

SEP 12 2003

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

Federal Communications Commission  
Office of the Secretary

In the Matter of )  
 )  
**Ronald Brasher** )  
 Licensee of Private Land Mobile Stations )  
 WPLQ202, KCG967, WPLD495, WPKH771, )  
 WPKI739, WPKI733, WPKI707, WIL990, )  
 WPLQ475, WPLY658, WPKY903, WPKY901, )  
 WPLZ533, WPKI762, and WPDU262 )  
 Dallas/Fort Worth, Texas )  
 )  
**Patricia Brasher** )  
 Licensee of Private Land Mobile Stations )  
 WPIJ362, WPKY900, and WPLD570 )  
 Dallas/Fort Worth, Texas )  
 )  
**David Brasher** )  
 Licensee of Private Land Mobile Stations )  
 WPBU651 and WPJR757 )  
 Dallas/Fort Worth, Texas )  
 )  
**D.L. Brasher** )  
 Licensee of Private Land Mobile Station WPJR750 )  
 Dallas/Fort Worth, Texas )  
 )  
**O.C. Brasher** )  
 Licensee of Private Land Mobile Station WPJR761 )  
 Dallas/Fort Worth, Texas )  
 )  
**Metroplex Two-Way Radio Service** )  
 Licensee of Private Land Mobile Stations )  
 WPII5735, WPKP673, WPKM797, )  
 WPLZ841 and WPJR754 )  
 Dallas/Fort Worth, Texas )  
 )  
**DLB Enterprises, Inc.** )  
 Licensee of Private Land Mobile Stations )  
 WPKM796, WPKL830, WPJY510, WPLU490, )  
 WPBH830, WPKP667, WPLY713, WPMH354, )  
 WPMH477, and WPKY978, )  
 Dallas/Fort Worth, Texas )  
 WNAH223 )  
 Cleora, Oklahoma )

EB DOCKET NO. 00-156

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<b>DLB Enterprises, Inc.,</b>	)	
Applicant for Conventional Industrial/Business	)	File Nos. AO17774,
Private Land Mobile Licenses	)	AO20241 and AO19157
Dallas, Texas	)	
	)	
Applicant for Conventional Industrial/Business	)	File No. AO18555
Private Land Mobile Licenses	)	
Crowley, Texas	)	
	)	
Applicant for Trunked Industrial/Business	)	File No. AO20755.
Private Land Mobile Licenses	)	
Crowley, Texas	)	
	)	
Applicant for Assignment of Private Land Mobile	)	File No. D110637
Station WPJR740 from Jennifer Hill	)	
Dallas, Texas	)	
	)	
Applicant for Assignment of Private Land Mobile	)	
Stations from Ronald Brasher (WPK1707,	)	
WPK1739, WPK1733 and WPLQ475), Norma	)	File No. D113240
Sumpter (WPJR739), D.L. Brasher (WPJR750),	)	
David Brasher (WPJR757), Jim Sumpter	)	
(WPJR725), Jennifer Hill (WPJR740),	)	
Metroplex Two-Way Radio Service (WPJR754),	)	
O.C. Brasher (WPJR761), Melissa Sumpter	)	
(WJS437) Dallas, Texas	)	
	)	
Applicant for Assignment of Private Land Mobile	)	File No. D113242
Station	)	
	)	
Applicant for Modification of Private Land Mobile	)	
Stations WPKM796, and WPKL830, and	)	File No. D113241
Assignment of Private Land Mobile	)	
Stations WPK1733, WPLQ475, WPK1707	)	
and WPK1739 from Ronald Brasher	)	
and Assignment of Private Land	)	
	)	
Mobile Station WPKM797 from Metroplex	)	
Dallas, Texas	)	

To The Commission

**Opposition to Request for Special Permission to  
File Combined Exceptions Exceeding Twenty Pages**

1. On September 8, 2003, in response to the *Initial Decision of Administrative Law Judge Arthur I. Steinberg*, FCC 03D-02, released August 8, 2003 (the *ID*), Ronald Brasher, Patricia Brasher and DLB Enterprises, Inc. (collectively, “the Brashers”) filed four sets of exceptions in the above-captioned proceeding, totaling nearly 150 pages.<sup>1</sup> On that same date, the Brashers also filed a “Request for Special Permission to File Combined Exceptions Exceeding Twenty Five Pages” (the “Request”). The Enforcement Bureau (the “Bureau”), by its attorneys, hereby opposes the Request. In addition, for the following reasons, the Bureau also opposes acceptance of the three separate sets of exceptions to the *ID*, filed by Ronald Brasher, Patricia Brasher and DLB Enterprises, Inc., respectively.

