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ATTACHMENT

May 25, 2010

Ms. Mindel De La Torre
Chief, International Bureau
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: **Request for Special Temporary Authority**
Globalstar Licensee LLC – Application for Modification of License for Operation
of Ancillary Terrestrial Component Facilities
File No. SAT-MOD-20091214-00152

Dear Ms. De La Torre:

On December 14, 2009, Globalstar Licensee LLC (“Globalstar”) filed a request for an extension of the deadlines by which it must come into compliance with certain of the Ancillary Terrestrial Component (“ATC”) “gating criteria.”^{1/} The first deadline that is the subject of its Request, July 1, 2010, is now approaching and, as discussed below, Globalstar’s terrestrial partner, Open Range Communications, Inc. (“Open Range”) is obligated to provide its customers with 30-days written notice of any suspension of service. In light of these facts, out of an abundance of caution, Globalstar hereby requests special temporary authority pursuant to section 25.120 of the Commission’s rules,^{2/} to enable Open Range to continue to provide rural broadband service using Globalstar’s MSS spectrum without interruption after July 1, 2010 (1) until the Commission issues an order granting its pending Extension Request, or (2) alternatively, in the event the Commission issues an order denying Globalstar’s Extension Request (which it should not for all the reasons described in Globalstar’s Request), for a period of 35 days following the release date of the Commission’s order, to enable Open Range to comply with the 30-day notice requirement.^{3/}

^{1/} See Globalstar Licensee LLC – Application for Modification of License for Operation of Ancillary Terrestrial Component Facilities, File Nos. SAT-MOD-20080516-00106 and SAT-MOD-20091214-00152, Request for Modification of Waiver Conditions (filed Dec. 14, 2009) (“Extension Request”).

^{2/} 47 C.F.R. § 25.120.

^{3/} Globalstar filed its Extension Request on December 14, 2009, it was placed on public notice on March 5, 2010, and the pleading cycle closed on April 22, 2010. Given the length of time that the Request has been pending, Globalstar is hopeful that the Commission will act on the Request in advance of July 1, 2010. But even if the Commission acts soon thereafter, the

BACKGROUND

On October 31, 2008, the Commission granted Globalstar a temporary waiver of certain of the gating criteria contained in section 25.149(b) of the Commission's rules to allow Globalstar and Open Range to proceed with the deployment of their MSS/ATC rural broadband service before Globalstar's second-generation satellite constellation is launched and its ground network becomes operational.^{4/} Under the terms of the *WiMAX ATC Order*, Globalstar and Open Range were permitted to begin offering service immediately, but must temporarily cease providing service in the future if certain conditions have not been met. Among other requirements, Globalstar and Open Range must suspend service as of July 1, 2010, unless at that time Globalstar has launched and placed into operation a sufficient number of its second-generation satellites to ensure that its two-way MSS service meets the coverage requirements of section 25.149(b)(1)(iii) of the Commission's rules and that it has at least one in-orbit spare capable of operating in the S-band.^{5/} On December 15, 2008, in accordance with the terms of the *WiMAX ATC Order*, Globalstar submitted a Report to the Commission explaining how it and Open Range planned to notify their customers of the possibility that Open Range might be required to terminate service in the event that Globalstar was unable to comply with the *Order's* conditions.^{6/} As indicated in the Report, Open Range has committed to provide its customers with 30-days notice prior to any suspension of service.^{7/}

requested STA would not be needed for more than 60 days, and therefore it need not be placed on public notice before it may be granted. *See* 47 C.F.R. § 25.120(b)(3).

^{4/} *See* Globalstar Licensee LLC – Application for Modification of License for Operation of Ancillary Terrestrial Component Facilities, *Order and Authorization*, 23 FCC Rcd 15975 (2008) (“*WiMAX ATC Order*”).

^{5/} *WiMAX ATC Order* at ¶ 41. Globalstar and Open Range also must suspend service as of July 1, 2011, unless at that time Globalstar is providing two-way MSS service to customers via a dual-mode MSS-ATC terminal. *Id.*

^{6/} *See* Letter from Globalstar Licensee LLC to Helen Domenici, Chief, International Bureau (filed Dec. 11, 2008).

^{7/} *Id.* *See also* Open Range – Subscriber Terms and Conditions, *available at* <http://www.monigle.net/openrange/subscriberterms.html> (“The U.S. Federal Communications Commission (“FCC”) has required that we suspend our Services to you in the event that Globalstar, Inc., Open Range’s business partner and the operator of the Globalstar Mobile Satellite System, fails to comply with certain regulatory requirements as of July 1, 2010 and July 1, 2011. We expect that any such suspension, if it occurs, will be temporary. We will provide you with a least thirty (30) days’ notice prior to suspending your service.”)

