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Before the
Federal Communications Commission
Washington, D.C. 20554

FCC 03M-23
02361

In the Matter of)	EB Docket No. 03-96
)	
NOS Communications, Inc.,)	File No. EB-02-TC-119
Affinity Network Incorporated and)	
NOSVA Limited Partnership)	NAL/Acct. No. 200332170003
)	
Order to Show Cause and)	FRN: 0004942538
Notice of Opportunity for Hearing)	

JUN 20 2003

MEMORANDUM OPINION AND ORDER

Issued: June 20, 2003 ; Released: June 24, 2003

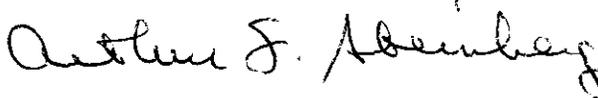
Under consideration are a Joint Motion for Protective Order, filed on June 6, 2003, by NOS Communications, Inc., Affinity Network Incorporated, NOSVA Limited Partnership, and their principals (collectively "Petitioners"); and the Enforcement Bureau's Opposition to Joint Motion for Protective Order, filed on June 17, 2003, by the Enforcement Bureau ("Bureau").

Petitioners request the issuance of a protective order with respect to the Bureau's May 27, 2003, Request for Admission of Facts and Genuineness of Documents ("Admissions Request"). In support, Petitioners contend that the Admissions Request is unduly burdensome and improper, and that certain requests are argumentative, vague, call for legal conclusions or the beliefs of third parties, or are impossible to answer intelligibly. Petitioners request that the Bureau be directed to serve tailored admissions on the individual respondent parties, and that the Bureau be limited to a maximum of 50 admissions requests per party. The Bureau opposes the Joint Motion.

The Joint Motion will be denied. Even assuming, *arguendo*, that the Joint Motion is not an unauthorized pleading,¹ the issuance of a protective order is not warranted. Section 1.246(a) of the Commission's Rules permitted the Bureau to file a request for admissions on "any other party." That is precisely what the Bureau has done here and the manner in which it has done so appears to be perfectly proper and consistent with Commission practice. Further, the fact that a response to the Admissions Request may require a great deal of thought, work, and research provides no legitimate basis for the issuance of a protective order. Moreover, it is clear that this proceeding will in all probability present an exceedingly complicated factual situation² and, for this reason, there appears to be no justification for artificially limiting the scope or number of the Bureau's Admissions Requests. As the Bureau has correctly noted, a large number of admissions requests may be appropriate and useful to narrow the issues in complex cases. Bureau Opposition at 9, n.26.

Accordingly, IT IS ORDERED that the Joint Motion for Protective Order filed by Petitioners on June 6, 2003, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Arthur I. Steinberg
Administrative Law Judge

¹ See Bureau Opposition at 5-6.

² See Order to Show Cause and Notice of Opportunity for Hearing, 18 FCC Rcd 6952 (2003).