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

FCC 12M-50
09464

In re	)	EB Docket No. 11-71
	)	
MARITIME COMMUNICATIONS/LAND MOBILE, LLC	)	File No. EB-09-IH-1751 FRN: 0013587779
	)	
Participant in Auction No. 61 and Licensee of Various Authorizations in the Wireless Radio Services	)	
	)	
Applicant for Modification of Various Authorizations in the Wireless Radio Services	)	
	)	
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; WISCONSIN POWER AND LIGHT COMPANY; DIXIE ELECTRIC MEMBERSHIP CORPORATION, INC.; ATLAS PIPELINE - MID CONTINENT, LLC; DENTON COUNTY ELECTRIC COOPERATIVE, INC. DBA COSERV ELECTRIC; AND SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY	)	Application File Nos. 0004030479, 0004144435, 0004193028, 0004193328, 0004354053, 0004309872, 0004310060, 0004314903, 0004315013, 0004430505, 0004417199, 0004419431, 0004422320, 0004422329, 0004507921, 0004153701, 0004526264, 0004636537, and 0004604962

ORDER

Issued: November 9, 2012 **Released: November 9, 2012**

On November 6, 2012, the Enforcement Bureau requested a Prehearing Conference. The basis for the request is to consider granting additional time to complete discovery due to an unforeseen development.

Aside from the Bureau's request, it is recognized that there are significant questions about the state of trial preparation that require clarification at this time. A Prehearing Conference would assist, and therefore the Enforcement Bureau's request IS GRANTED.

Agenda for the Prehearing Conference is as follows:

(a) Maritime's explanation given of an alleged change of position on the timing of when its site-based stations stopped providing services to customers.

(b) Possibly setting a new hearing schedule, to be considered as outlined in the Enforcement Bureau's Request for a Prehearing Conference.

(c) Differing draft Glossary terms and definitions were proposed by the parties. The parties, prior to the Prehearing Conference, shall make a good faith attempt to arrive at a consensus as to what would be included in a complete list of terms and definitions. Maritime and the Enforcement Bureau are instructed that Mr. Havens has considerable firsthand experience and knowledge of the industry that he brings to this proceeding. Mr. Havens was designated party to this proceeding and is entitled to fully participate in the preparation of the Glossary on the same level as Maritime and the Bureau.

(d) To the extent that agreement or consensus on the Glossary terms is not achievable, the parties must articulate at the Prehearing Conference the basis for each conflict.

(e) The parties should be prepared to present their respective positions as to how much longer the proceeding may last due to a failure to agree on Glossary definitions. To assist counsel and Mr. Havens, attached to this Order is a chart that categorizes and compares the terms provided in the respective drafts submitted by Maritime, the Enforcement Bureau, and SkyTel-O.[1]

(f) Mr. Havens shall report on the state of legal representation of himself personally and of the SkyTel entities that he manages. Because of the importance of counsel's attendance to case management, particularly the uniform availability of information subject to the Protective Order, Mr. Havens must attend the Prehearing Conference in person, or by counsel who is to represent Mr. Havens at all stages of the hearing.

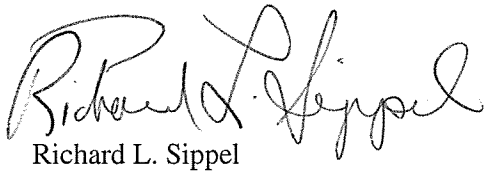
(g) The discovery *fiasco* surrounding the "93 boxes" as told in the parties' recent Status Reports is troublesome. The state of discovery of the"93 boxes" must not further delay this proceeding. Therefore, complete disclosure of the status of those documents is needed by the Presiding Judge prior to resolving Maritime's Motion seeking Partial Summary Decision.

Other matters that concern counsel must be communicated to all parties and counsel in advance of the Prehearing Conference, and to the Presiding Judge as soon as possible.

Ruling

Accordingly, IT IS ORDERED that a Prehearing Conference SHALL BE HELD in accordance with the above on **November 20, 2012 at 10 a.m.** in the OALJ Courtroom (Room TW A-363) at the Commission Headquarters, Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION[2]



Richard L. Sippel
Chief Administrative Law Judge

[1] Categories under which each definition has been placed are not conclusive and were prepared solely for organizational purposes.
[2] Courtesy copies of this *Order* sent by e-mail on issuance to each counsel, and to Mr. Havens.

