

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC

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Federal Communications Commission
Office of Secretary

In the Matter of)
)
MARC SOBEL) WT DOCKET NO. 97-56
)
 Applicant for Certain Part 90 Authorizations)
 in the Los Angeles Area and Requestor Of)
 Certain Finder's Preferences)
)
MARC SOBEL AND MARC SOBEL)
D/B/A AIR WAVE COMMUNICATIONS)
)
 Licensees of Certain Part 90 Stations in the)
 Los Angeles Area)

To: Honorable John M. Frysiak
Administrative Law Judge

**WIRELESS TELECOMMUNICATIONS BUREAU'S
OPPOSITION TO MOTION FOR SPECIAL RELIEF**

1. On May 6, 1997, Marc D. Sobel ("Sobel") filed a "Motion for Special Relief."
The Acting Chief, Wireless Telecommunications Bureau, by his attorneys, hereby opposes
Sobel's extraordinary request.

2. Sobel asks the Presiding Judge to "issue an order declaring that motions to enlarge
will no longer be accepted in this proceeding except upon specific leave of the presiding
officer pursuant to Section 1.229(c) of the Rules." Sobel Motion, p. 2. Sobel's motion is

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based upon totally unsupported innuendo and speculation and has no legal or factual basis. Consequently, the Presiding Judge should expeditiously deny Sobel's specious pleading.

3. Sobel notes that, as of the date he filed his motion, a summary of the Order to Show Cause, Hearing Designation Order, and Notice of Opportunity for Hearing for Forfeiture, 12 FCC Rcd 3292 (1997) (Order to Show Cause) had not been published in the Federal Register. Without any support, Sobel speculates that "it appears that the Bureau is at least partially responsible for the past and continuing delay" and alleges that the Bureau has an "unfair procedural advantage." Sobel at least implicitly accuses the Bureau of delaying Federal Register publication of the Order to Show Cause in order to maximize the time within which it may file motions to enlarge issues pursuant to Section 1.229(a) of the Commission's Rules.

4. The Bureau submits that it never engaged in any scheme to delay publication of the Order to Show Cause in the Federal Register, and Sobel's suggestion to the contrary is entirely unsupported, unjustified, and smacks of bad faith. In any event, a summary of the Order to Show Cause was in fact, on May 9, 1997, subsequent to the filing of Sobel's motion, properly published in the Federal Register. 62 Fed. Reg. 25615 (1997). Moreover, efforts to obtain publication in the Federal Register began well before the filing of Sobel's motion.¹

¹ In fact, the Commission's Publications Branch received a summary of the Order to Show Cause on April 25, 1997.

Thus, as far as Section 1.229(a) of the Commission's rules is concerned, Sobel's motion is moot.

5. Sobel's request that the Bureau be required to obtain special permission before filing any motions to enlarge wholly ignores Section 1.229(b)(2) of the Commission's Rules. His implicit request that the Bureau be required to obtain special permission before filing any motion to enlarge issues under that rule section also is without merit because Sobel has offered absolutely no justification for imposing such an extraordinary procedural condition. Section 1.229(b)(2) allows parties to file motions to enlarge issues based on "new facts or newly discovered facts" within fifteen days after such facts are discovered. The Bureau has every interest in expeditiously compiling a thorough record concerning Sobel's qualifications to be a Commission licensee. It has no plan to sit back and wait to file motions to enlarge issues. If new facts come to the Bureau's attention that warrant the filing of a particular motion to enlarge issues, the Bureau will promptly file an appropriate motion. Thereafter, if Sobel believes that the motion is not in compliance with the Commission's Rules, he may avail himself of the opportunity at that time to interpose an opposition. In sum, Sobel has offered no justification for imposing special procedural conditions upon the Bureau, and the Bureau should not be singled out and prevented from exercising in the ordinary course the same rights and privileges available to the other parties in this proceeding.

6. Accordingly, the Sobel's "Motion for Special Relief" should be denied.

Respectfully submitted,
Daniel B. Phythyon
Acting Chief, Wireless Telecommunications Bureau



Gary P. Schonman
William H. Kellett
John J. Schauble
Attorneys, Wireless Telecommunications Bureau

Federal Communications Commission
2025 M Street, N.W., Suite 8308
Washington, D.C. 20554
(202) 418-0569

May 12, 1997

CERTIFICATE OF SERVICE

I, Rosalind Bailey, a secretary in the Enforcement Division, Wireless Telecommunications Bureau, certify that I have, on this 12th day of May 1997, sent by regular First Class United States mail, copies of the foregoing "Wireless Telecommunications Bureau's Opposition to Motion for Special Relief" to:

Robert J. Keller, Esq.
4200 Wisconsin Avenue
Suite 106-233
Washington, DC 20016-2143
(Counsel for Marc Sobel and Marc
Sobel d/b/a Air Wave Communications)

Barry A. Friedman, Esq.
Thompson, Hine & Flory
1920 N Street, N.W., Suite 800
Washington, D.C. 20036
(Counsel for James A. Kay, Jr.)

Administrative Law Judge John M. Frysiak
Federal Communications Commission
2000 L Street, N.W.
Second Floor
Washington, D.C. 20554


Rosalind Bailey