

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

FCC MAIL SECTION
FCC 98M-73

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In Matter of)
)
JAMES A. KAY, JR.)
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Licensee of one hundred fifty two)
Part 90 licenses in the)
Los Angeles, California area.)

WT DOCKET NO. 94-147
DISPATCHED BY

ORDER

Issued: June 5, 1998 ; Released: June 9, 1998

There is pending a Petition For Leave To File Appeal that was filed by James A. Kay, Jr. ("Kay") on March 2, 1998. Kay seeks interlocutory appeal of a scheduling matter that would require Mr. Marc Sobel and Mr. Craig Sobel, non-party witnesses, to testify in Washington, D.C. Order FCC 98M-22, released February 26, 1998, n.4.

The Presiding Judge has relied on counsel to accommodate the place of the Sobels' testimony. Because of the relationship between Mark Sobel and Kay, it would be helpful to have their testimony in the same session in Washington, D.C. Craig Sobel also appears to have direct knowledge of Kay's operations.

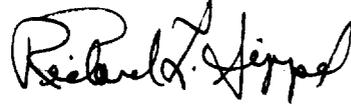
On June 3, 1998, the Wireless Telecommunications Bureau ("Bureau") filed a Statement Of Readiness For Hearing and reported that it "is seeking to limit the testimony it will require from Mr. Marc Sobel to several hours, so that the Presiding Judge will not need to require him to make a trip to Washington, D.C." Mr. Craig Sobel should provide an even lesser quantum of testimony.

It appears at this time in light of the Bureau's representation, that Mr. Marc Sobel and Mr. Craig Sobel should not be required to testify in Washington, D.C.¹ Therefore, the directive in Order FCC 98M-22, released February 26, 1998, n.4 is rescinded.

¹ The Presiding Judge may revisit the question of the Sobels' testimony after receiving the Trial Briefs. The Bureau might also consider paying the expenses of the Sobels testifying in Washington, D.C. since the Bureau will call them as witnesses. The cost represented by Kay in the amount of \$1,746 may be a quote on a flight that is taken 2 weeks or less after purchase. A telephonic check on today's price reported \$448.00 for a LA/DC round trip ticket on United Airlines provided that the ticket is purchased 3 weeks or more in advance of the flight.

Accordingly, there being no basis² or further reason for considering an interlocutory appeal with respect to Order FCC 98M-22, IT IS ORDERED that the Petition For Leave To File Appeal that was filed by James A. Kay, Jr. on March 2, 1998, IS DENIED.³

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, appearing to read "Richard L. Sippel". The signature is written in a cursive, somewhat stylized font.

Richard L. Sippel
Administrative Law Judge

² There is no novel question of law or policy or probability of remand in connection with the scheduling of a non-party witness. 47 C.F.R. §1.301(b).

³ Courtesy copies of this Order were sent to counsel by fax or e-mail on the date of issuance.