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January 27, 1999

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VIA HAND DELIVERY

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Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, DC 20554

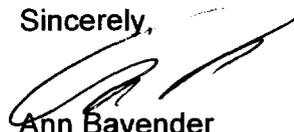
Re: WTB Docket No. 98-181

Dear Ms. Salas:

Transmitted herewith, on behalf of Metro NY LMR Association and Wireless Communications Association of Suffolk County, are an original and six copies of a Motion For Leave To File, Reply To Bureau's Comments Regarding Filings By Associations, Opposition To Bureau's Motion To Deem Matters Admitted, And Request For Termination filed in the above-referenced hearing proceeding.

If questions arise, please contact the undersigned attorney.

Sincerely,



Ann Bavender
Counsel for Metro NY LMR Association
and Wireless Communications
Association of Suffolk County

cc: Certificate of Service

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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JAN 27 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matters of)	
)	WTB Docket No. 98-181
NORCOM COMMUNICATIONS CORPORATION)	
)	
ASSOCIATION FOR EAST END)	
LAND MOBILE COVERAGE)	
)	
LMR 900 ASSOCIATION OF SUFFOLK)	
)	
METRO NY LMR ASSOCIATION)	
)	
NY LMR ASSOCIATION)	
)	
WIRELESS COMMUNICATIONS ASSOCIATION)	
OF SUFFOLK COUNTY)	

To: The Honorable John M. Frysiak
Administrative Law Judge

MOTION FOR LEAVE TO FILE,
REPLY TO BUREAU'S COMMENTS REGARDING FILINGS BY ASSOCIATIONS,
OPPOSITION TO BUREAU'S MOTION TO DEEM MATTERS ADMITTED, AND
REQUEST FOR TERMINATION

Metro NY LMR Association ("Metro") and Wireless Communications Association of Suffolk County ("Suffolk") (jointly the "Prior Parties"), previously parties in the above-captioned proceeding, hereby respectfully request leave to file a reply and opposition, submit their reply to the Comments Regarding Filings By Associations ("Comments") filed January 21, 1999 by the Federal Communications Commission's Wireless Telecommunications Bureau ("Bureau") and their opposition to the Motion To Deem

Matters Admitted ("Motion") filed on January 22, 1999 by the Bureau in this proceeding, and request, if necessary, that the Administrative Law Judge ("ALJ") officially terminate the proceeding as to the Prior Parties pursuant to Section 1.92 of the Commission's rules. In support, the following is stated:

1. On October 14, 1998, the Federal Communications Commission ("Commission") released an Order To Show Cause, Hearing Designation Order And Notice Of Opportunity For Hearing For Forfeiture ("HDO") directed to the above-captioned entities. In the HDO, the Commission (i) ordered each of the entities to show cause why its licenses should not be revoked and (ii) gave notice to each of the entities of its right pursuant to Section 1.91(c) of the Commission's rules to present evidence at a hearing regarding the revocation issues. The HDO further specified that, in order to avail itself of such right, each entity should file a request for hearing within 30 days. HDO, pp. 7-8. On November 12, 1998, the Prior Parties advised the Commission that they would appear at a hearing and present evidence on the issues.

2. On January 7, 1999, at a pre-hearing conference in the above-captioned proceeding, undersigned counsel for the Prior Parties advised the ALJ and the Bureau that the Prior Parties would be shortly withdrawing from the hearing and giving up their rights to a hearing. The next day, on January 8, 1999, the Prior Parties filed with the ALJ a Withdrawal Of Appearance And Waiver Of Hearing, withdrawing from the proceeding and relinquishing all further rights to a hearing. Additionally on January 8, 1999, Suffolk surrendered its license to the Commission for cancellation.

