Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
The Boeing Company and	)	File Nos. SAT-AMD-20171206-00167
	)	SAT-AMD-20171206-00168
	)	SAT-LOA-20160622-00058
	)	SAT-LOA-20161115-00109
SOM1101, LLC	)	Call Signs: S2966 and S2977
	)	
Applications for	)	
NGSO-Like Satellite Systems in	)	
the Ka-band and V-band Frequencies	)	

REPLY OF O3B LIMITED TO OPPOSITIONS TO PETITIONS TO DENY

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SUMMARY

The proposal to substitute SOM1101 for Boeing as the applicant for authority to launch and operate Ka-band and V-band NGSO systems violates Section 25.159(b) of the Commission's rules because it would result in Greg Wyler having attributable interests in multiple unbuilt NGSO systems in the same frequency bands. Enforcing the Section 25.159(b) limit by denying the Amendments is necessary to promote the Commission's public interest objectives, deter speculative satellite filings, and prevent affiliated NGSO operators from gaming the Commission's spectrum sharing rules. Following denial of the Amendments, the Commission must also dismiss the underlying Boeing applications, as Boeing has made clear that it no longer intends to pursue them.

The Parties attempt to evade the Section 25.159 limits by baselessly claiming that Greg Wyler's role as Founder and Executive Chairman of OneWeb is insufficient to give him a controlling interest in that company. These arguments simply ignore relevant Commission precedent. SOM1101's suggestion that when it adopted Section 25.159(b) the Commission created a new framework to analyze control matters directly conflicts with the Commission's contemporaneous affirmation that it was incorporating into the satellite rules the control standard adopted for competitive bidding situations. That standard is codified in Section 1.2110 and includes an explicit provision that officers and directors are considered to have control. Boeing's assertion that this attribution of control applies to officers and directors collectively and not as individuals is likewise contradicted by the plain language of Section 1.2110 as well as Commission precedent interpreting that provision. Moreover, the undisputed facts confirm Mr. Wyler's active role in managing OneWeb's day-to-day operations.

Contrary to the Parties' contentions, waiving the Section 25.159(b) limit would conflict with the strong public interest objective underlying the rule: deterring speculative NGSO

applications. In addition, grant of the Amendments would allow SOM1101 and OneWeb to manipulate the Commission's NGSO sharing regime to the disadvantage of other unaffiliated NGSO systems. This result would harm competition and add to the risk of speculation by encouraging parties to submit applications for multiple affiliated entities in future NGSO processing rounds so as to secure additional spectrum rights during coordination.

To avoid these harms, the Commission must deny the Amendments and dismiss the underlying Boeing applications.

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REPLY OF O3B LIMITED TO OPPOSITIONS TO PETITIONS TO DENY

O3b Limited ("O3b") submits this Reply to the Oppositions filed by the Boeing Company ("Boeing")[1] and SOM1101, LLC ("SOM1101,"[2] and with Boeing, "the Parties") to the Petitions to Deny submitted by O3b and others regarding the above-captioned amendments and applications. As O3b demonstrated in its Petition,[3] the Parties' proposal to substitute SOM1101 for Boeing as the applicant for authority to launch and operate systems of non-geostationary orbit ("NGSO") satellites operating in Ka-band and V-band frequencies ("the Amendments")[4] clearly

[1] Opposition of the Boeing Company, File Nos. SAT-AMD-20171206-00167 & SAT-AMD-20171206-00168, Feb. 27, 2018 ("Boeing Opposition").
[2] Opposition of SOM1101, LLC to Petitions to Deny, File Nos. SAT-AMD-20171206-00167 & SAT-AMD-20171206-00168, Feb. 27, 2018 ("SOM1101 Opposition").
[3] Petition to Deny of O3b Limited, File Nos. SAT-AMD-20171206-00167 *et al.*, Feb. 12, 2018 ("O3b Petition").
[4] Amendment of the Boeing Company, File No. SAT-AMD-20171206-00167 (the "Boeing V-Band Amendment") to File No. SAT-LOA-20160622-00058, Call Sign S2966 (the "Boeing V-Band Application"); Amendment of the Boeing Company, File No. SAT-AMD-20171206-00168 (the "Boeing Ka-Band Amendment") to File No. SAT-LOA-20161115-00109, Call Sign S2977 (the "Boeing Ka-Band Application").

violates Section 25.159(b) of the Commission's rules[5] because it would result in Greg Wyler having attributable interests in multiple unbuilt NGSO systems in the same frequency bands.