Glossary Comparison Chart

SIGNIFICANT EDITS	Maritime	Enforcement Bureau	SkyTel-O
Constructed	An incumbent AMTS station is deemed to be constructed if all the necessary equipment is in place and the station has been built in substantial compliance with the terms of the then-current authorization.		An incumbent AMTS is deemed to be constructed if all the necessary equipment and each station in the system and system authorization is in place and the system has been built in compliance with the terms of the then-current authorization
Fill-In Transmitter	An incumbent licensee is authorized to establish one or more "fill-in transmitters" within the footprint of the transmitter specified in the authorization. Additional Commission authorization is not required provided that the predicted interference contours of fill-in transmitters do not encompass any land area beyond the composite interference contour of the licensed AMTS system. See, e.g., *Amendment of the Commission's Rules Concerning Maritime Communications*, PR Docket No. 92-257, *Fourth Report and Order and Third Further Notice of Proposed Rule Making*, 15 FCC Rcd 22585, 22593 (2000); *Second Memorandum Opinion and Order and Fifth Report and Order*, 17 FCC Rcd 6685, 6705 (2002). Fill-in transmitters make a more efficient use of spectrum by facilitating frequency re-use, or "cellularizing" of high site systems. They are also useful for overcoming terrain blockage, providing improved signal strength to a particular location, etc. A spectrum lessee may construct and operate its own fill-in transmitters provided their resulting interference contours do not exceed the lessor/licensee's authorized composite interference contour. See also *Footprint* and *Spectrum Lease*.		An incumbent licensee is authorized to establish one or more "fill-in transmitters" within the service area specified in the authorization. Fill-in transmitters cannot have a service area outside the service area of the licensed station, nor is any fill-in transmitter valid if constructed and operated where there is no licensed transmitter in operation to fill in. Therefore, additional Commission authorization is not required provided that the predicted interference contours of fill-in transmitters do not encompass any land area beyond the composite interference contour of the licensed AMTS system. *See, e.g.*, *Amendment of the Commission's Rules Concerning Maritime Communications*, PR Docket No. 92-257, Fourth Report and Order and Third Further Notice of Proposed Rule Making, 15 FCC Red 22585, 22593 (2000); Second Memorandum Opinion and Order and Fifth Report and Order, 17 FCC Red 6685, 6705 (2002). *See also* Footprint and Spectrum Lease.
Known (or Not Known) to be Operating (or Not Operating), Operational	Although not officially defined by the Commission in its regulations or otherwise, these or similar terms have		Although not officially defined by the Commission in its regulations or otherwise, these or similar terms have

	been used by Maritime in its discovery responses to convey, as a factual matter, the status of its incumbent facilities. Maritime has designated a facility as operational only if it knows or has a reasonable basis for believing that it is currently operational. Similarly, Maritime has designated a facility as non-operational or temporarily suspended if it knows that the facility is not currently operational. Finally, where Maritime does not know the current status of a facility, it has candidly so stated. See also *Constructed* and *Operating or Operational.*		been used by Maritime in its discovery responses to convey, as a factual matter, the known status of its incumbent facilities. Maritime has designated a facility as known to be operating only if it knows, based on reliable and substantial evidence, that it is currently operating. Similarly, Maritime has designated a facility as not known to be operating or known to be not operating, if it knows, based on reliable and substantial evidence, that the facility is not currently operating. Finally, where Maritime does not know the current status of a facility, it has candidly so stated. *See also* Constructed and Operating or Operational.
Known (and Not Known) to be Operating (or Not Operating)		Although not officially defined by the Commission in its regulations or otherwise, these or similar terms have been used by Maritime in its discovery responses to convey, as a factual matter, the known status of its incumbent facilities. Maritime has designated a facility as known to be operating only if it knows, based on reliable and substantial evidence, that it is currently operating. Similarly, Maritime has designated a facility as not known to be operating or known to be not operating if it knows, based on reliable and substantial evidence, that the facility is not currently operating. Finally, where Maritime does not know the current status of a facility, it has candidly so stated. See also *Operating* or *Not Operating.*	
Not Operating (including *Temporarily* and *Permanently* Not Operating)	An AMTS facility is not operating for regulatory purposes if it is not capable of exchanging two way communications traffic with a ship or mobile station. A facility is *Temporarily Not Operating* if it is not currently operating but the licensee intends to resume operation. A facility is *Permanently Not Operating* if it is not currently operating and the licensee does not intend to resume operation. See also	An AMTS facility is not operating for regulatory purposes if it is not on-the-air, transmitting a signal, *i.e.,* exchanging two-way communications traffic. See also *Operating.*	An AMTS facility is not operating for regulatory purposes if it is not on-the-air, transmitting a signal, i.e. exchanging two-way communications traffic or providing service to end users and end-user radios. *See also* Operating.

	Operating or Operational and *Permanent Discontinuance.*		
Operating or Operational	An AMTS facility is operating for regulatory purposes if it is constructed and operational, i.e., capable of exchanging two way communications traffic with a ship or mobile station. Unlike certain other radio services (see, e.g., 47 C.F.R. § 90.155(c)), the Commission's rules do not require that an incumbent AMTS service actually be providing service to any minimum number of units to be deemed to be constructed and in operation. See also *Constructed.*		
Operating		An AMTS facility is operating for regulatory purposes if it is constructed, and is on-the-air, transmitting a signal, *i.e.,* exchanging two-way communications traffic. Unlike certain other radio services *(see, e.g.,* 47 C.F.R. § 90.155(c)), the Commission's rules do not require that an incumbent AMTS service actually be providing service to any minimum number of units to be deemed constructed and operating. Whether a facility is operating is determined with respect to the licensed site. Operation of fill-in sites does not render operative an inactive licensed transmitter. *See Mobex Network Services, LLC, Memorandum Opinion and Order,* 25 FCC Red 3390, ~ 10, n. 48 (2010).	An AMTS facility is operating for regulatory purposes if it is constructed and is on-the-air, transmitting a signal, i.e. exchanging two-way communications traffic and providing service to the end users and end-user radios. *See* 47 C.F.R. § 80.49. Unlike certain other radio services (see, e.g., 47 C.F.R. § 90.155(c)), the Commission's rules do not require that an incumbent AMTS service actually be providing service to any minimum number of units to be deemed to be constructed and operating. Whether a facility is operating is determined with respect to the licensed site. Operation of fill-in sites does not render operative an inactive licensed transmitter. *See Mobex Network Services, LLC, Memorandum and Order,* 25 FCC Rcd 3390, p. 10, n 48 (2010). *See also* Constructed.
Operational		An AMTS facility is operational for regulatory purposes if it is constructed and capable of transmitting a signal, *i.e.,* able to exchange two-way communications traffic.	An AMTS facility is operational for regulatory purposes if it is constructed and capable of transmitting a signal, *ie.,* able to exchange two-way communications traffic.

