

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

In the Matter of)
DENNIS ENYEART) FCC File No. A059522
Conventional Business Station WPRL897,)
Santa Inez, California)

ORDER ON RECONSIDERATION

Adopted: March 9, 2001

Released: March 13, 2001

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

1. Introduction. James A. Kay, Jr., (Kay) has filed a petition for reconsideration of a decision by the Licensing and Technical Analysis Branch of the Public Safety and Private Wireless Division (Branch) granting the above-captioned application to Dennis Enyeart (Enyeart). For the reasons stated below, we deny Kay's petition.

2. Background. Kay is authorized to operate Trunked Specialized Mobile Radio Station WNJA610 in the Northridge, California area on a primary basis on frequency pair 810/855.8125 MHz. On November 13, 2000, the Branch authorized Enyeart to operate Station WPRL897 in the Santa Inez, California area on frequency pair 810/855.8125 MHz at four sites: three primary sites in Santa Inez and one secondary site in Santa Barbara. The Santa Barbara facility is authorized to operate on frequency 855.8125 MHz and subject to the condition that it not cause interference to co-channel users in an adjacent communications area.

3. On December 13, 2000, Kay requested reconsideration of the Branch's action authorizing Station WPRL897. Kay alleges that Enyeart's Santa Barbara site does not afford Kay's Oat Mountain primary site, authorized under Call Sign WNJA910, the requisite seventy-mile co-channel protection. Kay contends that Enyeart's Santa Barbara facility, located sixty-three miles from Kay's Oat Mountain site, should not have been coordinated and the application should not have been granted. Therefore, Kay requests that we set aside the station grant and dismiss Enyeart's underlying application.

1 Petition for Reconsideration (filed Dec. 13, 2000) (Petition).

2 Id. at 1.

3 Secondary operations refer to operations that may not cause interference to operations authorized on a primary basis and are not protected from interference from those primary operations. See 47 C.F.R. § 90.7.

4 Petition at 1. See 47 C.F.R. § 90.621.

5 Petition at 1.

6 Id.

4. *Discussion.* Kay alleges that Enyeart's Santa Barbara facility does not afford Kay's Oat Mountain primary site the requisite co-channel protection. Based on the record before us, we disagree. Enyeart's Santa Barbara site was authorized to operate on a secondary, non-interference basis in the 800 MHz band. Secondary sites may be forced to terminate operations should a co-channel licensee locate a station within seventy miles of the secondary site, and interference occurs as a result.⁷ It has been the Commission's policy to license secondary facilities in the 800 MHz band solely as an adjunct to primary facilities.⁸ Further, we reiterate that secondary operations may not cause interference to primary operations.

5. There is no evidence in the record indicating that Enyeart has failed to meet the condition imposed on the Santa Barbara facility. Nor is there any allegation or objective documented evidence in Kay's petition that Enyeart's secondary operations have caused interference to Kay's primary operations or any other co-channel users in an adjacent communications area. Accordingly, we deny Kay's reconsideration request. We nonetheless remind Enyeart that the Santa Barbara facility may be forced to terminate operations should it cause interference to co-channel users in adjacent communications areas. Finally, we remind Enyeart that his secondary operations are not protected from interference caused by primary operations.

6. *Conclusion.* For the reasons set forth above, we find no basis for reversing the Branch's decision. The Branch's action is consistent with the facts presented and Commission precedent. Therefore, we deny the petition.

7. *Ordering Clauses.* Accordingly, IT IS ORDERED pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 405, and Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, that the petition for reconsideration submitted by James A. Kay, Jr., on December 13, 2000 IS DENIED.

8. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

D'wana R. Terry
Chief, Public Safety and Private Wireless Division
Wireless Telecommunications Bureau

⁷ See Roger Dickinson d/b/a Portable Walkie Talkies to Go, *Memorandum Opinion and Order*, 15 FCC Rcd 4845, 4850 ¶ 15 (2000) (Dickinson). See also Amendment of Parts 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896-901 MHz and 935-940 MHz bands allotted to the Specialized Mobile Radio Pool, *Notice of Proposed Rulemaking*, PR Docket No. 89-553, 4 FCC Rcd 8673, 8674 ¶ 6 (1989).

⁸ Dickinson, 15 FCC Rcd at 4850 ¶ 15.