In defending their proposed substitution, the Parties ignore the Commission's intent in adopting Section 25.159(b) and the associated controlling interest standard from Section 1.2110 and attempt to rewrite the Commission's attribution rules to suit their own purposes. The Parties also disregard the strong public interest rationale underlying the Section 25.159(b) limit: deterring speculative NGSO applications. In addition to undermining the Commission's express objectives, the Amendments would enable manipulation of the Commission's coordination procedures by NGSO networks under common control, harming O3b and prospective operators of other NGSO systems. The Amendments would also encourage future applicants in NGSO processing rounds to submit applications for multiple affiliated entities to secure additional spectrum rights during coordination. Thus, the Parties have not justified a waiver of Section 25.159(b) and the Amendments must be denied. Given Boeing's explicit disavowal of any intent to pursue the construction and launch of the NGSO facilities it originally proposed, denial of the Amendments must lead to dismissal of the underlying Boeing Ka-band and V-band applications.

I. UNDER THE COMMISSION'S ATTRIBUTION POLICIES, SOM1101 IS NOT A QUALIFIED APPLICANT FOR KA- AND V-BAND NGSO SYSTEMS

The analysis required to determine whether SOM1101 can replace Boeing as applicant for proposed Ka- and V-band systems in the pending NGSO processing rounds is straightforward. The terms of Section 25.159(b) of the Commission's rules provide that a party who has a pending application or an existing license for an unbuilt NGSO system in a given frequency band cannot be an applicant for a second system in that spectrum,[6] and

[5] 47 CFR § 25.159(b).
[6] *Id*.

Section 25.159(c) sets forth the regulatory policies used to determine whether the relationships between two filers are sufficient that they should be considered as a single entity.[7] As the pleadings by O3b and other petitioners point out, Section 25.159(b) prohibits the proposed applicant substitution because Greg Wyler wholly owns SOM1101 and also has a controlling interest in WorldVu Satellites Limited d/b/a OneWeb ("OneWeb").[8] OneWeb holds a license for an unlaunched Ka-band NGSO system and is an applicant for a V-band NGSO system. Permitting the Wyler-controlled SOM1101 as an NGSO applicant in these spectrum bands would clearly violate the limit in Section 25.159(b).

The Parties do not challenge that SOM1101, which is wholly owned by Greg Wyler, is under his control. The only disputed question is whether Mr. Wyler, by virtue of his role as OneWeb's Founder and Executive Chairman of the board of directors, also controls that company.

The answer is clearly yes. Under the attribution policies the Commission determined would apply to the Section 25.159(b) limits, Mr. Wyler's title and role alone is sufficient to establish that he has a controlling interest in OneWeb, making the company an affiliate of SOM1101. Specifically, the Commission's rule that defines controlling interests in NGSO system applicants or licensed-but-unbuilt NGSO systems includes a provision,

[7] 47 CFR § 25.159(c).

[8] *See* O3b Petition at 4-9; Petition to Deny of Iridium Satellite LLC, File Nos. SAT-AMD-20171206-00167 *et al*., Feb. 12, 2018 ("Iridium Petition") at 2-4; Petition to Deny of Space Exploration Holdings, LLC, File Nos. SAT-AMD-20171206-00167 & SAT-AMD-20171206-00168, Feb. 12, 2018 ("SpaceX Petition") at 4-6; Petition to Deny and Opposition of Telesat Canada, File Nos. SAT-AMD-20171206-00167 & SAT-AMD-20171206-00168, Feb. 12, 2018 ("Telesat Petition") at 6-11.

Section 1.2110(c)(2)(ii)(F), which explicitly states that "[o]fficers and directors of the applicant shall be considered to have a controlling interest in the applicant."[9]

There can be no doubt that this rule language is determinative here. The Section 25.159 limits on pending satellite applications and unbuilt satellite systems explicitly rely on the existing Section 1.2110 framework.[10] Section 1.2110 provides a comprehensive and detailed listing of the broad range of interrelationships between applicants – including contractual arrangements, family ties, and a variety of corporate interests – that can result in parties being viewed as a single entity for purposes of applicable Commission policies.

In adopting its attribution requirements for Section 25.159, the Commission cited to specific subparts of Section 1.2110[11] and expressly cross-referenced a provision which specifies that an applicant has an attributable interest in another entity if it "holds a controlling interest in that entity, or is the subsidiary of a party holding a controlling interest in that entity, within the meaning of 47 CFR 1.2110(b)(2)."[12] Section 1.2110(b)(2), however, does not even reference the term "controlling interest," much less define it – that definition is found in Section 1.2110(c)(2). The only way to determine whether a party has a controlling interest in an applicant "within the meaning of 47 CFR 1.2110(b)(2)," therefore, is by reference to Section 1.2110(c)(2), including the officers and directors provision in Section 1.2110(c)(2)(ii)(F).