ADDITIONS	Maritime & Enforcement Bureau	SkyTel-O
AMTS	AMTS is an acronym for Automated Maritime Telecommunications System. AMTS was originally called Inland Waterways Communications System ("IWCS"). See *Automated Inland Waterways Communications System*, Gen Docket No. 80-1, Report and Order, 84 FCC 2d 875 (1981). This was initially structured as a service providing vessels with access to the public switched telephone network over a greater length of inland waterways (rivers or lakes) than could be served by a traditional VHF public coast station. Since 2007, the Commission's Rules have permitted service to mobile units on land and have not required AMTS facilities to be interconnected. *E.g., Maritel, Inc. and Mobex Network Services, LLC*, 22 FCC Rcd 8971, 8976-9877 (2007).	AMTS is an acronym for Automated Maritime Telecommunications System. As indicated by its plain language, and rules[1] and Orders, AMTS is considered a "system," not a single station. To provide AMTS service, a series of stations are required. *See* Section 80.475(a) referring to "each station" in a "system." 47 CFR § 80.475(a). AMTS was created solely as a maritime radio communications service for covering long waterways (that required at least two stations to be covered) with a system of multiple base stations or cell sites, with overlapping continuous coverage and end-user service. This was described in the first AMTS Report and Order, in which Section 80.475(a) was enacted to require continuity of coverage and service.[2] Each station has validity only as part of the system authorization, and has no independent validity. Applying for single stations was barred, and those applications were denied by the FCC in various orders.[3] AMTS operates as a system of integrated stations. *See In the Matter of Amendment of the Commission's Rules Concerning Maritime Communications Petition for Rule Making filed by RegioNet Wireless License, LLC*, Fourth Report and Order and Third Further Notice of Proposed Rulemaking, FCC 00-370, 15 FCC Rcd 22585, para. 16 (2000) ("AMTS Freeze Order"). AMTS is not site-based. Since 2007, the Commission's Rules have permitted service to mobile units on land and have not required AMTS facilities to be interconnected. *See, e.g.,., Maritel, Inc. and Mobex Network Services, LLC*, 22 FCC Red 8971, 8976-9877 (2007). [1] For example, *see* § 80.54 Automated Maritime Telecommunications System (AMTS)—System Licensing. AMTS licensees will be issued blanket authority for a system of coast stations and mobile units (subscribers). AMTS applicants will specify the maximum number of mobile units to be placed in operation during the license period. [2] *In the Matter of Amendment of Parts 2 and RM-5712 80 of the Commission's Rules Applicable to Automated Maritime Telecommunications Systems (AMTS),* First Report and Order, 6 FCC Rcd. 2 at para. 22 (1991) ("First AMTS Order"); *See also In re Applications of Fred Daniel d/b/a Orion Telecom and Paging Systems, Inc. For Authority to Construct New Automated Maritime Telecommunications Systems at Miami, Florida; New Bern, North Carolina; Suffolk, Virginia; Baltimore Maryland; Newark, New Jersey; New York, New York; Oak Hill, Florida; Rehoboth, Massachusetts; Spaulding, Florida; Balm, Florida; and Raymond, Maine*, Memorandum Opinion and Order, 11 FCC

