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April 18, 2019

VIA IBFSMarlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street SW
Washington DC 20554

Re: **Space Exploration Holdings, LLC, IBFS File No. SAT-STA-20190405-00023
SpaceX Services, Inc., IBFS File Nos. SES-STA-INTR2019-01012, SES-STA-
INTR2019-01013, SES-STA-INTR2019-01014, SES-STA-INTR2019-01015, SES-
STA-INTR2019-01016, SES-STA-INTR2019-01017, SES-STA-INTR2019-01018**

Dear Ms. Dortch:

WorldVu Satellites Limited (“OneWeb”) hereby submits this letter to oppose the above-referenced requests for special temporary authority (the “STA Requests”) filed by Space Exploration Holdings, LLC and SpaceX Services, Inc. (collectively “SpaceX”). The STA Requests fail to satisfy the standard set forth in the Communications Act (the “Act”) and the Commission’s rules for granting the extraordinary remedy of an STA. The STA Requests constitute a transparent attempt by SpaceX to sidestep the ongoing proceeding involving its pending space station Modification Application,¹ a proceeding in which many substantive issues remain unaddressed. SpaceX’s convenience—not any exigent circumstances—are the only identifiable basis for the STA Requests and as such the STA Requests should be denied.

I. THE STA REQUESTS FAIL TO MEET THE STANDARD REQUIRED FOR GRANT OF AN STA

Section 309(f) of the Act mandates that the Commission cannot grant an STA request unless “there are extraordinary circumstances requiring temporary operations in the public interest and that delay in the institution of such temporary operations would seriously prejudice

¹ See Application for Modification of Authorization for the SpaceX NGSO Satellite System, IBFS File No. SAT-MOD-20181108-00083 (filed Nov. 8, 2018) (“Modification Application”); Petition to Deny or Defer of WorldVu Satellites Limited, IBFS File No. SAT-MOD-20181108-00083 (filed Feb. 8, 2019) (“Petition to Deny”); Reply of WorldVu Satellites Limited, IBFS File No. SAT-MOD-20181108-00083 (filed Mar. 5, 2019).

the public interest.”² The STA Requests contain no statement that SpaceX requires special temporary authority (“STA”) to resolve a technical anomaly, address a gap in service, or relocate in-orbit spacecraft, actions that are commonly the subject of and the purpose for STA applications. Instead, the STA Requests simply announce that SpaceX “intends to launch its first tranche of satellites in early May 2019, and seeks authority for operations during the orbit-raising phase.”³ This entirely artificial and self-created launch deadline does not come close to satisfying the high bar required for grant of an STA request. Commission rules dictate STAs can be granted “only upon a finding that there are extraordinary circumstances requiring temporary operations.”⁴ The STA Requests do not present a scintilla of evidence for the required “extraordinary” circumstances and therefore should be denied.

The Commission should also deny the STA Requests because the only rationale for an STA presented by SpaceX—a self-imposed launch deadline—represents nothing more than a request that the Commission adjust its review process to provide greater convenience to SpaceX. Commission rules and precedent are clear that “[c]onvenience to the applicant, such as marketing considerations or meeting scheduled customer in-service dates, will not be deemed sufficient” for grant of STA.⁵ In 2005, the Commission denied a request for special temporary authority from EchoStar on the grounds that permitting EchoStar to “more quickly” relocate a satellite to provide service did not constitute extraordinary circumstances, but instead was for the convenience of EchoStar.⁶ Here, not only can SpaceX not point to marketing considerations or the need to relocate a satellite in the STA Requests—circumstances under which the

² 47 U.S.C. § 309(f).

³ See Space Exploration Holdings, LLC, Request for Special Temporary Authority, IBFS File No. SAT-STA-20190405-00023 at 1 (filed Apr. 5, 2019) (“STA Narrative”).

⁴ 47 C.F.R. § 25.120(b).