2. Section 1.277(c) of the Commission’s rules provides, in pertinent part, “Except by special permission, the consolidated brief and exceptions will not be accepted if the exceptions and argument exceed 25 double-spaced typewritten pages in length.”<sup>2</sup> In their Request, the Brashers cite the length of the *ID* and the size of the record and contend that their ability to articulate their exceptions “would be properly served and the record better reflect for the Commission’s review” [sic] by acceptance of the combined exceptions. They make the novel request that the Commission review their Combined Exceptions “in lieu of the concurrently filed individual Exceptions filed by each.” They cite no precedent to support their Request.

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<sup>1</sup> The exceptions, all filed by the same counsel, were of the following respective page lengths: Ronald Brasher: 23 pages; Patricia Brasher: 24 pages; DLB Enterprises, Inc.: 24 pages; and “Combined Exceptions of Ronald Brasher, Patricia Brasher and DLB Enterprises, Inc.”: 74 pages.

<sup>2</sup> 47 C.F.R. § 1.277(c).

Moreover, they fail to address the fact that each filed an individual set of exceptions, which, collectively, total nearly 75 pages, in violation of Section 1.277(c)'s strict page limitation.

3 The Brashers' Request reveals that, consistent with their misconduct established by the record and as articulated in the *ID* they are again playing fast and loose with the Commission's requirements. Review of the record makes abundantly clear that Ronald Brasher, Patricia Brasher and DLB Enterprises, Inc. have a commonality of interests in the captioned proceeding. Ronald and Patricia Brasher are husband and wife and, together, they are the sole shareholders of DLB Enterprises, Inc. This commonality is underscored by their conduct in the subject hearing. Throughout this proceeding, they were represented by one set of lawyers, who filed on their behalf, *inter alia*: (a) a single *Notice of Appearance*, on September 15, 2000; (b) a single set of *Proposed Findings of Fact and Conclusions of Law*, on September 14, 2001; and (c) a single *Reply to the Bureau's Proposed Findings of Fact and Conclusions of Law*, on November 7, 2001. Indeed, in their Request, filed by that same counsel, they ask to be allowed to continue to speak with one voice through their Consolidated Exceptions, albeit with a pleading three times the length allowed by Section 1.277. Thus, with their four sets of exceptions, the Brashers have attempted to hedge their bets by seeking to evade the Commission's page limitation by a factor of three, through either their 74 pages of Consolidated Exceptions or their three sets of individual exceptions collectively totaling 71 pages.

4. The Commission has made clear that the intent of the 25-page limit is to focus exceptions to germane matters, and to avoid re-litigating the entire case before the Commission. *In the Matter of Proposals to Reform the Commission's Comparative Hearing Process to Expedite the Resolution of Cases*, 6 FCC Red 157, 163 (1990) ("We believe that this limitation will focus the pleadings on critical questions in the case, thereby honing the issues and fostering

a more efficient disposition of appeals from IDs”), *see also, TeleSTAR, Inc.*, 2 FCC Rcd 5, 18 (Rev Bd 1987) (“The method of filing exceptions to Initial Decisions has been streamlined to discourage attempts to litigate every aspect of a case, irrespective of its materiality or immateriality to an ultimate decision”), *citing Adjudicatory Re-Regulation*, 58 FCC 2d 865, 867 (1976). In light of this precedent, the Bureau submits that it is contrary to the Commission’s intent to permit the Brashers to file a 74-page set of “Combined Exceptions” or three sets of exceptions of nearly 25 pages each. Notably, the Brashers offer no Commission precedent in support of the Request, nor is the Bureau aware of any. Indeed, were the Commission to grant the Request for the sole reason offered by the Brashers, that the record and *ID* were each long, there would be nothing left of the rule.

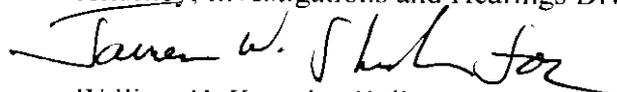
5. Accordingly, the Bureau requests that the Commission deny the Brashers’ Request, dismiss their Combined Exceptions and individual sets of exceptions, and require the Brashers to file immediately one set of exceptions that complies with Section 1.277(c)’s 25-page limitation. Because the Bureau does not believe it is appropriate to respond to the exceptions as filed, it also

requests that the Commission extend the time for the Bureau's reply to ten days after the submission by the Brashers of exceptions that conform to the requirements of Section 1.277(c)

Respectfully submitted,

*by*   
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September 12, 2003

**CERTIFICATE OF SERVICE**

I, Tynese McClellan, a clerk with the Investigations and Hearings Division, Enforcement Bureau, certify that I have, on this 12th day of September, 2003, served, by the method indicated, copies of the foregoing "Opposition to Request for Special Permission to File Combined Exceptions Exceeding Twenty Five Pages" to,

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Tynese McClellan