		Rcd. 5764 at n. 1 (1996) ("The AMTS provides automated, integrated, interconnected ship-to-shore communications similar to a cellular phone system, including non-voice services, for vessels to use as they move along a waterway. AMTS offers improved services over those available from individual public coast stations"). [3] In *Fred Daniel d/b/a Orion Telecom (Orion)*, the Commission determined that not only could an AMTS system not be authorized for coverage over land only but that many eligible persons in communities, including Denver, Colorado, Henderson, Nevada, Yuma, Phoenix, Tucson, Arizona, and El Paso, Ft. Worth, and Dallas, Texas could not obtain AMTS service because only one coast station would have been required for each community.
AMTS License	An AMTS license is one authorizing the operation of an AMTS station, either on frequencies specified in 47 C.F.R. § 80.385(a)(2) of the Commission's Rules or utilizing any modulation or channelization scheme in accord with 47 C.F.R. § 80.481.	An AMTS license is one authorizing the operation of an Automated Maritime Telecommunications System, on frequencies specified in 47 C.F.R. § 80.385(a)(2) of the Commission's Rules, utilizing any modulation or channelization scheme in accord with 47 C.F.R. § 80.481 (and subject to other rule requirements and allowances). The license is for a system, not for single stations that are merely components of the larger system. *See* AMTS discussion and proposed definition. For example, cancellation of a station's authority involves an application to modify an AMTS system license to delete that station (which may have affects upon the system license requirements including coverage).
Automatic Termination		A failure to provide continuity of service within a system of stations triggers the automatic termination provisions for AMTS licensees. *See* 47 C.F.R. § 1.946(c). Automatic termination further applies when an AMTS licensee fails to provide the requisite coverage under Commission rules. System continuity of coverage-service is the requirement under Section 80.475(a) created as the foundation of AMTS - the threshold requirement to obtain and maintain a license. Failure to meet this requirement renders the license invalid. Invalid licenses are always subject to cancellation/termination.[4] The notice of automatic termination in the Commission's rules, both under Sections 1.946(c) and 80.49(a) is a mere ministerial reminder. [4] License grants do not afford holders property rights in the licenses. *FCC v. Sanders Bros. Radio Station*, 309 U.S. 470, 475 (1940) ("The policy of the [Communications] Act is clear that no person is to have anything in the nature of a property right as a

		result of the granting of a license."); *Amendment of the Commission's Rules Regarding Maritime Automatic Identification Systems*, Report and Order and Further Notice of Proposed Rule Making and Fourth Memorandum Opinion and Order, 21 FCC Rcd. 8892, 8925-26 ¶ 46 (2006) (citing *Ashbacker Radio Corp. v. FCC,* 326 U.S. 327 (1945), and finding that the Commission has consistently upheld the principle that no licensee obtains any vested interest in any frequency). Instead, the right to continue to hold the license is expressly conditioned on continued compliance with the license terms. *In the Matter of Morris Communications, Inc.,* 23 F.C.C.R. 3179, 3198 (2008) ("Commission licensees hold only those rights established by the terms and conditions of the licenses issued to them."). Failure to comply renders the license void. *Id.*
Cancellation		If a station needed for the system coverage-service requirement is not timely constructed (including providing "substantial service" as defined in 47 C.F.R. § 80.49(a)(1)), then it and the rest of the system stations become invalid and must be returned for cancellation *See* 47 C.F.R. § 80.49(a)(3).
Construction		AMTS geographic licenses must provide "substantial service" to meet the construction requirement. It is clear from the Commission's rules that construction" requirements are equated with substantial service as defined in 47 C.F.R. § 80.49(a)(1)) Service is to the end users and the end-user radios. *See also* 47 C.F.R. § 80.60. Thus, the required construction is to commence service to subscribers, within the noted deadline; otherwise the result is automatic termination. *See* Section 80.60(d)(3) making clear that § 80.49 means the "required" "construction" andproviding "service to subscribers"– is to commence by the original construction deadline, failing which results in automatic termination."
Continuity of Service		Continuity of service is a coverage requirement for purposes of Section 1.946(c). In other words, continuity of service means coverage; they are one and the same.[5] "Continuity of service" implies and requires "coverage" since service cannot be provided without coverage. Section 80.475(a)(2001) requires actual continuity of "service."6 Service is the radio communications service provided to end users, which requires radio "coverage." Continuity of service and coverage are interchangeable. As a result, failure to provide continuity of service with a system of stations triggers the automatic termination provisions for AMTS licensees. *See* Automatic Termination.

		5 *Amendment of the Commission's Rules Concerning Maritime Communications*, Second Memorandum Opinion and Order and Fifth Report and Order, PR Docket No. 92-257,17 FCC Rcd. 6685, 6718, para. 79 (2002) (Fifth Report and Order), *recon. granted in part. denied in part,* Third Memorandum Opinion and Order, 18 FCC Rcd. 24391, 24400-01 para. 23, n. 84 (2003) ("[T]he Commission eliminated the continuity of service requirement [in] the *Fifth Report and Order*" by amending Section 80.475(a), and the FCC "did not require incumbent AMTS licensees seeking to partition spectrum to maintain any inimum area of coverage, or otherwise condition approval of partitioning requests on continued conformance with former Section 80.475(a)") (emphasis added).; *See also In the Matter of Maritel, Inc. and Mobex Network Services, LLC, Petitions for Rule Making to Amend the Commission's Rules toProvide Additional Flexibility for AMTS and VHF Public Coast Station Licensees*, Report and Order, FCC 07-87 at para. 11, n. 53 (2007). [6] Section 80.745(a) provided that "AMTS applicants proposing to serve inland waterways must show how the proposed system will provide continuity of service along more than 60% of each of one or more navigable inland waterways… AMTS applicants proposing to serve portions of the Atlantic, Pacific or Gulf of Mexico coastline must define a substantial navigational area and show how the proposed system will provide continuity of service for it." 47 C.F.R. § 80.475(a). The FCC intentionally adopted this rule as a requirement for all AMTS applicants, and the FCC made it clear that it also applied to AMTS licensees. Had the FCC intended to make continuity of service optional, it would not have used the term "must" and instead, would have substituted the word "should." *See, e.g., Pac. Bell Tel. Co. v. California Pub. Utilities Comm'n*, 621 F.3d 836, 848 (9th Cir. 2010) cert. denied, 131 S. Ct. 3050 (2011) ("In general, the plain meaning of an administrative regulation controls.").
Permanent Discontinuance	Section 1.955(a)(3) of the FCC Rules provides in pertinent part: "Authorizations automatically terminate, without specific Commission action, if service is permanently discontinued. The Commission authorization or the individual service rules govern the definition of permanent discontinuance for purposes of this section." 47 C.F.R. § 1.955(a)(3). There is no AMTS regulation defining permanent discontinuance. The Commission has proposed to adopt—but has not yet done so—an objective definition of permanent discontinuance for AMTS stations,	Section 1.955(a)(3) of the FCC Rules provides in pertinent part: "Authorizations automatically terminate, without specific Commission action, if service is permanently discontinued. The Commission authorization or the individual service rules govern the definition of permanent discontinuance for purposes of this section." 47 C.F.R. § 1.955(a)(3). There is no AMTS regulation defining permanent discontinuance. The Commission has proposed to adopt an objective definition of permanent discontinuance for AMTS stations, *Amendment of Parts 1, 22,*

