

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

In the Matter of)
)
WorldVu Satellites Limited, Debtor-in-) File No. SAT-LOI-20170301-00031
Possession, Petition for Declaratory Ruling)
Granting Access to the U.S. Market for the)
OneWeb Non-Geostationary Satellite Orbit)
Fixed-Satellite Service V-Band System)

**CONSOLIDATED OPPOSITION OF ONEWEB
TO REQUEST FOR RECONSIDERATION AND STAY**

WorldVu Satellites Limited, Debtor-in-Possession (“OneWeb”) hereby opposes the Request for Reconsideration and Stay of the International Bureau’s grant of OneWeb’s market access petition for its planned low earth orbit and medium earth orbit, non-geostationary orbit (“NGSO”) satellite system operating in the V-band¹ filed by Nina Beety and the East Bay Neighborhoods for Responsible Technology/Californians for Safe Technology (collectively, the “Petitioners”).²

INTRODUCTION AND SUMMARY

The Petition is procedurally defective and does not comply with numerous Commission rules governing the filing of petitions for reconsideration. On that basis alone, the Commission

¹ *WorldVu Satellites Limited, Debtor-in-Possession, Petition for Declaratory Ruling Granting Access to the U.S. Market for the OneWeb Non-Geostationary Satellite Orbit Fixed-Satellite Service V-Band System*, Order and Declaratory Ruling, IBFS File No. SAT-LOI-20170301-00031 (rel. Aug. 26, 2020) (“V-Band Grant”).

² See Nina Beety, Request for Reconsideration and Stay, IBFS File No. SAT-LOI-20170301-00031 (filed Sept. 8, 2020) (“Beety Request”); Letter from Jodi Nelson, East Bay Neighborhoods for Responsible Technology/Californians for Safe Technology, to FCC, IBFS File No. SAT-LOI-20170301-00031 (Sept. 10, 2020) (“Nelson Letter”) (together, the “Petition”). OneWeb notes that the correspondence filed by East Bay Neighborhoods for Responsible Technology/Californians for Safe Technology incorporates the Petition by reference and OneWeb therefore addresses these submissions on a consolidated basis.

should dismiss the Petition. Even if the Commission were to consider the merits, the Petition should still be dismissed. Petitioners put forward a varied assortment of misguided and wildly disconnected arguments against the V-Band Grant, ranging from alleged negative public health effects to the Commission's failure to invoke authority under several statutes which it does not administer. These arguments do not even come close to satisfying the requirements for petitions for reconsideration and should be expeditiously rejected by the Commission.

OneWeb is currently in the process of emerging from the Chapter 11 bankruptcy process with a new ownership structure and enhanced access to capital. The V-Band Grant will enable OneWeb to expand upon the capabilities of its current non-geostationary, fixed-satellite service system ("NGSO FSS") to continue developing, manufacturing and launching satellites additionally capable of delivering high-capacity, innovative connectivity services via the V-band. The Commission should promptly dismiss the Petition and remove any potential it could have for delaying the delivery of these competitive connectivity services to U.S. consumers.

I. THE PETITION SUFFERS FROM FATAL PROCEDURAL DEFICIENCIES AND SHOULD BE DISMISSED ON THOSE GROUNDS ALONE

OneWeb filed its petition for market access in the V-band in March 2017 in response to the ongoing V-band processing round.³ The Commission put the OneWeb petition for market

³ See *Satellite Policy Branch Information: Boeing Application Accepted for Filing in Part; Cut-Off Established for Additional NGSO-Like Satellite Applications for Petitions for Operations in the 37.5-40.0 GHz, 40.0-42.0 GHz, 47.2-50.2 GHz, and 50.4-51.4 GHz Bands*, Public Notice, 31 FCC Rcd 11957 (IB 2016). See also *WorldVu Satellites Limited, Petition for Declaratory Ruling Granting Access to the U.S. Market for the OneWeb Non-Geostationary Satellite Orbit Fixed-Satellite Service V-Band System*, IBFS File No. SAT-LOI-20170301-00031, Call Sign S2994 (filed Mar. 1, 2017) ("V-Band Petition").

access in the V-band on public notice in June of 2017.⁴ The Petitioners did not file comments at that time nor at any time during the more than three years that the V-Band Petition was pending before the Commission. The Petitioners offer no explanation for their silence during the pendency of this proceeding. As a result, this lack of standing renders the Petition procedurally—and fatally—defective.

