

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Amendment of the Commission's Policies and)	IB Docket No. 06-160
Rules for Processing Applications in the)	
Direct Broadcast Satellite Service)	

REPLY COMMENTS OF WORLDVU SATELLITES LIMITED

WorldVu Satellites Limited (“OneWeb”) respectfully submits this reply to the comments filed in response to the Federal Communications Commission’s (the “Commission”) Second Notice of Proposed Rulemaking (“NPRM”) in the above-captioned proceeding.¹

I. MVDDS OPERATORS HAVE CONSISTENTLY FAILED TO UTILIZE THE 12 GHZ BAND

In comments filed in response to the NPRM, a handful of MVDDS operators—including the MVDDS 5G Coalition (the “MVDDS Coalition”)—attempt to hijack a proceeding initiated to revise the rules governing direct broadcast satellite (“DBS”) services by urging the Commission to act on a long-dormant petition for rulemaking to permit two-way, terrestrial mobile service in the 12.2-12.7 GHz band (“12 GHz Band”).² As an initial matter, this request is well outside the scope of this proceeding. In addition, the MVDDS Coalition offers no compelling reason for action on its petition for rulemaking and instead merely recycles a litany of excuses as to why actual deployment of MVDDS operations has been practically non-existent, even though MVDDS

¹ *Amendment of the Commission’s Policies and Rules for Processing Applications in the Direct Broadcast Satellite Service*, Second Notice of Proposed Rulemaking, IB Dkt. No. 06-160, FCC 18-157 (rel. Nov. 13, 2018) (“NPRM”).

² *See* Comments of the MVDDS 5G Coalition, IB Dkt. No. 06-160 at 2-4 (filed Mar. 25, 2019) (“MVDDS Coalition Comments”); Petition of MVDDS 5G Coalition for Rulemaking, RM-11768 (filed Apr. 26, 2016) (“Petition”).

was authorized by the Commission nineteen years ago.³ Unlike the MVDDS operators—who have rendered the 12 GHz band vastly underutilized—non-geostationary, fixed-satellite service (“NGSO FSS”) operators like OneWeb are poised to utilize the 12 GHz band to provide consumers the kind of innovative, two-way connectivity that has long eluded MVDDS operators.

Tellingly, MVDDS operator MDS Operations, Inc. acknowledges that to date it has been the only MVDDS licensee to provide service, which is limited to a small area in New Mexico.⁴ Both MDS Operations and RS Access (two MVDDS operators, collectively “MDS Operations”) and the MVDDS Coalition point to past Commission extensions of build-out deadlines as evidence the Commission’s technical and operational limitations are to blame for the MVDDS operators’ failure to utilize the 12 GHz band.⁵ For example, MDS Operations argues the Commission’s rules have “choked investment and stunted the deployment” of innovative services in the 12 GHz band.⁶ Similarly, the MVDDS Coalition argues MVDDS services have been “hamstrung by [the Commission’s] outdated technical and operational rules.”⁷ OneWeb notes the Commission squarely rejected these kinds of arguments when it recently denied requests for build-out deadline extensions from three licensees, including MDS Operations.⁸ In particular, the Commission

³ MVDDS Coalition Comments at 3; *See Amendment of Parts 2 and 25 of the Commission’s Rules to Permit Operation of NGSO FSS Systems Co-Frequency with GSO and Terrestrial Systems in the Ku-Band*, First Report and Order and Further Notice of Proposed Rule Making, 16 FCC Rcd 4096, ¶ 2 (2000).

⁴ Comments of MDS Operations, Inc. and RS Access, LLC, IB Dkt. No. 06-160 at 3 (filed Mar. 25, 2019) (“MDS Comments”).

⁵ *See* MVDDS Coalition Comments at 3; MDS Comments at 3.

⁶ MDS Comments at 3.

⁷ MVDDS Coalition Comments at 3.

⁸ *See Requests of Three Licensees of 22 Licenses in the Multichannel Video and Data Distribution Service for Extension of Time to Meet the Final Buildout Requirement for Providing*

reminded MVDDS licensees that technical restrictions are part of a licensee's due diligence obligations and are not a valid basis from which to seek relief from build-out obligations.⁹

The contrast between OneWeb's rapid progress towards providing high-speed connectivity utilizing the 12 GHz band and the lack of build-out by MVDDS licensees could not be starker. While the MVDDS licensees repeatedly bemoan the regulatory framework applicable to MVDDS operations as the reason for their lack of deployments, OneWeb has instead been working at rapid pace to create an end-to-end satellite network that will inevitably provide ubiquitous, high-speed service to U.S. consumers via the 12 GHz band.¹⁰

In just the last three months, OneWeb has launched its initial six production satellites, continues building out its network infrastructure, and has secured another \$1.2 billion in investment capital.¹¹ OneWeb's satellite manufacturing facility will soon open in Exploration Park, FL to mass produce NGSO spacecraft.¹² Therefore, contrary to the assertions of the MVDDS operators, no Commission action is necessary to "modernize" the 12 GHz band. OneWeb has

Substantial Service under Section 101.1413 of the Commission's Rules, Order, 33 FCC Rcd 10757, ¶ 1 (WTB 2018) ("MVDDS Extension Denial").