	Amendment of Parts 1, 22, 24, 27, 74, 80, 90, 95, and 101 To Establish Uniform License Renewal, Discontinuance of Operation, and Geographic Partitioning and Spectrum Disaggregation Rules and Policies for Certain Wireless Radio Services, WT Docket No. 10-112, *Notice of Proposed Rulemaking and Order*, 25 FCC Rcd 6996 (2010), but no such rule has yet been promulgated. The Commission explained that, precisely "[b]ecause an authorization will 'automatically terminate' … it is imperative that our rules provide a clear and consistent definition of permanent discontinuance of operations; they do not." Accordingly, Wireless Telecommunications Bureau's Mobility Division, acting for the Commission pursuant to delegated authority, has determined that, until an objective definition is adopted, "it would be inappropriate to, retroactively and without notice, apply [an objective definition] to Part 80 stations" and that it therefore must "evaluate claims of permanent discontinuance on a case-by-case basis." *Northeast Utilities Service Co.*, 24 FCC Rcd 3310, 3314 (WTB MSD 2009).[1] [1] This is consistent with, and indeed required by, the legal and Constitutional principles enunciated in the Supreme Court's recent opinion in *FCC v. Fox Television Stations*, 132 S. Ct. 2307 (2012). The Court there explained: "A fundamental principle in our legal system is that laws which regulate persons or entities must give fair notice of conduct that is forbidden or required. … First, … regulated parties should know what is required of them so they may act accordingly; second, precision and guidance are necessary so that those enforcing the law do not act in an arbitrary or discriminatory way." 132 S. Ct. 2317 (citations omitted). *Order and Further Notice of Proposed Rulemaking*, 18 FCC Rcd 20604 (2003); *Second Report and Order, Order on Reconsideration, and Second Further Notice of Proposed Rulemaking*, 19 FCC Rcd 17503 (2004). At the end of the lease term, or if the spectrum lease terminates or ends for any reason, the rights to the spectrum and geographic area under lease revert to the lessor/licensee. See also *Lease* and *Site Lease*.	*24, 27, 74, 80, 90, 95, and 101 To Establish Uniform License Renewal, Discontinuance of Operation, and Geographic Partitioning and Spectrum Disaggregation Rules and Policies for Certain Wireless Radio Services*, WT Docket No. 10-112, *Notice of Proposed Rulemaking and Order*, 25 FCC Red 6996 (2010), but has not yet done so. The Commission explained that, precisely "[b]ecause an authorization will 'automatically terminate' ... it is imperative that our rules provide a clear and consistent definition of permanent discontinuance of operations; they do not." 25 FCC Red at 7017. Accordingly, the Wireless Telecommunications Bureau's Mobility Division, acting for the Commission pursuant to delegated authority, has determined that, until such a rule is adopted, "it would be inappropriate to, retroactively and without notice, apply [an objective definition] to Part 80 stations" and that it therefore must "evaluate claims of permanent discontinuance on a case-by-case basis." *Northeast Utilities Service Co.*, 24 FCC Red 3310, 3314 (WTB MSD 2009).[7] Certain authorizations are prohibited from permanently discontinuing. For example, permanent discontinuance of public safety operations is prohibited. *See, e.g.*, 47 C.F.R.§ 90.1435. The Commission's rules and orders show that public coast stations are primarily for public safety. In addition, the Commission has made it clear that public coast stations have an obligation to service maritime traffic or, if used of inland service, to give maritime service priority. Thus, public coast stations held to strict standards as to acceptable discontinuance. In particular, providers of maritime service must apply for authority to discontinue. *See* 47 C.F.R. § 80.471. Licenses are not granted unless continuous service will be provided. Service must be uninterrupted so as to guarantee communications for public safety uses. [7] This is consistent with, and indeed required by, the legal and Constitutional principles enunciated in the Supreme Court's recent opinion in *FCC v. Fox Television Stations*, 132 S. Ct. 2307 (2012). The Court explained: "A fundamental principle in our legal system is that laws which regulate persons or entities must give fair notice of conduct that is forbidden or required.... First ... regulated parties should know what is required of them so they may act accordingly; second, precision and guidance are necessary so that those enforcing the law do not act in an arbitrary or discriminatory way." *Id.* at 2317 (citations omitted).

