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

FEB - 1 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matters of)
)
NORCOM COMMUNICATIONS)
CORPORATION)
)
Business Radio Station License WNQF836)
SMR Radio Stations WZA770, WNBW505,)
WNAJ380, WNRU218 and WNJU965)
New York, New York/Long Island Area)
)
Application to Modify Business)
Radio Station License WNQF836)
New York, New York/Long Island Area)
)
Application to Modify SMR)
Radio Station License WZA770)
New York, New York/Long Island Area)
)
Application to Modify SMR)
Radio Station License WNBW505)
New York, New York/Long Island Area)
)
ASSOCIATION FOR EAST END)
LAND MOBILE COVERAGE)
Business Radio Station License WPAT918)
New York, New York/Long Island Area)
)
LMR 900 ASSOCIATION OF SUFFOLK)
Business Radio Station License WNXT323)
New York, New York/Long Island Area)
)
METRO NY LMR ASSOCIATION)
Business Radio Station License WPAZ643)
New York, New York Area)
)
NY LMR ASSOCIATION)
Business Radio Station License WPAP734)
New York, New York/Long Island Area)
)
WIRELESS COMMUNICATIONS)
ASSOCIATION OF SUFFOLK COUNTY)
Business Radio Station License WPAT910)
New York, New York/Long Island Area)

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To: Norcom Communications Corporation

WIRELESS TELECOMMUNICATIONS BUREAU'S
RESPONSE TO NORCOM COMMUNICATIONS CORPORATION'S
REQUEST FOR ADMISSIONS

The Chief, Wireless Telecommunications Bureau ("Bureau"), by his attorneys and pursuant to Section 1.246(b) of the Commission's Rules, hereby responds to the Request for Admissions filed by the Norcom Communications Corporation ("Norcom"). This response was originally due on January 25, 1999; however, during a conference call on that date, the Presiding Judge authorized an extension until February 1, 1999. As used in this response, the term "irrelevant" includes but is not limited to requested admissions which are not calculated to lead to admissible evidence under the designated issues

1. Admit.

2. Admit.

3. Admit.

4. Admit.

5. Unable to admit or deny. Norcom requests an admission that the Commission was notified that Norcom would provide facilities for and would operate the control point of one or more of the Associations'¹ stations. The information needed to determine whether the Bureau can make this requested admission was contained in the Bureau's application files for the pertinent period. However, the Bureau is unable to consult those files because they were destroyed by a flood at the Commission's Gettysburg, Pennsylvania, facility in 1996.

6. Unable to admit or deny. Norcom requests an admission that, in 1991, the Commission was notified that Norcom helped organize one or more of the Associations. The information needed to determine whether the Bureau can make this requested admission was contained in the Bureau's application files for the pertinent period. However, the Bureau is

¹ As used herein, "Associations" means the Association for East End Land Mobile Coverage, the LMR 900 Association of Suffolk, the Metro NY LMR Association, the NY LMR Association, and the Wireless Communications Association of Suffolk.

unable to consult those files because they were destroyed by a flood at the Commission's Gettysburg, Pennsylvania, facility in 1996.

7. Objection to the form of the requested admission. This requested admission calls for a single admission relating to a large number of documents. While the Bureau is able to admit the genuineness of some of these documents, it is unable to admit or deny the genuineness of others. Therefore, the Bureau is unable to make single admission relating to all of the specified documents.

8. Objection. This requested admission calls for a legal conclusion and is not calculated to lead to admissible evidence under the designated issues. Norcom apparently has the mistaken belief that the maximum forfeiture amounts proposed by the HDO exceed the maximum amounts permitted against non-common carriers by Section 503(b)(2)(C) of the Communications Act of 1934, as amended. In fact, the maximum amounts proposed by the HDO -- \$185,000 against Norcom and \$37,000 against each Association -- do not exceed the maximum specified for non-common carriers by Section 503(b)(2)(C) of \$75,000 for each continuing violation. (The HDO alleges distinct violations by Norcom as each of the Associations, which would justify a maximum forfeiture of \$375,000.)