⁵ *Id.*; See Letter from Thomas S. Tycz, Chief, Satellite Division, to David K. Moscovitz, Executive Vice President & General Counsel, EchoStar Satellite L.L.C., IBFS File Nos. SAT-MOD-20050421-00087, SAT-STA-20050421-00088 (May 19, 2005) (“EchoStar Denial”). When the Commission codified its policies regarding the grant of special temporary authority in 1991, it stated the policies reflected the view that “unless an applicant can demonstrate that an STA is necessary due to circumstances beyond its control, the request will be denied...the *fact that an applicant wishes to begin services before its application can be processed does not constitute extraordinary circumstances.*” *Amendment of Part 25 of the Commission’s Rules and Regulations to Reduce Alien Carrier Interference Between Fixed-Satellites at Reduced Orbital Spacings and to Revise Application Processing Procedures for Satellite Communications Services*, First Report and Order, 6 FCC Rcd 2806 at ¶ 26 (1991) (emphasis added).

⁶ EchoStar Denial at 3.

Commission has *denied* the grant of STA—it cannot even point to a single external circumstance necessitating the filing of the STA Requests.

Therefore, the circumstances driving the STA Requests are entirely of SpaceX’s own creation. Given the status of its pending space and earth station applications with the Commission, SpaceX could have prudently and responsibly declined to schedule a launch of its NGSO satellites until it obtained Commission approval of those applications.⁷ Instead of launching a constellation consistent with its existing space station license authorizing a 4,425 satellite NGSO constellation, SpaceX chose to modify its constellation and then attempt to artificially create the need for an STA because its Modification Application remains pending before the Commission after only five months. Notably, the STA Requests do not even attempt to meet the extraordinary circumstances standard: instead, SpaceX merely offers conclusory and wholly unsupported statements that the Commission has “good cause” to grant the requests, that grant would “yield a number of public interest benefits,” and that grant would “serve the public interest.”⁸ Nowhere does SpaceX address the “extraordinary circumstances” standard it must meet to justify grant of the STA Requests, because such an assertion is unsupportable. SpaceX’s rationale for the STA Requests is clearly based on nothing more than “convenience to the applicant,” magnified by the fact that this entire situation exists only because SpaceX has made it so. Simply put, grant of the STA Requests is not in the public interest and the Commission should reject the STA Requests, in accordance with the Act, the Commission’s rules, and relevant precedent.

II. SPACEX’S STA REQUESTS ARE AN ATTEMPT TO SHORTCUT THE COMMISSION’S REVIEW PROCESS

As noted above, SpaceX currently has a Modification Application and seven earth station applications pending before the Commission. The Modification Application was filed on November 8, 2018, and the earliest gateway earth station applications were filed a mere three weeks ago on March 28, 2019. SpaceX’s Modification Application remains under review at the Commission for good reason: it has encountered widespread opposition on issues ranging from increased radiofrequency interference to troublesome orbital debris and casualty risk profiles.⁹ Instead of successfully resolving the concerns raised in the record, SpaceX has evidently pivoted

⁷ See Modification Application; SpaceX Services, Inc., Application for Gateway Earth Station, IBFS File Nos. SES-LIC-20190402-00425 through -00427, -00450-00451; IBFS File Nos. SES-LIC-20190405-00453 through -00454 (filed Mar. 28, 2019 & Apr. 3, 2019).

⁸ STA Narrative at 1.

⁹ See, e.g., Petition to Deny; Comments and Conditional Petition to Deny of Kepler Communications, Inc., IBFS File No. SAT-MOD-20181108-00083 (filed Jan. 29, 2019); Planet Labs, Inc., Petition to Defer, IBFS File No. SAT-MOD-20181108-00083 (filed Jan. 29, 2019).

to a new strategy, as evidenced by the STA Requests: attempting to circumvent the Commission's satellite licensing process by creating a need to meet self-imposed launch deadlines.

The STA Requests seek to force the Commission's hand in granting the Modification Application. By arbitrarily locking itself into a launch deadline, SpaceX has attempted to create, as detailed above, its own set of "extraordinary circumstances" justifying grant of temporary authority. SpaceX's self-imposed launch "commitments" and corresponding STA Requests try to force the Commission to bypass its own processes by creating an artificial scenario which SpaceX claims can only be resolved through the grant of an STA by the Commission.