DELETIONS	Maritime & Enforcement Bureau	SkyTel-O
Deleted	A deleted facility, for purposes of this proceeding, refers to the deletion of an authorized location and/or frequency block from	A deleted facility, for purposes of this proceeding, refers to the deletion of an authorized location and/or frequency block from an

	an AMTS authorization. An incumbent AMTS authorization may specify multiple locations and/or frequency blocks. From time to time some portion of these parameters may be deleted from the license without affecting the continued validity of the remaining parts of the authorization. This may happen by Commission order, e.g., if the Commission determines that a particular location/frequency block combination is no longer valid, or voluntarily by the licensee where it has decided to no longer retain a portion of its authorization. Maritime recently decided to delete from its incumbent licenses authority for those facilities that are now subsumed within a geographic license Maritime obtained in FCC Spectrum Auction No. 61. If an entire incumbent call sign was subsumed, Maritime simply canceled the entire authorization. Where only some, but not all, of the authorized locations or frequency blocks on an authorization was subsumed, Maritime submitted an application to delete the subsumed portion, and retained the rest of the authorization. Finally, with respect to Call Sign WRV374, Maritime is not able to submit applications to delete locations at this time due to ULS restrictions. The expiration date for WRV374 has passed and a timely filed renewal application is pending before the Commission. The ULS does not permit the modification (including partial deletions) of a license after its expiration date until the license is renewed. Maritime nevertheless stipulated that the subsumed locations will be deleted and that it is no longer defending these locations as to Issue G. See also *Geographic License* and *Subsumed or Subsuming License*.	AMTS authorization. An incumbent AMTS authorization may specify multiple locations and/or frequency blocks. From time to time some portion of these parameters may be deleted from the license without affecting the continued validity of the remaining parts of the authorization. This may happen by Commission order, e.g., if the Commission determines that a particular location/frequency block combination is no longer valid, or voluntarily by the licensee where it has decided to no longer retain a portion of its authorization. *See also* Geographic License and Subsumed or Subsuming License.
Footprint	The "footprint" of an incumbent AMTS facility refers to a theoretically predicted contour area around the licensed transmitter location. Depending on the circumstances, this may refer to the calculated service area contour (a 38 dBμ contour) or the interference contour (a 20 dBμ contour), the latter being derived from the required 18 dB desired-to-undesired signal ratio required between co-channel stations.	Definition deleted.

MINOR EDITS	Maritime	SkyTel-O
Construction Deadline or Period	The period of time after initial licensing within which an AMTS station must be constructed. The rules require an incumbent AMTS station to be constructed and placed into operation within two years of initial authorization. 47 C.F.R. § 80.49(a)(3). The rule previously specified an eight month initial construction period, but it was amended to the current two year period in 2000. *Amendment of the Commission's Rules*	The period of time after initial licensing within which an AMTS system and system authorization, must be constructed in accordance with 47 C.F.R. § 80.49. The rules require an incumbent site-based AMTS system licensee to be constructed and placed into operation within two years of initial authorization. 47 C.F.R. § 80.49(a)(3). The rule previously specified an eight month initial construction period, but it was

	Concerning Maritime Communications, PR Docket No. 92-257, *Fourth Report and Order and Third Further Notice of Proposed Rule Making*, 15 FCC Rcd 22585, 22596 ¶17 (2000). Section 80.49(a)(3) further provides that an "AMTS … geographic area licensee must make a showing of substantial service within its service area within ten years of the initial license grant …. 'Substantial' service is defined as service which is sound, favorable, and substantially above a level of mediocre service which just might minimally warrant renewal." 47 C.F.R. § 80.49(a)(3).	amended to the current two year period in 2000. *Amendment of the Commission's Rules Concerning Maritime Communications, PR Docket No. 92-257, Fourth Report and Order and Third Further Notice of Proposed Rule Making*, 15 FCC Red 22585, 22596 ¶ 17 (2000). An AMTS ... geographic area licensee must make a showing of substantial service within its service area within ten years of the initial license grant.... 'Substantial' service is defined as service which is sound, favorable, and substantially above a level of mediocre service which just might minimally warrant renewal." 47 C.F.R. § 80.49(a)(3).
Incumbent (or site-based) License	An incumbent AMTS license is one granted prior to the implementation of geographic licensing and the auctioning of geographic licenses. Insofar as relevant to this proceeding, an incumbent license authorizes operation of a fixed transmitter at a specific location indicated on the license. An incumbent licensee is authorized to establish one or more "fill-in transmitters" within the 38 dBμ contour footprint of the transmitter specified in authorization. *See* 47 C.F.R. § 80.385(b)(1). A geographic licensee must protect against co-channel interference to any incumbent station having a 38 dBμ contour within the applicable AMTSA. The incumbent license is thus an encumbrance or limitation on the geographic license. Should the incumbent license terminate for any reason, however, the area within the 38 dBμ contour devolves to the geographic licensee and is no longer an encumbrance on its geographic license. 47 C.F.R § 80.385(c).	An incumbent AMTS license is one granted prior to the implementation of geographic licensing and the auctioning of geographic licenses. Insofar as relevant to this proceeding, an incumbent license authorizes operation of a fixed transmitter at a specific location indicated on the license. An incumbent licensee is authorized to establish one or more "fill-in transmitters" within the 38 dBu contour area of the transmitter specified in authorization. *See* 47 C.F.R. § 80.385(b)(1). A geographic licensee must protect against co-channel interference to any incumbent station having a 38 dBu contour within the applicable AMTSA. The incumbent license is thus an encumbrance or limitation on the geographic license. Should the incumbent license terminate for any reason, however, the area within the 38 dBu contour devolves to the geographic licensee and is no longer an encumbrance on its geographic license. 47 C.F.R § 80.385(c).

