

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
EOS Defense Systems USA, Inc.	)	File No. SAT-MOD-20200526-00057
	)	Call Sign S2982
Modification of Authorization for Audacy	)	
NGSO Satellite System	)	

**REPLY OF O3B LIMITED**

O3b Limited (“O3b”) submits this reply regarding the above-captioned application by EOS Defense Systems USA, Inc. (“EOS”) to modify its license for a non-geostationary satellite orbit (“NGSO”) constellation.<sup>1</sup> The O3b Petition to Deny or Defer<sup>2</sup> discusses EOS’s failure to justify its request to add mobile-satellite service (“MSS”) feeder link spectrum to its planned constellation, and also demonstrates that the changes EOS proposes to how it would operate in the Ka-band frequencies for which it already has authority would result in significant new interference to O3b.

In its Opposition and Response,<sup>3</sup> EOS recognizes that its proposed use of MSS feeder link spectrum to provide fixed-satellite service (“FSS”) links is contrary to the U.S. table of allocations, but fails to seek the required waiver, instead offering to remove the MSS bands from the Modification.<sup>4</sup> EOS also acknowledges that its newly proposed Ka-band FSS operations

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<sup>1</sup> *EOS Defense Systems USA, Inc.*, Call Sign S2982, File No. SAT-MOD-20200526-00057 (“Modification”).

<sup>2</sup> Petition to Deny or Defer of O3b Limited, Call Sign S2982, File No. SAT-MOD-20200526-00057, filed Aug. 31, 2020 (“O3b Petition”).

<sup>3</sup> Consolidated Opposition and Response of EOS Defense Systems USA, Inc., Call Sign S2982, File No. SAT-MOD-20200526-00057, filed Sept. 10, 2020 (“Opposition”).

<sup>4</sup> *Id.* at 2-3.

should be considered as part of the NGSO processing round that closed in May. The Commission must hold EOS to its offer to remove the MSS bands from the Modification and impose conditions on any grant to protect O3b's authorized NGSO network.

#### **I. EOS IS NOT ENTITLED TO USE THE MSS BANDS**

EOS belatedly acknowledges that its proposed use of the 19.4-19.6 GHz and 29.1-29.5 GHz bands to provide FSS links is contrary to the Commission's Rules and U.S. Table of Radiofrequency Allocations,<sup>5</sup> but does not request a waiver of Section 2.106 or provide the necessary non-interference showing that would be required to support such a waiver.<sup>6</sup> Instead, EOS promises only to "take appropriate steps to demonstrate that its proposed use of these sub-bands protects incumbent NGSO systems" at some undisclosed future date.<sup>7</sup> This vague statement is insufficient to satisfy the Commission's test for assessing whether non-conforming uses of spectrum can be permitted without disrupting compliant operations.<sup>8</sup>

In short, the EOS Opposition does nothing to cure the defects in the Modification with respect to the MSS feeder link bands. Accordingly, if EOS does not make good on its offer to remove the MSS bands from the Modification,<sup>9</sup> the Commission must deny that portion of the EOS application.<sup>10</sup>

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<sup>5</sup> Opposition at 2.

<sup>6</sup> O3b Petition at 4.

<sup>7</sup> Opposition at 3.

<sup>8</sup> O3b Petition at 4 & n.9.

<sup>9</sup> Opposition at 3.

<sup>10</sup> *See also* Petition to Deny in Part of Iridium Constellation LLC, Call Sign S2982, File No. SAT-MOD-20200526-00057, filed Aug. 31, 2020 at 3 ("EOS' proposal to use the 29.1-29.3 GHz and 19.4-19.6 GHz bands is facially deficient, and that portion of EOS' Application should be denied").

## II. EOS MUST COORDINATE WITH AND PROTECT O3B AND OTHER 2016 PROCESSING ROUND LICENSEES

The O3b Petition conclusively demonstrates that the changes EOS proposes to the operating characteristics for the Ka-band frequencies assigned in its existing license would significantly alter the interference environment, requiring that the system as a whole be treated as newly filed under the Commission’s processing round regime.<sup>11</sup> EOS does not refute – or even address – O3b’s technical analysis, stating that EOS takes no position “with respect to the calculations and measurements O3b provides regarding G/T for uplink beams and EIRP downlink.”<sup>12</sup> Nevertheless, EOS does acknowledge that its Modification requires it to be treated as part of the Commission’s 2020 processing round, meaning that it must “coordinate the aforementioned enhanced feeder links and service links consistent with FCC Rules and policies.”<sup>13</sup> EOS recognizes that its status is equivalent to that of the Kuiper system, which the Commission recently licensed with conditions designed to ensure the protection of the operations and investments of parties that timely filed as part of the NGSO processing round that closed in November of 2016.<sup>14</sup>

O3b agrees that the Commission’s Kuiper decision represents the appropriate precedent for evaluating the Modification. Consistent with that ruling, the Commission must condition any grant of the Modification by prohibiting EOS from interfering with O3b’s operations and requiring EOS to complete coordination with O3b and systems authorized in the 2016 processing round before EOS can begin operating.

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<sup>11</sup> O3b Petition at 5-8.

<sup>12</sup> Opposition at 3, n.8.

<sup>13</sup> Opposition at 3-4 & n.11, *citing* 47 C.F.R § 25.261.

<sup>14</sup> Opposition at 4 & n.12, *citing Kuiper Systems, LLC*, Order and Authorization, FCC 20-102 (rel. July 30, 2020) at ¶¶ 48-50.

### III. CONCLUSION

For the reasons discussed herein and in the O3b Petition, the Commission must deny the EOS request for MSS authority if EOS does not withdraw it and must impose conditions on any grant of the Modification to protect O3b operations authorized in the November 2016 processing round.

Respectfully submitted,

Of Counsel

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September 17, 2020

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## AFFIDAVIT

1. I am Vice President, Regulatory for O3b Limited.
2. I have reviewed the foregoing Reply 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: September 17, 2020

CERTIFICATE OF SERVICE

I hereby certify that on this 17<sup>th</sup> day of September, 2020, I caused to be served a true and correct copy of the foregoing “Reply of O3b Limited” on the following:

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/s/ \_\_\_\_\_  
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