3. The Prior Parties recognized that, in relinquishing their rights to a hearing, the matters raised in the HDO would remain pending before the Commission. Accordingly, on January 11, 1999, Suffolk requested that, in light of Suffolk's surrender of its license, the Commission terminate the enforcement action against Suffolk. In addition, on January 13, 1999, the Prior Parties each notified the Commission that, since they had withdrawn from the hearing and therefore would not be responding to the Bureau's Request For Admission Of Fact ("Request For Admission"), the Commission should not consider the "facts" referred to in the Request For Admission to be either admitted or denied.

4. In its Comments, the Bureau inexplicably refuses to accept that the Prior Parties have withdrawn from this proceeding, incorrectly claiming that it is the "responsibility" of a Commission licensee to participate in a license revocation hearing. The Bureau further inaccurately asserts that, as long as the Prior Parties remain licensees, they must remain parties to the proceeding. The Bureau's claims have no basis whatsoever in the Commission's rules, policies, or procedures. Nor does the Bureau cite any basis for its claims. To the contrary, Section 1.91(c) of the rules clearly provides that a license revocation hearing and participation in it are an "opportunity" that a licensee may elect, not in any way a requirement. The HDO itself recognized this in offering the Prior Parties such a "right" and providing a time period in which they might elect a hearing. HDO, p. 8. Moreover, Sections 1.92(a)(2), (c), and (d) of the rules specify that when a party elects a license revocation hearing and subsequently fails to appear, the hearing shall be terminated and the matters alleged against it

resolved by the Commission. See Mullin, Connor and Rhyne, 41 RR2d 1681 (1977). Accordingly, since the Prior Parties have withdrawn their appearance and will not appear at the hearing, they no longer are parties to this proceeding and any allegations against them will be resolved by the Commission. The requests made by the Bureau in the Comments should be denied.

5. In its Motion, the Bureau again without basis submits that the Prior Parties must remain parties to this proceeding and asks that the admissions in the Request For Admission be deemed admitted or, alternatively, the Prior Parties be required to respond to the Request For Admission. Pursuant to Section 1.246 of the Commission's rules, however, only a party to a hearing need respond to a request for the admission of relevant facts or, if it fails to respond, have such facts deemed admitted by it. When they withdrew from the proceeding on January 8, 1999, the Prior Parties effectively¹ were no longer parties to the proceeding and, accordingly, had no obligation to respond to the Request For Admissions on January 19, 1999 when responses would otherwise have been due. The Motion, thus, should be denied.

WHEREFORE, the premises considered, the Prior Parties respectfully request that the ALJ grant them leave to file the instant pleading, deny the requests made by

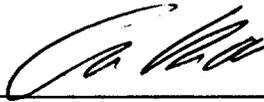
¹To the extent necessary, the Prior Parties request that the ALJ issue an order pursuant to Section 1.92(c) of the Commission's rules terminating the proceeding as it relates to the Prior Parties.

the Bureau in the Comments, deny the Motion, and issue an order terminating the proceeding as it relates to the Prior Parties.

Respectfully submitted,

METRO NY LMR ASSOCIATION

WIRELESS COMMUNICATIONS
ASSOCIATION OF SUFFOLK COUNTY

By:  _____

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Its Attorneys

January 27, 1999

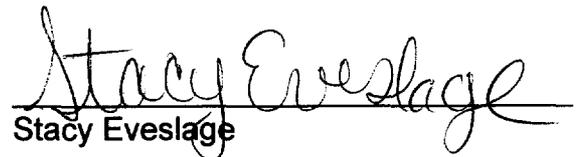
CERTIFICATE OF SERVICE

I, Stacy Eveslage, a secretary in the law firm of Fletcher, Heald & Hildreth, P.L.C. hereby certify that true copies of the aforementioned Motion For Leave To File, Reply To Bureau's Comments Regarding Filings by Associations, Opposition To Bureau's Motion To Deem Matters Admitted, And Request For Termination were served this 27th day of January, 1999, via United States First Class Mail, postage prepaid, upon:

Honorable John M. Frysiak*
Administrative Law Judge
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Federal Communications Commission
Washington, D.C. 20554

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Stacy Eveslage

***Via United States First Class Mail and Facsimile.**