9. Objection. This requested admission is irrelevant. Same basis as for Requested Admission No. 8.

10. Objection. This requested admission is irrelevant. Same basis as for Requested Admission No. 8.

11. Objection. This requested admission is irrelevant. Same basis as for Requested Admission No. 8.

12. Admit.

13. Objection. This requested admission calls for a legal conclusion and is

irrelevant. Same basis as for Requested Admission No. 8.

14. Objection. This requested admission calls for a legal conclusion.

15. Objection. This requested admission calls for a legal conclusion.

16. Objection. This requested admission calls for a legal conclusion

17. Objection. This requested admission calls for a legal conclusion.

18. Objection. Norcom requests an admission that the Commission has authorized Spectrum Resources of the Northeast, Inc., to offer for-profit communications service (as a trunked SMR licensee) on the frequency 856.7875 MHz, which is also assigned to Business radio station WPAT910 (licensed to one of the Associations). The requested admission is irrelevant because it has no bearing upon the issues of this proceeding, whose purpose is to determine whether Norcom and the Associations are qualified to be licensees and whether monetary forfeitures should be imposed against them.

19. Objection. Norcom requests an admission that the Commission has authorized Nextel Communications, Inc., its affiliates, or subsidiaries to offer for-profit communications service (as trunked SMR licensees) on Business and Industrial/Land Transportation ("B/ILT") channels. This requested admission is irrelevant. Same basis as for Requested Admission No. 18.

20. Objection. Norcom requests an admission that the Commission has authorized "SMR licensees across the United States" to offer for-profit communications service (as trunked SMR licensees) on Business and Industrial/Land Transportation ("B/ILT") channels. This requested admission is irrelevant. Same basis as for Requested Admission No. 18.

21. Admit.

22. Objection. This requested admission calls for a legal conclusion

23. Objection. This requested admission calls for a legal conclusion.

24. Objection. This requested admission calls for a legal conclusion.
25. Objection. This requested admission calls for a legal conclusion.
26. Objection. This requested admission calls for a legal conclusion.
27. Objection. This requested admission calls for a legal conclusion.
28. Objection. This requested admission calls for a legal conclusion.
29. Objection. This requested admission calls for a legal conclusion.
30. Admit.
31. Objection. This requested admission calls for a legal conclusion.
32. Objection. These requested admissions call for legal conclusions.
33. Objection. The Commission's internal communications are privileged.

Furthermore, the information needed to admit or deny can be obtained only through prohibited ex parte contact. Finally, the requested admission is irrelevant because it has no bearing upon the issues of this proceeding, whose purpose is to determine whether Norcom and the Associations are qualified to be licensees and whether monetary forfeitures should imposed against them.

34. Objection. Same basis as for Requested Admission No. 33.

35. Admit. However, the time for publication of the HDO in the Federal Register has not expired.

36. Objection. This requested admission calls for speculation. The Bureau cannot determine the identity of its witnesses until after the completion of discovery and is not required to disclose its witness list until May 18, 1999.

37. Objection. Norcom requests an admission that Bureau counsel contacted a person during the investigation of this case without first informing George Petrutsas. The requested admission is irrelevant. The question of whether a Commission investigator did or did not

contact Mr. Petrutsas has no bearing upon the issues of this proceeding, whose purpose is to determine whether Norcom and the Associations are qualified to be licensees and whether monetary forfeitures should imposed against them.

38. Objection. Same basis as for Requested Admission No. 37.

39. Objection. Same basis as for Requested Admission No. 37.

40. Objection. Same basis as for Requested Admission No. 37.

41. Objection. Same basis as for Requested Admission No. 37.

43. Objection. Norcom requests an admission that George Petrutsas represented four of the Associations "as early as October 28, 1992." The Bureau is unable to determine whether the phrase "as early as October 28, 1992," is intended to include any of the period following October 28, 1992.

