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

In the Matter of	)	
	)	
PENDLETON C. WAUGH, CHARLES M. AUSTIN, and JAY R. BISHOP	)	EB Docket No. 07-147
	)	
PREFERRED COMMUNICATION SYSTEMS, INC.	)	File No. EB-06-IH-2112 NAL/Acct. No. 200732080025
	)	
Licensee of Various Site-by-Site Licenses in the Specialized Mobile Radio Service	)	FRN No. 0003769049
	)	
PREFERRED ACQUISITIONS, INC.	)	FRN No. 0003786183
	)	
Licensee of Various Economic Area Licenses in the 800 MHz Specialized Mobile Radio Service	)	

MEMORANDUM OPINION AND ORDER

Issued: June 30, 2008 ; Released: July 2, 2008

1. Under consideration are the Enforcement Bureau's Request for Leave to File Consolidated Reply to Responses to Motions to Compel Production of Documents, filed March 17, 2008, by the Enforcement Bureau ("Bureau"); and the Enforcement Bureau's Consolidated Reply to Responses to Motions to Compel Production of Documents, filed March 17, 2008, by the Bureau.

2. On February 19, 2008, the Bureau filed three separate Motions to Compel Document Production and Interrogatory Answers from Preferred Communication Systems, Inc., Preferred Acquisitions, Inc., and Charles M. Austin (collectively "Respondents"). On March 6, 2008, Respondents each filed separate Responses to the Bureau's Motion to Compel Re Document Production. In its Request for Leave to File Consolidated Reply, the Bureau seeks permission to file a consolidated reply to the March 6 Responses. In support, the Bureau contends that the Responses are replete with inaccuracies concerning the Respondents's obligations to comply with the discovery rules and concerning the Bureau's positions on their noncompliance. Thus, the Bureau submits that its Consolidated Reply outlines areas in which the record would benefit from the "clarifications" the Bureau provides therein.

3. The Request for Leave to File will be denied, and the Consolidated Reply will be dismissed. Suffice it to say, Section 1.325 of the Commission's Rules, which governs requests for production of documents, makes no provision for the filing of a reply to a response to a motion to compel. *See* Section 1.325(a)(2). Similarly, Section 1.294 of the Rules, which governs the filing of oppositions and replies to interlocutory requests, does not authorize the filing of a reply to a motion to compel. *See* Section 1.294(b) and (c).

4. In *D. H.* Overmyer *Communications Co.*, 4 FCC 2d 496, 505 (Rev. Bd. 1966), it was stated: "[O]nly in the most compelling and unusual circumstances where it is felt that basic

fairness to a party requires such action will the Board permit the filing of pleadings beyond the limits prescribed in the rules, either in terms of number or length." *See also Filing of Supplemental Pleadings Before the Review Board*, 40 FCC 2d 1026 (Rev. Bd. 1972).[1] The mere fact that Respondents have made arguments which the Bureau perceives to be inaccurate in some manner does not constitute such an "unusual" or "compelling" circumstance as to warrant the filing of an unauthorized pleading. Indeed, to rule otherwise would regularly occasion new cycles of pleadings. Such a procedure is contrary to the orderly disposition of the Commission's business and should not be countenanced. As was stated in *Guy S. Erway*, 40 FCC 2d 1071, 1074 (Rev. Bd. 1973): "Orderliness, expedition and fairness in the adjudicatory process require that reasonable procedural limits be established and maintained."

Accordingly, IT IS ORDERED that the Enforcement Bureau's Request for Leave to File Consolidated Reply to Responses to Motions to Compel Production of Documents, filed March 17, 2008, IS DENIED, and the Enforcement Bureau's Consolidated Reply to Responses to Motions to Compel Production of Documents, filed March 17, 2008, IS DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

Arthur I. Steinberg
Administrative Law Judge

[1] Although *Overmyer* and *Supplemental Pleadings* were issued by the Review Board, they were cited as precedent by the Commission in *KAYE Broadcasters, Inc.*, 47 FCC 2d 360, 361 n.4 (1974).