

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

In the matter of)
Cingular Wireless LLC)
Request for Waiver of the CMRS Spectrum) DA 01-665
Aggregation Limits in Section 20.6(a) of the)
Commission's Rules)

ORDER

Adopted: September 20, 2001

Released: September 25, 2001

By the Commission:

I. INTRODUCTION AND SUMMARY

1. On March 7, 2001, Cingular Wireless LLC ("Cingular") filed a request for waiver ("Waiver Request") of Section 20.6(a) of the Commission's rules, the Commercial Mobile Radio Services ("CMRS") spectrum cap, with respect to certain 900 MHz Specialized Mobile Radio ("SMR") spectrum used by Cingular's subsidiary, Cingular Interactive L.P. ("Cingular Interactive"), on its stand-alone nationwide mobile data system. Specifically, Cingular requests that the Commission exclude from the cap, on a nationwide basis, up to 1.5 MHz of 900 MHz SMR spectrum "as long as such spectrum is used exclusively in conjunction with Cingular Interactive's dedicated mobile data network." For the reasons discussed, we grant Cingular's Waiver Request.

II. BACKGROUND

2. Cingular is a joint venture that combines the domestic wireless operations of BellSouth Corporation ("BellSouth") and SBC Communications Inc ("SBC"). Cingular and its affiliated entities hold many cellular licenses (25 MHz blocks of spectrum), broadband PCS licenses (10 MHz blocks and 30 MHz blocks of spectrum), and 900 MHz SMR licenses (0.25 MHz blocks of spectrum) classified as CMRS and currently included within the scope of the CMRS spectrum cap.

1 47 C.F.R. § 20.6.

2 Waiver Request at 12.

3 See In re Applications of SBC Communications Inc. and BellSouth Corporation for Consent to Transfer of Control and Assignment of Licenses and Authorizations, WT Docket No. 00-81, Memorandum Opinion and Order, 15 FCC Rcd 25459 (WTB/IB 2000).

4 Waiver Request at 2. We note that the Commission currently is examining whether to eliminate, revise, or retain the CMRS spectrum cap as part of its 2000 Biennial Review process. See generally In the Matter of 2000

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3. Cingular Interactive, one of Cingular's subsidiaries, operates a stand-alone nationwide mobile data system in the 900 MHz SMR band.⁵ Cingular states that Cingular Interactive's wireless data system operates over facilities dedicated to, and capable of delivering only, mobile data services.⁶ The spectrum used by Cingular Interactive cannot be used by Cingular to provide mobile voice services in conjunction with its broadband PCS and cellular spectrum because of the dedicated nature of the Cingular Interactive network architecture.⁷ At present, Cingular Interactive has at least one 900 MHz SMR license in each market across the nation, and does not hold more than 0.75 MHz of 900 MHz spectrum in any given market.⁸

4. Cingular states that it seeks a waiver because the CMRS spectrum cap – which limits carriers in non-rural markets to attributable interests in 45 MHz of cellular, broadband PCS, and/or SMR spectrum having significant overlap in any geographic area⁹ – prevents Cingular from obtaining a second 10 MHz broadband PCS license block in non-rural markets where it already holds attributable interests in a 10 MHz PCS license, a 25 MHz cellular license, and at least one 0.25 MHz 900 MHz SMR license.¹⁰ That is, in markets where the cap is 45 MHz, without waiver of the spectrum cap, Cingular currently can acquire attributable interests in only slightly more than 35 MHz of covered spectrum unless it disaggregates spectrum.¹¹ Cingular further argues that this alternative – requiring it to disaggregate small amounts of broadband PCS or cellular spectrum (approximately 1 MHz) to enable it to acquire a second 10 MHz PCS license block in order to reach or approach a total of 45 MHz of holdings – is not reasonable because, as a practical matter, there is no market for such small quantities of this spectrum.¹²

5. Cingular asserts that unique factual circumstances support waiver of the CMRS spectrum cap in its particular situation: that it alone, through its subsidiary Cingular Interactive, operates a data-only network on SMR frequencies, that it is technically unable to intermingle its data and voice services on Cingular Interactive's existing network, and that it proposes to limit its utilization for data-only services to no more than 1.5 MHz of SMR spectrum.¹³ Cingular contends that granting its Waiver

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Biennial Regulatory Review – Spectrum Aggregation Limits for Commercial Mobile Radio Services, WT Docket No. 01-14, *Notice of Proposed Rulemaking*, FCC 01-28 (rel. Jan. 23, 2001). The Commission anticipates releasing its report and order in that proceeding before the end of the year.