⁹ *Id.* at ¶ 11.

¹⁰ As the MVDDS Coalition acknowledges, NGSO FSS systems "enjoy a primary downlink allocation in the 12 GHz [b]and" and the Commission has authorized numerous systems (including OneWeb) to provide service in the band. *See* MVDDS Coalition Comments at 3.

¹¹ *See, e.g.*, Jackie Wattles, *OneWeb Launches First Batch of Internet Satellites*, CNN (Feb. 28, 2019, 7:02 PM), <https://www.cnn.com/2019/02/27/tech/oneweb-internet-satellite-launch/index.html>; Ashlee Vance, *OneWeb Raises Fresh \$1.25 Billion for Internet System From Space*, BLOOMBERG (Mar. 18, 2019), <https://www.bloomberg.com/news/articles/2019-03-18/oneweb-raises-fresh-1-25-billion-for-internet-system-from-space>.

¹² *See, e.g.*, Paul Brinkmann, *OneWeb mass-producing satellites in Florida*, UPI (Mar. 28, 2019, 10:15 am), https://www.upi.com/Top_News/US/2019/03/19/OneWeb-mass-producing-satellites-in-Florida/6221553010025/.

seized the opportunity to do so and in a mere fraction of the time in which MVDDS operators have largely squatted on this spectrum—now approaching two decades—and allowed it to lie fallow.

II. THE COMMISSION SHOULD CONTINUE TO REFRAIN FROM ACTING ON THE MVDDS 5G COALITION PETITION FOR RULEMAKING

Both the MVDDS Coalition and MDS Operations again request the Commission consider the now three-year-old Petition.¹³ OneWeb’s consistent position on the fatally flawed Petition is a matter of record with the Commission.¹⁴ The issues plaguing the Petition have not changed in the three years since the Petition was filed: the technical analysis contained within the Petition was critically flawed, and its underlying rationale (i.e., underutilization of the 12 GHz band) conveniently ignores the ongoing, rapid development of NGSO FSS systems that will utilize the 12 GHz band.¹⁵ While these technical issues are still unresolved and the widespread opposition to the Petition remains, the Commission should additionally decline to consider the Petition for two specific reasons.¹⁶

First, the instant proceeding is not the appropriate forum to reconsider the significant issues presented by the pending Petition. The Petition is already the subject of a proceeding that has now been dormant for years.¹⁷ At the time of its filing, the Petition attracted widespread and well-

¹³ See Petition.

¹⁴ See, e.g., Opposition of WorldVu Satellites Limited, RM-11768 (filed Jun. 8, 2016); Reply Comments of WorldVu Satellites Limited, GN Docket No. 17-183 (filed Nov. 15, 2017) (“OneWeb Reply Comments”).

¹⁵ See OneWeb Reply Comments at 3-5.

¹⁶ See *id.* at n. 19 (detailing opposition to the Petition).

¹⁷ See Docket RM-11768.

founded criticism.¹⁸ The MVDDS Coalition’s transparent attempt to sidestep the unfavorable record in that proceeding and use this proceeding to revive interest in a Petition upon which the Commission has rightfully declined to act should be rejected. Nor is this the first time the MVDDS Coalition has attempted such a maneuver: in 2017 the MVDDS Coalition attempted to “shoehorn[] consideration of [its] proposal” into a proceeding that did not call for specific comment on the 12 GHz band.¹⁹ The Commission should recognize the Petition as being outside the scope of the instant proceeding.

Second, the MVDDS Coalition has once again offered no change in circumstance nor compelling rationale for action on the Petition. In their comments, the MVDDS Coalition and MDS Operations offer no new rationales nor demonstrations as to why the Commission, which did not find it appropriate to grant the Petition in 2016, should now do so.²⁰ Since 2016, the only notable MVDDS-related development has been the Commission’s cancellation of more MVDDS licenses for failure to satisfy applicable build-out obligations.²¹ Meanwhile, as discussed above, NGSO FSS providers have made rapid and concrete progress towards delivering transformative connectivity to U.S. consumers. As OneWeb previously highlighted for the Commission, the rationale behind the Petition is becoming less compelling as more time passes and it becomes clear

¹⁸ See OneWeb Reply Comments at n. 19 (referencing opposition to the Petition from Intelsat, AT&T, SpaceX, and SES S.A.).

¹⁹ *Id.* at 7.

²⁰ See generally MVDDS Coalition Comments; MDS Comments.

