

DA 98-1722

Released: August 28, 1998

**VIA FACSIMILE AND FEDERAL EXPRESS**

William J. Franklin, Esq.  
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Suite 800  
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Washington, DC 20005-3814

RE: Air Spectrum III, Inc.  
220 MHz Auction (No. 18)

Dear Mr. Franklin:

This letter is in response to your request for a waiver of the Commission's rules in order to permit acceptance of the FCC Form 175 you filed on behalf of your client, Air Spectrum III, Inc. ("Air Spectrum") to participate in the Phase II 220 MHz Service auction. Identifying a series of technical problems you encountered in attempting to file the short-form application electronically, you urge the Commission to accept as valid a telecopied signed version that you sent to the Gettysburg, Pennsylvania, location prior to the short-form filing deadline (5:30 p.m. ET on August 17, 1998).

Having reviewed the facts and circumstances of your situation in great detail, we conclude that a grant of your waiver request is not in the public interest. Our rules explicitly require that manually-filed FCC Form 175s must contain an original hand-written signature and must be received at Gettysburg, Pennsylvania by the short-form filing deadline. Your telecopied signed version failed to contain an original hand-written signature and your subsequently-filed FCC Form 175, which did contain an original hand-written signature, was received on August

21, 1998 -- four days after the short-form filing deadline.<sup>1</sup> Moreover, when you began to experience difficulties in making an electronic filing, you could have taken steps to meet the filing requirements by concurrently filing manually -- as permitted by our rules. We believe that strict adherence to the filing rules is critical to the integrity of the auction, and conclude it is inappropriate to grant your waiver request.<sup>2</sup> This action is taken in accordance with delegated authority pursuant to 47 C.F.R. 0.331.

Sincerely,

Amy J. Zoslov  
Chief, Auctions and Industry Analysis Division  
Wireless Telecommunications Bureau

cc: Douglas B. Sinclair

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<sup>1</sup> We note that electronic filers meet this requirement by virtue of the announcement by the Wireless Telecommunications Bureau that electronic filing is an option in the Phase II 220 MHz Service auction. *See* "Auction of the Phase II 220 MHz Service Licenses, Auction Notice and Filing Requirements for 908 Licenses Consisting of Economic Area (EA), Economic Area Grouping (EAG), and Nationwide Licenses, Scheduled for September 15, 1998, Minimum Opening Bids and Other Procedural Issues," *Public Notice*, DA 98-1010 (rel. May 29, 1998) at 12. *See also Procedures For Electronic Filing of Applications in the Private Radio Services, Order*, 9 FCC Rcd 174 (PRB 1994).

<sup>2</sup> *See First Auction of Interactive Video and Data Service (IVDS) Licenses, Order*, 10 FCC Rcd 5415 (Wireless Tel. Bur. 1995) (waiver of short-form filing deadline denied when manually-filed application received 3 minutes late).