⁵ Waiver Request at 2.

⁶ *Id.* at 2, 6-7.

⁷ *Id.* at 2, 6-7. For instance, Cingular states that unlike the circuit-switched networks it uses for voice calls on its broadband network, Cingular Interactive's network is designed exclusively for packet-switched data transmissions, thus ensuring no technical opportunity for intermingling between networks. *Id.* at 7.

⁸ *Id.* at 8, 11.

⁹ See 47 C.F.R. § 20.6(a). The CMRS spectrum cap is set at 55 MHz in rural markets. *Id.*

¹⁰ Waiver Request at 2, 10.

¹¹ *Id.* at 10-11. In such markets, Cingular and Cingular Interactive, its subsidiary (and affiliated entity), hold attributable interests in between 35.25 and 35.75 MHz of spectrum: 25 MHz of cellular spectrum + 10 MHz of broadband PCS spectrum + between 0.25 and 0.75 MHz of 900 MHz SMR spectrum (depending on the number of SMR licenses in a particular market).

¹² *Id.* at 11-12.

¹³ See *id.* at 2, 6-9; Reply Comments at 1.

Request would only affect a *de minimis* amount of spectrum, would not be inconsistent with the CMRS spectrum cap's original purpose, and would not undermine the cap's goals.¹⁵ Further, Cingular argues that grant of its Waiver Request would be pro-competitive and would serve the public interest.¹⁶

6. In addition, Cingular contends that grant of the Waiver Request is warranted because of dramatic changes in its business and in market conditions since 1996, when one of Cingular's predecessors-in-interest, BellSouth Wireless, Inc., requested a similar waiver of the cap.¹⁷ Cingular, which today represents the combined wireless cellular and PCS operations of BellSouth and SBC, states that it has approximately 20 million subscribers nationwide that use its systems for mobile voice services. By comparison, in 1996, BellSouth's cellular and PCS subscribership totaled less than 4 million. Cingular also states that Cingular Interactive's 900 MHz SMR mobile data operations have experienced dramatic growth over the same period. From 50,000 subscribers in late 1996, Cingular Interactive's operations have grown to more than 600,000 users this year, with substantial future growth expected. Anticipating that in the near future Cingular Interactive may, in some markets, come to hold up to 1.5 MHz of SMR spectrum in order to meet increased demand, Cingular requests that the waiver exclude up to 1.5 MHz of 900 MHz SMR spectrum from attribution under the CMRS spectrum cap.¹⁸

7. On March 14, 2001, the Wireless Telecommunications Bureau issued a public notice seeking comment on Cingular's Waiver Request.¹⁹ One party, Leap Wireless International, Inc. ("Leap Wireless") filed comments in opposition, generally contending that Cingular failed to demonstrate particularized facts necessary to justify a waiver.²⁰ Cingular, in turn, filed reply comments.²¹

¹⁵ Waiver Request at 7-10.

¹⁶ *Id.* at 8-9, 11; Reply Comments at 2.

¹⁷ Waiver Request at 3-4. In 1996, BellSouth Wireless, Inc. requested that the Commission waive Section 20.6 to exclude attribution of 900 MHz SMR spectrum used for data services, arguing that the Commission should exclude from the cap small amounts of SMR spectrum used to provide data-only services because it was not used to compete substantially with voice services offered using cellular and broadband PCS spectrum. *See* Waiver Request at 3; BellSouth Wireless, Inc., Request for Waiver of the CMRS Spectrum Aggregation Limit in Section 20.6 of the Commission's Rules, filed July 30, 1996 ("*BellSouth Waiver Request*"). In 1997, the Commission rejected that waiver request (affirming a 1996 decision by the Auctions Division of the Wireless Telecommunications Bureau) and denied BellSouth's petition for reconsideration of the 1996 CMRS spectrum cap order. *See* In the Matter of Application for Review of BellSouth Wireless, Inc., *Memorandum Opinion and Order*, 12 FCC Rcd 14031 (1997) ("*BellSouth Memorandum Opinion and Order*"), *aff'd sub nom BellSouth Corp. v. FCC*, 162 F.3d 1215 (DC. Cir. 1999). In early 1999, the United States Court of Appeals for the District of Columbia Circuit affirmed the Commission's decisions relating to BellSouth's waiver request. *Id.* at 1225 (court found that BellSouth had failed to meet its burden of establishing special circumstances that would warrant the Commission's waiver of the "bright-line" CMRS spectrum cap rule).

