

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

In the Matter of Application of	)	
	)	
CABLE & COMMUNICATIONS	)	
CORPORATION	)	FCC File No. 0002685108
	)	
For Modification of License for Station	)	
WPSD973, Montana 10 – Prairie (CMA 532)	)	

**ORDER**

**Adopted: February 26, 2007**

**Released: February 26, 2007**

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

1. In this Order, we address the Joint Motion for Approval of Settlement Agreement filed on February 13, 2007, by Cable & Communications Corporation (C&CC) and CommNet Cellular License Holding, LLC (CommNet).<sup>1</sup> For the reasons discussed below, we approve the settlement agreement, grant C&CC's application to modify the license for Station WPSD973 (Application),<sup>2</sup> and grant the request to dismiss, with prejudice, CommNet's Petition to Deny.<sup>3</sup>

2. On July 17, 2006, C&CC filed the above-captioned Phase II Application seeking to expand the cellular geographic service area (CGSA) for Station WPSD973, located in the Montana 10-Prairie cellular market area (CMA), by adding a cell site in Alzada, Montana.<sup>4</sup> The Commission placed the Application on public notice as accepted for filing on July 26, 2006.<sup>5</sup> Subsequently, CommNet timely-filed a petition seeking to deny the Application because it proposes a service area that overlaps with the protected CGSA of Station KNKN394, which is licensed to CommNet in the South Dakota 1-Harding CMA.<sup>6</sup> C&CC opposed the Petition<sup>7</sup> and CommNet filed a reply.<sup>8</sup>

3. Under section 1.935 of the Commission's rules, parties that have filed a petition to deny an application must request Commission approval to dismiss or withdraw the petition.<sup>9</sup> In the request, the parties must submit any written agreement related to the dismissal or withdrawal as well as affidavits certifying that no consideration has or will be exchanged in return for withdrawing or dismissing the

<sup>1</sup> Joint Motion for Approval of Settlement Agreement filed by Cable & Communications Corporation and CommNet Cellular License Holding, LLC (Feb. 13, 2007) (Settlement Agreement).

<sup>2</sup> C&CC's application was assigned FCC File No. 0002685108.

<sup>3</sup> Petition to Deny filed by CommNet Cellular License Holding, LLC (Aug. 25, 2007) (Petition).

<sup>4</sup> See Application.

<sup>5</sup> See *Public Notice* (rel. July 26, 2006) (Rep. No. 2585).

<sup>6</sup> See Petition at 1-2.

<sup>7</sup> Opposition to Petition to Deny filed by Cable & Communications Corporation (September 7, 2006).

<sup>8</sup> Reply to Opposition to Petition to Deny filed by CommNet Cellular License Holding LLC (Sept. 14, 2006).

<sup>9</sup> 47 C.F.R. § 1.935.

petition (excluding certain “legitimate and prudent expenses”).<sup>10</sup>

4. In this case, the parties have reached a full settlement of this matter. Under the terms of the Settlement Agreement between the parties, CommNet agrees to the service area boundary (SAB) extension that will result from C&CC’s proposal to expand its system in Alzada, Montana.<sup>11</sup> In addition, C&CC and CommNet state that neither party has or will receive or pay any money or other consideration in exchange for entering into the Settlement Agreement.<sup>12</sup> Similarly, the parties declare that they have and will receive no reimbursement of expenses incurred in connection with this matter.<sup>13</sup> After careful review, we conclude that the parties’ proposed settlement satisfies the requirements of section 1.935 of the Commission’s rules, and that approval of the Settlement Agreement is in the public interest.<sup>14</sup>

5. Accordingly, IT IS ORDERED that, pursuant to sections 4(i) and 309 of the Communications Act, as amended, 47 U.S.C. §§ 154(i), 309, and sections 0.131, 0.331, and 1.935 of the Commission's rules, 47 C.F.R. §§ 0.131, 0.331, 1.935, the Joint Motion for Approval of Settlement Agreement filed by Cable & Communications Corporation and CommNet Cellular License Holding, LLC on February 13, 2007, IS GRANTED.

6. IT IS FURTHER ORDERED that, pursuant to sections 4(i) and 309 of the Communications Act, as amended, 47 U.S.C. §§ 154(i), 309, and sections 0.131, 0.331, and 1.935 of the Commission's rules, 47 C.F.R. §§ 0.131, 0.331, 1.935, the application for modification of the license for Station WPSD973 filed by Cable & Communications Corporation (FCC File No. 0002685108) on July 17, 2006, IS GRANTED.

7. IT IS FURTHER ORDERED that, pursuant to sections 4(i) and 309 of the Communications Act, as amended, 47 U.S.C. §§ 154(i), 309, and sections 0.131, 0.331, and 1.935 of the Commission's rules, 47 C.F.R. §§ 0.131, 0.331, 1.935, the Petition to Deny filed by CommNet Cellular License Holding, LLC on August 25, 2006, and all related pleadings, ARE DISMISSED WITH PREJUDICE.

FEDERAL COMMUNICATIONS COMMISSION

Katherine M. Harris  
Deputy Chief, Mobility Division  
Wireless Telecommunications Bureau

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<sup>10</sup> 47 C.F.R. § 1.935.

<sup>11</sup> The parties have attached a copy of the SAB extension agreement to the Settlement Agreement.

<sup>12</sup> Settlement Agreement, Declarations of Keith Surratt and Gerry Anderson.

<sup>13</sup> *Id.*

<sup>14</sup> 47 C.F.R. § 1.935.