Moreover, it is evident that the Commission's intent was not to select individual portions of the interrelated segments of Section 1.2110, but to implement the policy as a whole. The

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[9] 47 CFR § 1.2110(c)(2)(ii)(F).
[10] *Amendment of the Commission's Space Station Licensing Rules and Policies*, First Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 10760, 10850-51, ¶¶ 237-239 (2003) ("First Space Station Reform Order").
[11] *See id.* at 10850, nn.565, 567 & 568.
[12] 47 CFR § 25.159(c)(2).

Commission explicitly stated as much, noting that it was adopting "the 'controlling interest' standard" from its competitive bidding procedures, and citing to paragraphs 59 through 67 of the underlying decision in which the attribution policies defining that standard were developed.[13] Paragraph 63 of the decision states that "under the controlling interest standard, the officers and directors of any applicant will be considered to have a controlling interest in the applicant."[14]

SOM1101 and Boeing take divergent paths in trying to evade the clear effect of Section 1.2110(c)(2)(ii)(F), but their claims are equally unpersuasive. For its part, SOM1101 makes a tortuous argument ending with the assertion that in the First Space Station Reform Order, the Commission "was altering the definition of 'controlling interests' for purposes of establishing an attributable interest rule" for satellite applications, "*rejecting and not incorporating* the definition of 'controlling interest' found in Section 1.2110(c)(2).[15]

SOM1101's claim is diametrically opposed to the Commission's explicit statement that it was applying to satellite applications the controlling interest standard adopted for competitive bidding situations in the Part 1 Order. In large part, the disconnect arises from SOM1101's mischaracterization of both the Commission's rules and the related O3b arguments. Specifically, SOM1101 repeatedly describes Section 1.2110(c)(2)(ii)(F) as defining the term "affiliate,"[16] and suggests that the arguments of O3b and other petitioners rely on the definition of affiliate in that rule section.[17] SOM1101 goes on to criticize O3b in particular, noting that O3b claimed there

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[13] First Space Station Reform Order, 18 FCC Rcd at 10850, ¶ 237 n.564, *citing Amendment of Part 1 of the Commission's Rules – Competitive Bidding Procedures,* Order on Reconsideration of the Third Report and Order, Fifth Report and Order, and Fourth Further Notice of Proposed Rulemaking, 15 FCC Rcd 15293, 15323-27, ¶¶ 59-67 (2000) ("Part 1 Order").
[14] Part 1 Order at 15325, ¶ 63.
[15] SOM1101 Opposition at 12 (emphasis in original).
[16] *See id.* at 9, 14.
[17] *See id.* at 9 ("Central to all opposing parties' position that the Amendments would violate Section 25.159(b) is the definition of 'affiliate' provided for in Section 1.2110(c)(2)(ii)(F).").

was "clear Commission precedent" supporting its interpretation of the attribution rules relevant to satellite applications but that O3b "provides none."[18]

It is quite clear from the face of the Commission's rules, however, that Section 1.2110(c)(2)(ii)(F) and the other subparts of Section 1.2110(c)(2) define the term "controlling interest," not the term "affiliate," which has its own definition in Section 1.2110(c)(5). And the "clear Commission precedent" to which O3b referred in its Petition was the express statement in the First Space Station Reform Order that the Commission was adopting "the 'controlling interest' standard" that had been developed in the Part 1 Order.[19] The Commission's explicit statement of its intent to rely on that standard, including the treatment of officers and directors as controlling parties under Section 1.2110(c)(2)(ii)(F), requires that SOM1101's self-serving formulation be rejected.

The only support SOM1101 cites for its claim that Commission intended to adopt an entirely new attribution standard specific to satellite applications is the observation that the *de jure* controlling interest standard set forth in Section 25.159(c)(1) is more restrictive than the threshold stated in Section 1.2110, finding control where an entity holds a 33 percent interest in the applicant instead of 50 percent ownership as referenced in Section 1.2110(c)(2)(i) of the rules.[20] This distinction with respect to the ownership standard for *de jure* control is not implicated by the Amendments since Mr. Wyler's leadership position in OneWeb, not his ownership interest, is what triggers the conclusion that he has a controlling interest in the company.