¹⁸ *See* Waiver Request at 4.

¹⁹ *See* "Wireless Telecommunications Bureau Seeks Comment on Cingular Wireless LLC's Request for Waiver to Exclude 1.5 MHz of SMR Spectrum from the CMRS Spectrum Cap," *Public Notice* (DA 01-665) (rel. Mar. 14, 2001). Comments were due on April 3, 2001, and Reply Comments on April 13, 2001. *Id.*

²⁰ *See generally* Opposition of Leap Wireless International, Inc. ("Leap Wireless Comments").

²¹ *See generally* Reply Comments.

III. DISCUSSION

8. Waiver Standard. Cingular seeks a waiver pursuant to the waiver standard set forth in Section 1.925 of the Commission's rules.²² Section 1.925 provides that the Commission may grant a waiver upon a showing either that: (i) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or (ii) in view of the unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.²⁴ We note that, in addition to the waiver standard set forth in Section 1.925, the Commission provided another avenue for waiver of the CMRS spectrum cap when it completed the 1998 Biennial Review of the CMRS spectrum cap and issued the *1998 Biennial Review CMRS Spectrum Cap Order* in 1999.²⁵ Cingular notes that excluding its mobile data service from the cap is consistent with the announced goal in the *1998 Biennial Review CMRS Spectrum Cap Order* because a waiver would allow Cingular to acquire an additional 10 MHz PCS license to respond to public demand for increased capacity and new and advanced services.²⁶ Leap Wireless contends that we should apply the waiver standard enunciated in the *1998 Biennial Review CMRS Spectrum Cap Order* to Cingular's Waiver Request.²⁷

9. In light of the fact that Cingular specifically sought a waiver under the general waiver standard of Section 1.925, we need not address whether the standard in the *1998 Biennial Review CMRS Spectrum Cap Order* would also be satisfied. Nowhere in that order adopting the new waiver standard did we suggest that relief was no longer available under the general waiver standard. In any event, we note that carriers are still encouraged to closely examine their need for relief under the 1998 Biennial Review waiver standard or Section 1.925. We also note that under Section 0.331 of our rules, the Wireless Telecommunications Bureau has delegated authority to act on waiver petitions so long as they do not raise novel questions of law or policy which cannot be resolved under outstanding Commission precedents and guidelines.²⁸ Accordingly, the Bureau may address any future requests for relief under Section 1.925 that do not raise new or novel issues in light of our decision in this case.

10. Analysis. Based on the record before us and the arguments presented in Cingular's Waiver Request, we conclude that, in today's marketplace, waiver of the CMRS spectrum cap with respect to up to 1.5 MHz of 900 MHz SMR spectrum satisfies the waiver standard in section 1.925(b)(3)(ii) of the

²⁴ See 47 C.F.R. § 1.925(b)(3).

²⁵ See 1998 Biennial Review – Spectrum Aggregation Limits for Wireless Telecommunications Carriers, WT Docket No. 98-205, *Report and Order*, 15 FCC Rcd 9219, 9255-56 ¶ 82 (1999) (“*1998 Biennial Review CMRS Spectrum Cap Order*”).

²⁶ See Waiver Request at 10 & n.26.

²⁷ See Leap Wireless Comments at 2-3.

²⁸ 47 C.F.R. § 0.331(a)(2). See, e.g., In re Applications of Aerial Communications Inc., Transferor, and Voicestream Wireless Holding Corporation, Transferee, For Consent to Transfer Control of Licenses and Authorizations, and In re Request for Waiver of Section 20.6 of the Commission's Rules, WT Docket No. 00-3, *Memorandum Opinion and Order*, 15 FCC Rcd 10089, 10104-07 ¶¶ 33-38 (WTB/IB 2000) (granting temporary waiver of spectrum cap to permit parties additional time to implement divestiture); In the Matter of Western PCS III, Request for Expedited, Limited Waiver of Sections 24.204 and 20.6 of the Commission's Rules, *Order*, 13 FCC Rcd 4081 (Commercial Wireless Division 1997) (granting limited waiver of spectrum cap rule to extend time for achieving divestiture).

rules. Therefore, we deny the Opposition of Leap Wireless and grant Cingular's Waiver Request.