On December 14, 2009, Globalstar sought a 16-month extension of the milestones contained in the *WiMAX ATC Order* because of unforeseeable circumstances beyond Globalstar's control that have resulted in a delay in the deployment of its second-generation satellite constellation, which is now scheduled to begin later this year.^{8/} Although the pleading cycle in response to Globalstar's Extension Request has now closed,^{9/} the Request remains pending. In order to comply with the 30-day notice requirement, unless the Commission issues an order granting Globalstar's Request by June 1, 2010, Open Range may be required out of an abundance of caution to provide its customers with notice on or before that date that their service may be suspended effective July 1. Such notice would cause considerable consumer and marketplace confusion even if the Commission ultimately grants the pending Extension Request. To avoid such confusion, as well as the considerable disruption to customers that would result from having to turn off their service in the event the Commission does not act by July 1, Globalstar requests special temporary authority to enable Open Range to continue to provide its MSS/ATC rural broadband service until the Commission issues an order granting Globalstar's Extension Request. In the alternative, in the event the Commission issues an order denying the Extension Request (which, as Globalstar and Open Range have shown, would not serve the public interest) Globalstar and Open Range request special temporary authority for a period of 35 days from the release date of the order, in order to enable Globalstar and Open Range to provide the requisite notice to their customers that their service will be suspended.^{10/}

DISCUSSION

Grant of the requested STA would serve the public interest. In the *WiMAX ATC Order*, the Commission concluded that authorizing Globalstar and Open Range to deploy service prior to Globalstar coming into full compliance with the ATC gating criteria would best promote the public interest by enabling the companies to begin offering state-of-the-art, affordable broadband service to more than 500 rural communities, many of which are unserved or underserved, as quickly as possible, and by allowing Open Range to make use of a \$267 million loan commitment from the RUS that might otherwise expire.^{11/} As Globalstar and Open Range have

^{8/} Globalstar's replacement constellation is now scheduled to be launched beginning in late-September or early-October of this year.

^{9/} On April 5, 2010, Iridium Satellite LLC ("Iridium") filed a petition to deny the Request. *See* Petition To Deny of Iridium Satellite LLC (Apr. 5, 2010). On April 15, 2010, Globalstar filed an Opposition to Iridium's Petition, *see* Opposition of Globalstar To Petition To Deny (filed Apr. 15, 2010) ("Globalstar Opposition"), and on April 22, 2010, Iridium filed a Reply. *See* Reply Comments in Support of Petition To Deny of Iridium Satellite LLC (filed Apr. 22, 2010). In addition, Open Range filed comments in support of the Request. *See* Comments of Open Range Communications, Inc. (filed Apr. 5, 2010) ("Open Range Comments").

^{10/} The five additional days are necessary to ensure that Open Range has adequate time to prepare and mail the suspension notice to its subscribers.

^{11/} *See WiMAX ATC Order* at ¶¶ 1, 7.

demonstrated, as of mid-April 2010, Open Range had deployed rural broadband service in thirteen markets in the state of Colorado, covering a total population of approximately 212,690 people.^{12/} Since then, Open Range has continued to expand its footprint, and today it is offering service in additional rural markets in Colorado, as well as in Alabama, Arkansas, Georgia, Pennsylvania, and Wisconsin, covering a total population of approximately 439,395 people. As of June 2010, Open Range anticipates offering service in 44 markets covering a total population of approximately 665,070 people, and as of July 2010, Open Range anticipates offering service in 88 markets covering a total population of approximately 1,286,095 people. Many of the customers in these markets previously did not have access to broadband services, while others who did find existing broadband service to be prohibitively expensive.^{13/} Accordingly, Globalstar and Open Range currently are providing broadband service to many customers who otherwise would not be able to obtain comparable service now or in the foreseeable future. Further, as Globalstar and Open Range also have shown, the relief Globalstar has requested in its pending Extension Request would advance the goals set forth in the *National Broadband Plan* and is consistent with the Plan's recommendation that the Commission grant MSS licensees additional flexibility to encourage and facilitate their ability to deploy broadband service to unserved and underserved areas.^{14/}

Without the requested STA, Open Range may have to notify its customers on or before June 1st that their service may be terminated, regardless of whether or not the Commission ultimately grants the Extension Request. Requiring such a notification would cause substantial confusion and concern for Open Range's customers – many of whom, as noted, have no other options available for obtaining broadband service. Such confusion and uncertainty would be particularly unfortunate because it would prove entirely unnecessary if the Commission grants the Extension Request. Further, if the Commission did not act on the Request prior to July 1, 2010, Open Range could be forced to suspend service to existing customers, causing them significant disruption. Accordingly, Globalstar respectfully requests that the Commission grant it and Open Range special temporary authority to continue to provide rural broadband service using Globalstar's MSS spectrum without interruption after July 1, 2010 (1) until the Commission issues an order granting its pending Extension Request or (2) alternatively, in the event the Commission issues an order denying Globalstar's Extension Request, for a period of 35 days following the release date of the Commission's order to enable Open Range to comply with the 30-day notice requirement.

^{12/} See Globalstar Opposition at 6; Open Range Comments at 2.

^{13/} *Id.* at 3-4.

^{14/} See Globalstar Opposition at 7-9; Open Range Comments at 6. See also "Connecting America: The National Broadband Plan" (Mar. 16, 2010) ("*National Broadband Plan*") at 87-88.

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Should there be any questions concerning this matter, please contact William Adler or Globalstar's counsel, Samir Jain of WilmerHale.

Respectfully submitted,

/s/ Anthony J. Navarra

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