

rules.^{5/} Because oppositions to Motorola's request for pioneer's preference were filed on April 8, 1992, this had already become a restricted proceeding at the time Motorola requested confidential treatment for its supplemental filing.^{6/} Any written presentation not served on the parties to a restricted proceeding is a direct violation of the Commission's ex parte rules and must be rejected.^{7/} Thus, Motorola must be prohibited from requesting confidential treatment for its response to the oppositions filed in response to its request for pioneer's preference. Motorola must not be allowed to manipulate the pioneer's preference rules to stage an end run around the Commission's ex parte rules. To permit this action by Motorola would undermine the integrity of the Commission's proceedings and deny other parties the fairness, impartiality and due process guaranteed by the Commission's rules.^{8/}

^{5/} Id. at 3993.

^{6/} See 47 C.F.R. § 1.1208(c).

^{7/} See 47 C.F.R. § 1.1202(b).

^{8/} See 47 C.F.R. § 1.1200.

If Motorola believes this material is vital to its pioneer's preference request, it has the option to permit inspection by parties to the proceeding and to open the full scope of Motorola's submission to public comment. Otherwise, Motorola should reaffirm its request to have the disputed information returned. Motorola must not be permitted to manipulate the Commission's proceedings to the detriment of other parties by following any other course.

Conclusion

For the foregoing reasons, CONSTELLATION urges the Commission to deny Motorola's request for confidential treatment.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, Robert A. Mazer, hereby certify that a copy of the foregoing Opposition to Request for Confidential Treatment of Constellation Communications, Inc. was sent by first class United States mail, postage prepaid, this 23th day of April 1992, to the following:

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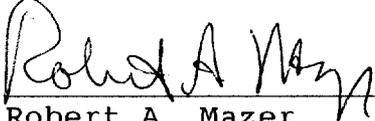
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