

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

In the Matter of Application of	)	
	)	
MOBILE RELAY ASSOCIATES	)	File No. 0001996438
	)	
To Operate a Private Land Mobile Radio System	)	
in Frequency Band 470-512 MHz in Santa Paula	)	
and Avalon, California	)	

**ORDER**

**Adopted: March 31, 2006**

**Released: April 4, 2006**

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

1. *Introduction.* We have before us the above-captioned application and waiver request of Mobile Relay Associates (MRA) to operate a new facility on frequency pair 471/474.6125 MHz at South Mountain, Santa Paula, California, and Avalon, California.<sup>1</sup> On February 1, 2005, National Science and Technology Network, Inc. (NSTN) filed an Informal Petition to Dismiss or Deny MRA's application.<sup>2</sup> On April 28, 2005, the State of California, San Diego State University (SDSU) filed an Informal Objection to MRA's proposed operation at Avalon.<sup>3</sup> For the reasons set forth below, we deny the waiver request, dismiss the application, and dismiss the petitions as moot with respect to the above-captioned application.

2. *Background.* MRA concedes<sup>4</sup> that its proposed operations do not afford NSTN's co-channel Station WQBH275, La Crescenta, California, with the interference protection required by Section 90.187 of the Commission's Rules.<sup>5</sup> However, it claims that Station WQBH275 was licensed erroneously, noting that MRA filed a petition for reconsideration<sup>6</sup> of the license grant, and therefore that the Commission should waive Section 90.187 or that MRA need not provide interference protection to NSTN's station.<sup>7</sup>

<sup>1</sup> FCC File No. 0001996438 (filed Jan. 6, 2005), attached Request for Waiver (Waiver Request).

<sup>2</sup> Letter dated Jan. 21, 2005 from Ted S. Henry, President, National Science and Technology Network, Inc. to Mr. Tracy Simmons, Federal Communications Commission (filed Feb. 1, 2005) (NSTN Petition). On February 3, 2005, MRA submitted an Opposition. *See* Letter dated Feb. 3, 2005 from David J. Kaufman and Lorretta K. Tobin, Counsel to Mobile Relay Associates, to Marlene Dortch, Secretary, Federal Communications Commission. On February 8, 2005, NSTN submitted a response. *See* Letter dated Feb. 8, 2005 from Ted S. Henry, President, National Science and Technology Network, Inc. to Secretary, Federal Communications Commission.

<sup>3</sup> Informal Objection, filed by the State of California, San Diego State University (filed Apr. 28, 2005) (SDSU Objection).

<sup>4</sup> *See* Waiver Request at 1.

<sup>5</sup> 47 C.F.R. § 90.187. Section 90.187(b)(2)(v) requires that new applicants obtain written consent from an incumbent trunked station if the applicant's proposed interfering contour overlaps the incumbent station's service contour. 47 C.F.R. § 90.187(b)(2)(v).

<sup>6</sup> *See* Petition for Reconsideration filed by MRA (dated Oct. 27, 2004); FCC File No. 0001777202.

<sup>7</sup> *See* Waiver Request at 1.

On April 4, 2006, we denied MRA's petition for reconsideration, and affirmed the license grant for Station WQBH275.<sup>8</sup>

3. *Discussion.* Our engineering analysis confirms that MRA's proposed operation at both South Mountain and Avalon would not afford Station WQBH275 the interference protection required by Section 90.187(b)(2)(v) of the Commission's Rules.<sup>9</sup> In light of our recent affirmance of that license and in the absence of any other justification for the requested relief, we deny MRA's waiver request based on the record before us. We therefore need not address NSTN's arguments that MRA's proposed operations also would violate our rules with respect to other NSTN stations,<sup>10</sup> or SDSU's argument that the proposed operations would cause interference to its non-commercial Television Station KPBS-TV, San Diego, California.<sup>11</sup> Consequently, we dismiss the petitions as moot with respect to the above-captioned application.<sup>12</sup>

4. *Conclusion and Ordering Clauses.* After careful consideration of the information before us, we deny MRA's request for waiver, and will dismiss MRA's application. We also dismiss as moot the objections of NSTN and SDSU to MRA's above-captioned application.

5. Accordingly, IT IS ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Sections 1.925 of the Commission's Rules, 47 C.F.R. § 1.925, the Request for Waiver of Section 90.187 filed by Mobile Relay Associates on January 6, 2005 in association with application FCC File No. 0001996438 IS DENIED, and application FCC File No. 0001996438, filed by Mobile Relay Associates on January 6, 2005 SHALL BE DISMISSED.

6. IT IS FURTHER ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.939 of the Commission's Rules, 47 C.F.R. § 1.939, the Informal Petition to Dismiss or Deny of National Science and Technology Network, Inc., filed on July 7, 2005, IS DISMISSED AS MOOT, and the Informal Objection of San Diego State University, filed on April 28, 2005, IS DISMISSED IN PART AS MOOT.

7. 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

Michael J. Wilhelm  
Chief, Public Safety and Critical Infrastructure Division  
Wireless Telecommunications Bureau

---

<sup>8</sup> See National Science and Technology Network, Inc., *Order on Reconsideration*, DA 06-789 (WTB PSCID rel. Apr. 4, 2006).

<sup>9</sup> 47 C.F.R. § 90.187(b)(2)(v). MRA's interfering contours from both sites overlap not only the service contour but also the base transmitter for Station WQBH275.

<sup>10</sup> See NSTN Petition at 1.

<sup>11</sup> See SDSU Objection at 1-2.

<sup>12</sup> SDSU also objects to MRA application FCC File No. 0001995876. See *id.* That application remains pending.