  
Hackensack, NJ 07474  
(Courtesy copy via email to: [mikeh@pinnacle-wireless.com](mailto:mikeh@pinnacle-wireless.com) )

Lee Pillar  
Duquesne Light Company  
2839 New Beaver Avenue  
Pittsburgh, PA 15233  
(Courtesy copy via email to: [lpillar@duqlight.com](mailto:lpillar@duqlight.com) )

Duquesne Light Company  
Lesley Gannon  
ATTN Lesley Gannon  
411 Seventh Avenue  
Pittsburgh, PA 15219

Randall Hooper  
Big Rivers Electric Corporation  
201 Third Street  
Henderson, KY 424 19  
(Courtesy copy via email to: [rhooper@bigrivers.com](mailto:rhooper@bigrivers.com) )

Joel S Winnik  
Hogan & Hartson LLP  
Legal Counsel for Big Rivers Electric Corporation  
555 Thirteenth Street, NW  
Washington, DC 20004  
(Courtesy copy via email to: [jswinnik@hhlaw.com](mailto:jswinnik@hhlaw.com) )

Puget Sound Energy, Inc  
9515 Willows Rd. NE  
Redmond, WA 98052  
Attn: Margaret Hopkins  
(Courtesy copy via email to: [Margaret.Hopkins@pse.com](mailto:Margaret.Hopkins@pse.com) )

Terry Estes  
East Kentucky Power Cooperative, Inc.  
PO Box 707  
4775 Lexington Rd.  
Winchester, KY 40392  
(Courtesy copy via email to: [terry.estes@ekpc.coop](mailto:terry.estes@ekpc.coop) )

John Sarkissian  
Freq. Mgr.. RCIT Communications Bureau  
County of Riverside  
6147 Rivercrest Drive, Suite A  
Riverside, CA 92507  
(Courtesy copy via email to: [jsarkiss@RiversideCountyIT.org](mailto:jsarkiss@RiversideCountyIT.org) )

Nextel Spectrum Acquisition Corp.  
ATTN Robin Cohen  
2001 Edmund Halley Drive  
Reston, VA 20191  
(Courtesy copy via email to: [robin.cohen@sprint.com](mailto:robin.cohen@sprint.com) )

Spectrum Tracking Systems, Inc.  
ATTN Jon J. Gergen  
2545 Tarpley Road  
Carrollton, TX 75006  
(Courtesy copy via email to: [jgergen@sm-ets.com](mailto:jgergen@sm-ets.com) )

Questar Market Resources, Inc.  
ATTN M.L. Owen  
PO Box 45601  
Salt Lake City, UT 84145-0601

R.L Markle  
Radio Technical Commission for Maritime Services  
1800 N. Kent St., Suite 1060  
Arlington, Virginia 22209  
(Courtesy copy via email to: [rmarkle@rtcm.org](mailto:rmarkle@rtcm.org) )

### **3 — PSI and Related Parties**

Paging Systems, Inc.  
S. Cooper  
ATTN Licensing  
PO Box 4249  
Burlingame, CA 94011-4249

Audrey P. Rasmussen (counsel to PSI)  
Hall, Estill, Hardwick, Gable,  
Golden & Nelson, P.C  
1120 20<sup>th</sup> Street, N.W.  
Suite 700, North Building  
Washington, DC 20036-3406  
(Courtesy copy via email to: [arasmussen@hallestill.com](mailto:arasmussen@hallestill.com) )

Crystal SMR, Inc.  
David A Hernandez  
ATTN Licensing  
1601 Neptune Drive  
San Leandro, CA 94577  
(Courtesy copy via email to: [michelle@crystalsmrinc.com](mailto:michelle@crystalsmrinc.com) )

Law Office of Suzanne S Goodwyn (counsel to PSI)  
Suzanne S Goodwyn , Esq  
1234 Tottenham Court  
Reston, VA 20194  
(Courtesy copy via email to: [suzannegoodwyn@comcast.net](mailto:suzannegoodwyn@comcast.net) )

NSAC, LLC  
Clearwire Corporation  
ATTN Nadja Sodos-Wallace  
815 Connecticut Avenue, NW, Suite 610  
Washington, DC 20006  
(Courtesy copy via email to: [nadja.sodoswallace@clearwire.com](mailto:nadja.sodoswallace@clearwire.com) )

American Telecasting of Oklahoma, Inc.  
Sprint Nextel  
ATTN Robin Cohen  
2001 Edmund Halley Drive  
Reston, VA 20191  
(Courtesy copy via email to: [robin.cohen@sprint.com](mailto:robin.cohen@sprint.com) )

#### **4 — Others**

Karl B. Nebbia  
Associate Administrator, Office of Spectrum Management  
National Telecommunications and Information Association  
1401 Constitution Ave. NW  
Washington, DC 20230  
(Courtesy copy via email to: [KNebbia@ntia.doc.gov](mailto:KNebbia@ntia.doc.gov) )

*/s/ [Filed Electronically. Signature on File]*

---

Warren Havens