



PUBLIC NOTICE

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WIRELESS TELECOMMUNICATIONS BUREAU MOBILITY DIVISION APPROVES REQUESTS FOR WITHDRAWAL OF PLEADINGS

Pursuant to Sections 0.331 and 1.935 of the Commission's rules,¹ the Mobility Division approves (1) a request filed by Mobile Relay Associates (MRA) on April 23, 2004, to dismiss, with prejudice,² its petition to deny filed on September 22, 2003 (Petition),³ and (2) a request filed by James A. Kay, Jr. (Kay) on April 23, 2004, to dismiss, with prejudice,⁴ his opposition filed on October 7, 2003 (Opposition).⁵ Both parties filed their requests pursuant to a Settlement Agreement that was approved on April 15, 2004.⁶ The Mobility Division has reviewed the requests for dismissal and finds that the requests raise no substantial or material question of fact under Section 309(d) of the Communications Act, as amended,⁷ and that the requests for dismissal comply with Section 1.935 of the Commission's rules.⁸ Accordingly, we dismiss MRA's Petition and Kay's Opposition with prejudice.⁹

¹ 47 C.F.R. §§ 0.331, 1.935.

² Request for Dismissal, filed by Mobile Relay Associates (Apr. 23, 2004).

³ Petition to Dismiss or Deny, filed by Mobile Relay Associates (Sept. 22, 2003). MRA filed its Petition against an application filed by James A. Kay Jr. seeking authority to operate a Commercial Industrial/ Business Pool station in the Rancho Palos Verdes and Los Angeles, California area. FCC Application for Wireless Telecommunications Bureau Radio Service Authorization, FCC Form 601, File No. 0001420784 (Aug. 18, 2003).

⁴ Request for Dismissal of Pleadings, filed by James A. Kay, Jr. (Apr. 23, 2004).

⁵ Opposition to Petition to Dismiss or Deny, filed by James A. Kay, Jr. (Oct. 7, 2003).

⁶ See Wireless Telecommunications Bureau Approves Settlement Agreement and Directs Parties to Dismiss Pleadings Within 30 Days, *Public Notice*, DA 04-1031 (rel. Apr. 15, 2004) (approving a Settlement Agreement entered into on January 19, 2004, by Mobile Relay Associates and Mobile Relay Associates, Inc., James A. Kay, Jr., and Laurence J. Feinberg).

⁷ 47 U.S.C. § 309(d).

⁸ 47 C.F.R. § 1.935.

⁹ We further note that on April 23, 2004, pursuant to the Settlement Agreement, MRA also filed a request to dismiss a petition filed on April 1, 2003, Petition for Reconsideration, or Alternatively, Petition for Initiation of Revocation Proceeding, filed by Mobile Relay Associates (Apr. 1, 2003), seeking reconsideration of the grant of an application filed by Laurence J. Feinberg, File No. 415714. On April 27, 2004, however, before receiving MRA's request for dismissal from the Commission's Office of the Secretary, the Mobility Division released an order dismissing the petition for reconsideration as moot. In the Matter of Laurence J. Feinberg Application to Construct and Operate a New Industrial/Business Pool Station, on 472.2625/575.2625 MHz at Rancho Palos Verdes, California, *Order*, File No. 415714 (rel. Apr. 27, 2004).

Action by Assistant Chief, Mobility Division, Wireless Telecommunications Bureau.