



# PUBLIC NOTICE

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## Wireless Telecommunications Bureau Approves Request for Authorization to Participate in the AirCell System

On December 24, 1998, the Wireless Telecommunications Bureau (Bureau) released an Order granting AirCell, Inc. (AirCell) and certain participating cellular carriers a waiver of section 22.925<sup>1</sup> of the Commission's rules, subject to certain conditions.<sup>2</sup> The *AirCell Orders* allow other cellular licensees that wish to participate with AirCell and operate under the terms and conditions of the *AirCell Orders*, as amended, to file their own waiver requests.<sup>3</sup> On February 4, 2003, AirCell and CC Communications (Petitioners) filed petitions for waiver of section 22.925 and for authorization to participate in the AirCell system.

Petitioners assert that their requests are identical to those previously granted to AirCell and other licensees by the Bureau and subsequently affirmed by the Commission.<sup>4</sup> Petitioners agree to the terms of the *AirCell Orders*, including operation of the AirCell mobile units on a secondary basis, and assert that the legal basis, unique circumstances, and public interest benefits

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<sup>1</sup> 47 C.F.R. § 22.925.

<sup>2</sup> See, In the matter of AirCell, Inc., Petition, Pursuant to Section 7 of the Act, for a Waiver of the Airborne Cellular Rule, or, in the Alternative, for a Declaratory Ruling, *Order*, 14 FCC Rcd. 806 (WTB 1998) (*AirCell Bureau Order*), reconsideration granted in part, denied in part, *Order on Reconsideration*, 14 FCC Rcd. 19430 (WTB 1999) (*AirCell Reconsideration Order*), application for review denied, *Memorandum Opinion and Order*, 15 FCC Rcd. 9622 (2000) (*AirCell MO&O*). On appeal, the United States Court of Appeals for the D.C. Circuit remanded the *AirCell MO&O* to the Commission for clarification of one technical aspect. See, *AT&T Wireless Services, Inc., et al., v. FCC*, 270 F.3d 959, 968 (D.C.Cir. 2001). The Commission recently responded to the Court's mandate. See, In the matter of AirCell, Inc., Petition, Pursuant to Section 7 of the Act, for a Waiver of the Airborne Cellular Rule, or, in the Alternative, for a Declaratory Ruling, *Order on Remand*, FCC 02-324 (rel. Feb. 10, 2003) (collectively, the *AirCell Orders*).

<sup>3</sup> *AirCell Bureau Order* at 818, ¶ 25.

<sup>4</sup> See, *AirCell, Inc., Pine Belt Cellular, Inc. Tennessee RSA No. 3 Limited Partnership, WESTEX Telecommunications, Inc., XIT Cellular, ETEX Cellular Co. Inc., Cellular Network Partnership, and North Alabama Cellular, LLC*, Petitions for Waiver of the Airborne Cellular Rule, 14 FCC Rcd. 13151 (WTB 1999); *AirCell, Inc., ALLTEL Communications, Inc., American Rural Cellular, Inc., Centennial*

are identical to those that supported and justified the *AirCell Orders*.

Accordingly, the Wireless Telecommunications Bureau, pursuant to sections 1.3 and 22.119(a) of the Commission's rules, 47 C.F.R. §§ 1.3, 22.119(a), grants the requests of AirCell, Inc. and CC Communications for waiver of section 22.925 of the Commission's rules, 47 C.F.R. § 22.925, subject to the terms and conditions set forth in the *AirCell Orders* and as those terms and conditions may be subsequently modified or amended. This action is taken pursuant to the authority delegated in section 0.331 of the Commission's rules, 47 C.F.R. § 0.331.

Pursuant to Section 1.102 of the Commission's rules, 47 C.F.R. § 1.102, the grant herein is effective upon release of this Public Notice. Pursuant to Sections 1.106(f) and 1.115(a) of the Commission's rules, 47 C.F.R. §§ 1.106(f), 1.115(a), petitions for reconsideration and applications for review may be filed within thirty days of the release of this public notice.

For further information, contact Leon Jackler, Wireless Telecommunications Bureau, Commercial Wireless Division, at (202) 418-0946.

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*Cellular Corporation, CenturyTel Wireless, Inc., Kentucky RSA 4 Cellular General Partnership, and Smith Bagley, Inc. d/b/a/ Cellular One of Northeast Arizona*, Petitions for Waiver of the Airborne Cellular Rule, 15 FCC Rcd 1639 (WTB 1999).