



**United States Department of Agriculture
Rural Development**

September 10, 2010

The Honorable Julius Genachowski
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Open Range Request for Use of ATC

Dear Julius:

Your staff has requested of me the Rural Utilities Service's ("RUS") view regarding Open Range Communications, Inc.'s ("Open Range") continued use of the Ancillary Terrestrial Component ("ATC") spectrum. This issue has a major impact on RUS because Open Range's business plan for building out its network is predicated on the continued use of the Globalstar, Inc., spectrum.

At present, RUS' \$266 million loan to Open Range, which covers more than 540 communities in rural America, is based entirely on the use of that particular ATC spectrum. The feasibility of such a large loan, covering 17 states, relies heavily on the revenues generated from those communities, such that build-out of all communities is crucial to the success of the loan.

Moreover, the Open Range loan represents the single largest loan of the RUS Broadband Program. A loan failure of a large magnitude could significantly affect the subsidy rate of the program and necessitate larger Congressional appropriations, or would otherwise result in what could be a major reduction of the agency's present lending levels. Such a result could severely curtail the program and would be contrary to the mission of the RUS and the Commission's shared goal of expanding broadband throughout the U.S., especially during this time of constricted private capital.

As such, it is the view of RUS that if the Commission grants Open Range full use of the ATC spectrum for all 540 communities for the life of the loan, or enables Open Range to develop a comparably effective business plan, we can continue to provide financing without placing our entire program at risk. Without such a commitment from the Commission, the current business plan upon which the loan was approved is no longer feasible. Enclosed for your information is a copy of our July 14, 2010, letter to Open Range which lays out the legal position of the RUS with regard to Open Range's use of the spectrum.

1400 Independence Ave, SW · Washington, DC 20250-0700
Web: <http://www.rurdev.usda.gov>

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The Honorable Julius Genachowski
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Should the Commission require any further information in assisting its decision, please do not hesitate to contact me or my staff at any time.

With warmest regards,

A handwritten signature in black ink, appearing to read "Jonathan", written in a cursive style.

Jonathan Adelstein
Administrator
Rural Utilities Service

Enclosure



United States Department of Agriculture
Rural Development

July 14, 2010

Mr. William S. Beans, Jr.
Chief Executive Officer
Open Range Communications Inc.
8100 East Maplewood Avenue
Suite 200
Greenwood Village, Colorado 80111

Dear Mr. Beans:

This notice is issued pursuant to Sections 7.1(b)(3) and 7.4(a) of the Loan and Security Agreement between Open Range Communications Inc. ("Open Range") and the United States of America, acting through the Rural Utilities Service (RUS), dated as of January 9, 2009. In its June 2, 2010, letter, RUS notified Open Range of its intent to suspend further advances if Globalstar Licensee LLC ("Globalstar") did not meet its obligations under Federal Communications Commission Order 08-254 by July 1, 2010.

Despite the fact that the Commission has granted Globalstar a 30-day extension, RUS' June 2nd determination that the continued availability of the spectrum will be suspended remains valid pending further action by the Commission. As such, under Section 7.4(a) of the Loan and Security Agreement, all future advances are hereby suspended on the grounds that Globalstar's non-compliance constitutes a Material Adverse Effect on Open Range's ability to perform its obligations.

Moreover, subject to Section 7.4(b)(3) of the Loan and Security Agreement, the RUS hereby provides notice of its intent to terminate any remaining, unadvanced funds on the Loan if Open Range has not provided an alternate agreement or agreements providing for the spectrum necessary to execute its business plan and perform its obligations under the Loan and Security Agreement as RUS requested in the June 2nd letter. Such agreements must be presented to RUS for consent before they can be entered into.

If you have any questions, please contact our office at (202) 690-4673.

Sincerely,

A handwritten signature in black ink, appearing to read "Kenneth Kuchno". The signature is written in a cursive style and is positioned above the printed name and title.

KENNETH KUCHNO, Director
Broadband Division
Telecommunications Program
Rural Utilities Service

cc: Mr. Fritz Hobbs, Chairman of the Board

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