

WAIVER REQUESTS

The Commission may waive its rules for good cause shown.¹ The D.C. Circuit has explained that good cause exists when “particular facts would make strict compliance [with a rule] inconsistent with the public interest.”² Consistent with that precedent, the Commission has found good cause to waive rules when “(1) special circumstances warrant a deviation from the general rule, and (2) such deviation better serves the public interest.”³ The Commission considers “hardship, equity, or more effective implementation of overall policy” in this determination.⁴

A. *Nunc Pro Tunc* Processing Round Waivers

1. Waiver of this Processing Round and the Inter-Processing Round Sharing Rules

The circumstances surrounding the original Theia system warrant a total waiver of the processing round and inter-processing round sharing rules.

Under Section 25.157(c) of the Commission’s rules, the filing of an NGSO application triggers a modified processing round for the consideration of competing NGSO applications for the same spectrum.⁵ Sections 25.157(d)-(g) explain how spectrum may be allocated among all successful participants in processing round.⁶ The purpose of the processing round is “to prevent

¹ 47 C.F.R. § 1.3; *Ne. Cellular Tel. Co., L.P. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969).

² *Ne. Cellular*, 897 F.2d at 1166.

³ *Space Exploration Holdings, LLC, Request for Deployment and Operating Authority for the SpaceX Gen2 NGSO Satellite System*, Authorization and Order, DA 26-36 ¶ 8 (2026) (“*V-Band Order*”).

⁴ *Id.*

⁵ 47 C.F.R. § 25.157(c)(1).

⁶ 47 C.F.R. § 25.157(d)-(g).

one applicant from unreasonably precluding additional entry by other operators in the requested frequency band.”⁷ In other words, the rule seeks to stop the development of a first-come, first-served system.⁸

Separately, Section 25.261(d) provides in part that “Prior to commencing operations, an NGSO FSS licensee or market access recipient must either certify that it has completed a coordination agreement with any operational NGSO FSS system licensed or granted U.S. market access in an earlier processing round, or submit for Commission approval a compatibility showing which demonstrates by use of a degraded throughput methodology that it will not cause harmful interference to any such system with which coordination has not been completed.”⁹ The purpose of the rule is to “balance ... competing goals of providing regulatory certainty for, and adequate protection of, earlier round systems vis-à-vis later entrants while encouraging new entry and coordination among NGSO FSS operators.”¹⁰

The purpose of both rules would not be served here. LTS is neither unreasonably precluding other entities from competing nor tipping the scale against new entrants. Instead, LTS is trying to get a *chance* to construct, launch, and operate the Theia system it invested hundreds of millions of dollars into after severe fraud and mismanagement, a four-year long

⁷ *Swarm Technologies, Inc., Application for Authority to Deploy and Operate a Non-Voice, Non-Geostationary Lower Earth Orbit Satellite System in the Mobile-Satellite Services*, Memorandum Opinion, Order and Authorization, 34 FCC Rcd. 9469, 9475 ¶ 16 (2019).

⁸ *Amendment of the Commission’s Space Station Licensing rules and Policies*, First Report and Order, 18 FCC Rcd. 10760, 10774-75 ¶ 25 (2003) (“*First Space Station Licensing Order*”).

⁹ 47 C.F.R. § 25.261(d).

¹⁰ *Revising Spectrum Sharing Rules for Non-Geostationary Orbit, Fixed-Satellite Service Systems*, Second Report and Order and Order on Reconsideration, 39 FCC Rcd 12656, 12661 ¶ 9 (2024).

receivership, and blatant receivership law violations that resulted in the cancellation of Theia's license have derailed any efforts towards deploying the system.

And prospective entrants have not been constrained by any entry from Theia. The five applicants included in this processing round so far all applied to construct, launch, and operate NGSO constellations *before* the Space Bureau cancelled Theia's license. So multiple operators were comfortable jumping into the market knowing they may have to coordinate with Theia. The Commission should continue to honor its Commission's longstanding policy of protecting innocent third party creditors, including investors in the all-important U.S. space economy.¹¹