11. Cingular has established that, among current providers of CMRS services, it is uniquely affected by the CMRS spectrum cap.²⁹ For instance, based on the record before us, it appears that among current providers of broadband services using cellular and broadband PCS spectrum, Cingular alone is restricted by the cap from holding a cellular and two 10 MHz PCS licenses because it holds an attributable interest in a small amount of SMR spectrum in the same geographic area.³⁰ Among providers of such services with networks dedicated to provision of data-only services, only Cingular is using spectrum that falls within the scope of the cap.³¹ As Cingular explains, Cingular Interactive's data-only network uses SMR spectrum, as opposed to narrowband CMRS spectrum not included within the scope of the cap, due to historic happenstance: the decision to use this particular spectrum was made in the 1980s by Cingular's predecessors-in-interest, many years prior to the institution of the cap in 1994.³² If Cingular Interactive instead, like some other data service providers, happened to operate its network using non-SMR narrowband spectrum, the cap would not preclude Cingular's ability to obtain a second broadband PCS 10 MHz license.

12. Other unique characteristics of Cingular's situation also weigh in favor of granting a waiver. Specifically, Cingular Interactive's network is technically distinct from the infrastructure Cingular uses to provide mobile voice services, and the SMR spectrum used by Cingular Interactive is in a different band from Cingular's cellular and broadband PCS spectrum.³³ In addition, Cingular's Waiver Request is limited to 1.5 MHz of SMR spectrum.³⁴ When it adopted the CMRS spectrum cap, the Commission decided to include SMR spectrum – along with cellular and broadband PCS but excluding other CMRS spectrum – because these services had “significant (more than 5 MHz) bandwidth.”³⁵ The Commission further explained that SMR technology held the potential to permit SMR operators to offer services that are “nearly identical to those offered by both cellular and broadband PCS.”³⁶ Indeed, the Commission was most concerned that SMR carriers might behave anticompetitively by accumulating both a significant amount of SMR spectrum (more than 5 MHz) and 40 MHz of PCS licenses (a 30 MHz block and a 10 MHz block).³⁷ The amount of spectrum for which Cingular seeks a waiver is well below this 5 MHz threshold and also is significantly below the 2.5 MHz that Leap Wireless contends is necessary for its

²⁹ Accordingly, contrary to Leap Wireless's contention and unlike BellSouth's earlier request, Cingular has met its burden of establishing the existence of special circumstances that differentiate it from other entities that might seek waiver of the cap. *See* Leap Wireless Comments at 1; *see also* BellSouth Memorandum Opinion and Order, 12 FCC Rcd at 14038 ¶ 11.

³⁰ *See* Waiver Request at 2, 10.

³¹ *See id.* at 8-9.

³² *See id.* at 2; Reply Comments at 1.

³³ *See* Waiver Request at 2, 6-7; Reply Comments at 1-2.

³⁴ *See* Waiver Request at 8; Reply Comments at 2.

³⁵ *See* Implementation of Sections 3(n) and 332 of the Communications Act, GN Docket No. 93-252, *Third Report and Order*, 9 FCC Rcd 7988, 8105-8106, 8108-8110 ¶¶ 252, 258-64 (1994) (“*CMRS Third Report and Order*”).

³⁶ *CMRS Third Report and Order*, 9 FCC Rcd at 8109 ¶ 261. The Commission continued to hold this conclusion in 1997, and observed that technological innovation might drive cellular, broadband PCS, and SMR toward convergence of similar service offerings. *See* BellSouth Memorandum Opinion and Order, 12 FCC Rcd at 14040 ¶ 14. At that time, the Commission concluded that the anticipated convergence of data, voice, and other services was one factor weighing against BellSouth's request that the Commission carve out all spectrum used for data-only services from the scope of the cap. *Id.*

³⁷ *CMRS Third Report and Order*, 9 FCC Rcd at 8109-8110 ¶¶ 262-63.

broadband PCS operations in many markets.³⁸ Thus, Cingular has shown that the amount of spectrum involved in Cingular's Waiver Request is *de minimis* in the context of the CMRS spectrum cap.³⁹ Therefore, given the relatively small amount of spectrum involved here, considered together with the technically distinct network technologies and the different natures of the spectrum bands, application of the rule would be inequitable.

