

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

In the Matter of Application of)
SATELLITE MICROCABLE CORPORATION) File No. BMDP-19960510MK
For Authority to Construct and Operate a)
Multipoint Distribution Service Station on)
Channel H3 at El Centro, California.)

MEMORANDUM OPINION AND ORDER

Adopted: February 26, 2003

Released: March 3, 2003

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

1. In this Memorandum Opinion and Order, we address Satellite Microcable Corporation's (Satellite) above-captioned long-form application (FCC Form 304) to operate a new Multipoint Distribution Service (MDS) station in the El Centro - Calexico, California, Basic Trading Area (BTA) (B124) on Channel H3 in El Centro, California.1 Additionally, we address L.A. Page Corp.'s (L.A. Page) petition to deny Satellite's application.2 For the reasons stated below, we grant L.A. Page's petition to deny and dismiss Satellite's application.

2. Background. Satellite filed the above-captioned application on May 10, 1996. Satellite's application appeared on public notice as accepted for filing on May 17, 1996.3 On June 14, 1996, L.A. Page, the licensee of MDS Station WNTF895, San Diego, California, opposed Satellite's application. L.A. Page contends that Satellite's proposed facilities will cause harmful interference to L.A. Page's existing stations.4 Satellite did not file a response to the petition to deny.5

3. Discussion. Based on our review of the record in this proceeding, we conclude that Satellite's application is defective and cannot be granted at this time. Both parties indicate that Satellite's proposed operation will cause some interference to the protected service area (PSA) boundary of MDS

1 Effective March 25, 2002, the Commission transferred regulatory functions for the Instructional Television Fixed Service and the Multipoint Distribution Service/Multichannel Multipoint Distribution Service from the Mass Media Bureau (MMB) to the Wireless Telecommunications Bureau (Bureau). Radio Services Are Transferred From Mass Media Bureau to Wireless Telecommunications Bureau, Public Notice, 17 FCC Rcd 5077 (2002). Accordingly, the Bureau's Public Safety and Private Wireless Division assumed all regulatory duties associated with these services effective March 25, 2002. Id.

2 Petition to Deny filed by L.A. Page Corp. (filed Jun. 14, 1996) (Petition).

3 See MMB MDS Public Notice Report No. D-853.

4 Authorized station, File No. BMDP-762623 and proposed station, File No. BMDMP-9551420.

5 Satellite filed numerous motions for extension of time to submit opposition to L.A. Page's petition to deny. See e.g. Motion for Extension of Time filed by Satellite Microcable Corp. (Jun. 27, 1996).

Station WNTF895.⁶ Satellite seeks an opportunity to amend its application,⁷ while L. A. Page seeks dismissal or denial of the application.⁸ Since the filing of its application and during the pendency thereof, Satellite has failed to amend its application. An independent engineering study performed by our staff shows that Satellite's proposed station fails to provide at least 45 dB of co-channel interference protection within the PSA of previously authorized Station WNTF895.

4. Section 21.902(b)(3) of the Commission's rules requires the applicant to engineer its system to provide at least 45 dB of co-channel interference protection within the PSA of all other authorized or previously proposed stations. The record in this proceeding indicates that Satellite's proposed operations fail to provide at least 45 dB of co-channel interference protection to previously authorized Station WNTF895 in San Diego, California. While Satellite requested an opportunity to amend its application to cure the deficiency, to date, it has failed to do so. Accordingly, we will direct the Licensing and Technical Analysis Branch to dismiss its application as defective pursuant to Section 21.20(b)(4) of the Commission's Rules.

5. Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 309, and Section 21.30 of the Commission's rules, 47 C.F.R. § 21.30, the Petition to Deny filed by the L.A. Page Corp. on June 14, 1996 IS GRANTED.

6. IT IS FURTHER ORDERED, pursuant to Sections 4(i) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 309, and Sections 21.20(b)(4) and 21.902 of the Commission's rules, 47 C.F.R. §§ 21.20, 21.902, that the Licensing and Technical Analysis Branch SHALL DISMISS the application filed on May 10, 1996 by Satellite Microcable Corporation (File No. BMDP-19960510MK).

7. IT IS FURTHER ORDERED, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i) and Sections 1.46 of the Commission's rules, 47 C.F.R. § 1.46, that the Motions for Extension of Time filed by Satellite Microcable Corporation ARE GRANTED.

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 COMMUNICATIONS COMMISSION

D'wana R. Terry
Chief, Public Safety and Private Wireless Division
Wireless Telecommunications Bureau

⁶ Application, Engineering Statement, p. 1; L.A. Page petition at 2.

⁷ Application, Engineering Statement, p. 1. Satellite requested that the Commission allow it to amend the application to include either consent statements or other means that will enable it to obtain a license to serve the El Centro area. *Id.*

⁸ L. A. Page petition at 3.