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AMTS Area ("AMTSA")	An AMTS Area ("AMTSA") is a market area in which a geographic licensee is authorized to operate on a particular frequency block (A or B). There are ten (10) AMTSAs, each comprised of one or more Economic Areas ("EAs") or EA-like areas. (Each EA is, in turn, comprised of one or more counties or similar areas.) The EAs making up each specific AMTSA are set forth in a table in Appendix D of the applicable rulemaking order, *Amendment of the Commission's Rules Concerning Maritime Communications*, PR Docket No. 92-257, *Second Memorandum Opinion and Order and Fifth Report and Order*, 17 FCC Rcd 6685, 6738, *Appendix D* (2002). The table that is codified at 47 C.F.R. § 80.385(a)(3) contains formatting problems causing some of the date to be inserted incorrectly. A copy of the correct table, as published at 67 Fed. Reg. 48,560 (July 25, 2002), is attached to this glossary.	An AMTS Area ("AMTSA") is a market area in which a geographic licensee is authorized to operate on a particular frequency block (A or B). There are ten (10) AMTSAs, each comprised of one or more Economic Areas ("EAs") or EA-like areas. (Each EA is, in turn, comprised of one or more counties or similar areas.) The EAs making up each specific AMTSA are set forth in a table in Appendix D of the applicable rulemaking order, *Amendment of the Commission's Rules Concerning Maritime Communications*, PR Docket No. 92-257, *Second Memorandum Opinion and Order and Fifth Report and Order*, 17 FCC Red 6685, 6738, *Appendix D* (2002). The table that is codified at 47 C.F.R. § 80.385(a)(3) contains formatting problems causing some of the dates to be inserted incorrectly. A copy of the correct table, as published at 67 Fed. Reg. 48,560 (July 25, 2002), is attached to this glossary.

Automated Maritime Telecommunications System	Defined in 47 C.F.R. § 80.5 of the FCC rules as "[a]n automatic maritime communications system." See *AMTS*.	Defined in 47 C.F.R. § 80.5 of the FCC rules as "[a]n automatic maritime communications system," commonly referred to by its acronym "AMTS".
Block A and/or Block B	See *Frequency Block.*	*See Frequency Block.*
Frequency Block	Insofar as relevant to this proceeding, the FCC defined two AMTS frequency blocks, each consisting of two paired 500 kHz spectrum segments, for a total of one MHz each, as follows: Block A: 217.5–218.0 & 219.5–220.0 MHz Block B: 217.0–217.5 & 219.0– 219.5 MHz Licensees have flexibility and discretion regarding how to channelize their authorized spectrum block.	Insofar as relevant to this proceeding, the FCC defined two AMTS frequency blocks, each consisting of two paired 500 kHz spectrum segments, for a total of one MHz each, as follows: Block A: 217.5-218.0 & 219.5-220.0 MHz Block B: 217.0-217.5 & 219.0- 219.5 MHz Licensees have flexibility and discretion regarding how to channelize their authorized spectrum block.
Geographic License	An AMTS geographic license (as distinguished from an incumbent or site-based license) authorizes the licensee to use a specific frequency block (Block A or Block B) throughout one of ten defined geographic regions called AMTS Areas, subject to the obligation to protect incumbent (that is, site-based) licensees from co-channel interference. Geographic licenses are awarded via competitive bidding procedures, and are therefore also sometimes referred to as "auctioned" licenses. The geographic licensee may locate its facilities anywhere within its authorized area, provided that the resulting 38 dBμ contour does not extend beyond the AMTSA boundary and co-channel incumbent licensees are protected. 47 C.F.R. § 80.479(b). See *AMTSA* and *Incumbent (or site-based) Licensee.*	An AMTS geographic license (as distinguished from an incumbent or site-based license) authorizes the licensee to use a specific frequency block (Block A or Block B) throughout one of ten defined geographic regions called AMTS Areas, subject to the obligation to protect incumbent (that is, site-based) licensees from co-channel interference. Geographic licenses are awarded via competitive bidding procedures, and are therefore also sometimes referred to as "auctioned" licenses. The geographic licensee may locate its facilities anywhere within its authorized area, provided that the resulting 38 dBu contour does not extend beyond the AMTSA boundary and co-channel incumbent licensees are protected. 47 C.F.R. § 80.479(b). *See* AMTSA and Incumbent (or site-based) Licensee.
Lease	In the AMTS licensing context, the term "lease" may refer to either a *Site Lease* or a *Spectrum Lease*. For example, a site lease is where Maritime leases space from a tower company (e.g., American Tower or Crown Castle), while a spectrum lease is where a third party (e.g., Pinnacle Wireless or Evergreen School District) leases the use of spectrum licensed to Maritime. These are two different things, and there is a separate entry for each in this glossary.	In the AMTS licensing context, the term "lease" may refer to either a *Site Lease* or a *Spectrum Lease*. For example, a site lease is where Maritime leases space from a tower company (e.g., American Tower or Crown Castle), while a spectrum lease is where a third party (e.g., Pinnacle Wireless or Evergreen School District) leases the use of spectrum licensed to Maritime. These are two different things, and there is a separate entry for each in this glossary.
Site Lease	A site lease is a typical real estate contractual arrangement whereby the transmitter site, tower or tower space, and/or building or rack space required for the AMTS licensee's installation is leased from a third party. This is to be distinguished from a Spectrum Lease, the latter being a regulatory construct, not a real estate contract. See also *Lease* and *Spectrum Lease*.	A site lease is a typical real estate contractual arrangement whereby the transmitter site, tower or tower space, and/or building or rack space required for the AMTS licensee's installation is leased from a third party. This is to be distinguished from a Spectrum Lease, the latter being a regulatory construct, not a real estate contract. *See also* Lease and Spectrum Lease.
Spectrum Lease	In lieu of providing a communications service to end user	In lieu of providing a communications service to end-user mobile

