

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

In the Matter of)
)
SAN MATEO COUNTY TRANSIT DISTRICT)
)
Request for Reinstatement of License for Private)
Land Mobile Station KYC941)
)
Petition to Deny Applications A051076, A051888,)
A052212, A052524, and A052342¹ of John)
Gronemeier d/b/a Bay Communications)

ORDER ON RECONSIDERATION

Adopted: March 26, 2001

Released: March 27, 2001

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

1. *Introduction.* We have before us a petition for reconsideration² submitted by Mr. John Gronemeier, d/b/a/ Bay Communications, requesting reconsideration of a *Memorandum Opinion and Order*³ granting the San Mateo County Transit District's (Samtrans) petitions for reinstatement to operate Station KYC941 and dismissing Mr. Gronemeier's applications for authorization on frequency pairs licensed to Samtrans. For the reasons set forth below, we dismiss Mr. Gronemeier's petition for reconsideration.

2. *Background.* On November 12, 1999, the Licensing and Technical Analysis Branch of the Public safety and Private Wireless Division cancelled Samtrans' authorization to operate Station KYC941 on the following frequency pairs: 483/486.1875 MHz, 483/486.2375 MHz, 483/486.2625 MHz, and 483/486.2875 MHz. Samtrans did not learn of the cancellation until March 22, 2000.⁴ Meanwhile, between February 22, 2000 and March 16, 2000, Mr. Gronemeier submitted five applications to license frequency pairs that were licensed to Samtrans under Station KYC941.

¹ In File Nos. A052342 and A052524, Mr. Gronemeier sought to license the same frequency pair, 483/486.2875 MHz.

² Petition for Reconsideration filed by John H. Gronemeier, Bay Communications dated January 20, 2001 and received by the Public Safety and Private Wireless Division *via* facsimile on January 22, 2001.

³ San Mateo County Transit District, *Memorandum Opinion and Order*, DA 00-2868 (WTB PSPWD, released December 21, 2000) (*Memorandum Opinion and Order*).

⁴ Petition for Reinstatement at 1.

3. On March 31, 2000, Samtrans filed a petition to deny Gronemeier's applications.⁵ On April 3, 2000, Samtrans filed a Petition for Reinstatement⁶ of its authorization to operate Station KYC941. On December 21, 2000, the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, released the *Memorandum Opinion and Order* granting Samtrans' Petition for Reinstatement and ordering the dismissal of Gronemeier's applications.⁷

4. On January 22, 2001, Gronemeier sent via facsimile submitted a document dated January 20, 2001 and entitled "Informal Petition to Reconsider" to the facsimile machine of the Public Safety and Private Wireless Division.⁸ Gronemeier did not submit any other copies of the petition to the Commission.

5. *Discussion.* We will dismiss Gronemeier's petition because it was not properly filed. Section 1.106(i) of the Commission's Rules provides that a petition for reconsideration must be submitted to the Secretary, Federal Communications Commission, Washington, D.C. 20554. The Commission maintains different offices for different purposes, and persons filing documents with the Commission must take care to ensure that their documents are filed at the correct location specified in the Commission's Rules.⁹ A document is filed with the Commission upon its receipt at the location designated by the Commission. Accordingly, under the plain language of the Commission's Rules, a petition for reconsideration submitted to the facsimile machine of the Public Safety and Private Wireless Division, Wireless Telecommunications Bureau is not properly filed.¹⁰

6. In addition, Section 1.106(f) of the Commission's Rules provides that a petition for reconsideration must be served upon the parties to the proceeding.¹¹ There is no indication that the petition was served on Samtrans.¹²

⁵ Petition to Deny filed by Samtrans on March 31, 2000. *See also* Supplement to the Petition to Deny filed by Samtrans on July 10, 2000.

⁶ Petition for Reinstatement of License filed by San Mateo County Transit District (Samtrans) on April 3, 2000 (*Petition for Reinstatement*). *See also* Supplement to its Petition for Reinstatement filed by Samtrans on April 24, 2000 with attached letter from Mr. Frank Burton, dated April 21, 2000 (*April 21 Letter*). Supplement to its Petition for Reinstatement filed by Samtrans on May 1, 2000 with attached letter from Mr. Frank Burton, dated April 28, 2000 (*April 28 Letter*).

⁷ *Memorandum Opinion and Order*.

⁸ *See* Petition.

⁹ *See* 47 C.F.R. § 0.401.

¹⁰ *See, e.g.,* Memorandum of Agreement between the Federal Communications Commission and Elkins Institute, Inc., *Order on Reconsideration*, 14 FCC Rcd 5080 (WTB 1999) (determining that a facsimile copy to a division office neither complied with the Commission's Rules nor ameliorated the late filing with the Secretary's office).

¹¹ *See* 47 C.F.R. § 1.106(f).

¹² If we reached the merits of Gronemeier's petition, we would deny the petition. The *MO&O* explained in detail why reinstatement of Samtrans' license was appropriate. Gronemeier's one page petition does not meaningfully address the rationale contained in the *MO&O*. Moreover, while Gronemeier claims that Samtrans failed to respond to Commission correspondence, Samtrans represented that it never received the construction notifications from the Commission. *See MO&O* at ¶ 4.

7. ACCORDINGLY, IT IS ORDERED that 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, the John H. Gronemeier petition for reconsideration dated January 20, 2001 IS DISMISSED.

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

John J. Schauble
Chief, Policy and Rules Branch
Public Safety and Private Wireless Division
Wireless Telecommunications Bureau