

**STATEMENT OF COMMISSIONER
NATHAN SIMINGTON
CONCURRING**

Re: *LightSquared Technical Working Group Report, et al.*, IB Docket No. 110-109, *et al.*

I concur with today's decision to deny NTIA's petition for stay. I agree with the Commission's determination that, given the facts currently before it, the extraordinary equitable relief of a stay is not warranted. To reach the high bar of a stay, the NTIA must show both imminent, irreparable harm and a strong showing of likely success on the merits. As such, a stay is truly extraordinary relief outside the ordinary course. However, the denial of the petition for stay does not reflect an evaluation of the merits of NTIA's petition for reconsideration.

It harms neither the public interest, nor Ligado's interests, to delay action on the merits of NTIA's petition for reconsideration until, as mandated by Congress, an independent and definitive technical review of the *Ligado Order* is completed by the National Academies of Sciences (NAS). The *Ligado Order* itself prevents any deployment until Ligado has both engaged in information exchange and coordination with the U.S. Government and also provided six months advance notification to GPS device manufacturers. Both the required independent review and the brakes on deployment speak to the absence of imminent, irreparable harm; there is sufficient time to develop a conclusive scientific record on broadly accepted standards and thus to make disinterested, rigorous public policy.

I do not share my colleague's determination that Ligado will certainly succeed on the merits with respect to NTIA's petition for reconsideration. In my view, such certainty is premature because interference criteria relating to device performance have not been conclusively addressed. As there is an opportunity for further testing, including performance-based testing, there remains the possibility of a showing that will greatly bolster the merits of NTIA's petition for reconsideration. Such a showing would also allow the Commission to better evaluate the entire record in this proceeding, including the various other petitions for reconsideration that were filed. It is by doing so that we will adduce the best possible record in the service of disinterested policymaking in the public good.