



PUBLIC NOTICE

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445 12th St., S.W.
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DA 04-2190

July 21, 2004

WIRELESS TELECOMMUNICATIONS BUREAU PUBLIC SAFETY AND CRITICAL INFRASTRUCTURE DIVISION APPROVES REQUESTS FOR WITHDRAWAL OF PLEADINGS

Pursuant to Sections 0.331 and 1.935 of the Commission's Rules,¹ the Public Safety and Critical Infrastructure Division (Division) approves (1) a request filed by Mobile Relay Associates (MRA) on April 23, 2004, to dismiss with prejudice² its opposition to petition for partial reconsideration filed on August 20, 2003;³ (2) an amendment filed by MRA on April 23, 2004, to amend⁴ its petition for reconsideration filed August 7, 2003;⁵ (3) a request filed by MRA on April 23, 2004, to dismiss with prejudice⁶ its opposition to a petition for reconsideration filed on June 16, 2003;⁷ (4) a request filed by MRA on April 23, 2004, to dismiss with prejudice⁸ its opposition to protest and objection to an application filed on June 11, 2003;⁹ (5) a request filed by

¹ 47 C.F.R. §§ 0.331, 1.935.

² Request for Dismissal filed by Mobile Relay Associates (Apr. 23, 2004). *See* Consolidated Case, Application File Nos. 0000526163, 0000530288, 0000628268, 0001280611, 0001280608, 0001280607, 0001018807, 0001028296 and 0001028303.

³ Opposition to Petition for Partial Reconsideration filed by Mobile Relay Associates (Aug. 20, 2003). *See* Consolidated Case, Application File Nos. 0000526163, 0000530288, 0000628268, 0001280611, 0001280608, 0001280607, 0001018807, 0001028296 and 0001028303.

⁴ Amendment to Petition for Reconsideration filed by Mobile Relay Associates (Apr. 23, 2004). *See* Consolidated Case, Application File Nos. 0000526163, 0000530288, 0000628268, 0001280611, 0001280608, 0001280607, 0001018807, 0001028296 and 0001028303.

⁵ Petition for Reconsideration filed by Mobile Relay Associates (Aug. 7, 2003). *See* Consolidated Case, Application File Nos. 0000526163, 0000530288, 0000628268, 0001280611, 0001280608, 0001280607, 0001018807, 0001028296 and 0001028303.

⁶ Request for Dismissal filed by Mobile Relay Associates (Apr. 23, 2004). *See* GC Docket No. 02-37.

⁷ Opposition to Petition for Reconsideration filed by Mobile Relay Associates (June 16, 2003). *See* GC Docket No. 02-37.

⁸ Request for Dismissal filed by Mobile Relay Associates (Apr. 23, 2004). *See* Consolidated Case, Application File Nos. 0001238586, 0001293127, 0001308977, 0001278326, 0001316755 and 0001316822.

⁹ Opposition to Protest and Objection to Application filed by Mobile Relay Associates (June 11, 2003). *See* Consolidated Case, Application File Nos. 0001238586, 0001293127, 0001308977, 0001278326, 0001316755 and 0001316822.

MRA on April 23, 2004, to dismiss with prejudice¹⁰ its opposition to a petition for reconsideration filed on May 27, 2003;¹¹ (6) a request filed by MRA on April 23, 2004, to dismiss with prejudice¹² its opposition to a petition to deny filed on October 30, 2002;¹³ (7) a request filed by MRA on April 23, 2004, to dismiss with prejudice¹⁴ its motion to strike an unauthorized pleading filed on August 5, 2002;¹⁵ (8) a request filed by MRA on April 23, 2004, to dismiss with prejudice¹⁶ its opposition to a petition for reconsideration filed on March 20, 2002;¹⁷ and (9) a request filed by MRA on June 7, 2004, to dismiss with prejudice¹⁸ its opposition to a petition for reconsideration filed on October 30, 2002.¹⁹

MRA filed its requests pursuant to a Settlement Agreement that was approved on April 15, 2004.²⁰ The Division has reviewed the requests for dismissal and the request to amend in order to withdraw certain reconsideration requests,²¹ and finds these requests raise no substantial or material question of fact under Section 309(d) of the Communications Act of 1934, as amended.²² The Division also finds that MRA's requests comply with Section 1.935 of the Commission's Rules.²³ Accordingly, we grant the subject requests

¹⁰ Request for Dismissal filed by Mobile Relay Associates (Apr. 23, 2004). *See* Consolidated Case, Application File Nos. 00012800611, 0001280608 and 0001280607.

¹¹ Opposition to Petition for Reconsideration filed by Mobile Relay Associates (May 27, 2003). *See* Consolidated Case, Application File Nos. 00012800611, 0001280608 and 0001280607.

¹² Request for Dismissal filed by Mobile Relay Associates (Apr. 23, 2004). *See* Consolidated Case, Application File Nos. 0000530288, 0000526163, and 0000628268. This request was erroneously referenced as a Request for Dismissal of an Opposition for Reconsideration, rather than a Request for Dismissal of an Opposition to Petition to Deny. This was corrected by an erratum. *See* Erratum to Request for Dismissal filed by Mobile Relay Associates (June 7, 2004).

¹³ Opposition to Petition to Deny filed by Mobile Relay Associates (Oct. 30, 2002). *See* Consolidated Case, Application File Nos. 0000530288, 0000526163, and 0000628268.

¹⁴ Request for Dismissal filed by Mobile Relay Associates (Apr. 23, 2004). *See* Application File No. 0000400166.

¹⁵ Motion to Strike Unauthorized Pleading filed by Mobile Relay Associates (Aug. 5, 2002). *See* Application File No. 0000400166.

¹⁶ Request for Dismissal filed by Mobile Relay Associates (Apr. 23, 2004). *See* Application File No. 0000644810.

¹⁷ Opposition to Petition for Reconsideration filed by Mobile Relay Associates (Mar. 20, 2002). *See* Application File No. 0000644810.

¹⁸ Request for Dismissal filed by Mobile Relay Associates (June 7, 2004). *See* Consolidated Case, Application File Nos. 0001028303, 0001018807, 0001028296, 0001027595, and 0001027579.

¹⁹ Opposition to Petition for Reconsideration filed by Mobile Relay Associates (October 30, 2002). *See* Consolidated Case, Application File Nos. 0001028303, 0001018807, 0001028296, 0001027595, and 0001027579.

²⁰ *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., (Kay) and Laurence J. Feinberg) (*Settlement PN*). The Division has relied on the representations of the parties that the pleadings dismissed herein are all of the pleadings necessary to effectuate their settlement agreement.

²¹ In its settlement agreement, MRA agreed to amend its reconsideration petition by withdrawing its request for reconsideration of the dismissal of MRA Application File No. 0000628268 and the cancellation of its authorizations for Stations WII622, WII664 and WIJ226.

²² 47 U.S.C. § 309(d).

²³ 47 C.F.R. § 1.935.

for dismissal and the requests for withdrawal of various pleadings and hereby dismiss, with prejudice, all pleadings that MRA has requested be dismissed.

For further information, contact Freda Thyden, Attorney Advisor, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau, at (202) 418-0680 or Freda.Thyden@fcc.gov.

Action taken by the Chief, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau, and Assistant Chief, Mobility Division, Wireless Telecommunications Bureau.

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