



# 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 waiver gives AirCell and participating cellular carriers authority to offer an airborne cellular service to general aviation aircraft as a cellular reseller. The *AirCell Order* allows other cellular licensees that wish to participate with AirCell and operate under the terms and conditions of the *AirCell Order*, as amended, to file their own waiver requests.<sup>3</sup> On July 30, 2001, AirCell and South Canaan Cellular Communications Company, L.P., AirCell and Commnet Wireless, Inc., and AirCell and Commnet of Delaware L.L.C. (collectively, 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 granted to AirCell and other various licensees commencing December 24, 1998 by the Bureau and subsequently affirmed by the Commission on June 9, 2000.<sup>4</sup> Petitioners agree to the terms of the *AirCell Orders*, including operation of the AirCell

<sup>1</sup> 47 C.F.R. § 22.925.

<sup>2</sup> In re 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 (Wireless Tel. Bur. 1998) (*AirCell Order*).

<sup>3</sup> *AirCell Order* at 818, ¶ 25. The Bureau amended the *AirCell Order* on July 30, 1999. In re 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 Reconsideration*, 14 FCC Rcd 18430 (Wireless Tel. Bur. 1999) (*Reconsideration Order*). The Commission affirmed the Bureau's action in Petition, Pursuant to Section 7 of the Act, for a Waiver of the Airborne Cellular Rule, or, in the Alternative, for a Declaratory Ruling, *Memorandum Opinion and Order*, 15 FCC Rcd 9622 (2000) (*AirCell Review Order*).

<sup>4</sup> See *AirCell Order*; *Reconsideration Order*; *AirCell Review Order*; *AirCell, Inc., Pine Belt Cellular, Inc., Tennessee RSA No. 3 Limited Partnership, WESTEX Telecommunications, Inc., XIT Cellular, ETEX Cellular Co., Cellular Network Partnership, and North Alabama Cellular, LLC*, 14 FCC Rcd 13151 (Wireless Tel. Bureau 1999); *AirCell, Inc., ALLTEL Comms., Inc., Kentucky RSA 4 Cellular General Partnership, and Smith Bagley, Inc. d/b/a Cellular One of Northeast Arizona*, 14 FCC Rcd 19684 (Wireless Tel. Bur. 1999); *AirCell, Inc. and Western Wireless Corp.*, 15 FCC Rcd 1639 (Wireless Tel. Bur. 1999); *AirCell, Inc., California RSA No. 3, Limited Partnership, d/b/a Golden State Cellular, and Douglas Telecommunications, Inc., Order*, DA 00-1606 (released July

mobile units on a secondary basis, and assert that the legal basis, unique circumstances, and public interest benefits 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., South Canaan Cellular Communications Company, L.P., Commnet Wireless, Inc., and Commnet of Delaware L.L.C., 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 re 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 (Wireless Tel. Bur. 1998), as modified In re AirCell, Inc., *Order on Reconsideration*, 14 FCC Rcd 18430 (Wireless Tel. Bur. 1999), and as affirmed 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, *Memorandum Opinion and Order*, 15 FCC Rcd 9622 (2000), 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 Wilbert E. Nixon, Jr., Wireless Telecommunications Bureau, Commercial Wireless Division, at (202) 418-7240.

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19, 2000); AirCell, Inc. and Yorkville Communications, Inc., Petition for Waiver of the Airborne Cellular Rule, *Letter from Roger Noel, Wireless Telecommunications Bureau, to Ronnie London, Hogan & Hartson, L.L.P.* (Ref. 2000C1-RSN, Mar. 8, 2001) (collectively, the *AirCell Orders*).