

VIA ELECTRONIC FILING

5 November 2018

Marlene H. Dortch

Secretary Federal
Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Oral *Ex Parte* Notice
Kepler Communications Petition for Declaratory Ruling
IBFS File No. SAT-PDR-20161115-00114

Dear Ms. Dortch:

On November 1st, 2018, Nickolas Spina of Kepler Communications Inc. (“Kepler”) held a teleconference with representatives of the International Bureau to discuss the above captioned non-geostationary satellite orbit (“NGSO”) fixed-satellite service (“FSS”) system in Ku-band. Present on the call on behalf of the International Bureau were José Albuquerque, Stephen Duall, Cindy Spiers, Troy Tanner, Jennifer Gilsenan and Sankar Persuad.

During the call, Kepler discussed its concern around language within the order and declaratory ruling circulated for tentative consideration (“Ruling”).¹ Specifically, Kepler drew attention to the order relating to EPFD within the Ruling (“EPFD Order”).² Within the EPFD Order, Kepler would be required to secure a favorable finding of its EPFD submission to the ITU prior to initiation of service.³ Kepler has previously submitted its EPFD input files to the Commission as required by the EPFD Order.⁴ Kepler noted that in relation to a favorable EPFD finding by the ITU, discussion between Nickolas Spina and Alexandre Vallet – Chief of Space Services at the ITU - revealed that an assessment of Kepler’s EPFD filing would likely not be complete prior to 2020.⁵ The lengthy processing time is due to the sheer volume of systems requiring examination that were submitted ahead of Kepler’s filing, as well as the associated time required to run the validation software.

The Commission requested information on where relevant EPFD filings could be found in relation to Kepler’s ITU filing. Kepler notes that the ITU hosts a webpage that details its EPFD findings.⁶ As discussed with the Commission, Kepler’s system has not yet been assessed and as a result is not visible on the webpage.

¹ See FCC-CIRC1811-05

² *Id.*, Par. 26

³ *Id.*

⁴ See EPFD Results, IBFS File No. SAT-PDR-20161115-00114, 06/08/2017

⁵ While Kepler’s ITU filing has a “qualified favorable” finding on bands subject to EPFD, this is an interim finding until the ITU can complete its assessment under *resolves* 2 of Resolution 85 rather than a finding under No. 11.31 of the Radio Regulations. If the Commission is satisfied with an interim “qualified favorable” finding while the ITU completes its assessment, then Kepler believes it has satisfied the requirements of the EPFD Order.

⁶ See <https://www.itu.int/ITU-R/go/space-epfd-data>

The Commission further requested an estimate on the number of satellites that Kepler intends to have deployed by 2020. Kepler points the Commission to the rollout plan discussed in Kepler's original filing.⁷ Kepler anticipates progressing through the deployment of 20 satellites and initiating its rollout of Phase III by 2020 and beyond.

Kepler requested this call as it believes that it is within the public interest and the interest of existing US-based clients to allow initiation of service within the United States, prior to receiving a favorable finding from the ITU. This is reinforced by the fact that Kepler's system is already in operation and is servicing end customers internationally, and that EPFD input files were previously submitted as required by the EPFD Order. Additionally, to Kepler's knowledge, no other system that uses Ku-Band and that filed within the OneWeb processing round has begun offering satellite service to the public, or launched a satellite associated with its filing in the processing round.⁸ Finally, since starting operations in January of this year, Kepler has not caused interference to other operators, be they GEO or NGSO systems.

Pursuant to Section 1.1206(b)(2) of the FCC's rules, 47 C.F.R. § 1.1206(b)(2), this *ex parte* notification is being filed electronically for inclusion in the public record of the above-referenced proceeding.

Thank you for your attention to this matter. Should you have any questions, please do not hesitate to contact me.

Sincerely,

/s/ Nickolas G. Spina

Nick G. Spina | Director, Launch & Regulatory Affairs

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⁷ See Table 2, Technical Narrative, IBFS File No. SAT-PDR-20161115-00114 (filed Nov. 15, 2016)

⁸ Note Space-X has launched two satellites associated with an experimental filing. See Space Exploration Technologies Corp. New License, Public Notes, File No. 0298-EX-CN-2016, 07/22/2016