²¹ See MVDDS Extension Denial. OneWeb also notes the upcoming buildout deadlines for the remainder of MVDDS licensees, rapidly approaching in summer and fall 2019. See *Ten Licensees of 191 Licenses in the Multichannel Video and Data Distribution Service for Wavier of the Five-Year Deadline for Providing Substantial Service*, Order, 25 FCC Rcd 10097, 10106-10109 (2010) (extending the buildout deadlines for 141 MVDDS licenses until July through September, 2019).

that NGSO FSS systems, not MVDDS operators, are driving innovation in the 12 GHz band.²² There was simply no basis for the Commission to initiate a rulemaking based on the Petition three years ago, nor is there any today.

III. THE COMMISSION SHOULD REFRAIN FROM ALTERING THE CAREFULLY BALANCED SHARING ENVIRONMENT IN THE 12 GHZ BAND

In its comments filed in this proceeding, SES urges the Commission to “issue a further notice in the instant proceeding to seek input on allowing FSS downlinks to operate under the DBS allocation in the 12 GHz band.”²³ However, SES fails to acknowledge the existing co-primary allocation for NGSO FSS systems in the United States.²⁴ Notably, the Commission has not extended footnote 5.492 to the U.S. Table of Frequency Allocations—which SES relies on for the proposition that satellite operators can provide FSS services under the DBS allocation—to the 12 GHz band. While OneWeb does not oppose allowing additional FSS operations pursuant to the existing DBS allocation in the 12 GHz band, this should not come at the expense of the existing co-primary allocation for NGSO FSS systems.

Currently, NGSO FSS downlink operations in the 12 GHz band cannot claim protection from DBS operations.²⁵ However, such obligations do not extend to geostationary orbit (“GSO”) FSS operations. This is consistent with the Commission’s current licensing regime, whereby the Commission has typically authorized GSO operations in the 12 GHz band on a non-interference

²² OneWeb Reply Comments at 4.

²³ Comments of SES Americom, Inc. and its Affiliates, IB Dkt. No 06-160 at 3-4 (filed Mar. 25, 2019).

²⁴ See 47 C.F.R. § 2.106, n. 5.487A.

²⁵ See *id.*

basis.²⁶ Elevating GSO FSS downlinks to primary status via the DBS allocation would unnecessarily complicate the interference environment in the 12 GHz band at a time when numerous NGSO FSS systems have been authorized to operate in the 12 GHz band.²⁷ Given the high likelihood of intense NGSO FSS utilization of the 12 GHz band, the Commission should refrain from elevating GSO FSS downlinks to primary status in the 12 GHz band at this time.

IV. CONCLUSION

MVDDS operators in the United States are no closer to utilizing the 12 GHz band today than they were nineteen years ago, when MVDDS operations were first authorized.²⁸ While the MVDDS Coalition and MDS Operations attempt to pin the blame for this state of affairs on the Commission's rules, such arguments cannot conceal the utter lack of progress towards utilization of the 12 GHz band, especially in contrast to NGSO FSS systems such as OneWeb. Instead, the MVDDS Coalition and MDS Operations attempt to latch on to the NPRM to generate interest in its long-dormant Petition, which is outside the scope of this proceeding. However, the MVDDS Coalition has failed to demonstrate any changed circumstances or new rationales that would compel the Commission to act on the Petition. OneWeb respectfully requests the Commission decline to act on the Petition and reject the efforts of the MVDDS operators to consider the Petition as part of this DBS rulemaking proceeding. In addition, OneWeb requests the Commission refrain

²⁶ See, e.g., *Application for Authority to Launch and Operate Intelsat 29e, a Replacement Satellite with New Frequencies*, IBFS File No. SAT-LOA-20130722-00097 at 5 (May 21, 2015) (limiting Intelsat's use of the 12.2-12.5 GHz frequency band to a "non-interference and non-protected basis").

²⁷ See, e.g., *WorldVu Satellites Limited, Petition for a Declaratory Ruling Granting Access to the U.S. Market for the OneWeb NGSO FSS System*, Order and Declaratory Ruling, 32 FCC Rcd 5366 at ¶ 6 (2017); *Kepler Communications Inc., Petition for Declaratory Ruling to Grant Access to the U.S. Market for Kepler's NGSO FSS System*, Order and Declaratory Ruling, 33 FCC Rcd 11453 at ¶ 25(d) (2018).

²⁸ See MVDDS Comments at 3.

from initiating any action that may result in the Commission conferring primary status on GSO
FSS downlinks in the 12 GHz band.

Respectfully submitted,

WorldVu Satellites Limited

/s/ Mariah Dodson Shuman

Mariah Dodson Shuman
Head of Regulatory Affairs, Americas
WORLDVU SATELLITES LIMITED
1785 Greensboro Station Place, Tower 3
McLean, VA 22102

Brian Weimer
Douglas Svor
Samuel Swoyer
SHEPPARD MULLIN RICHTER & HAMPTON LLP
2099 Pennsylvania Ave. NW, Suite 100
Washington, D.C. 20006
(202) 747-1930
bweimer@sheppardmullin.com

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Counsel to WorldVu Satellites Limited