



PUBLIC NOTICE

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WIRELESS TELECOMMUNICATIONS BUREAU MOBILITY DIVISION APPROVES WITHDRAWAL OF PETITION FOR EXTENSION OF WAIVER WT Docket No. 02-86

By this Public Notice, the Mobility Division of the Wireless Telecommunications Bureau approves the Amended Request to Withdraw Petition for Extension of Waiver filed by AirCell, Inc. (“AirCell”), on July 24, 2006 (“AirCell Withdrawal Request”).

On March 28, 2002, AirCell filed a Petition for Extension of Waiver (“Petition for Extension”).¹ In the Petition for Extension, AirCell sought, on behalf of itself and its cellular radio licensee partners, an extension of the conditional waiver of section 22.925 of the Commission’s rules² previously granted to these parties and modification of two of the conditions associated with the waiver.³ Several pleadings were filed in response to the Petition for Extension.⁴

On July 24, 2006, AirCell filed its Withdrawal Request seeking Commission consent to withdraw its Petition for Extension. AirCell indicates that it has ceased all operations of its airborne cellular network (re-using the terrestrial cellular spectrum of its former cellular licensee partners) and no longer has contractual relationships for airborne cellular services with any of its former cellular licensee partners. AirCell states that it believes that all of its former cellular licensee partners would support the request to

¹ AirCell, Inc. Petition for Extension of Waiver, 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 (filed Mar. 28, 2002).

² 47 C.F.R. § 22.925.

³ 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*), recon. granted in part, denied in part, *Order on Reconsideration*, 14 FCC Rcd 18430 (WTB 1999) (*AirCell Reconsideration Order*), app. for rev. denied, *Memorandum Opinion and Order*, 15 FCC Rcd 9622 (2000) (*AirCell MO&O*), pet. for rev. granted in part, denied in part sub nom. *AT&T Wireless Svcs., Inc. v. FCC*, 270 F.3d 959 (D.C. Cir. 2001), pet. for reh’g denied Jan. 29, 2002, *Order on Remand*, 18 FCC Rcd 1926 (2003) (*Remand Order*), pet. for rev. denied sub nom. *AT&T Wireless Svcs., Inc. v. FCC*, 365 F.3d 1095 (D.C. Cir. 2004).

⁴ See AT&T Wireless Services, Inc., Cingular Wireless LLC, and Cellco Partnership d/b/a Verizon Wireless Comments in Opposition to Petition for Extension of Waiver, WT Dkt. No. 02-86 (filed Apr. 10, 2003); Comments of Lucent Technologies, Inc., WT Dkt. No. 02-86 (filed Apr. 10, 2003); Sprint Reply Comments, WT Dkt. No. 02-86, at 1 (filed June 9, 2003).

withdraw the Petition for Extension, since they no longer provide wireless services to support AirCell's air-to-ground network.

The Mobility Division has reviewed the AirCell Withdrawal Request and finds that it raises no substantial or material questions of fact. Accordingly, pursuant to section 0.331 of the Commission's rules,⁵ the Mobility Division hereby approves the withdrawal of, and dismisses with prejudice, the Petition for Extension filed by AirCell on March 28, 2002. All other pleadings filed in response to the Petition for Extension this matter are hereby deemed moot. We accordingly close WT Docket No. 02-86.

Action by Deputy Chief, Mobility Division.

⁵ 47 C.F.R. § 0.331.