

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
AST&Science LLC)	Call Sign S3065
)	
Petition for Declaratory Ruling Granting)	File Nos. SAT-PDR-20200413-00034,
Access to the U.S. Market for a Non-)	SAT-APL-20200727-00088
U.S.-Licensed Non-Geostationary Orbit)	
Satellite Constellation)	

COMMENTS OF KUIPER SYSTEMS LLC

Kuiper Systems LLC, a wholly owned subsidiary of Amazon.com Services LLC (collectively, “Amazon”), submits the following comments on the above-referenced Petition for Declaratory Ruling of AST&Science LLC (“AST”) for U.S. market access for its non-geostationary satellite orbit (“NGSO”) fixed-satellite service (“FSS”) constellation (the “Petition”).¹ Specifically, Amazon opposes AST’s request for waiver of Sections 25.157(c) and 25.155(b) of the Commission’s rules providing processing round procedures for NGSO FSS systems.² AST has failed to demonstrate that special circumstances warrant waiver or that waiver would serve the public interest. The Commission should therefore deny AST’s waiver request and consider the Petition instead within a new V-band processing round to maintain regulatory certainty while allowing for the possibility of new entrants. The Commission should also condition

¹ See Petition for Declaratory Ruling Granting Access to the U.S. Market for a Non-U.S.-Licensed Non-Geostationary Orbit Satellite Constellation of AST&Science LLC, IBFS File No. SAT-PDR-20200413-00034 (filed Apr. 13, 2020) (amended by Amendment to Petition for Declaratory Ruling of AST&Science, IBFS File No. SAT-APL-20200727-00088 (filed July 27, 2020)) (together, the “Petition”).

² 47 C.F.R. §§ 25.157(c) and 25.155(b).

any grant of AST's Petition on compliance with Section 25.261 spectrum sharing procedures³ with respect to any system licensed in a new V-band processing round alongside AST.

I. THE COMMISSION SHOULD DENY AST'S REQUEST FOR WAIVER OF THE NGSO FSS SYSTEM PROCESSING ROUND RULES.

AST has not shown good cause to waive the agency's processing round procedures set forth in Sections 25.157(c) and 25.155(b). The Commission may waive its rules for good cause.⁴ Good cause exists if "special circumstances warrant a deviation from the general rule and such deviation will serve the public interest" better than adherence to the general rule.⁵ In determining whether waiver is appropriate, the Commission will consider "hardship, equity, or more effective implementation of overall policy."⁶ Additionally, the FCC usually only grants waiver of its processing round rules "based on the applicants' demonstrations that they can avoid interference events through means such as scheduling of transmissions, and also that they would not preclude future entrants from using the same spectrum."⁷

Here, the cut-off date for the most recent V-band processing round was March 1, 2017, and AST filed its petition on April 9, 2020. AST has neither demonstrated that special circumstances exist, nor that waiver would serve the public interest better than consideration of its Petition in a new processing round. Instead, AST argues that waiver is appropriate because AST would "comply with the spectrum sharing requirements of Section 25.261" and "engage in good-faith

³ 47 C.F.R. § 25.261.

⁴ See 47 C.F.R. § 1.3.

⁵ *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

⁶ *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969).

⁷ *Streamlining Licensing Procedures for Small Satellites*, Report and Order, 34 FCC Rcd 13077, ¶ 80 n.233 (2019).

coordination with authorized and future NGSO systems.”⁸ A commitment to follow Commission rules, which AST and all other satellite operators serving the U.S. must follow already, does not justify waiver. Moreover, AST has not provided any technical analysis demonstrating that its proposed 243-satellite, low-Earth orbit V-band constellation can avoid interference events with any licensed or pending V-band constellation. It has also failed to establish that its system would not preclude future entrants from using the same spectrum.

The Commission can serve the public interest best by considering AST’s Petition in a new V-band processing round. On November 1, 2016, the Commission initiated a processing round requesting additional applications to provide NGSO FSS service using V-band frequencies (the “V-band Processing Round”).⁹ The FCC has explained that “[t]he purpose of the recent processing round[] was to establish a sharing environment among NGSO systems, to provide a measure of certainty in lieu of adopting an open-ended requirement to accommodate all future applicants.”¹⁰ Consideration of AST’s Petition in a new processing round would advance these objectives. Since the cut-off date for additional applications to be considered in the V-band Processing Round, several operators in addition to AST submitted applications requesting authorization to use V-band frequencies as part of their respective NGSO FSS constellations.¹¹ AST’s Petition should be

⁸ Petition at 12.

⁹ See *Boeing Application Accepted for Filing in Part; Cut-Off Established for Additional NGSO-Like Satellite Applications or Petitions for Operations in the 37.5-40.0 GHz, 40.0-42.40 GHz, 47.2-50.2 GHz and 50.4-51.4 GHz Bands*, Public Notice, 31 FCC Rcd 11957 (2016).

¹⁰ *Update to Parts 2 and 25 Concerning Non-Geostationary, Fixed-Satellite Service Systems and Related Matters*, Report and Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 7809, ¶ 61 (2017) (“*NGSO FSS Order*”).

¹¹ See *Mangata Networks LLC Petition for Declaratory Ruling Granting Access to the U.S. Market for the Mangata Networks System*, IBFS File No. SAT-PDR-20200526-00054 (filed May 26, 2020); *Viasat, Inc. Application for Modification of Authorization for the Viasat NGSO System*, IBFS File No. SAT-MPL-20200526-00056 (filed May 26, 2020).

considered alongside those applications, as well as any additional V-band applications submitted for timely consideration as part of a new processing round, to fully assess the effects of these applications on the interference environment.

To further provide operational certainty, any grant of AST's Petition should include a condition that AST comply with the spectrum sharing procedures found in Section 25.261 with respect to any system licensed in a new V-band processing round alongside AST.¹² Such a condition would be consistent with precedent¹³ and would support the Commission's policy goals to "establish a sharing environment" and "provide a measure of certainty" through its processing round procedures.¹⁴

¹² 47 C.F.R. § 25.261.

¹³ See *Kuiper Systems LLC Application for Authorization to Deploy and Operate a Ka-band Non-Geostationary Satellite Orbit System*, Order and Authorization, 35 FCC Rcd 8324, ¶ 59(b) (2020).

¹⁴ *NGSO FSS Order*, ¶ 61.

II. CONCLUSION.

For the foregoing reasons, the Commission should deny AST's request for waiver of Sections 25.157(c) and 25.155(b) of the FCC's rules and consider the Petition in a new V-band processing round alongside pending and any additional applications submitted for timely consideration as part of that processing round. Any grant of AST's Petition should include a condition requiring compliance with spectrum sharing procedures under Section 25.261 with respect to any system licensed in a new V-band processing round alongside AST.

Respectfully submitted,

/s/ Will Lewis

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November 2, 2020

CERTIFICATE OF SERVICE

I hereby certify that, on this second day of November 2020, a copy of the foregoing pleading was served via First Class mail upon:

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