[18] *Id.* at 10, *citing* O3b Petition at 7.
[19] First Space Station Reform Order, 18 FCC Rcd at 10850, ¶ 237 n.564.
[20] *See* SOM1101 Opposition at 11-12.

In any event, this divergence does not undercut the Commission's stated intention to incorporate Section 1.2110's provisions defining *de facto* control. To the contrary, review of the First Space Station Reform Order makes clear the source of the differing standards. The Commission had initially proposed an ownership threshold of 33 percent derived from its rules on commercial broadcast license bidding credits.[21] In response to concerns raised by Boeing that the 33 percent ownership standard was "not restrictive enough, because it could be evaded by speculative applicants,"[22] the Commission expanded its satellite application attribution framework to include the more robust framework defining controlling interests adopted in the Section 1 Order.

This history only serves to highlight the irrationality of SOM1101's attempt to suggest that the Commission intended to create a whole new attribution standard by picking and choosing only a few selected provisions from Section 1.2110. The First Space Station Reform Order makes clear that the Commission – based on the express arguments of Boeing, one of the Parties here – decided that a bare ownership threshold was insufficient to enforce the satellite application limits imposed by Section 25.159. To address those concerns, the Commission decided to incorporate the robust set of attribution policies codified in Section 1.2110.

Under SOM1101's theory, however, any subpart of Section 1.2110 not mentioned in the First Space Station Reform Order or explicitly referenced in Section 25.159 – including those addressing control issues involving not only officers and directors but also non-voting stock, partnership interests, management agreements, and joint marketing arrangements – would be deemed inapplicable in the satellite application context. The end result would be precisely what

[21] First Space Station Reform Order, 18 FCC Rcd at 10849, ¶ 234 & n.557.
[22] *Id.* at 10850, ¶ 237 & n.563, *citing* Comments of The Boeing Company, IB Docket Nos. 02-34, 00-248, filed June 3, 2002 at 7.

the Commission, on the urging of Boeing, decided to reject: a simple ownership trigger for control that would allow potential speculators to evade the Section 25.159 limits via creative corporate structuring. This outcome cannot possibly be squared with the Commission's statements in the First Space Station Reform Order that to protect against speculation, it was incorporating attribution rules that incorporated the controlling interest standard adopted in the competitive bidding context.[23] SOM1101's efforts to rewrite Commission decisions to suit its own preferred results must accordingly be rejected.

Boeing takes a different, but no more persuasive, approach in attempting to circumvent the plain meaning of the statement in Section 1.2110(c)(2)(ii)(F) that a company's officers and directors have a controlling interest in the entity. Boeing asserts that there is "no rule that any individual officer or director is *ipso facto* deemed to have a controlling interest in the company he or she serves."[24] Instead, Boeing suggests that because the rule's language is plural, it "means that the officers and directors *collectively* have control of an entity."[25]

These claims, however, are contrary to both the explicit language of Section 1.2110(c)(2)(ii)(F) and the Commission's interpretation of its competitive bidding rules. The Commission has explained that control can arise through a variety of relationships, including:

> occupancy of director, officer or key employee positions; contractual or other business relations; or combinations of these and other factors. A key employee is an employee who, because of his/her position in the concern, has a critical influence in or substantive control over the operations or management of the concern.[26]

[23] First Space Station Reform Order, 18 FCC Rcd at 10850, ¶ 237 & n.564.
[24] Boeing Opposition at 4.
[25] *Id*. at 5 (emphasis in original).
[26] 47 CFR § 1.2110(c)(5)(ii)(B).

When it last updated the competitive bidding rules, the Commission considered and declined to adopt a proposal to narrow the scope of its attribution requirements in cases where "a particular officer or director is unlikely to exercise control over the applicant."[27] The Commission explained that "[u]nder the officer/director attribution requirement, officers and directors of an applicant (or of an entity that controls an applicant or licensee) are considered to have a controlling interest in the applicant (or licensee)."[28] Thus, the Commission considers the provision in Section 1.2110(c)(2)(ii)(F) to refer to individual officers or directors of an entity and not officers and directors collectively as Boeing asserts. Further, the Commission specifically rejected narrowing its affiliation rule in a manner that would analyze the totality of the circumstances to determine whether an officer or director lacks the ability to exert actual control over an entity, as the Parties suggest is the case with Mr. Wyler.

