



September 10, 2021

**BY ELECTRONIC FILING**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
45 L Street, NE  
Washington, DC 20554

Re: Space Exploration Holdings, LLC, IBFS File Nos. SAT-LOA-20200526-00055  
and SAT-AMD-20210818-00105

Dear Ms. Dortch:

In the above-referenced application, as amended, Space Exploration Holdings, LLC (“SpaceX”) seeks authority to operate one of two different—and mutually exclusive—configurations of its “second-generation” NGSO system. Kuiper Systems LLC (“Kuiper”) has correctly noted that this request is fundamentally inconsistent with Part 25 of the Commission’s rules, such that SpaceX’s amended application should not be accepted for filing.<sup>1</sup>

Instead of addressing the deficiencies in its amended application or responding to the merits of Kuiper’s arguments, SpaceX once again tries to deflect attention from its own failures by claiming that others are merely attempting to “slow down competition”<sup>2</sup> and engaging in “procedural gamesmanship.”<sup>3</sup> The Commission should not countenance SpaceX’s attempts to circumvent the procedural requirements that apply to *every* satellite applicant. Kuiper is hardly alone in observing that SpaceX’s amendment is defective at the most basic level.

Viasat broadly agrees with the points raised in Kuiper’s previous letters, which give the lie to SpaceX’s erroneous suggestion that Kuiper cannot “point to a single rule that prohibits

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<sup>1</sup> See Letter from Kuiper Systems LLC to FCC, IBFS File Nos. SAT-LOA-20200526-00055 and SAT-AMD-20210818-00105 (Aug. 25, 2021); Letter from Kuiper Systems LLC to FCC, IBFS File Nos. SAT-LOA-20200526-00055 and SAT-AMD-20210818-00105 (Sep. 8, 2021).

<sup>2</sup> See Letter from SpaceX to FCC, IBFS File Nos. SAT-LOA-20200526-00055 and SAT-AMD-20210818-00105 (Aug. 31, 2021).

<sup>3</sup> Letter from SpaceX to FCC, IBFS File Nos. SAT-LOA-20200526-00055 and SAT-AMD-20210818-00105 (Sep. 9, 2021).

SpaceX from providing the Commission with extra information about an alternative configuration for its system.”<sup>4</sup> Indeed, Kuiper has already explained that Sections 25.112 and 25.114 of the Commission’s rules preclude an applicant from submitting ill-defined proposals and otherwise requiring the Commission and third parties to expend resources evaluating and addressing system designs that the applicant has no intention to implement.

Viasat takes this opportunity to expand on Kuiper’s prior analysis in two respects:

- **First**, in 2003 the Commission took decisive action to ensure that satellite operators may not submit applications that include multiple, “alternative” system proposals. More specifically, the Commission eliminated language in Section 25.114(b) specifying that operators could incorporate, within their applications, “alternatives that increase flexibility in accommodating the satellite in orbit.”<sup>5</sup> This language had previously allowed *GSO* operators to apply for multiple orbital locations within a single application under the then-existing “fungibility policy.” But in the *Space Station Licensing Reform Order*, the Commission eliminated that policy and related rule language and further clarified that the policy had “never been applicable to NGSO-like satellite applications” in any event.<sup>6</sup> As if there were any doubt, the Commission subsequently confirmed that the changes implemented in 2003 were intended to preclude applicants from proposing “alternatives” in a single application.<sup>7</sup>
- **Second**, the Commission has separately prohibited a given operator from simultaneously proposing two different NGSO networks—or network configurations—in the same frequency band. More specifically, Section 25.159(b) of the Commission’s rules provides that “[a]pplicants with an application for one NGSO-like satellite system license on file with the Commission in a particular frequency band . . . will not be permitted to apply for another NGSO-like satellite system license in that frequency band.”<sup>8</sup> The Commission has explained that this restriction is necessary to “restrain speculation” by applicants and preserve opportunities for other operators to utilize scarce orbital and spectrum resources.<sup>9</sup> In this case, SpaceX’s proposal for authority to operate with two different and mutually exclusive orbital configurations would remove opportunities for other parties to utilize those scarce resources.

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<sup>4</sup> *Id.* at 1.

<sup>5</sup> *See Amendment of the Commission’s Space Station Licensing Rules and Policies*, Erratum, 18 FCC Rcd 12674, at ¶ 3 (2003).

<sup>6</sup> *See Amendment of the Commission’s Space Station Licensing Rules and Policies*, 18 FCC Rcd 10760, at ¶ 158 (2003) (“*Space Station Licensing Reform Order*”).

<sup>7</sup> *See Comprehensive Review of Licensing and Operating Rules for Satellite Services*, 28 FCC Rcd 12403, at ¶ 85 (2013).

<sup>8</sup> 47 C.F.R. § 25.159(b).

<sup>9</sup> *Space Station Licensing Reform Order* ¶¶ 230-231.

SpaceX's amended application runs afoul of Section 25.114 *and* Section 25.159(b). The Commission can, should, and must dismiss the amended application on that basis.

Respectfully submitted,

/s/

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