Commission rules and applicable precedent make clear that a petitioner must have standing to seek reconsideration of a Commission decision. In particular, the Commission’s rules require a petitioner who was not a party to a proceeding prior to filing a petition for reconsideration to demonstrate “with particularity the manner in which the person’s interests are adversely affected by the action taken” and “show good reason why it was not possible...to participate in the earlier stages of the proceeding.”⁵ The Petition utterly fails to satisfy this criterion and should be dismissed for at least four reasons.

First, Petitioners do not explain why they did not previously participate in this proceeding—which lasted for over three years—much less provide “good reason” for their failure to file comments on the V-Band Petition. While Petitioners state that the Commission “did not notify the public of this application” and decry an alleged “lack of broad public notification,” these assertions are factually incorrect.⁶ As noted above, the Commission provided public notice of the V-Band Petition and afforded interested parties the opportunity to comment consistent with the requirements of the Communications Act and the Commission’s

⁴ See *Policy Branch Information: Satellite Space Station Applications Accepted for Filing*, Public Notice, Report No. SAT-01245 (IB 2017) (“V-Band Public Notice”).

⁵ 47 C.F.R. § 1.106(b)(1).

⁶ See Nelson Letter, Petition, at 1, 28.

Part 25 rules.⁷ Moreover, to the extent the Petitioners request “a variance to submit this request...if deadlines have passed” based on “a reasonable disabled accommodation under ADA”⁸ is intended to be construed as a request to waive the Commission’s standing rule, it falls well short of the Commission’s waiver requirements. As the Commission has consistently explained, parties seeking a waiver of the Commission’s rules “face a ‘high hurdle’” and need to “plead with particularity the facts and circumstances that warrant the Commission granting waiver.”⁹ Thus, the Petitioners fail to explain why they could not have previously participated in this proceeding.

Second, Petitioners similarly fail to establish “with particularity the manner in which the person's interests are adversely affected by the action taken.”¹⁰ The Commission has explained that to obtain standing, a petitioner must establish “a causal link between the claimed injury and the challenged action” and demonstrate “the claimed injury would be prevented or redressed by the relief requested.”¹¹ In addition, the alleged injury “must be both ‘concrete and particularized’ and ‘actual or imminent, not conjectural or hypothetical.’”¹² Here, the Petitioners

⁷ See V-Band Public Notice; see also 47 C.F.R. § 25.154(a) (establishing the notice and comment period for satellite applications).

⁸ Nelson Letter, Petition, at 28.

⁹ *Improving 911 Reliability and Continuity of Communications Networks, Including Broadband Technologies*, Order, DA 20-814, ¶ 5 (rel. July 30, 2020) (quoting *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969)).

¹⁰ 47 C.F.R. § 1.106(b)(1).

¹¹ *Metropolitan Transportation Authority, Request for Modification of Station KIVD0002, Application for Renewal of Station KIVD0002, Request for Waiver to Facilitate Positive Train Control System*, Proposed Order of Modification and Order on Reconsideration, 31 FCC Rcd 1436, 1440-41 ¶ 12 (2016).

