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September 30, 2021

**VIA ELS**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
45 L Street, NE  
Washington, DC 20554

**Re: Space Exploration Technologies Corp., ELS File No. 1522-EX-ST-2021**

Dear Ms. Dortch:

RS Access, LLC ("RS Access") submits this letter concerning the latest Space Exploration Technologies Corp. ("SpaceX") application to deploy earth stations in motion ("ESIMs") in the 12.2-12.7 GHz ("12 GHz") band.<sup>1</sup> As RS Access has explained previously,<sup>2</sup> authorizing ESIM operations in the 12 GHz band would:

- (i) run counter to existing 12 GHz allocations and service rule constraints;<sup>3</sup>
- (ii) upend the carefully balanced 12 GHz sharing regime the Federal Communications Commission established in 2002;<sup>4</sup>
- (iii) serve no clear need given the wealth of alternative frequencies available for ESIM use;
- (iv) potentially disrupt existing and planned 12 GHz services; and
- (v) preempt decision-making by the Commission in the ongoing rulemaking proceeding concerning whether or not to allow more intensive use of the 12 GHz band by terrestrial licensees.<sup>5</sup>

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<sup>1</sup> See Application of Space Exploration Technologies Corp., ELS File No. 1522-EX-ST-2021 (filed Sept. 17, 2021). In its application, SpaceX requested special temporary authority to operate one mobile user terminal on an experimental basis for six months using the 12 GHz band, among other Ku-band frequencies, in Pensacola, Florida.

<sup>2</sup> See, e.g., Petition to Deny in Part of RS Access, IBFS File No. SES-LIC-20210309-00698 (filed May 21, 2021); Letter from Trey Hanbury, Counsel for RS Access, LLC, to Marlene H. Dortch, Secretary, FCC, IBFS File No. SES-LIC-20210309-00698 (filed July 30, 2021).

<sup>3</sup> See *Amendment of Parts 2 and 25 of the Commission's Rules to Facilitate the Use of Earth Stations in Motion Communicating with Geostationary Orbit Space Stations in Frequency Bands Allocated to the Fixed Satellite Service et al.*, Second Report and Order et al., 35 FCC Rcd 5137 ¶¶ 45-46 (2020); see also 47 C.F.R. § 2.106 n.NG527A.

<sup>4</sup> 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 Frequency Range et al.*, Second Report and Order et al., 17 FCC Rcd 9614 ¶ 23 (2002).

<sup>5</sup> See *generally Expanding Flexible Use of the 12.2-12.7 GHz Band*, Notice of Proposed Rulemaking, 36 FCC Rcd 606 (2021).

While grants of time-limited experimental authority for purposes of experimentation with fewer than five devices in maritime deployments do not raise the same public policy concerns as the authorization of larger numbers of devices for longer periods of time near existing or planned terrestrial deployments, the broader concerns that ESIMs raise counsel against authorizing experimental ESIM use of the 12 GHz band. If the Commission nonetheless grants the instant application, RS Access requests the experimental grant include language similar to what appears in SpaceX's Part 25 authorizations to reinforce the temporary nature of the authorization and the lack of any expectancy in continued use of the 12 GHz spectrum by virtue of an experimental authorization. A proposed license condition appears below:

This authorization is subject to modification to bring it into conformance with any rules or policies adopted by the Commission in the future. Accordingly, any investments made toward operations in the bands authorized in this order by SpaceX in the United States assume the risk that operations may be subject to additional conditions or requirements as a result of any future Commission actions. This includes, but is not limited to, any conditions or requirements resulting from any action in the proceedings associated with WTB Docket 20-443.<sup>6</sup>

The Commission has adopted cautionary language similar to the text proposed here in other experimental grants.<sup>7</sup> Taking similar precautions here would reinforce FCC spectrum allocations and service rules, protect the existing satellite-terrestrial sharing regime against abuse, and help promote a timely and even-handed evaluation of new, more intensive use of the 12 GHz spectrum.

Please contact me with any questions regarding this submission.

Respectfully submitted,

/s/ Trey Hanbury

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<sup>6</sup> See, e.g., *Space Exploration Holdings, LLC*, Order and Authorization et al., 36 FCC Rcd 7995 ¶ 97(w) (2021).

<sup>7</sup> See, e.g., *Hawkeye 360, Inc.*, Grant, ELS File No. 1455-EX-ST-2019 (granted Nov. 14, 2019) (“Hawkeye 360, Inc. shall be aware that this authorization is without prejudice to any determination that may be made regarding any future requests for continued operations of the Pathfinder experimental satellites, but Hawkeye 360, Inc. should have no expectations of automatic approval of future submissions requesting operations in this frequency band.”).