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

FCC 98M-132

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

MEMORANDUM OPINION AND ORDER

Issued: December 17, 1998

Released: December 21, 1998

1. Under consideration are "Motion To Quash Subpoena" mailed December 15, 1998 by Marc Sobel, Wireless Telecommunications Bureau's Opposition To Motion To Quash Subpoena filed December 17, 1998, and Reply To Opposition Motion To Quash Subpoena mailed December 17, 1998 by Sobel.

2. Sobel has received a subpoena from the Bureau requiring him to testify in this proceeding on December 30, 1998. Sobel does not dispute that he has relevant and material evidence to offer. In this connection, Sobel understands that "I must attend this hearing...." Sobel Motion, p. 1. Sobel objects, however, to being required to testify in this proceeding unless the Bureau pays his expenses at the time costs are incurred or pays an advance toward those costs.

3. The motion to quash will be denied. As recited by the Bureau, as with the other witnesses in this proceeding, the Bureau is directly paying for Sobel's air fare and his hotel room for two nights.<sup>1</sup> The Bureau will also reimburse Sobel a per diem fee for his meals and miscellaneous expenses. In this regard, the Bureau will have available in the hearing room forms for witnesses to fill out to have their expenses reimbursed. The Commission's rules do not provide for travel advances. Sobel complains that he testified at a deposition in this case and it took nearly a year to be compensated for witness fees. The Bureau assures, however, that once the expense forms are completed, it will expeditiously work to have the forms processed and arrange for payment.

4. In sum, Sobel is being treated no differently than other witnesses in Commission proceedings. Sobel has provided no justification for being excused from testifying. His motion to quash will be denied.

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<sup>1</sup> Assuming Sobel's testimony takes longer than one day, the Bureau will pay for his hotel room for such additional days as are necessary.

Accordingly, IT IS ORDERED, That the "Motion To Quash Subpoena" mailed December 15, 1998 by Marc Sobel IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, reading "Joseph Chachkin". The signature is written in a cursive style with a large initial 'J'.

Joseph Chachkin  
Chief Administrative Law Judge