

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

In re Application of

SCOTT RENZ File No. 22198-CD-P/L-01-88
d/b/a RAY'S
ELECTRONICS

For Authority to Construct
new facilities in the
Public Land Mobile Service
operating on 454.050 Mhz and
454.400 MHz in Oak Harbor, Ohio

MEMORANDUM OPINION AND ORDER

Adopted: January 26, 1989; Released: February 3, 1989

By the Deputy Chief, Common Carrier Bureau:

1. Futronics, Inc. (petitioner) has filed a petition to deny the captioned application of Scott Renz d/b/a Ray's Electronics (Renz) to construct new paging facilities in Oak Harbor, Ohio. Responsive pleadings were filed.¹

CONTENTIONS OF THE PARTIES

2. Petitioner argues that the Renz application fails to satisfy the objective need standard imposed on applicants requesting more than one mobile channel. Specifically, petitioner argues that Renz' assertion in its application that it has twenty-nine held orders is insufficient to demonstrate need pursuant to Section 22.16(b) of the Commission's rules.² Section 22.16(b), petitioner argues, requires applicants to submit to the Commission written held orders or valid statistical surveys. In addition, petitioner argues, Renz fails to specifically state why its proposed service would serve the public interest and therefore violates Section 22.13(a)(4) of the Commission's rules. In the petitioner's view, Renz application must be dismissed as defective, or in the alternative, be designated for hearing on the public need issue.

3. In opposition, Renz states that its application complies with both the objective need standard and the public interest standard. Renz disputes the petitioner's interpretation of Section 22.16. Section 22.16 does not, Renz states, require an applicant to submit written held orders to the Commission. Instead, Renz states, Section 22.16 requires the applicant to submit data on the number of units expected to receive service from its proposed facility, i.e., those units for which it has written held orders. Accordingly, Renz asserts, its showing of data on held orders not only satisfies the objective need requirements of Section 22.16 but also demonstrates that its application will serve the public interest.³

DISCUSSION

4. The objective need standard of Section 22.16 requires an applicant to demonstrate need when requesting more than one two-way frequency for a new system. Applicants may satisfy this standard by submitting data on the number of units expected to receive the proposed service or by submitting a valid statistical survey. The Commission will consider only those units for which the applicant has written held orders. Commission policy, however, does not require the applicant to submit the held orders to the Commission as a part of the application process. *See generally Mobile Communication Service*, Mimeo No. 2458, released February 8, 1985; *Page Com Hawaii*, Mimeo No. 5038, released June 10, 1986. Renz has amended its application to show the respective number of units requesting the proposed service. An analysis of the Renz held order showing using the tables contained in Section 22.16(a)(2)(vii) of the Commission's rules justifies the grant of two channels.⁴ Accordingly, we find that grant of Renz' application meets the requirements of Sections 22.13 and 22.16, and that grant of the application will serve the public interest, convenience and necessity.

5. Wherefore, for the foregoing reasons, IT IS HEREBY ORDERED That the Petition to Deny filed by Futronics, Inc. IS DENIED.

6. IT IS FURTHER ORDERED That the application of Scott Renz d/b/a File No. 22198-CD-P/L-01-88 IS GRANTED.

7. This order is issued under Section 0.291 of the Commission's Rules and is effective on its release date. Petitions for Reconsideration under Section 1.106 and Applications for Review under Section 1.115 of the rules may be filed within thirty days of the date of public notice of this Order. *See* Section 1.4(b)(2) of the Rules.

FEDERAL COMMUNICATIONS COMMISSION

Gerald P. Vaughan
Deputy Chief, Operations
Common Carrier Bureau

FOOTNOTES

¹ By letter dated November 18, 1988, the Mobile Services Division (MSD) requested Renz to provide additional information with respect to the referenced application. Specifically, the MSD requested Renz to submit data on the held orders broken down by two-way, tone-only paging, tone-voice paging and tone-optical paging and tone-optical readout paging. Renz submitted a minor amendment to its application on December 12, 1988 stating that of its 29 held orders, 19 are for two-way service and 10 are for tone-voice paging. In a letter dated December 21, 1988, Futronics filed comments to the amendment reiterating its contention that an applicant is required to submit the held orders with its applications, and requesting the MSD dismiss the Renz application or designate the application for hearing. On January 10, Renz responded to the comments filed by Futronics.

² Section 22.16(b) provides, in pertinent part, that an applicant requesting more than one channel on a new two-way system "shall submit data on the number of units expected to receive

service. Units shall be considered only if the applicant has written held orders for them or if they are projected from a valid statistical survey"

³ Renz has offered to provide the held orders to the Commission, *in camera*, if for any reason the Commission so requires.

⁴ Specifically, the held order showing indicates .250 Erlangs for Oak Harbor.