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215 West Washington Avenue
Boyetown, PA 17002

888-249-4438
FAX: 610-667-1111

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

July 14, 2000

Magalie Roman Salas
Office of the Secretary
Federal Communications Commission
445 12th Street, SW Room TW A325
Washington, DC 20554

Attn: Audrey Bashkin
Auctions & Industry Analysis Division – Room 4A-664

Re: **Ex Parte Comments of Conestoga Wireless Company**
WT Docket No. 97-82

Dear Ms. Salas:

Pursuant to Section 1.1206 of the Commission's Rules and FCC Public Notice, DA 00-1531 (*rel.* July 7, 2000), Conestoga Wireless Company ("Conestoga") hereby submits an original and two (2) copies of its written *ex parte* comments on the Commission's proposed changes to the eligibility requirements and other rules pertaining to the future re-auction of C- and F-Block broadband PCS licenses ("Auction No. 35").

In brief, Conestoga urges the Commission to provide meaningful opportunities for small businesses and entrepreneurs that seek to participate in the provision of broadband PCS. The Commission should therefore not permit "open" bidding on any F-Block PCS licenses that are made available in Auction No. 35. The Commission may adopt its proposal to reconfigure C-Block spectrum into three 10 MHz C-Blocks, and to permit some "open" bidding on licenses in Tier 1 markets (i.e., BTA markets having 2.5 million pops or greater). However, at least two reconfigured 10 MHz C-Block licenses, if not all three, should be reserved for entrepreneurs and small businesses in Tier 2 markets. Conestoga agrees with numerous commentors in WT Docket No. 97-82 that believe the Commission must reserve C- and F-Block spectrum, as much as possible, for entrepreneurs in order to fulfill its obligations under Section 309(j) of the Communications Act.

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Conestoga is a wireless subsidiary of Conestoga Telephone and Telegraph Company, a rural telephone company based in Birdsboro, PA, that serves various less populated communities in Central Pennsylvania. Conestoga participated in each of the Commission's prior auctions involving entrepreneurs' block PCS licenses. In the initial C-Block auction, Conestoga was hindered in its efforts to obtain licenses by the gross overbidding of applicants like NextWave. Conestoga was a successful bidder in subsequent PCS auctions and is rapidly building out its GSM network in the Reading, Pottsville, Sunbury, Williamsport and State College Pennsylvania BTAs. Therefore, Conestoga is a successful entrepreneur and is precisely the kind of entity that Congress sought to involve in advanced telecommunications services. Conestoga is performing exactly as envisioned by Congress and the Commission and is now seeking to complete its PCS business plan by participating in an auction necessitated by the excesses of several original C-Block auction participants.

Conestoga filed comments pursuant to the Commission's March 3, 2000, *Public Notice* (DA 00-504) calling for the lowering of upfront payments and minimum opening bids for Auction No. 35. Conestoga is aware that the Commission has not yet had an opportunity to address these proposals, but trusts it will do so in advance of the rescheduled auction so that entrepreneurs such as Conestoga will have greater bidding flexibility and a realistic opportunity to compete when bidding against incumbent cellular licensees and other well-established wireless carriers.

In conjunction with the need for the Commission to reduce its proposed upfront payment and minimum opening bid amounts for Auction No. 35, Conestoga believes the Commission should absolutely reserve all F-Block licenses for qualified small businesses and entrepreneurs. To date, the F-Block has been a shining example of success, with many entrepreneurs, including Conestoga, constructing and/or operating systems in smaller markets that operate using D-, E- or F-Block spectrum.⁽¹⁾ Conestoga also agrees with a majority commentors in Docket 97-82 who support reconfiguring the 30 MHz C-Block into three 10 MHz licenses because this will provide successful entrepreneurs with the flexibility to obtain the amount of spectrum they need to supplement their existing holdings consistent with the existing CMRS spectrum cap. However, at least two reconfigured 10 MHz C-Block licenses, if not all three, must be reserved for entrepreneurs and small businesses in Tier 2 markets. The Commission must not ignore its statutory obligation to promote opportunities for small businesses and rural telephone companies.

¹ Conestoga notes that it was the high bidder in the original DEF-Block PCS auction ("Auction No. 11") for the F-Block PCS license in the Sunbury, Pennsylvania BTA (Market D437). Conestoga assigned this license to MFRI, Inc. ("MFRI") in exchange for MFRI's D-Block license in the same market so that it would have contiguous D-Block coverage in its eastern Pennsylvania markets.

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With regard to the Commission's other proposals for Auction No. 35 and subsequent C- and F-Block PCS auctions, the Commission should consider providing additional bid credits of at least 25% to entrepreneurs and small businesses when bidding for licenses that are subject to "open" bidding. This will not prejudice large companies in any way because, as a practical matter, these entities will have the resources to outbid entrepreneurs in every instance. Conestoga also believes that licenses trafficking and speculative bidding will be reduced if C- and F-Block licensees are required to demonstrate they have met the 5-year construction benchmark before they are permitted to assign their license(s) to non-entrepreneurs. Finally, consistent with its previous comments on this issue, Conestoga believes the Commission should retain its current CMRS spectrum cap, and not modify or eliminate this important restriction for purposes of Auction No. 35. The CMRS spectrum cap provides an important limitation on the ability of large companies to warehouse spectrum and thus promotes competition.

Respectfully submitted,



William D. Chamblin III
President
Conestoga Wireless Company

WDC:dm