Moreover, this waiver would support the public interest. In exchange for *nunc pro tunc* treatment, LTS commits to: (1) pay the \$4.34 million owed to the United States related to Theia's lapsed surety bond; (2) post a new bond; (3) exclude critical technology, software, hardware, and components sourced from foreign adversaries, including the People's Republic of China, and prioritize trusted U.S. and allied suppliers, DoD-vetted technologies, and security-by-design principles to reduce risks of foreign compromise, espionage, cyber intrusion, and supply-chain disruption; (4) devote up to 30% of the system's Ku- and Ka-band capacity to offer free, ad-supported broadband to users across the United States, a groundbreaking commitment that will finally pave the path to broadband that is free to U.S. consumers, including in rural areas; (5) allow other licensees in the same bands to use spectrum that the system does not use even when the system is in operation; (6) make the system available for lease to other NGSO licensees and terrestrial carriers alike; and (7) assuming either New Theia's or LTS's application is granted by October 31 2026, bring the network, which the U.S. has duly notified to the ITU, into use by the existing March 2027 milestone. The Commission should waive both LTS' participation in this

¹¹ *LaRose v. FCC*, 494 F.2d 1145, 1146 n.2 (D.C. Cir. 1974).

processing round and the need to coordinate with earlier systems, and restore Theia's first-round status *nunc pro tunc*.

2. Waiver of the Processing Round Rules for the 1215-1300 MHz and 42.0-42.5 GHz Bands

Regardless, LTS requests the same waiver of the processing round rules with respect to the 1215-1300 MHz band that Theia received in 2019, in addition to a waiver for the 42.0-42.5 GHz band. Neither band is part of the processing round here.¹² The Space Bureau has previously found special circumstances for waiving a processing round when proposed NGSO operations “could coexist with existing users of the band and would not preclude other operators’ use of the band in the future[.]”¹³

For the 1215-1300 MHz band, Theia received a processing round waiver for exactly that reason in 2019. As the Commission found back then, “Theia’s proposed EESS operations will be able to share spectrum with other EESS systems by time sharing its transmissions over the same geographic area, and thus will not preclude future operators from providing EESS in these frequency bands.”¹⁴ This finding aligned with five earlier Bureau-level decisions concluding the same.¹⁵ Because the same is true today, the same result should follow. Theia remains the only commercial NGSO constellation to have ever received an authorization in the 1215-1300 MHz band. LTS is unaware of other commercial NGSO operations in the band. Accordingly, nothing since 2019 has altered the prospects for sharing the band. Theia will be able to use these

¹² See June 5, 2026 Processing Round Public Notice.

¹³ *V-Band Order* ¶ 13 (citing *Space Exploration Holdings, LLC, Requests for Orbital Deployment and Operating Authority for the SpaceX Gen2 NGSO Satellite System*, Order and Authorization, 39 FCC Rcd. 2159, 2164-66 ¶¶ 10-13 (2024) (“*E-band Order*”)).

¹⁴ *Theia Order*, 34 FCC Rcd. at 3532 ¶ 14.

¹⁵ *Id.* at n.47 (collecting decisions).

frequencies without causing harmful interference, will actively work with the Department of War and other agencies to address any interference concerns, and will painstakingly observe the band's secondary status.

As described below, Theia will also be able to use the 42.0-42.5 GHz bands without causing harmful interference to other operators.

B. Individual Customer Prohibition in 37.5-40.0 GHz (47 C.F.R. § 25.202(a)(1)(ii))

LTS requests the same waiver of Section 25.202(a)(1)(ii) that Theia received in 2019.¹⁶ Section 25.202(a)(1)(ii) explains that “[u]se of the 37.5-40 GHz band by the FSS (space-to-Earth) is limited to individually licensed earth stations” and that “Earth stations in this band must not be ubiquitously deployed and must not be used to serve individual consumers.”¹⁷ As the Commission explained when granting this waiver for Theia in 2019, “the context of the prohibition on serving individual consumers is in relation to small, ubiquitously deployed earth stations, not large individually-licensed earth station facilities as proposed by Theia, even if used to serve a single customer.”¹⁸ Earth stations that LTS will deploy in this band are gateways and individually licensed gateway-like terminals for individual industrial and corporate customers (e.g., an agricultural corporation seeking remote sensing services). Thus, a waiver is warranted again.

C. Section 25.146(c) EPFD ITU Finding

LTS requests waiver of Section 25.146(c) of the Commission's rules, 47 C.F.R. § 25.146(c), to permit operation of its NGSO FSS system prior to receiving the International

¹⁶ *Theia Order*, 34 FCC Rcd. at 3537 ¶ 30.

