

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

In the Matter of

National Science Technology Network

Licensee of WPME695

Los Angeles, California

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File No: EB-06-LA-292
NAL/Acct. No.: 200732900013
FRN: 0006613392

ORDER

Adopted: March 26, 2008

Released: March 28, 2008

By the Regional Director, Western Region, Enforcement Bureau:

I. INTRODUCTION

1. In this *Order* (“*Order*”), we cancel a monetary forfeiture issued to National Science Technology Network (“NSTN”), licensee of station WPME695, in Corona, California. On June 19, 2007, the Enforcement Bureau’s Los Angeles Office issued a *Notice of Apparent Liability for Forfeiture* (“*NAL*”) in the amount of \$4,000 to NSTN for repeated violation of Section 1.903(a) of the Commission’s Rules (“*Rules*”) by failing to operate station WPME695 in accordance with the rules applicable to their services and with a valid authorization granted by the Commission.²

II. BACKGROUND

2. On December 13, 2006, in response to a complaint of co-channel interference, an agent from the Enforcement Bureau’s Los Angeles Office conducted an inspection of NSTN Trunked Radio Systems located on Pleasant Peak and Sierra Peak in Corona, California. The agent determined that Pleasant Peak was the primary Trunked Radio System site.

3. On December 19, 2006, the Los Angeles agent attempted to conduct an inspection of the control point listed on the WPME695 authorization at 4091 Glencoe Avenue, Marina Del Ray, California. The agent found no control point at that address. The agent then conducted an inspection of what appeared to the control point that was in use on December 19, 2006, which was located at 2050 S. Bundy Drive, Los Angeles, California. Later on December 19, 2006, NSTN filed an application on FCC Form 601 and FCC Schedule H to modify control point number 1 for WPME695 from the Marina Del Ray location to the Bundy Drive location.³

4. On March 6, 2007, the Los Angeles Office issued a Letter of Inquiry (“*LOI*”) to NSTN seeking clarification of issues raised by the Sierra Peak and Pleasant Peak inspections as well as the location of the WPME695 control point. In particular, the Los Angeles Office asked when NSTN changed the location of the WPME695 control point.

¹ 47 C.F.R. § 1.903(a).

² *Notice of Apparent Liability for Forfeiture*, NAL/Acct. No. 200732900013 (Enf. Bur., Western Region, Los Angeles Office, released June 19, 2007).

³ See File No. 0002853552, granted December 20, 2006.

5. On March 19, 2007, NSTN responded to the Los Angeles Office's LOI. In its response, NSTN stated that the original Marina Del Ray property had been sold and demolished five years earlier. According to Commission records, NSTN also failed to change the control point information when it filed its renewal application for WPME695 on April 8, 2003.⁴

6. On June 19, 2007, the Los Angeles Office issued a *NAL* in the amount of \$4,000 to NSTN. In the *NAL*, the Los Angeles Office found that NSTN apparently repeatedly violated Section 1.903(a) of the Rules by failing to operate WPME695 from a control point listed in a valid authorization granted by the Commission. NSTN filed a response to the *NAL* on June 21, 2007 ("*Response*"). In its *Response*, NSTN argues that the *NAL* should be cancelled because NSTN did not operate from an incorrect control point as the station has no control points, and the address listed was merely an out-of-date contact address.

III. DISCUSSION

7. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Act,⁵ Section 1.80 of the Rules,⁶ and *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*.⁷ In examining NSTN's *Response*, Section 503(b) of the Act requires that the Commission take into account the nature, circumstances, extent and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁸

8. Section 1.903(a) of the Rules states "[s]tations in the Wireless Radio Services must be used and operated only in accordance with the rules applicable to their particular service as set forth in this title and with a valid authorization granted by the Commission under the provisions of this part..." In its *Response*, NSTN argues that the *NAL* should be cancelled because NSTN did not operate WPME695 from an unauthorized control point as the station is a mobile relay station which is operated without control points. NSTN argues that FCC Form 601 is confusing and ambiguous because it asks for "control point or contact address" which led NSTN to keep out-of-date contact information on file.

9. Section 90.469 of the Rules states that mobile relay stations are authorized for unattended operation and that the control point requirements of Sections 90.463 and 90.465 do not apply.⁹ As NSTN indicates, WPME695 is a mobile relay station. We note that NSTN failed to adequately respond to the Los Angeles Office's LOI concerning the location of its control points by failing to inform the Los Angeles Office that it operated without control points. Nonetheless, given the information in the *Response*, which was not available to the Los Angeles Office at the time of the *NAL*, we find that NSTN did not operate WPME695 in violation of Section 1.903(a) of the Rules. Consequently, we cancel this proposed forfeiture.

⁴ See File No. 0001267117, granted April 9, 2003.

⁵ 47 U.S.C. § 503(b).

⁶ 47 C.F.R. § 1.80.

⁷ 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999).

⁸ 47 U.S.C. § 503(b)(2)(E).

⁹ 47 C.F.R. § 90.469.

IV. ORDERING CLAUSES

10. **ACCORDINGLY, IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended (“Act”), and Sections 0.111, 0.311 and 1.80(f)(4) of the Commission’s Rules, that the proposed forfeiture in the amount of four thousand dollars (\$4,000) issued to National Science Technology Network, in the June 19, 2007, Notice of Apparent Liability for repeated violations of Section 1.903(a) of the Rules **IS CANCELLED**.

11. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by First Class Mail and Certified Mail Return Receipt Requested to National Science Technology Network, at its address of record.

FEDERAL COMMUNICATIONS COMMISSION

Rebecca L. Dorch
Regional Director, Western Region
Enforcement Bureau