

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

In the Matter of)
)
NATIONAL SCIENCE AND TECHNOLOGY)
NETWORK, INC.)
)
Licensee of Station WPMP751, Corona and Monte)
Nido, California)

ORDER

Adopted: January 14, 2008

Released: January 14, 2008

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

1. *Introduction.* In this *Order*, we provide for the modification of the authorization of National Science and Technology Network, Inc. (“NSTN”) for Station WPMP751, Corona and Monte Nido, California. Specifically, we will permit NSTN to file an application to modify the license to relocate the Monte Nido site to Mount Lukens, California. As explained below, we take this action in light of an earlier order proposing to modify NSTN’s license.¹

2. *Background.* In 1998, the American Automobile Association (“AAA”), a FCC-certified frequency coordinator, submitted an application on behalf of NSTN to operate an Industrial/Business Pool station on frequency pair 471/474.2625 MHz at two locations, Corona and Monte Nido, California.² Based upon AAA’s coordination, NSTN received an authorization to operate Station WPMP751 on October 28, 1998.

3. On October 27, 2004, Mobile Relay Associates (“MRA”), licensee of Station WPLQ457, Santa Paula, California, requested that NSTN’s license for Station WPMP751 be modified to revoke the authorization for the Monte Nido site. MRA argued that the frequency coordination of the NSTN application was in error.³ Specifically, MRA noted that Section 90.313 of the Commission’s Rules provides that the maximum loading for a 470-512 MHz Industrial/Business Pool channel is ninety units, and a channel loaded to capacity cannot be reassigned within forty miles without the consent of the affected licensee(s).⁴ It also noted that its license to operate on frequency pair 471/474.2625 MHz at Santa Paula and La Crescenta, California under Call Sign WPLQ457 was granted on November 24, 1997 and that MRA had fully loaded the channel with ninety mobile units from the Santa Paula site (which is less than forty miles from NSTN’s Monte Nido site) prior to the filing of NSTN’s application.⁵ MRA asserted that the fully loaded channel and Station WPLQ457 should have precluded AAA from

¹ See National Science and Technology Network, Inc., *Order Proposing Modification*, 22 FCC Rcd 3192 (WTB MD 2007) (*Order Proposing Modification*).

² FCC File No. 9808D112885.

³ See Request for to [sic] Initiate Modification Proceedings filed on October 27, 2004 by MRA at 3 (MRA Modification Request).

⁴ See 47 C.F.R. § 90.313(a)(2), (b), (c).

⁵ See MRA Modification Request at 1-2.

coordinating NSTN's Monte Nido site.⁶ Consequently, we proposed to modify NSTN's license for Station WPMP751 by deleting locations 2, 5, and 6 from the authorization.⁷

4. *Discussion.* NSTN protested the proposed modification⁸ of its license within the requisite thirty-day time frame.⁹ In its protest, NSTN states that it was granted the license for Station WPMP751 as a result of a finder's preference claim that it filed against Mobile Check Cashing Services Station WEA766 in 1996.¹⁰ NSTN argues that the frequency pair was fully loaded before MRA's license for Station WPLQ457 was granted, so MRA's license should be modified to remove all but two of the authorized mobile units, in order to bring channel pair 471/474.2625 MHz into compliance with the maximum loading limitation.¹¹ We agree with MRA, however, that Station WEA766 did not have to be considered with respect to loading MRA's Station WPLQ457 because Station WEA766 was located at Mount Lukens, which is more than forty miles from MRA's Santa Paula site, and that the grant of the NSTN finder's preference for Station WEA766 therefore did not afford NSTN any rights at Monte Nido.¹² Based upon the record before us, we find that the underlying frequency coordination and subsequent grant of NSTN's license for Station WPMP751 was defective. We therefore reaffirm our conclusion that the NSTN Monte Nido application should not have been coordinated or granted and that the Monte Nido site should be deleted from the license.

5. NSTN asserts that it applied for the Monte Nido site in good faith reliance on the advice of AAA, and proposes, as an alternative to deleting Station WPMP751's Monte Nido site and its associated mobile unit, that the site be relocated to Mount Lukens.¹³ We agree with NSTN that this would constitute an equitable resolution of the instant dispute, because it would afford NSTN the benefit of the granted finder's preference request without significantly affecting other licensees.¹⁴ We are unable to implement that solution directly, however, because NSTN failed to provide sufficient technical details regarding the contemplated Station WPMP751 Mount Lukens facility.¹⁵ Consequently, on our own motion, we grant NSTN a waiver to the extent necessary to permit it to file an application within sixty days of the release of this *Order* to modify its license for Station WPMP751 to relocate the Monte Nido site to Mount Lukens. If NSTN does not file such an application within sixty days of the release of this *Order*, we will modify NSTN's license for Station WPMP751 as originally proposed in the *Order of Modification*.

6. *Ordering Clauses.* ACCORDINGLY, IT IS ORDERED, pursuant to Sections 4(i) and 316(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 316(a), and Section 1.87 of the Commission's Rules, 47 C.F.R. § 1.87, that National Science and Technology Network, Inc. is hereby directed to file an application to modify its license for Station WPMP751 by relocating the location 2 to

⁶ See *id.* at 3.

⁷ See *Order Proposing Modification*, 22 FCC Rcd at 3194 ¶ 8.

⁸ See Protest of National Science and Technology Network, Inc., to Modification of Station WPMP751 (filed Mar. 9, 2007) (Protest).

⁹ See 47 C.F.R. § 1.87(g)(1).

¹⁰ See Protest at 2.

¹¹ *Id.* at 3.

¹² See Opposition to Protest at 3-4 (filed Mar. 21, 2007). Moreover, NSTN's finder's preference was not granted until 1998, subsequent to MRA's license for Station WPLQ457. *Id.* at 3.

¹³ See Reply to Opposition at 2 (filed Apr. 2, 2007).

¹⁴ We note that no licensee at Mount Lukens has exclusive use of frequency pair 471/474.2625 MHz.

¹⁵ NSTN has over twenty licenses for base stations at Mount Lukens, but they differ slightly with respect to exact geographic coordinates and antenna height.

Mount Lukens within sixty days of the release of this *Order*, and that such application SHALL BE PROCESSED in accordance with the waiver granted in this *Order* and the Commission's Rules. If National Science and Technology Network, Inc. fails to submit a modification application within such time frame, the license for Station WPMP752 SHALL BE MODIFIED to delete locations 2, 5, and 6.

7. IT IS FURTHER ORDERED that a copy of this *Order* SHALL BE SENT by certified mail, return receipt requested to National Science and Technology Network, Inc., 2050 S. Bundy Drive, Suite 285, Los Angeles, CA 90025, Attn: Ted S. Henry; and to Professional Licensing Consultants, Inc., P.O. Box 1714, Rockville, MD 20849, Attn: J. A. (Josie) Lynch.

8. 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 COMMUNICATION COMMISSION

Scot Stone
Deputy Chief, Mobility Division
Wireless Telecommunications Bureau