¹² *Id.* (quoting *Conference Group, LLC v. FCC*, 720 F.3d 957, 962 (D.C. Cir. 2013)).

offer a handful of vague assertions of “damage...to property and life,” apparently based on the purported harmful effects of radiofrequency (“RF”) emissions associated with satellite-based communications networks.¹³ As an initial matter, these concerns in no way constitute the “concrete and particularized harms” required to establish standing. Critically, the alleged harms described by the Petitioners are not even specific or unique to OneWeb and are therefore best addressed in connection with the Commission’s current proceeding to review its RF safety rules, which determined that “[t]he record does not demonstrate that the science underpinning the current RF exposure limits is outdated or insufficient to protect human safety.”¹⁴ Moreover, these allegations of harm are woefully insufficient to satisfy the Commission’s requirement that the Petitioners establish a “causal link” between the amorphous harms claimed by the Petitioners. Indeed, the Petition establishes no link between the V-Band Grant and actual, concrete harms suffered by the Petitioners. The Petitioners also fail to explain how these purported harms could be ameliorated via reconsideration of the V-Band Grant. Simply put, the Petitioners neither establish concrete harms resulting from the V-Band Grant, nor do they link such alleged harms to the V-Band Grant. As a result, Petitioners lack standing to challenge the V-Band Grant and the Petition should be dismissed for such lack of standing.

Third, OneWeb notes that the Petition is also styled, in part, as a request for stay.¹⁵ Commission rules require that any request to stay the effectiveness of an order must “be filed as a separate pleading” and “[a]ny such request which is not filed as a separate pleading will not be

¹³ Nelson Letter, Petition, at 1, 18-25.

¹⁴ *Proposed Changes in the Commission’s Rules Regarding Human Exposure to Radiofrequency Electromagnetic Fields*, 34 FCC Rcd 11687, 11692-93 ¶ 10 (2019) (“*RF Exposure Order*”). The Ninth Circuit Court of Appeals recently upheld the Commission’s determinations. *See City of Portland v. United States*, 969 F.3d 1020 (9th Cir. 2020).

¹⁵ Beety Request, Petition, at 1.

considered by the Commission.”¹⁶ Thus, Petitioner’s request for stay should be summarily dismissed.

Fourth, the Petition also suffers from *additional* procedural defects. For example, the Petition is twenty-nine, single-spaced pages in length and adds exhibits bringing the total length to 72 pages. This far exceeds the Commission’s 25 double-spaced typewritten page limit.¹⁷ Furthermore, and contrary to Commission rules, the Petition was not served upon parties to the proceeding.¹⁸ At bottom, the Petition suffers from numerous, fundamental procedural deficiencies and as such should be dismissed on those grounds alone.

II. THE MERITS OF THE PETITION DO NOT WARRANT RECONSIDERATION OF THE V-BAND GRANT

Based on the significant procedural defects discussed in Section I, the Commission should dismiss the Petition. Even on its merits, however, the Petition is fatally flawed and merits dismissal. Notwithstanding the procedural defectiveness of the Petition, OneWeb briefly addresses the substance of Petitioners’ arguments below.¹⁹

¹⁶ 47 C.F.R. § 1.44(e). *See also Tampa Radio Licenses of Tampa, Florida, Inc. et al.*, Memorandum Opinion and Order, 25 FCC Rcd 7588, 7589-90, ¶ 3 (2010).

¹⁷ 47 C.F.R. § 1.106(f).

¹⁸ *Id.*

¹⁹ Section 1.106(c) of the Commission’s rules prohibits petitions for reconsideration from relying on “arguments not previously presented to the Commission.” *Id.* § 1.106(c). OneWeb notes that this subsection of the Commission’s rules has been interpreted to merely “describe[] the circumstances that warrant a grant on the merits of a procedurally valid petition for reconsideration” and “has no relevance to a procedurally defective petition.” *See Regionet Wireless Licensee, LLC, Granted Applications to Provide Automated Maritime Telecommunications System Stations at Various Location in the United States*, Order on Further Reconsideration, 16 FCC Rcd 22097, 22098 ¶¶ 6 n.19, 8 (2001). Therefore, in light of the Petition’s significant procedural deficiencies highlighted in Section I, OneWeb addresses the merits of the Petition only out of an abundance of caution.

