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

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of) WT DOCKET NO. 94-147
)
JAMES A. KAY, JR.)
)
Licensee of one hundred sixty four Part 90)
Licenses in the Los Angeles, California, Area)

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To: Administrative Law Judge
Richard L. Sippel

**WIRELESS TELECOMMUNICATIONS BUREAU'S
OPPOSITION TO MOTION TO DISMISS**

1. On January 12, 1995, James A. Kay, Jr. ("Kay"), filed a Motion to Dismiss the Order to Show Cause, FCC 94-315, released December 13, 1994 ("OSC") in this proceeding. For the reasons which follow, the Wireless Telecommunications Bureau opposes Kay's motion.

2. Kay's request that the Presiding Judge dismiss the OSC and terminate this proceeding must be denied. It is well established that a Presiding Judge does not have the authority to alter a hearing designation order. Atlantic Broadcasting Company, 5 FCC 2d 717, 720 (1966). In effect, what Kay is seeking is an order by the Presiding Judge reversing the Commission's action designating this case for hearing. Obviously, the Presiding Judge does not have such authority.

3. In any case, Kay's claim that the Wireless Telecommunications Bureau is not a legitimate party to this proceeding because there is no Commission document authorizing its

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creation, is without merit. The Commission's reorganization, which included the creation of the Wireless Telecommunications Bureau, has been approved by the Congress of the United States. See attachment. Moreover, the substitution of the Wireless Telecommunications Bureau for the Private Radio Bureau in the OSC does not constitute a substantive change in the OSC. Consequently, the change amounts to nothing more than an editorial correction which is within the discretion of the operating Bureau that prepared the OSC.¹

4. For the above reasons, the Chief, Wireless Telecommunications Bureau, requests that Kay's Motion to Dismiss be denied.

Respectfully submitted,
Regina M Keeney
Chief, Wireless telecommunications Bureau


W. Riley Hollingsworth
Deputy Associate Bureau Chief


Gary P. Schonman
Attorney

Federal Communications Commission
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January 24, 1995

¹ Indeed, Kay, in his pleading, recognizes that the Commission has delegated the authority to its operating Bureau's to make editorial corrections to actions taken by the Commission.

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Congress of the United States
House of Representatives
Committee on Appropriations
Washington, DC 20515-6015

November 1, 1994

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Mr. Andrew S. Fishel
 Managing Director
 Federal Communications Commission
 Washington, D.C. 20554

Dear Mr. Fishel:

This is in response to your October 20, 1994 letter in which you notify the Committee of your plans to reorganize certain programs of the Federal Communications Commission.

I understand that this proposal is the third in a series of major reorganizations of the Commission. This proposal covers the establishment of the Wireless Telecommunications Bureau (WTB)

I understand this new Bureau consolidates all domestic wireless communications activities, except satellite communications, and is designed to strengthen the Commission's customer focus, promote efficiency, and promote consistent and high quality policy direction.

Lastly, I understand that the proposed reorganization can be accomplished within existing staffing and budget allocations.

The Committee has no objection to this proposal. We appreciate your keeping the Committee informed of changes in the Federal Communications Commission.

Sincerely,



Alan B. Mollohan
 Subcommittee on the Departments
 of Commerce, Justice, and State,
 The Judiciary and Related Agencies



NEWS

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This is an unofficial announcement of Commission action. Release of the full text of a Commission order constitutes official action. See *MCI v. FCC*, 515 F.2d 385 (D.C. Cir. 1974).

December 1, 1994

FCC ESTABLISHES WIRELESS TELECOMMUNICATIONS BUREAU

The Commission announced today the establishment of the Wireless Telecommunications Bureau (previously the Wireless Telecommunications Task Force). The Bureau will begin operations immediately.

The Wireless Telecommunications Bureau will handle all FCC domestic wireless telecommunications programs and policies, except those involving satellite communications. Its functions include all activities of wireless telecommunications providers and licensees.

The Bureau also will serve as the Commission's principal policy and administrative resource with regard to spectrum auctions.

Regina M. Keeney has been named as the Chief of the Wireless Telecommunications Bureau and Ralph A. Haller and Gerald P. Vaughan have been named Deputy Bureau Chiefs.

Keeney said, "The Wireless Telecommunications Bureau will ensure that the FCC is at the forefront of policy making for wireless communications services, including cellular, paging, personal communications services, public safety and other commercial and private radio services. Our goals are to promote economic growth, foster competition, and enhance accessibility of emerging technologies to consumers. Additionally, the Bureau will work to foster efficiency and innovation in the allocation and licensing of the electromagnetic spectrum."

The Wireless Telecommunications Bureau will have seven divisions: Commercial Radio Division, Enforcement Division, Policy Division, Auctions Division, Private Radio Division, Licensing Division, and Customer Services Division.

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The Commercial Radio Division will develop policy, rules, and procedures for other authorization and regulation of wireless telecommunications facilities and services. The Division is responsible for rule making and regulatory matters concerning Cellular Services, Personal Communications Services, paging, and Specialized Mobile Radio, Air-Ground, and Basic Exchange Telecommunications Radio Services.

The Enforcement Division will ensure compliance by wireless telecommunications service providers and subscribers with the Communications Act, other statutes, and Commission rules, orders, and policies. This division will administer the FCC's EEO Program for wireless telecommunications service providers, and respond to public information inquiries concerning rates or practices, among other duties.

The Policy Division will, based on major technical, economic, and regulatory developments, legislative actions, and Commission and court decisions, propose and develop Commission rules and policies to govern wireless telecommunications services.

The Auctions Division is responsible for conducting the auctions of the electromagnetic spectrum. These responsibilities include recommending appropriate auction methodology for particular services, marketing, application processing, and development of all auction-related contracts. Additionally, this division will advise the Commission on policy, engineering, and technical matters relating to auctions of spectrum used for other purposes.

The Private Radio Division will handle rule making and regulatory matters concerning Public Safety, Industrial, Land Transportation and other private mobile radio services, Aviation, Marine, Amateur, IVDS, broadcast auxiliary service, Personal Radio Services, point-to-point microwave, antenna tower clearance, and the radio operator examination program. Additionally, this Division will project demand for existing and possible new communications requirements and services.

The Licensing Division will oversee the processing of applications and licensing of Specialized Mobile Radio, paging, Private Land Mobile, private and common carrier microwave, broadcast auxiliary, amateur radio, IVDS, aviation and marine, and General Mobile Radio Services.

The Customer Services Division will be responsible for providing technical assistance to consumers, manufacturers, frequency coordinators, and others on questions related to application processing and licensing in the wireless telecommunications services. The Customer Services Division will also provide automated support, processing, and data services for the Licensing Division and for the Bureau.

Attached is an organizational chart of the Wireless Telecommunications Bureau.

Congressional and Union approval have been received.

Action by the Commission October 17, 1994. Chairman Hundt, Commissioners Quello, Barrett, Ness, and Chong.

-FCC-

News Media contact: Stacey Reuben Mesa at (202) 418-0500.
Wireless Telecommunications Bureau contacts: Laurence D. Atlas and Daniel B. Phythyon at (202) 632-6940.

CERTIFICATE OF SERVICE

I, Michelle C. Mebane, a secretary in the Hearing Branch, Mass Media Bureau certify that I have, on this 24th day of January 1995, sent by regular First Class United States mail, copies of the foregoing "Wireless Telecommunications Bureau's Opposition to Motion to Dismiss" to:

Dennis C. Brown, Esq.
Brown & Schwaninger
1835 K Street, N.W.
Suite 650
Washington, D.C. 20006


Michelle C. Mebane