In the Matter of
Motorola, Inc.; Motorola SMR, Inc.; and Motorola Communications and Electronics, Inc.
Applications for Consent to Assign
900 MHz SMR Licenses to FCI 900, Inc.

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, 2001.1 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.2 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.

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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.”

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 tiling 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. 00-193, the CMRS Roaming proceeding.

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

3 Id.

4 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.

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Dated: January 18, 2001

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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:

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