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**Celtronix Telemetry, Inc.**
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June 18, 1999

VIA HAND DELIVERY
Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
The Portals
TW-A325
445 12th Street, SW
Washington, D.C. 20554

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JUN 18 1999
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Notice of Ex Parte Meeting
218-219 MHZ Service
WT Docket No. 98-169
RM-8951

Dear Ms. Salas:

On Thursday, June 17, 1999, Celtronix Telemetry, Inc. ("Celtronix") made an ex parte presentation concerning the referenced proceeding during a meeting with D'wana Terry, Chief of the Public Safety and Private Wireless Division of the Wireless Telecommunications Bureau (WTB), and WTB staff members Gary Michaels and Jamison Prime. Mr. Tim Early of the Technology Applications Center of Old Dominion University accompanied Celtronix. In the meeting, Celtronix advanced positions summarized in the enclosed document which was distributed at the meeting.

Very truly yours,

Richard S. Myers, President
Celtronix Telemetry, Inc.

Enclosure
cc (w/encl): Parties of record to rulemaking proceeding

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*Celtronix Telemetry, Inc.*
*FCC Meeting*
*17 June 1999*

## A. CONSTRUCTION & TECHNICAL ISSUES

**Introduction.** The 218-219 MHz service holds great potential for providing wireless data services, especially in niche markets. New rules for this service should incentivize and enhance the ability of 218-219 MHz licensees to do so. Issues related to license payments should also be resolved.

The top-9 markets have been a major drag on the development of the 218-219 MHz service. Licensees in these markets have done virtually nothing with their licenses. Only 5 of the 18 licensees in the top markets participated in the rulemaking. Celtronix has constructed a system in Norfolk-Virginia Beach. In the initial phase of development of new spectrum, construction and testing leads to commercial viability, not vice versa. Basically, the top 9 markets -- with nothing invested in their licenses -- are sitting on their spectrum waiting for others to develop it in other markets in a manner that guarantees profits.

**Celtronix proposals**:

1. **License term**. A new 10-year license term should start on January 1, 2000 and run to January 1, 2010. This new term would apply to all licensees, including those in the top-9 markets. Construction benchmarks of 1-year (10%), 3-year (30%) and 5-year (50%) would have to be met, or the license would cancel. A substantial performance requirement would have to be met for license renewal. Any licensee who met the 50% benchmark in the first year would be eligible for a bidding credit of 35% for a license in any adjacent market in an auction to be held by January 31, 2001.

2. **The "anti-trafficking" rule should not be lifted.**

3. **Technical/Service Rules**

(A) **Parity with AMTS** -- the 218-219 MHz service rules should be no more stringent than those for AMTS which operate in a band (216-218 MHz) that is even closer to TV Channel 13 (210-216 MHz);

(B) **Duty cycle** -- with a 2 MHz guardband between the 218-219 MHz service and TV Channel 13 and interactive television no longer the primary application for this service, there is no justification for the duty cycle and it should be

eliminated for all fixed and mobile units except those placed directly on top of TV receivers (Celtronix has a petition for waiver pending to permit operation of 1 watt mobile units with no duty cycle);

(C) **Automatic Power Control** -- retain automatic power control only for fixed RTUs operating above 200 milliwatts;

(D) **Regulatory status** -- licensees should have the flexibility to elect between private carrier and common carrier status;

(E) **Common ownership** -- cell sectorization can expand system capacity of 218-219 MHz systems; common ownership of Segment A and Segment B will stifle innovation and competition in 218-219 MHz equipment and services and should not be allowed; and

(F) **Partitioning/Disaggregation** -- these are feasible and should be permitted.

## B. PAYMENT ISSUES

**1. Grace Periods**. This issue creates substantial financial uncertainty for Celtronix. Its ability to obtain payment deadline extensions is very important if it is to develop and expand 218-219 MHz services.

**Celtronix Proposal:** The following proposal would prove satisfactory to Celtronix to resolve this issue. A ten-year payment schedule would start on January 1, 2000, with interest-only payments during the first 4 years and principal for years 5-10.

**2. The Bidders Case**. The Commission afforded a non-constitutional bidder's preference in the 1994 auction that allowed preferred bidders to pay 25% less for their licenses than those in the non-preferred class. This case creates a lot of uncertainty in Celtronix's business planning and projections. The 25% refund it has requested would fund the cost of building out its system and operating it for a year. This is a significant issue for a bona fide small tech-start up company that is trying to launch a commercial service and raise capital.

**Celtronix Proposal:** The amount of the winning bid made by a non-preferred bidder should be reduced by 25%. Across-the-board solutions will not resolve the constitutional issue. The non-preferred class must have a class-specific remedy.