

DOCKET FILE COPY
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FCC 93M-750

In the Matters of)
)
Application of)
)
CAPITOL RADIOTELEPHONE INC.)
d/b/a Capitol Paging)
1420 Kanawha Blvd. E.)
Charleston, West Virginia 25301)
)
For a Private Carrier Paging Facility)
on the Frequency 152.480 MHz in)
Huntington/Charleston, West Virginia)
)
and)
)
Imposition of Forfeiture Against)
)
CAPITOL RADIOTELEPHONE INC.)
d/b/a Capitol Paging)
1420 Kanawha Blvd. E)
Charleston, West Virginia 25301)
)
Former Licensee of Station WNSX-646 in)
the Private Land Mobile Radio Services)
)
and)
)
Revocation of License of)
)
CAPITOL RADIO TELEPHONE INC.)
d/b/a Capitol Paging)
1420 Kanawha Blvd. E)
Charleston, West Virginia 25301)
)
Licensee of Station WNDA-400 in the)
Private Land Mobile Radio Services)
)
and)
)
Revocation of License of)
)
CAPITOL RADIO TELEPHONE INC.)
d/b/a Capitol Paging)
1420 Kanawha Blvd. E)
Charleston, West Virginia 25301)
)
Licensee of Station WNWW-636 in the)
Private Land Mobile Radio Services)

PR DOCKET NO. 93-231 ✓

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and)
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 Revocation of License of)
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)
 CAPITOL RADIOTELEPHONE COMPANY, INC.)
 1420 Kanawha Boulevard East)
 Charleston, West Virginia 25301)
)
 Licensee of Station KWU-373 in the)
 Public Mobile Radio Service)
)
 and)
)
 Revocation of License of)
)
)
 CAPITOL RADIOTELEPHONE COMPANY, INC.)
 P. O. Box 8305)
 South Charleston, West Virginia 25303)
)
 Licensee of Station KUS-223 in the)
 Public Mobile Radio Service)
)
 and)
)
 Revocation of License of)
)
)
 CAPITOL RADIOTELEPHONE CO., INC.)
 1420 Kanawha Boulevard East)
 Charleston, West Virginia 25301)
)
 Licensee of Station KQD-614 in the)
 Public Mobile Radio Service)
)
 and)
)
 Revocation of License of)
)
)
 CAPITOL RADIOTELEPHONE COMPANY, INC.)
 1420 Kanawha Boulevard)
 East Charleston, West Virginia 25301)
)
 Licensee of Station KWU-204 in the)
 Public Mobile Radio Service)

MEMORANDUM OPINION AND ORDER

Issued: December 13, 1993 Released: December 14, 1993

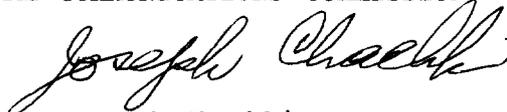
1. Under consideration are "Motion For Withdrawal" filed December 6, 1993 by RAM Technologies, Inc. (RAM), Notice Of Withdrawal Of Discovery Requests filed December 6, 1993 by RAM, and Private Radio Bureau's Consolidated Opposition To RAM's Motion For Withdrawal And Notice Of Withdrawal Of Discovery Requests filed December 8, 1993.

2. RAM moves for leave to withdraw as a party or, in the alternative, to withdraw from appearing at the hearing to be held on the above captioned matters. In a separate pleading, RAM gives notice of withdrawal of its discovery requests to Capitol Radiotelephone Company, Inc. (Capitol). RAM's requests for relief result from Capitol's request to dismiss its pending 152.480 PCP application. RAM recites that dismissal of Capitol's application disposes of the only issue in the proceeding that would have a material impact on RAM, i.e., harmful interference to RAM's 152.480 MHz PCP customers. The Bureau opposes RAM's motion, urging that dismissal of RAM as a party will negatively affect the Bureau's ability to present evidence in this proceeding and the Commission's ability to compile a full and complete record.

3. RAM's request to withdraw from this proceeding will be denied. As recited by the Bureau in its Opposition, RAM was the driving force behind the Commission's investigation of Capitol and evidence on four of the eight factual issues, i.e., issues (a), (c), (d), (f) and (g) is exclusively within the control of RAM. Under these circumstances, it is clear that RAM's participation will be of assistance in resolving the designated issues and that the public interest will be best served by RAM's active participation in this proceeding. See Midwest Radio-Television, Inc., 17 FCC 2d 298 (1969); National Broadcasting Co., Inc., 24 RR 245 (Rev. Bd. 1962); Cowles Florida Broadcasting, Inc., 60 FCC 2d 372, 379 (1976).¹ Further, notwithstanding, RAM's withdrawal of its discovery requests, Capitol will be required to answer the interrogatories propounded by RAM. In this regard, the Presiding Judge views the Bureau's request for answers as tantamount to the Bureau's adoption of RAM's discovery motion.²

Accordingly, IT IS ORDERED, That the "Motion For Withdrawal" filed December 6, 1993 by RAM Technologies, Inc. IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Joseph Chachkin
Administrative Law Judge

¹ Jefferson Standard Broadcasting Co., 20 RR 2d 830 (1970) is inapposite. In Jefferson, unlike the situation here the continued participation by the two remaining parties insured development of a complete record. Also in Jefferson, the party which sought dismissal became bankrupt and went dark during the proceeding. RAM does not suggest it is faced with similar precarious financial circumstances.

² As also pointed out by the Bureau, responses to RAM's Admissions, which do not constitute discovery, are overdue and the facts therein are deemed admitted. See Section 1.246(b) of the Rules.