13. Cingular has also sufficiently demonstrated that the alternatives available to it – that is, either divesting between 0.25 and 1.5 MHz of SMR spectrum or disaggregating a similar amount of cellular or PCS spectrum in each market – are unreasonable or impractical under the circumstances.⁴⁰ Requiring Cingular Interactive to divest 900 MHz SMR spectrum in particular markets would have the adverse impact of creating gaps in Cingular Interactive's provision of nationwide mobile data services, which could not be remedied by substituting services provided over Cingular's cellular or PCS bands because Cingular's cellular/broadband PCS network is technically incompatible with that of Cingular Interactive.⁴¹ Similarly, having Cingular disaggregate up to 1.5 MHz of spectrum from its broadband PCS or cellular licenses (the amount of spectrum that would otherwise be covered by the Waiver Request) is difficult because, as a practical matter, there is little if any market for this particular spectrum in such small amounts.⁴² We note that, to date, no broadband PCS or cellular licensee has disaggregated such small amounts of spectrum. We note, further, that other licensees holding, or seeking to hold, as much as 45 MHz of spectrum in broadband PCS and cellular licenses would not be potential purchasers of such spectrum because acquiring such spectrum could cause them, instead of Cingular, to exceed the cap's limits. Likewise, we are persuaded by Cingular's argument that it is unlikely that it could acquire, in the secondary market, disaggregated PCS licenses covering, for example, 8.5 MHz of spectrum, given that a 10 MHz broadband PCS licensee selling such an amount would be left holding a license with a very small amount of spectrum that, standing alone, would be of significantly diminished value.⁴³

14. For all of these reasons together, we find that grant of Cingular's Waiver Request is in the public interest. Accordingly, we grant Cingular's Waiver Request.⁴⁴

³⁸ See Leap Wireless Comments at 4.

³⁹ We note that BellSouth made no attempt to demonstrate, in its 1996 waiver request, that the amount of spectrum involved was *de minimis*. See *BellSouth Waiver Request*; see also *BellSouth Corp. v. FCC*, 162 F.3d at 1225 (court noted that BellSouth had not raised a *de minimis* argument in its waiver request, and that, accordingly, based on the record before it, the Commission need not have addressed such an argument when rejecting BellSouth's request).

⁴⁰ In its earlier waiver request, BellSouth did not explain why divestiture or disaggregation were unreasonable or impractical options. See *BellSouth Memorandum Opinion and Order*, 12 FCC Rcd at 14038 ¶ 11; see also *BellSouth Corp. v. FCC*, 162 F.3d at 1225 n.9 (court noted that BellSouth had not presented arguments relating to divestiture or disaggregation).

⁴¹ See Waiver Request at 11.

⁴² *Id.* at 11-12.

⁴³ *Id.* at 12. Although a 30 MHz broadband PCS or a cellular licensee would not face as large a diminution in the value of its remaining spectrum, removal of 10 MHz licensees (and broadband PCS C block licensees) as potential sellers significantly restricts the purchase options available to Cingular.

⁴⁴ In granting this Waiver Request, we also grant Cingular's request for waiver of Section 1.925(b)(1). See Letter from L. Andrew Tollin and Craig E. Gilmore, Counsel for Cingular Wireless LLC, to Magalie Roman Salas, Secretary, Federal Communications Commission, at 1 (filed Mar. 7, 2001) ("Cingular Cover Letter"); see also Leap Wireless Comments at 1 n. 2 (opposing request for waiver of § 1.925(b)(1)). Section 1.925(b)(1) of the Commission's rules requires that all requests for waiver of rules associated with licenses or applications in the Wireless Radio Services be filed on FCC Form 601, 603, or 605. See 47 C.F.R. § 1.925(b)(1). Cingular explains

