

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

In the Matter of)	
)	
NATIONAL SCIENCE AND TECHNOLOGY)	FCC File No. 0000693489
NETWORK, INC.)	
)	
Application for Authorization of a Trunked)	
System in the 470-512 MHz Band)	

ORDER

Adopted: January 31, 2007

Released: January 31, 2007

By the Deputy Chief, Mobility Division, Wireless Telecommunications Bureau:

1. *Introduction.* On December 12, 2001, National Science and Technology Network, Inc. (NSTN) filed an application to operate a trunked system on multiple frequencies in the 470-512 MHz Band.¹ On January 30, 2002, Mobile Relay Associates, Inc. (MRA) filed an informal objection to the NSTN application.² On October 27, 2003, James A. Kay, Jr. (Kay) filed a petition to deny, and requested that the pleading be accepted as an informal request.³ For the reasons discussed below, we deny the objections, and will process the application.

2. *Background.* The NSTN application requests operation on frequencies between 471.550 MHz and 475.250 MHz using 12.5 kHz channels.⁴ Section 90.187(b)(2) of the Commission's Rules governing trunking in the 150-512 MHz frequency bands requires applicants for certain trunked systems in non-exclusive service areas to obtain written consent from affected licensees.⁵ Section 90.187(b)(2)(i) states, in pertinent part, that a station is are considered affected if it has "assigned frequencies (base and mobile) that are 7.5 kHz or less removed from proposed stations that will operate with a 12.5 kHz bandwidth."⁶ In addition, Section 90.313(a)(2) provides that the maximum loading for Industrial/Business Pool frequencies in the 470-512 MHz band is ninety units.⁷

3. *Discussion.* MRA argues that the application does not comply with Section 90.187(b)

¹ See FCC File No. 0000693489.

² See Mobile Relay Associates, Inc. Informal Objection, received January 30, 2002 (MRA Objection). MRA has subsequently filed numerous supplements and responses in this proceeding. See Supplement to Informal Objection, received February 6, 2002; Second Supplement to Informal Objection, received February 19, 2004; Third Supplement to Informal Objection, received May 26, 2004; Fourth Supplement to Informal objection, received June 2, 2004; Response to March 1, 2005 Letter, received March 11, 2005; Response to March 15, 2005 Letter and to March 24, 2005 Letter by AAA, received April 20, 2005; Request for expedited Action Action Concerning Various Pending Contested Proceedings Involving Mobile Relay Associates, received April 21, 2005; Further Supplement to Informal Objection, dated October 24, 2006.

³ See James A. Kay, Jr. Petition to Dismiss or Deny, received October 27, 2003 (Kay Petition).

⁴ Specifically, NSTN proposes to operate using emission designators 11k2F1D, 11k2F2D and 11k2F3E.

⁵ 47 C.F.R. § 90.187(b)(2).

⁶ 47 C.F.R. § 90.187(b)(2)(i).

⁷ 47 C.F.R. § 90.313(a)(2).

because NSTN failed to obtain consent from affected licensees with stations operating on center frequency 12.5 kHz removed from NSTN's proposed frequencies.⁸ This argument misconstrues Section 90.187(b)(2). NSTN, because it proposes to operate on 12.5 kHz channels, is obliged to obtain consent only from licensees with assigned frequencies 7.5 kHz or less removed from NSTN's frequencies. It is clear from the face of the rule that the relevant comparison is between center frequencies and not, as MRA suggests, between the edges of the parties' channel bandwidth.⁹ Licensees with frequencies 12.5 kHz removed, such as MRA, are not affected licensees for purposes of this section.¹⁰ We also conclude that Kay is also not an affected licensee, because NSTN's proposed frequencies are 12.5 kHz removed from Kay's operating frequencies.¹¹

4. MRA also argues that NSTN's proposed operations will exceed the maximum permitted channel loading.¹² Similarly, however, that limit applies only to co-channel licensees,¹³ and does not apply here, where there is no spectral overlap.

5. Finally, MRA objects to one of NSTN's amendments to the application, specifically its March 1, 2005 amendment to clarify its intent that it is requesting 181 mobiles per channel. We see no reason not to accept NSTN's amendment to the application as permitted under the Rules.¹⁴

6. For reasons set forth above, IT IS ORDERED, pursuant to the authority of Sections 4(i) and 303(i) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(i), and Section 1.934 of the Commission's Rules, 47 C.F.R. § 1.934, that the informal objection filed on January 30, 2002 by Mobile Relay Associates, Inc., and the petition to deny filed on October 27, 2003 by James A. Kay, Jr., ARE DENIED, and application FCC File No. 0000693489, filed by National Science and Technology Network, Inc. on December 12, 2001 and subsequently amended, SHALL BE PROCESSED consistent with this *Order* and the Commission's Rules.

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

Scot Stone
Deputy Chief, Mobility Division

⁸ See MRA Objection at 1, 2.

⁹ See *id.* at 2-3.

¹⁰ MRA also appears to assert that the NSTN application is defective because it violates the industry consensus on evaluating adjacent channel interference in the 470-512 MHz band using Telecommunications Industry Association/Electronics Industry Association Telecommunications Systems Bulletin 88 (TIA/EIA/TSB-88), *Wireline Communications System – Performance in Noise and Interference-Limited Situations - Recommended Methods for Technology-Independent Modeling, Simulation, and Verification* (January 1998) (TSB-88). Specifically, MRA argues that it will incur unacceptable interference of more than a five percent reduction of the calculated service area reliability. See MRA Objection at 1, 2. We note, however, that TSB-88 does not apply in this instance, because there is no spectral overlap between MRA's stations and NSTN's proposed facilities. See *City of El Segundo, Order on Reconsideration*, 20 FCC Rcd 18857, 18859 ¶ 5 (WTB PSCID 2005).

¹¹ See Kay Petition at Appendix.

¹² See MRA Objection at 2.

¹³ See, e.g., *University of Southern California, Order*, 19 FCC Rcd 23155, 23157 ¶ 7 (WTB PSCID 2004).

¹⁴ See 47 C.F.R. § 1.927.

Wireless Telecommunications Bureau