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FILED ELECTRONICALLY VIA IBFS

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: *Ex Parte* Communication
Space Exploration Holdings, LLC, File Nos. SAT-LOA-20161115-00118 and SAT-MOD-20181108-00083
WorldVu Satellites Limited, File No. SAT-LOI-20160428-00041
Kepler Communications Inc., File No. SAT-PDR-20161115-00114
Telesat Canada, File No. SAT-PDR-20161115-00108

Dear Ms. Dortch:

Telesat Canada ("Telesat") is responding to the most recent filings of Space Exploration Holdings, LLC ("SpaceX")¹ in which SpaceX offers its interpretation of Section 25.261(c)(1) of the Commission's rules.² That provision establishes the order in which, absent coordination, NGSO FSS systems get to select the frequencies they will operate on during in-line interference events.

SpaceX continues to maintain that to get in line to select home spectrum under Section 25.261(c)(1), an operator must launch its first space station *and* must operate a

¹ Letter dated December 26, 2019 from William M. Wiltshire, Counsel for SpaceX to Marlene H. Dortch, Secretary, Federal Communications Commission; Letter dated September 27, 2019 from William M. Wiltshire, Counsel for SpaceX to Marlene H. Dortch, Secretary, Federal Communications Commission.

² 47 C.F.R § 25.261(c)(1).

U.S.-licensed earth station that communicates with the space station. SpaceX has filed five letters with the Commission articulating this position. No matter how many times SpaceX repeats itself, however, it cannot obscure these essential facts:

- The Commission has determined in multiple contexts that who picks frequencies first should be based on order of launch, without regard to licensing and operation of earth stations.³
- Section 25.261(c) is the only provision that addresses the order of frequency selection for NGSO FSS systems during in-line interference events.
- Under Section 25.261(c), which makes no mention of needing a U.S.-licensed earth station, the system that is first to launch gets first priority in frequency selection.
- The earth station language SpaceX relies on appears in Section 25.261(a), not Section 25.261(c) and was not even part of Section 25.261 when the Commission adopted the language in Section 25.261(c) that gives first priority in frequency selection to the system that launches first.⁴
- When the Commission added the language in Section 25.261(a) that SpaceX relies on, it identified two reasons for the addition, neither of which has to do with frequency selection priority.⁵
- The Commission has found that basing frequency selection on order of launch advances its policies favoring competition, efficient use of spectrum resources, and quick deployment of services for the benefit of U.S. consumers.⁶

³ In the Commission's *2 GHz MSS Band Report and Order*, the Commission decided to allow spectrum selection "at the time the first satellite in a system reaches its intended orbit." *Report and Order, In the Matter of The Establishment of Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band*, 15 FCC Rcd 1612 (2000) ("*2 GHz MSS Band Report and Order*"), at ¶16. Similarly, under Section 25.157(f)(1) of the rules, 47 C.F.R. § 25.157(f)(1), which governs NGSO-NGSO sharing in cases in which Section 25.261 does not apply, "[e]ach licensee ... [is] allowed to select the particular band segment it wishes to use no earlier than 60 days before they plan to launch the first satellite in its system, and no later than 30 days before that date, by submitting a letter to the Secretary of the Commission."

⁴ See *Report and Order, Establishment of Policies and Service Rules for the Non-Geostationary Satellite Orbit, Fixed Satellite Service in the Ka-Band*, 18 FCC Rcd 14708 (2003) at Appendix B, ¶ 2.

⁵ The Commission stated it was modifying 25.261(a) to clarify that its sharing rule only applies to earth stations with directional antennas and to clarify the geographic scope of the rule as applied to non-U.S.-licensed systems. See *Update to Parts 2 and 25 Concerning Non-Geostationary, Fixed-Satellite Service Systems and Related Matters*, Notice of Proposed Rulemaking, IB Docket No. 16-408, FCC 16-170 (rel. Dec. 15, 2016) at ¶ 23; *Update to Parts 2 and 25 Concerning Non-Geostationary, Fixed-Satellite Service Systems and Related Matters*, Report & Order and Further Notice of Proposed Rulemaking, 32 FCC Rcd 7809 (2017) at ¶ 53.

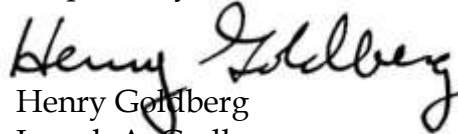
⁶ *2 GHz MSS Band Report and Order* at ¶ 28.

- SpaceX's suggestion that absent an earth station requirement foreign operators would "launch their satellites under foreign authority while comparable U.S. systems wait for the Commission to form a processing round"⁷ is divorced from reality. "Comparable U.S. systems" do not have to "wait"; the Commission has processed NGSO applications efficiently.

For all these reasons, the Commission should reject SpaceX's arguments and, consistent with the unambiguous language of Section 25.261(c), should base NGSO FSS frequency selection priorities on the order in which systems have been launched.

Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,



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cc: Karl Kensinger, FCC
William M. Wiltshire, counsel for SpaceX
Brian Weimer, counsel for OneWeb
Nicholas Spina, Kepler Communications

⁷ Letter dated September 27, 2019 from William M. Wiltshire, Counsel for SpaceX to Marlene H. Dortch, Secretary, Federal Communications Commission, at 2.