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15. In filing its Waiver Request, Cingular did not submit any filing fees. It contends that no filing fee is applicable because it requests waiver of a general CMRS rule under Part 20 of the Commission's rules, rather than waiver of a service-specific rule for the SMR service under Part 90 of the Commission's rules.⁴⁵ To the extent the Commission determines otherwise, however, Cingular requests waiver of Section 1.1102(6) of the Commission's rules.⁴⁶ Section 1.1102(6) requires land mobile licensees, including SMR licensees, to pay a filing fee of \$145 per license for which waiver is sought.⁴⁷ Specifically, Cingular argues that a waiver of the fee filing requirement is warranted in this instance because the request is generic in nature and is not associated with any specific licenses, the number of licenses affected by the waiver cannot be quantified, and the primary reason for the waiver is to allow Cingular to acquire cellular and PCS spectrum, which is exempt from a fee requirement.⁴⁸ We are not persuaded by Cingular's reasoning. In its Waiver Request, Cingular asks that the Commission exclude up to 1.5 MHz of SMR spectrum used by Cingular Interactive from the CMRS spectrum cap. Thus, the substantive rule concerning which Cingular seeks waiver applies to Cingular Interactive and its use of 900 MHz SMR spectrum. Furthermore, the fee is capable of determination. Although Cingular cannot currently calculate a fee with respect to 900 MHz SMR spectrum covered by the waiver that it might acquire in the future, Cingular can calculate the required fee for all 900 MHz SMR licenses it currently holds and uses in connection with its stand-alone, data-only system. In addition, Cingular has failed to establish sufficient grounds for waiving the fee by establishing either "good cause" or how such a waiver would promote the public interest.⁴⁹ We note that a license search in the Universal Licensing System conducted on the date of this order reflects that there are 103 active 900 MHz SMR authorizations licensed to Cingular Interactive. Accordingly, we condition grant of Cingular's Waiver Request on the timely payment of a filing fee of \$14,935, plus a late penalty⁵⁰ of \$3,733.75, within 30 days of release of this order.⁵¹

IV. ORDERING CLAUSES

16. Accordingly, IT IS ORDERED that pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 303(r), and Section 1.925(b)(3) of the Commission's rules, 47 C.F.R. § 1.925(b)(3), Cingular Wireless LLC's request for waiver of the Commercial Mobile Radio Services spectrum cap rule, 47 C.F.R. § 20.6, with respect to up to 1.5 MHz of 900 MHz Specialized Mobile Radio spectrum, filed March 7, 2001, is GRANTED, subject to the conditions set forth in the request.

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that it filed the Waiver Request manually in pleading format, instead of using Form 601 (and the associated electronic filing), because Form 601 does not appear to contemplate waivers that are not license-specific. While Section 1.925(b)(1) requires that requests for waiver of the Commission's rules be filed on FCC Form 601, 603, or 605, those forms do not provide for the filing of stand-alone requests for waiver that are not filed in connection with another application purpose (*e.g.*, modifications, amendment, renewal, etc.). Therefore, under these circumstances we grant Cingular's request for waiver of § 1.925(b)(1).

⁴⁵ Cingular Cover Letter at 1-2.

⁴⁶ *See id.*; 47 C.F.R. § 1.1102(6). Section 1.1102 of the Commission's rules sets forth the schedule of charges for applications and other filings in the wireless telecommunications services.

⁴⁷ 47 C.F.R. § 1.1102(6).

⁴⁸ Cingular Cover Letter at 1-2.

⁴⁹ *See* 47 U.S.C. § 158(d)(2).

⁵⁰ Under Section 1.1116(b) of the Commission's rules, a penalty fee of 25% is charged when a filing is not accompanied by sufficient fees until after 30 days of the filing. 47 C.F.R. § 1.1116(b).

⁵¹ Cingular is being billed separately for the necessary filing fees and late penalty.

17. IT IS FURTHER ORDERED that pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 303(r), and Section 1.925(b)(3) of the Commission's rules, 47 C.F.R. § 1.925, Cingular Wireless LLC's request for waiver of the filing requirement, 47 C.F.R. § 1.925(b)(1), is GRANTED.

18. IT IS FURTHER ORDERED that pursuant to Sections 4(i), 8(d)(2), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 158(d)(2), and 303(r), and Section 1.925(b)(3) of the Commission's rules, 47 C.F.R. § 1.925(b)(3), Cingular Wireless LLC's request for waiver of the filing fee requirement associated with Specialized Mobile Radio spectrum, 47 C.F.R. § 1.1102(6), is DENIED.

19. IT IS FURTHER ORDERED that pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 303(r), and Section 1.925(b)(3) of the Commission's rules, 47 C.F.R. § 1.925(b)(3), the Opposition of Leap Wireless International, Inc., filed April 3, 2001, is DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas
Secretary