The Petition relies on a sprawling assortment of disparate arguments, ranging from unfounded bankruptcy and orbital debris concerns to baseless allegations regarding RF emissions and public health effects.²⁰ In doing so, the Petitioners cobble together a litany of statutes, treaties, and codes, including U.S. civil rights laws, United Nations conventions, Fair Housing Act, the Americans with Disabilities Act (“ADA”), and the National Environmental Policy Act (“NEPA”) in an otherwise sweeping protest against various Commission processes and policies.²¹ At its core, the Petition raises arguments that fall into one of two categories: (i) issues that are generally relevant for consideration (if any) only in certain unrelated Commission rulemaking proceedings and (ii) issues that fall well outside the Commission’s statutory authority and are otherwise wholly unrelated to the V-Band Grant.

A large portion of the Petition is centered on the alleged harmful impacts of RF emissions, with some tenuous references to the potential impact of OneWeb’s operations in exposing the public and environment to harmful levels of RF emissions sprinkled in throughout.²² To that end, the Petitioners generally characterize the Commission’s RF exposure rules as “reckless policies,” allege that the Commission has violated NEPA, and make various unfounded claims regarding the RF emissions from OneWeb’s operations.²³

As an initial matter, any suggestion that OneWeb’s planned operations in the V-band might have detrimental environmental or public health effects is wildly inaccurate.²⁴ In its petition for market access, OneWeb certified the V-Band Grant would not have a significant

²⁰ Nelson Letter, Petition, at 5, 17, 25.

²¹ *Id.* at 11, 13, 14, 22.

²² *Id.* at 12, 14, 16, 17, 18, 20, 23, 25.

²³ *Id.* at 12, 16-17, 28.

²⁴ *Id.* at 16, 21, 23.

environmental impact pursuant to Section 1.1307 of the Commission's rules.²⁵ Furthermore, the V-Band Grant does not authorize the operation of any satellite earth stations. Conveniently ignoring these realities, the Petition unsurprisingly alleges no direct relationship between the V-Band Grant and the various RF-related harms the Petitioners falsely ascribe to satellite operations—because there is simply no basis for such an assertion.

Importantly, and as noted in Section I, the Commission recently concluded a proceeding in which it reaffirmed the existing RF exposure limits pursuant to its authority under NEPA.²⁶ Despite the Petition's assertions to the contrary, after a comprehensive review the Commission found "no appropriate basis" to reevaluate the existing RF exposure limits.²⁷ Despite the Petition's assertions to the contrary, the Commission found no evidence that the science informing current RF limits was outdated or insufficient to protect human safety.²⁸ OneWeb notes that the Petitioners participated in that proceeding and a notice of proposed rulemaking to further develop the record with respect to RF safety issues presented by "evolving technological advances" remains pending.²⁹ As the Petitioners' claims (i) do not establish any harms resulting from the V-Band Grant and (ii) are not even unique to OneWeb, OneWeb respectfully suggests

²⁵ See IBFS File No. SAT-LOI-201700301-00031, FCC Form 312, Question No. 28.; 47 C.F.R. § 1.1307.

²⁶ See generally *RF Exposure Order*. In the *RF Exposure Order*, the Commission concluded its review of the appropriateness of the existing RF exposure limits with recommendations from the Environmental Protection Agency, the Food and Drug Administration, and other agencies, determining that no changes were needed with respect to the existing human exposure limits. See *RF Exposure Order*, ¶ 11.

²⁷ *Id.* ¶ 10.

²⁸ *Id.*

²⁹ See *id.* ¶ 119; see also Comments of Nina Beety, ET Docket No. 19-226 (filed June 18, 2020).

this rulemaking proceeding remains the more appropriate forum for Petitioners to air their grievances with the Commission's RF safety rules.

In a similar vein, Petitioners allege that OneWeb's ongoing Chapter 11 reorganization process somehow foreclosed any grant of the V-Band Petition, and appear to argue that the Commission did not adequately apply its orbital debris rules when adopting the V-Band Grant.³⁰ Once again, the Petitioners' arguments fundamentally misconstrue the scope of the Commission's rules and conflate a number of issues—some of which are not even within the Commission's statutory purview—with the standard for evaluating market access petitions.

