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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
JAMES A. KAY, JR.) WT DOCKET NO. 94-147
)
Licensee of 152 Part 90 Stations in the)
Los Angeles, California Area)

To: The Commission

WIRELESS TELECOMMUNICATIONS BUREAU'S
OPPOSITION TO MOTION TO STRIKE

1. The Chief, Wireless Telecommunications Bureau, by his attorneys, now opposes the "Motion to Strike" filed by James A. Kay, Jr. (Kay) on August 26, 1998. Kay erroneously asserts, based on Section 1.294 of the Commission's Rules, that the Bureau's Opposition to Further Appeal, filed on August 25, 1998, was untimely and should be stricken from the record.

2. Section 1.301(c)(7) of the Commission's Rules provides:

Oppositions and replies shall be served and filed in the same manner as appeals and shall be served on appellant if he is not a party to the proceeding. Oppositions shall be filed within 5 days after the appeal is filed. Replies shall not be permitted, unless the Commission specifically excludes them.

Kay filed his appeal on August 18, 1998. The Bureau filed its opposition on August 25, 1998, which was the fifth business day after the appeal was filed. Under Section 1.301(c)(7) of the Commission's Rules, the Bureau's opposition was therefore timely. By citing Section

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1.294 of the Commission's Rules, Kay relies upon the wrong rule. It appears that Kay's counsel may simply not be sufficiently familiar with Part 1 to recognize that they were citing the wrong rule. The remainder of Kay's pleading is an improper attempt to submit an unauthorized reply to the Bureau's opposition and should not be considered.

3. Accordingly, the Bureau urges the Commission to deny Kay's "Motion to Strike."

Respectfully submitted,
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Chief, Wireless Telecommunications Bureau



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Chief, Compliance and Litigation Branch
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August 31, 1998

CERTIFICATE OF SERVICE

I, John J. Schauble, an attorney in the Enforcement and Consumer Information Division, Wireless Telecommunications Bureau, certify that I have, on this 31st day of August, 1998, sent by hand delivery (unless otherwise indicated), copies of the foregoing "Wireless Telecommunications Bureau's Opposition to Motion to Strike" to:

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