This interpretation is consistent with a review of the remainder of Section 1.2110(c)(2) as well. The statement in Section 1.2110(c)(2)(ii)(F) is a blanket, unconditional pronouncement that officers and directors are viewed as having a controlling interest. In contrast, other subparts of the rule take a more fact-based approach. For example, under subsections (H) and (I) of Section 1.2110(c)(2)(ii), the existence of a management or joint marketing arrangement is deemed to confer control only if the agreement allows the relevant party to determine or significantly influence matters relating to pricing and other service terms. The absence of any such factors in Section 1.2110(c)(2)(ii)(F) reinforces the view that for officers and directors, these factors are not relevant to the question of control. Thus, the precedent is clear: regardless

[27] *Updating Part 1 Competitive Bidding Rules*, Report and Order, Order on Reconsideration of the First Report and Order, Third Order on Reconsideration of the Second Report and Order, Third Report and Order, 30 FCC Rcd 7493, 7517 (2015).
[28] *Id*.

of their degree of actual influence, under Section 1.2110(c)(2)(ii)(F), officers and directors of an applicant individually are deemed to have a controlling interest in that entity.

Applying these standards in the instant case, as a member of the OneWeb board of directors, Greg Wyler holds a controlling interest in the company by virtue of his title alone. The attempts of SOM1101 to downplay Mr. Wyler's role are therefore irrelevant to the Commission's attribution analysis.

Evidence of Mr. Wyler's activities only serves to highlight his active participation in OneWeb's day-to-day operations. The unsupported assertions by SOM1101 that Mr. Wyler's public role gives him no more control than the GEICO gecko[29] strain credulity. In reality, Mr. Wyler plays a very public and active role in directing the policies and operations of OneWeb. As O3b detailed in its Petition, Mr. Wyler holds the position of Executive Chairman and oversees or is involved in a wide range of operational matters, including obtaining financing, signing agreements on behalf of OneWeb, and shaping and communicating the strategic and operational direction of the company.[30] Attempts by SOM1101 to characterize Mr. Wyler's position as merely a figurehead or spokesman cannot be reconciled with the facts showing that he is intensely involved in OneWeb's activities. For example, an Orlando Business Journal article cited by Boeing includes a description by Mr. Wyler of how he balances "managing OneWeb and having a family," in which he acknowledged the burden it has imposed on his family resulting from Wyler being "so involved in something that turned out to be so large."[31] O3b doubts that any offspring of the GEICO gecko have similar complaints.

[29] SOM1101 Opposition at 17.
[30] *See* O3b Petition at 7-9 & nn.24-33.
[31] *See OneWeb Founder Greg Wyler Shares his Journey to Close the Digital Divide*, Orlando Business Journal (Florida) (Nov. 1, 2017).

In short, the language and history of the Commission's attribution rules for satellite applications make clear that matters of control are to be determined under the framework adopted in the Section 1 Order, including the explicit statement in Section 1.2110(c)(2)(ii)(F) that officers and directors "shall be considered to have a controlling interest." Suggestions by SOM1101 and Boeing to the contrary rely on selective reading – or outright mischaracterization – of Commission precedent. Under the plain meaning of this rule, Greg Wyler's control of both SOM1101 and OneWeb disqualifies SOM1101 from taking Boeing's place as applicant for Ka- and V-band NGSO applications. Accordingly, the Amendments must be dismissed.

II. WAIVING COMMISSION RULES TO GRANT THE AMENDMENTS WOULD ENCOURAGE SPECULATION AND ENABLE MANIPULATION OF THE COMMISSION'S NGSO COORDINATION PROCEDURES

O3b and other petitioners demonstrated that waiving Section 25.159(b) to permit the applicant substitution proposed in the Amendments would undermine Commission policies designed to deter speculative applications and encourage parties to withdraw their filings if they do not intend to build or launch their proposed systems.[32] In response, the Parties assert that the Amendments "do not encourage speculation and do not pose any harm to other NGSO operators or applicants – nor to the licensing process as a whole."[33]

The Parties' claims on these matters are wholly unsupported. Boeing repeats its prior statements that it did not initially file its applications for speculative purposes, alleging that an unspecified "change in business plans" led to its decision to bow out of its proposed NGSO systems in favor of a substitute applicant.[34] If the Commission is to effectively enforce its rules

[32] *See* O3b Petition at 10-17; Iridium Petition at 4-6; SpaceX Petition at 7-12; Telesat Petition at 11-12.
[33] SOM1101 Opposition at iii.
[34] Boeing Opposition at 18.

against speculation and deter future frivolous applications, it cannot simply accept a disavowal of speculative intent as sufficient to forestall further inquiry. The public interest in preventing abuse of Commission processes and ensuring that claims to spectrum and orbital resources are not held by parties who have no serious intention of expeditiously bringing service to consumers requires a more robust standard for evaluating potential speculation.