44. Objection. Norcom requests an admission that a Commission engineer contacted a person without first informing George Petrutsas. The requested admission is irrelevant. The question of whether a Commission investigator did or did not contact Mr. Petrutsas has no bearing upon the issues of this proceeding, whose purpose is to determine whether Norcom and the Associations are qualified to be licensees and whether monetary forfeitures should imposed against them.

45. Denied.

46. Objection. Norcom requests an admission that Judah Mansbach, a Commission engineer who investigated this matter, has been subject to disciplinary procedures. The requested admission is irrelevant because it has no bearing upon the issues of this proceeding, whose purpose is to determine whether Norcom and the Associations are qualified to be licensees and whether monetary forfeitures should imposed against them. Furthermore, the requested admission is prejudicial.

47. Objection. Norcom requests the Bureau's admission that the Commission never obtained the approval of the Office of Management and Budget to routinely collect information about sharing arrangements on B/ILT channels above 800 MHz. The requested admission is irrelevant because it has no bearing upon the issues of this proceeding, whose purpose is to determine whether Norcom and the Associations are qualified to be licensees and whether monetary forfeitures should imposed against them.

48. Objection. Norcom requests the Bureau's admission that the Commission has not granted any applications for "FB7" systems² within the last twelve months. The requested admission is irrelevant because it has no bearing upon the issues of this proceeding, whose purpose is to determine whether Norcom and the Associations are qualified to be licensees and whether monetary forfeitures should imposed against them.

49. Objection. Norcom requests the Bureau's admission that there are applications pending for FB7 systems submitted as early as 1997 which have not been returned to the applicant for additional information. The requested admission is irrelevant because it has no bearing upon the issues of this proceeding, whose purpose is to determine whether Norcom and the Associations are qualified to be licensees and whether monetary forfeitures should imposed against them.

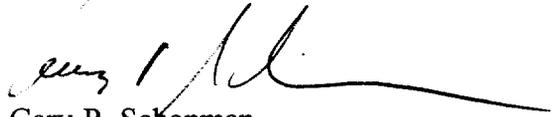
50. Objection. Norcom requests the Bureau's admission that, during the period 1997-1999, the FCC's stated time required to process initial applications for PMRS applications generally was less than six months. The requested admission is irrelevant because it has no bearing upon the issues of this proceeding, whose purpose is to determine whether Norcom and the Associations are qualified to be licensees and whether monetary forfeitures should

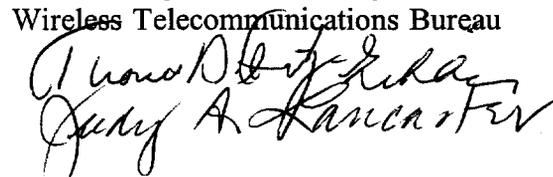
² An FB7 system is a communications system, such as those licensed to the Associations, which is required to be shared by its users on a nonprofit basis.

imposed against them.

51. Objection. This requested admission calls for a legal conclusion.
52. Objection. This requested admission calls for a legal conclusion.
53. Objection. This requested admission calls for a legal conclusion.
54. Admit.
55. Objection. This requested admission calls for a legal conclusion.

Respectfully Submitted,
Thomas Sugrue
Chief, Wireless Telecommunications Bureau


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February 1, 1999

Declaration

I, Thomas D. Fitz-Gibbon, declare under penalty of perjury that the foregoing answers to Norcom Communications Corporation's "Request for Admissions of Fact" is true and correct to the best of my knowledge and/or belief.

Feb. 1, 1999
Date

Thomas D. Fitz-Gibbon
Thomas D. Fitz-Gibbon

Certificate of Service

I, Arlene Cook, certify that, on February 1, 1999, a copy of the foregoing Response to Request for Admissions, filed on behalf of the Chief, Wireless Telecommunications Bureau, was sent by facsimile and first class mail to:

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