¹⁷ 47 C.F.R. § 25.202(a)(1)(ii).

¹⁸ *Theia Order*, 34 FCC Rcd. at 3537 ¶ 30.

Telecommunication Union (“ITU”) finding required by this rule. Such a waiver is consistent with Commission precedent, would further the public interest by allowing Theia to expeditiously deploy and provide next-generation connectivity to customers across the globe, and has been implicitly endorsed by the Commission’s new NGSO-GSO spectrum sharing framework.

Section 25.146(c) of the Commission’s rules requires that NGSO FSS applicants receive a “favorable” or “qualified favorable” finding from the ITU regarding their compliance with the ITU’s Article 22 EPFD limits, and communicate that finding to the Commission, prior to initiating service. But as the Commission has found, waiver of this requirement is appropriate where the ITU’s timeframe for reviewing EPFD compliance would “deter [the] start of operations”¹⁹ and the waiver would “enable faster deployment ... and accelerate [] efforts to close the digital divide with low-latency, high speed broadband connectivity.”²⁰ Waiver of Section 25.146(c) would similarly enable the efficient deployment of the Theia NGSO system that is poised to revolutionize the fields of satellite communications and remote sensing and analytics.

LTS’s request is further bolstered by the new NGSO-GSO spectrum sharing regime that the Commission adopted earlier this year. The Commission has concluded, with respect to

¹⁹ *Space Exploration Holdings, LLC, Request for Modification, Order and Authorization*, 34 FCC Rcd. 2526, 2536 ¶ 28 (2019); *see also Space Exploration Holdings, LLC, Request for Modification, Order and Authorization and Order on Reconsideration*, 36 FCC Rcd. 7995, 8021 ¶ 41 (2021) (upholding grant of waiver of Section 25.146(c)); *Space Exploration Holdings, LLC, Request for Orbital Deployment and Operating Authority for the SpaceX Gen2 NGSO Satellite System, Order and Authorization*, 37 FCC Rcd. 14882, 14905 ¶ 32 (2022).

²⁰ *Kuiper Systems LLC Request for Modification of the Authorization for the Kuiper NGSO Satellite System, Order and Authorization*, 39 FCC Rcd. 3987, 3993 ¶ 11 (2024); *see also id.* at 3994 ¶ 13 (“[T]he sooner [Kuiper] begins deploying and operating its satellites, the sooner it will be capable of providing service. Delaying deployment and operations until after it has received an ITU finding on its combined filing will only delay the provision of competitive broadband service even further.”).

domestic operations, that the ITU’s Article 22 EPFD limits are “needlessly prescriptive, outdated, and overprotective of GSO operations.”²¹ Under the Commission’s modernized NGSO-GSO spectrum sharing framework, the Article 22 EPFD limits have now been replaced with a “performance-based” regime grounded in good-faith coordination between system operators.²² The new compliance process adopted by the Commission is, of course, “different from what new applicants would need to submit to the ITU to certify compliance” with the Article 22 EPFD limits,²³ rendering Section 25.146(c)’s requirement to receive an ITU finding as part of the Commission’s application process unnecessary. So a waiver of this rule is justified.

D. Table of Frequency Allocations

1. 19.4-19.6 GHz

Section 2.106 of the Commission’s rules limits FSS use of the 19.3-19.7 GHz band (space-to-earth) to feeder links for Mobile-Satellite Systems (“MSS”) systems. The Theia system supports Ku-band Earth-stations-in-motion (“ESIMs”).²⁴ There is no logical reason why feeder links for ESIM operations should be excluded from a band allocated to feeder links for MSS operations.

To the extent the Commission concludes otherwise, LTS requests a waiver to use the 19.4-19.6 GHz band for limited gateway receive operations. The Bureau has recently granted SpaceX a waiver to operate FSS user links on an unprotected and non-interference basis to MSS

²¹ *Modernizing Spectrum Sharing for Satellite Broadband*, Report and Order, SB Docket No. 25-157; FCC 26-26 ¶ 48(May 1, 2026).

²² *Id.* ¶ 3.

²³ *Id.* at Appendix D ¶ 20.

