

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

In re Application of
McElroy Electronics Corporation
For Authorization to Construct
And Operate a Cellular Station in
Market No. 555, New Mexico RSA 3
File No. 0000913369

ORDER

Adopted: November 19, 2002

Released: November 20, 2002

By the Chief, Policy and Rules Branch, Commercial Wireless Division, Wireless Telecommunications Bureau:

1. On June 10, 2002, McElroy Electronics Corporation (McElroy) filed the above-captioned application seeking authorization to provide cellular service in the New Mexico - 3 Rural Service Area. The application appeared on public notice as accepted for filing on June 12, 2002. On July 11, 2002, Smith Bagley, Inc. (SBI) filed a petition to deny the application (Petition).

2. In its Petition, SBI contends that the application is defective because the proposed system will cause harmful interference to SBI's existing system. On July 11, 2002, McElroy amended its application to remove any potential interference to SBI's system. We therefore dismiss the SBI Petition as moot.

3. Accordingly, IT IS ORDERED that, pursuant to sections 4(i), 303(r), and 309(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), 309(d), and sections 0.331 and 1.939 of the Commission's rules, 47 C.F.R. §§ 0.331, 1.939, the petition to deny filed by Smith Bagley, Inc. on July 11, 2002, IS DISMISSED as moot.

FEDERAL COMMUNICATIONS COMMISSION

Paul D'Ari
Chief, Policy & Rules Branch
Commercial Wireless Division

1 Public Notice, Report No. 1201 (June 12, 2002).

2 Petition to Deny filed by Smith Bagley, Inc. (July 11, 2002).

3 Specifically, SBI states that part of the geographic area for which McElroy proposes to provide service is already licensed to SBI on an exclusive basis; operation at the proposed sites will cause harmful interference to SBI without the consent of SBI; and McElroy proposes to provide service to an area that is not an unserved area. Petition at 2-3 (citing 47 C.F.R. §§ 1.934(e)(2), 22.911, and 22.949, respectively).

Wireless Telecommunications Bureau