	mobile units by means of radio facilities, an AMTS licensee may lease the use of some or all of its authorized spectrum within some or all of its authorized service area to a third party. See, generally, *Principles for Promoting the Efficient Use of Spectrum by Encouraging the Development of Secondary Markets*, WT Docket No. 00-230, *Policy Statement*, 15 FCC Rcd 24178 (2000); *Report and Order and Further Notice of Proposed Rulemaking*, 18 FCC Rcd 20604 (2003); *Second Report and Order, Order on Reconsideration, and Second Further Notice of Proposed Rulemaking*, 19 FCC Rcd 17503 (2004). At the end of the lease term, or if the spectrum lease terminates or ends for any reason, the rights to the spectrum and geographic area under lease revert to the lessor/licensee. See also *Lease* and *Site Lease*.	units by means of radio facilities, an AMTS licensee may lease the use of some or all of its authorized spectrum within some or all of its authorized service area to a third party. See, generally, *Principles for Promoting the Efficient Use of Spectrum by Encouraging the Development of Secondary Markets*, WT Docket No. 00-230, Policy Statement, 15 FCC Rcd. 24178 (2000); Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Red 20604 (2003); Second Report and Order, Order on Reconsideration, and Second Further Notice of Proposed Rulemaking, 19 FCC Rcd. 17503 (2004). At the end of the lease term, or if the spectrum lease terminates or ends for any reason, the rights to the spectrum and geographic area under lease revert to the lessor/licensee. *See also* Lease and Site Lease.
Subsumed or Subsuming License	As used by Maritime in this proceeding, these terms refer to the following circumstance. If the same entity holds both a geographic license and an incumbent license on the same frequency block, and where the 38 dBμ contour for the incumbent station lies entirely within the geographic license's AMTSA or AMTSAs, the geographic authorization (the subsuming license) entirely duplicates the authority granted by the incumbent authorization (the subsumed license) rendering the latter unnecessary. The spectrum and geographic area freed when an incumbent license is terminated devolves to the holder of the geographic licensee for the AMTSA in which the terminated incumbent station lies. 47 C.F.R § 80.385(c). In the situation described, both the incumbent licensee and the geographic licensee are the same entity, so the termination results in no net gain or loss of authority for that entity. See also *AMTS Area*, *Frequency Block*, *Geographic License*, and *Incumbent (or site-based) License*.	As used by Maritime in this proceeding, these terms refer to the following circumstance. If the same entity holds both a geographic license and an incumbent license on the same frequency block, and where the 38 dBu contour for the incumbent station lies entirely within the geographic license's AMTSA or AMTSAs, the geographic authorization (the subsuming license) entirely duplicates the authority granted by the incumbent authorization (the subsumed license) rendering the latter unnecessary. The spectrum and geographic area freed when an incumbent license is terminated devolves to the holder of the geographic licensee for the AMTSA in which the terminated incumbent station lies. 47 C.F.R § 80.385(c). In the situation described, both the incumbent licensee and the geographic licensee are the same entity, so the termination results in no net gain or loss of authority for that entity. *See also* AMTS Area, Frequency Block, Geographic License, and Incumbent (or site-based) License.