Suggestions by the Parties that the Commission should no longer apply the limitation on NGSO applications in Section 25.159(b) are highly presumptuous, displaying the Parties' attempt to substitute their own judgment regarding these matters for that of the Commission. When it adopted Section 25.159, the Commission found that imposing a limit of "one NGSO satellite system per frequency band will restrain speculation without restricting applicants' business plans."[35] Because the Commission has not subsequently revisited that conclusion, this statement continues to reflect current and binding rules and policy.

Moreover, arguments that speculation is less of a risk in the NGSO context than in the GSO context because NGSO applications are considered in processing rounds rather than a first-come, first-served queue[36] are belied by the Parties' own actions. If, as the Parties suggest, an application's status as part of a pending NGSO processing round does not create any meaningful value, the Parties would not be so aggressively challenging other petitioners' claims that the Boeing applications should be disqualified from further consideration in the pending rounds because of the proposed substitution of applicants. In short, the record establishes the need for continued vigilance against speculation, and the Parties' attempts to downplay the significance of this important public interest objective must be rejected.

[35] First Space Station Reform Order, 18 FCC Rcd at 10847, ¶ 230.
[36] SOM1101 Opposition at 24-25; Boeing Opposition at 10.

On the other side of the equation, grant of the Amendments would provide no public interest benefits. SOM1101's assertions on this matter are pure hyperbole with no foundation. For example, SOM1101 makes the self-congratulatory claim that it is a "dynamic and innovative potential new competitor" that petitioners are simply trying to block from competing.[37] But nothing in the record here suggests that SOM1101 is either "innovative" or "dynamic" – it is simply proposing to take over as applicant for Ka- and V-band systems that were wholly designed, developed, and described by Boeing.

The argument that substituting one applicant for another leaves all other NGSO operators ultimately unharmed[38] is similarly unpersuasive. To the contrary, grant of the Amendments would enable commonly controlled affiliated entities, OneWeb and SOM1101, to manipulate the Commission's NGSO sharing rules by skewing the spectrum split in the event of a multi-party inline event. OneWeb and SOM1101 would be able to obtain through regulatory manipulation a relative advantage against their competitors serving a particular geographic location, whereas a single entity would be entitled to only a *pro rata* share of available frequencies. By placing independent NGSO operators at a disadvantage, this scenario would harm competition in the market for satellite broadband. It would also encourage other prospective NGSO operators to submit multiple applications through affiliated companies in future NGSO processing rounds. Much like the abuses the Commission's designated entity rules were designed to address in the competitive bidding context, granting the Amendments would set up a race to create affiliated entities that can secure spectrum rights against unaffiliated competitors. This kind of manipulation is exactly the type of speculative behavior that the Commission's rules are intended

[37] SOM1101 Opposition at 6.
[38] *Id*. at 27-32.

to prevent.[39] The Commission must not enable such manipulation and must deny the Amendments.

III. CONCLUSION

Under the terms of Section 25.159 and the related attribution policies adopted by the Commission, SOM1101 is not eligible to take Boeing's place as applicant for Ka-band and V-band NGSO authority. Moreover, a waiver of Section 25.159 to permit the substitution would conflict with the public interest objectives underlying the rule by rewarding speculation and would also harm legitimate NGSO processing round applicants. For these reasons, the Commission must deny the Amendments. Moreover, based on the admission that Boeing itself does not intend to pursue the underlying NGSO applications, the Boeing V-Band Application and the Boeing Ka-Band Application should be dismissed.

Respectfully submitted,
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March 9, 2018

[39] First Space Station Reform Order, 18 FCC Rcd at 10850, ¶ 237 & n.563

AFFIDAVIT

1. I am Vice President, Regulatory for O3b Limited.

2. I have reviewed the foregoing Petition to Deny of O3b Limited. All statements made therein are true and correct to the best of my knowledge, information, and belief.

I declare under penalty of perjury that the foregoing is true and correct.

By: /s/ Suzanne Malloy

Date: March 9, 2018

CERTIFICATE OF SERVICE

I, Noah Cherry, hereby certify that on this 9th day of March 2018, I caused to be served a true copy of the foregoing "REPLY OF O3B TO OPPOSITION TO PETITION TO DENY" by first class mail, postage prepaid, upon the following:

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