²⁴ *See* 47 C.F.R. § 25.228

feeder link operations.²⁵ Likewise, the Bureau has granted Amazon Leo a similar waiver.²⁶ LTS would operate under the same conditions.

This waiver is appropriate because there is little or no risk of interference from Theia gateway receive operations in the 19.4-19.6 band. As demonstrated in the Technical Narrative, Theia's Ka-band gateway operations would comply with the relevant PFD limits and protect GSO operations.²⁷ Theia will accommodate all Federal operations in the band, including those contemplated in note US334(b) to the US Table of Allocations. Finally, LTS believes that even on a non-conforming unprotected, non-interference basis, it will be possible to site and operate the gateways in a manner that fully protects existing and future feeder link operations in the band.

2. 29.1-29.5 GHz.

The U.S. Table of Allocations and Section 25.202 permits use of the entire 29.1-29.5 GHz band for feeder links for MSS systems on a primary basis.²⁸ In the 29.1-29.25 GHz portion of this band, that allocation is co-primary with the Local Multipoint Distribution Service ("LMDS").²⁹ In the 29.25-29.5 GHz portion of this band, that allocation is co-primary with GSO FSS service.³⁰ Throughout the entire band, NGSO FSS operations are otherwise considered non-conforming.

²⁵ Space Exploration Holdings, LLC, ICFS File Nos. SAT-LOA-20200526-00055, SAT-AMD-20210818-00105, SAT-AMD-20221216-00175, SAT-AMD-20241017-00228, SAT-MOD-20241011-00224, at Condition 3(d)-(e) (granted Jan. 9, 2026) ("*SpaceX Jan. 2026 Grant*").

²⁶ Kuiper Systems LLC, ICFS Files Nos. SAT-LOA-20211104-00145, SAT-AMD-20250311-00068, at Condition 2(b)-(c) (granted Feb. 10, 2026) ("*Kuiper Feb. 2026 Grant*").

²⁷ See Technical Narrative at Appendix 2.

²⁸ 47 C.F.R. § 2.106 (n. NG166)

²⁹ 47 C.F.R. § 2.106.

³⁰ *Id.*

As noted above, Theia intends to communicate with ESIMs in the Ku-band.³¹ As a result, use of the 29.1-29.5 GHz band for gateways (i.e., feeder links) to support ESIMs can be considered a conforming use of the band. Granting Theia authority to access the 29.1-29.5 GHz band for limited gateway operations to support such operations, as well as other Theia functions, would be consistent with permitted uses of the band.

Nonetheless, Theia requests a waiver of the Table of Allocations and Section 25.202(a) of the Commission's rules to the extent required for Theia to use the 29.1-29.5 GHz band on a non-conforming basis for gateway operations that support non-ESIM applications. Access to this band for a limited number of gateway earth stations in remote areas can be effectively coordinated with existing and future feeder link earth stations for MSS systems, and will have no adverse impact on other co-frequency operations such as LMDS links. Additionally, there is little or no potential for interference to GSO FSS systems in the 29.25-29.5 GHz band.

Thus, gateway operations can be permitted in the 29.1-29.5 GHz band, in part on a conforming basis. To the extent that gateway operations in this band are authorized on a non-conforming basis only: (1) Theia will not claim protection from conforming uses of the spectrum and agrees to accept any harmful interference from other services while operating on an unprotected, non-conforming basis; and (2) Theia will immediately suspend gateway uplink operations in this band if it is determined that such operations are causing harmful interference to any lawfully authorized radio stations in the 29.1-29.5 GHz band operating in conformance with the Commission's rules.

³¹ Technical Narrative at 28.

Similar to the 19.4-19.6 GHz band, the Bureau recently granted SpaceX a waiver to operate FSS user links on an unprotected and non-interference basis to MSS feeder link operations.³² LTS proposes to operate under these same conditions, as described above.

