

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

FCC 99M-9
90264

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

WT DOCKET NO. 94-147

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MEMORANDUM OPINION AND ORDER

Issued: February 5, 1999

Released: February 8, 1999

1. Under consideration is "Motion To Seal Certain Exhibits" filed by James A. Kay, Jr. (Kay) on January 26, 1999, and the Wireless Telecommunications Bureau's Comments On Motion To Seal Certain Exhibits filed February 1, 1999.

2. Kay requests that the Presiding Judge issue an order directing that certain exhibits admitted and/or identified during the course of the hearing in the above-captioned matter be sealed and withheld from routine public inspection in order to preserve the confidentiality of the information contained therein. Specifically, this request is made as to the following exhibits.

WTB Exhibit No. 19 (admitted)

WTB Exhibit Nos. 281 through 285 (identified but not admitted)

WTB Exhibit No. 290 (admitted)

WTB Exhibit No. 347 (admitted)

Kay Exhibit No. 10 (admitted) ¹

3. Kay asserts that each of these documents contains comprehensive information concerning the configuration of Kay's land mobile systems, his customers, and other confidential material that is sensitive for competitive, security, and other reasons. The Bureau supports Kay's request that access to the cited exhibits be restricted, "so long as it is understood that the parties have the right to refer to these exhibits in their proposed findings and

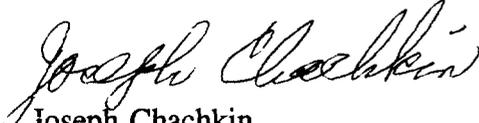
¹ This refers to Kay Exhibit No. 10 as identified and admitted during the hearing (i.e., the diskette identified and admitted during the testimony of Kay's computer expert rebuttal witness), and not to the document initially exchanged with the Bureau on June 29, 1998, as Kay's Exhibit No. 10. The document initially exchanged as Kay Exhibit No. 10 was later renumbered and admitted as Kay Exhibit No. 62.

conclusions, and the Presiding Judge (and the Commission) have the right to cite and refer to the exhibits in their decisions." Bureau Comments, paragraph 2.

4. Good cause having been shown, Kay's motion will be granted subject to the understanding as to the limited use of these exhibits, as expressed by the Bureau. Accordingly, the Secretary of the Commission is directed to take steps necessary to seal the subject exhibits to insure that they are not routinely available for public inspection.

SO ORDERED.

FEDERAL COMMUNICATIONS COMMISSION


Joseph Chachkin
Chief Administrative Law Judge