

**ORIGINAL  
RECEIVED**

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

**JAN 18 2001**

**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY**

In the Matter of	)		
	)		
Motorola, Inc.; Motorola SMR, Inc.; and	)	DA 00-2352	
Motorola Communications and Electronics, Inc.	)		
	)	Application Nos.	000-224876
Applications for Consent to Assign	)		000-224877
900 MHz SMR Licenses to FCI 900, Inc.	)		000-224878

To: Policy and Rules Branch  
Commercial Wireless Division  
Wireless Telecommunications Bureau

**Motion To Strike**

Motorola, Inc. ("Motorola") respectfully submits this Motion to Strike the "Reply of Southern LINC" filed in the above-captioned proceeding on January 9, 2001.<sup>1</sup> As discussed below, Southern LINC's Reply was filed well outside the pleading cycle established by the Commission's October 19, 2000, Public Notice in this matter.<sup>2</sup> Significantly, the Reply does not present any new facts not already before the Commission. In these circumstances, acceptance of the Reply – which was filed over forty days after the pleading cycle closed – would unfairly prejudice Motorola and Nextel by delaying final action on their underlying assignment applications. To prevent this result, Motorola requests that Southern LINC's Reply be dismissed without consideration.

---

<sup>1</sup> Reply of Southern LINC, DA 00-2352, *et al.*, (filed Jan. 9, 2001).

<sup>2</sup> Public Notice, *Motorola, Inc. and Nextel Communications, Inc., Seek Consent to Assign 900 MHz SMR Licenses*, DA 00-2352, (rel. Oct. 19, 2000).

On September 23, 2000, Motorola and two of its wholly-owned subsidiaries filed applications seeking to assign various 900 MHz specialized mobile radio (“SMR”) licenses to a wholly-owned subsidiary of Nextel. As is typical in assignment and transfer of control proceedings involving licenses of this nature, the Commission issued a Public Notice setting forth a pleading cycle that authorized the filing of comments and/or petitions to deny as well as oppositions/replies. In this instance, the Public Notice called for the filing of “comments or petitions to deny” on November 20, 2000, and indicated that “oppositions or replies to such pleadings” would be due “no later than November 30, 2000.”<sup>3</sup> On November 20, 2000, Southern LINC filed comments opposing the proposed transaction; on November 30, 2000, both Nextel and Motorola filed responsive oppositions.

Although the Public Notice does not authorize the filing of any additional pleadings, Southern LINC filed a Reply to Motorola’s and Nextel’s November 30, 2000, pleadings on January 9, 2001. Southern LINC’s Reply does not seek leave for acceptance of an unauthorized or late-filed pleading. In addition, Southern LINC’s Reply merely rehashes the points raised in its November 20, 2000, comments or in its comments filed January 5, 2001, in WT Docket No. 00-1 93, the *CMRS Roaming* proceeding.<sup>4</sup>

While it is true that this proceeding has been designated “permit-but-disclose” for purposes of *ex parte* presentations, Motorola submits that the Commission’s *ex parte* rules do not envision the submission of entire pleadings that evidence a whole-scale disregard for the

---

<sup>3</sup> *Id.*

<sup>4</sup> Southern LINC’s Reply re-raises the same points presented in the company’s November 20, 2000, comments and in its January 5, 2001, comments in the *CMRS Roaming* proceeding. In fact, Southern LINC attached a copy of its January 5, 2001, comments to its Reply.

agency's established pleading cycles.' Submission of such a pleading is particularly egregious where, as here, Southern LINC has not presented any new arguments not already pending before the Commission in this or other proceedings, and where, as here, Southern LINC waited until forty-one days after the pleading cycle closed to file its Reply.

Simply put, Southern LINC's eleventh-hour Reply appears to be a rather transparent effort to delay action on Motorola's and Nextel's assignment applications. Southern LINC should not be allowed to abuse the Commission's processes or prejudice Motorola and Nextel in this manner.

For the foregoing reasons, Motorola urges the Commission to dismiss Southern LINC's January 9, 2001, Reply without consideration.

Respectfully submitted,

Motorola, Inc.

By: Mary E. Brooner  
Mary E. Brooner  
Director, Telecommunications Strategy  
and Regulation  
Motorola, Inc.  
1350 I Street, N.W.  
Suite 400  
Washington, D.C. 20005  
(202) 371-6900

Dated: January 18, 2001

---

<sup>5</sup> Motorola notes that Southern LINC's Reply was not submitted as a written *ex parte* in accordance with Section 1.1206(b) of the Commission's Rules.

## CERTIFICATE OF SERVICE

I, Robin Walker, hereby certify that on this 18th day of January, 2001, I caused a true copy of the foregoing "Motion to Strike" to be delivered to the following persons via first class, postage prepaid mail:

International Transcription Services, Inc.\*  
445 Twelfth Street, S.W.  
Room CY-B402  
Washington, D.C. 20554

Mr. Michael D. Rosenthal  
Director of Regulatory Affairs  
Southern LINC  
5555 Glenridge Connector, Suite 500  
Atlanta, Georgia 30342

Carolyn Tatum Roddy  
Todd M. Stein  
Troutman Sanders LLP  
Bank of America Plaza  
600 Peachtree Street, N.E.  
Suite 5200  
Atlanta, GA 30308-22 16


Mr. James Wheaton  
Manager, Compliance  
FCI 900, Inc.  
2001 Edmund Halley Drive  
Reston, VA 20191

Laura L. Holloway  
Director, Government Affairs  
Nextel Communications, Inc.  
2001 Edmund Halley Drive  
Reston, VA 20191

Ms. Lauren Kravetz\*  
Policy and Rules Branch  
Commercial Wireless Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room 4-A163  
Washington, D.C. 20554

Mr. John Branscome\*  
Policy and Rules Branch  
Commercial Wireless Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room 4-A234  
Washington, D.C. 20554

Mr. Pieter Van Leeuwen\*  
Merger Review Task Force  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room 4-A234  
Washington, D.C. 20554

  
Robin Walker

\*Via Hand Delivery