This coercive approach runs through every aspect of the STA Requests. For example, SpaceX surprisingly attempts to use the danger *SpaceX itself* may pose to the orbital environment as justification for grant of the STA Requests. In its own words, SpaceX claims the "Commission has good cause to approve this request to enhance the safety of space" because "the requested STA would cover TT&C functions that are essential to commanding the spacecraft."¹⁰ Conveniently, SpaceX fails to acknowledge that "the safety of space" would need no protection from an uncontrolled SpaceX spacecraft if SpaceX had simply waited for Commission action on its pending applications before scheduling launch. Instead, SpaceX actively wields the potential dangers of its uncontrolled spacecraft as a cudgel to attempt to force the Commission to grant the STA Requests.

The Commission should reject SpaceX's cynical approach. By announcing its intention to launch its NGSO constellation without a grant of the Modification Application, SpaceX has displayed a lack of respect for the integrity of the Commission's review procedures.¹¹ The Commission should not allow the STA Requests to serve as a beachhead that will make later approval of the Modification Application a mere *fait accompli*, as SpaceX intends. Instead, the Commission should reject the STA Requests and evaluate the pending SpaceX applications on their own merits and based on the substantial record generated to date, without influence from externally-created pressure and artificial deadlines from SpaceX.

¹⁰ STA Narrative at 1.

¹¹ In its haste, SpaceX may be unaware that its planned May launch runs directly counter to a recent Commission Enforcement Advisory that cautioned satellite operators who are seeking but have not been granted a Commission license that the "existence of a pending application does not guarantee that a satellite will ultimately be authorized by the Commission." *FCC Enforcement Advisory: Compliance with Satellite Communications Licensing Requirements is Mandatory and Failure to Comply can Result in Enforcement Action*, Public Notice, 33 FCC Rcd 3592, 3593 (EB, IB, OET, WTB Apr. 12, 2018).

III. THE SPACEX STA REQUESTS WERE INCOMPLETE AS FILED

The STA Requests filed by SpaceX do not satisfy the Commission standard for completeness. Pursuant to relevant Part 25 rules, a request for special temporary authority “must contain the full particulars of the proposed operation including all facts sufficient to justify the temporary authority sought and the public interest therein.”¹² The STA Requests are deficient and simply do not contain the information required by the Commission’s rules.

As an initial matter, the STA Requests do not even specify the number of satellites SpaceX seeks to launch, nor the altitude at which these satellites will operate. Instead, the Commission and other stakeholders are merely informed that a “first tranche” will be launched, and that these satellites will spend weeks “orbit [*sic*] raising to ensure proper functioning.”¹³ While the Commission and other stakeholders are left guessing at many of the critical operational specifics, the STA Requests also fail to contain the full particulars of the proposed operation within the requests themselves. The STA Requests make reference to the Modification Application and SpaceX’s initial license grant and assert that those documents “contain all relevant operational characteristics and are hereby incorporated herein to the extent necessary.”¹⁴ However, the Modification Application represents a significant departure in many operational characteristics from those in SpaceX’s original license grant. Without any further indication of specific operational characteristics, SpaceX’s attempt to incorporate previous grants and pending applications into the STA Requests does not satisfy the completeness requirement of 25.120(a) and therefore should be dismissed.

IV. CONCLUSION

For the foregoing reasons, SpaceX has not justified the need for an STA based on the clear statutory standard and the Commission’s rules, and any grant of the STA Requests would be inconsistent with applicable precedent and undercut the Commission’s own review process. OneWeb respectfully submits that the STA Requests should be denied.

Please do not hesitate to contact the undersigned with any questions.

¹² 47 C.F.R. 25.120(a); EchoStar Denial at 2.

¹³ STA Narrative at 1.

¹⁴ *Id.* at n. 1.

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Very truly yours,

/s/ Brian D. Weimer

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CERTIFICATE OF SERVICE

I, Samuel Swoyer, hereby certify that on this 18th day of April 2019, a copy of the foregoing letter is being sent via first class, U.S. Mail, postage paid, to the following:

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