3. 42.0-42.5 GHz

The U.S. Table of Frequency Allocations provides that the 42.0-42.5 GHz band is allocated as a non-Federal only band for FS and mobile use on a co-primary basis.³³ Although the band is allocated internationally for FSS, the U.S. Table does not contain a corresponding domestic FSS allocation. Theia and LTS request a waiver to permit limited gateway and other high-capacity earth station receive operations in the United States on a non-conforming basis in the 42.0-42.5 GHz band. As discussed below, there is no potential for interference to terrestrial services from Theia's limited satellite downlink transmissions. Theia and LTS agree to accept any harmful interference from these services while operating on a non-conforming, unprotected basis and to comply with PFD limits in ITU 5.551H, the same terms on which the Space Bureau recently granted Logos Space a waiver to operate FSS downlinks in this band.³⁴

Theia and LTS seeks a waiver of Sections 2.106 and 25.202(a)(1) to permit it to use the 42.0-42.5 GHz band for individually licensed, gateway and gateway-like earth stations for downlinks from Theia spacecraft, consistent with the ITU Radio Regulations. Theia will rely on a small number of these earth stations to receive Earth observation data. The earth stations will be limited in number because each Theia satellite has only two antennas that can support two small spot beams for V-band or Ka-band downlink communications. The large volume of Earth

³² See SpaceX Jan. 2026 Grant at Condition 3(d)-(e).

³³ See 47 C.F.R. § 2.106.

³⁴ Logos Space Waiver at Condition 5.

observation data Theia will generate necessitates additional V-band downlink spectrum, including access to this band, to transmit these data to the terrestrial network or enterprise/government customers.

In the *Spectrum Frontiers Order*,³⁵ the Commission deleted the existing allocations for broadcasting and BSS service in this band from the U.S. Table of Frequency Allocations and declined to add an FSS allocation, citing the “ubiquitous nature” of broadcasting and BSS services and the attendant potential for interference with radioastronomy in the adjacent 42.5-43.5 GHz band, as well as future terrestrial 5G services.³⁶

The interference concerns associated with the ubiquity of broadcasting and BSS service are fully mitigated in this case because Theia plans only a small number of individually licensed earth stations at fixed locations, not a ubiquitous deployment. Because the gateway and gateway-like terminals have high discrimination, they can tolerate potential interference from terrestrial operations far better than small user terminals required for ubiquitous consumer services. Additionally, these larger earth stations can be sited in remote locations and still perform their essential functions. Thus, Theia’s limited, receive earth station operations in this band can be accommodated in the United States. Furthermore, Theia could operate successfully in accord with the PFD limits applicable to FSS operations in the 42.0-42.5 GHz band that were adopted to protect radioastronomy services in the adjacent 42.5-43.5 GHz band.³⁷

³⁵ *Use of Spectrum Bands Above 24 GHz For Mobile Radio Services, et al*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd. 8014, 8144 ¶¶ 367-68 (2016).

³⁶ *Id.* at 8144 ¶ 367.

³⁷ See 47 C.F.R. §§ 2.106, 25.202(a)(1) (citing ITU-R Resolution 743). Resolution 743 resolves, inter alia, that an administration that plans to operate an NGSO FSS system in the 42.0-42.5 GHz band shall take all practicable steps to avoid exceeding the PFD value of -246 dB(W/m²) in any 500 kHz for any NGSO system in the 42.5-42.77 GHz band, for more than 2 percent of the time, at the site of a radioastronomy station registered as a single-dish radio telescope in Region 2.

The requested waiver is indistinguishable from the one the Space Bureau recently granted when it allowed Logos Space's to use the 42.0-42.5 GHz band for FSS downlinks on an unprotected and non-interference basis.³⁸ That waiver requires Logos Space to "not cause harmful interference to operators in the RAS in the adjacent 42.5-43.5 GHz band" and to "comply with the equivalent PFD (EPFD) limits in accordance with ITU 5.551H."³⁹ But most notably, it also required Logos Space to "coordinate with all current and future operators in the 42.0-42.5 GHz band,"⁴⁰ indicating that Bureau contemplates granting future waivers for limited operations like Theia's proposed operations here. Theia can operate under the same terms in Logos Space's waiver. And the fact that Theia's operations will be for a limited number of gateways, rather than the more ubiquitous user terminals that Logos Space operates, means even less potential for interference in this case.

Regardless of the Commission's decision on the requested waiver, Theia requests that the Commission include the 42.0-42.5 GHz band in Theia's license for use outside the United States. This band has been allocated internationally for FSS use and Theia will operate in the band subject to the frequency allocations and associated regulatory requirements of foreign nations in which Theia may operate.

³⁸ Logos Space Waiver at Condition 5.

³⁹ *Id.* at Condition 5(i)-(ii).

⁴⁰ *Id.* at Condition 5(i).