No rule prevents the Commission from issuing licenses and granting authorizations to companies in bankruptcy. To the contrary, the Commission has previously issued licenses to satellite companies undergoing the Chapter 11 process.³¹ Moreover, OneWeb's planned exit from Chapter 11 bankruptcy will be subject to Commission review, as its application to enter Chapter 11 bankruptcy was.³² Thus, the Commission correctly refrained from treating OneWeb's Chapter 11 bankruptcy status as an impediment to issuing the V-Band Grant, and any issues raised by OneWeb's planned reorganization will be addressed in the context of the OneWeb Reorganization Proceeding.

Although unclear, it appears that Petitioners also erroneously assert that the V-Band Grant violated the Commission's orbital debris policies.³³ Consistent with the Commission's

³⁰ Nelson Letter, Petition, at 5-6, 25-27.

³¹ See, e.g., *Iridium LLC, Concerning Use of the 1990-2025/2165-2200 MHz and Associated Frequency Bands for a Mobile-Satellite System*, Order and Authorization, 16 FCC Rcd 13778 (IB 2001) (granting a 2 GHz MSS license to Iridium during the pendency of its Chapter 11 reorganization).

³² See, e.g., IBFS File No. SAT-MPL-20200406-00031 (granted Apr. 10, 2020).

³³ Nelson Letter, Petition, at 25-26.

rules, OneWeb's orbital debris mitigation plans remain subject to the direct and effective regulatory oversight of the United Kingdom Space Agency.³⁴ Thus, the Commission's orbital debris regulations provide no basis for Petitioners to seek reconsideration of the V-Band Grant.

Finally, Petitioners recite a laundry list of statutes, treaties, and international codes the Commission allegedly violated by adopting V-Band Grant.³⁵ OneWeb will not refute each of these in turn, but simply notes as a threshold issue that Petitioners appear to heavily rely on statutes that (i) the Commission does not administer or (ii) whose administration has no impact on a review of the merits of the V-Band Grant.³⁶ As such, any consideration of the merits of the Petition should result in its expeditious dismissal by the Commission.

III. CONCLUSION

For the foregoing reasons, OneWeb respectfully submits that the Commission should dismiss the Petition. The Petition is procedurally defective and on that ground alone merits expeditious dismissal. Even if the Commission were to consider the merits of the Petition—which it should not—Petitioners raise no arguments that remotely merit reconsideration of the V-Band Grant.

³⁴ 47 C.F.R. § 25.117(d)(14)(v); V-Band Grant ¶ 16.

³⁵ Nelson Letter, Petition, at 10-15 (alleging violation of, among other laws, the FHA, the California Constitution, and the Nuremberg Code of Ethics).

³⁶ See, e.g., *id.* at 12-13 (arguing that the Commission violated Section 255 of the ADA by adopting the V-Band Grant).

Respectfully submitted,

Ruth Pritchard-Kelly
Vice President of Regulatory Affairs

ONEWEB
1785 Greensboro Station Place, Tower 3
McLean, VA 22102

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/s/ Brian Weimer

Brian Weimer
Douglas Svor
Thomas Hastings
SHEPPARD MULLIN RICHTER & HAMPTON LLP
2099 Pennsylvania Ave., NW, Suite 100
Washington, DC 20006
(202) 747-1930
bweimer@sheppardmullin.com
dsvor@sheppardmullin.com
thastings@sheppardmullin.com
Counsel to WorldVu Satellites Limited

CERTIFICATE OF SERVICE

I, Thomas Hastings, certify that I have on this 18th day of September, 2020, caused a copy of the foregoing Opposition to be served on the persons identified via First Class mail or email at the addresses listed below:

Nina Beety
277 Mar Vista Dr.
Monterey, CA 93940

Jodi Nelson
East Bay Neighborhoods for Responsible
Technology
ebnrt.info@gmail.com

/s/ Thomas Hastings
Thomas Hastings