BEFORE THE FEDERAL COMMUNICATIONS COMMISSION

In the Matter of the Petition of	)	
Starlink Services, LLC for Designation	)	WC Docket No. 09-197
as an Eligible Telecommunications Carrier	)	

AMENDMENT TO PETITION OF STARLINK SERVICES, LLC FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER

Starlink Services, LLC ("Starlink Services") hereby amends its pending petition for designation as an Eligible Telecommunications Carrier ("ETC")[1] by the Federal Communications Commission (the "Commission" or "FCC") to include census blocks awarded to Space Exploration Technologies Corp. ("SpaceX") in the include Rural Digital Opportunity Fund ("RDOF") auction in the state of Florida.

As Starlink Services stated in its Petition, Florida Public Service Commission ("PSC") staff advised Starlink Services to file a full application for ETC designation in order for the PSC to evaluate whether it could claim jurisdiction over Starlink Services's ETC designation.[2] The Petition provided that "[t]o the extent Florida, Maryland or other states disclaim jurisdiction, Starlink Services will amend this petition to request ETC designation from the FCC in these states."[3] On March 4, 2021, the PSC issued an order disclaiming jurisdiction over Starlink Services's designation as an ETC.[4] The March 4 PSC Order found that:

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[1] *Petition of Starlink Services, LLC for Designation as an Eligible Telecommunications Carrier*, WC Docket No. 09-197, filed on February 03, 2021 ("*Petition*").

[2] *Petition* at 1-2.

[3] *Id.*

[4] *In re: Application for designation as an eligible telecommunications carrier (ETC) for purposes of receiving rural digital opportunities fund support, or request to decline jurisdiction, and request for expedited consideration, by Starlink Services, LLC*, Docket No. 20210011-TP, Order No. PSC-2021-0098-PAA-TP (March 4, 2021) ("*March 4 PSC Order*"), attached as Exhibit 8.

> In sum, we find that we lack jurisdiction to grant Starlink Services, LLC ETC status in Florida. We further find that, as a facilities-based provider of non-jurisdictional satellite broadband service, Starlink Services, LLC should apply directly to the FCC for a Florida ETC.[5]

In compliance with 47 U.S.C. 214(e)(6), Starlink Services supplements its Petition with the attached March 4 Order as Exhibit 8, demonstrating that Starlink Services "is not subject to the jurisdiction of a State commission" in Florida.[6] With this amendment, Starlink Services requests ETC designation from the FCC in all census blocks in Alabama, Connecticut, Florida, New Hampshire, New York, Tennessee, Virginia and West Virginia (collectively, the "FCC Jurisdiction States") in which SpaceX was announced as a winning bidder in the RDOF Auction.

Respectfully submitted,

STARLINK SERVICES, LLC

By: /s/ *R. Edward Price*

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March 9, 2021

[5] *March 4 Order* at 4.

[6] *See* 47 U.S.C. 214(e)(6).

Exhibit 8

Florida Jurisdiction Order

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FPSC - COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Application for designation as an eligible telecommunications carrier (ETC) for purposes of receiving rural digital opportunities fund support, or request to decline jurisdiction, and request for expedited consideration, by Starlink Services, LLC.	DOCKET NO. 20210011-TP ORDER NO. PSC-2021-0098-PAA-TP ISSUED: March 4, 2021

The following Commissioners participated in the disposition of this matter:

GARY F. CLARK, Chairman
ART GRAHAM
ANDREW GILES FAY
MIKE LA ROSA

NOTICE OF PROPOSED AGENCY ACTION
ORDER DENYING APPLICATION FOR DESIGNATION
AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER

BY THE COMMISSION:

NOTICE is hereby given by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose interests are substantially affected files a petition for a formal proceeding, pursuant to Rule 25-22.029, Florida Administrative Code (F.A.C.).

Background

On January 4, 2021, Starlink Services, LLC (Starlink or Company) filed a petition with this Commission seeking designation as an eligible telecommunications carrier (ETC) to receive rural digital opportunity fund (RDOF) support or, in the alternative, expedited consideration of an affirmative statement declining jurisdiction. Starlink is a wholly owned subsidiary of Space Exploration Technologies Corp. (SpaceX), which provides customers with voice over internet protocol (VoIP) and broadband services through satellite technologies. On December 7, 2020, SpaceX was selected as one of the winning bidders or the Federal Communications Commission's (FCC) RDOF auction. Consistent with the FCC's rules, SpaceX assigned its winning bid to Starlink.

The RDOF is a form of high-cost support and is funded through the federal universal service fund (USF). The FCC's RDOF initiative allocates up to $20.4 billion through a two-phase competitive auction to help connect millions of unserved rural homes and small businesses to high-speed broadband. Phase I of the auction will provide up to $16 billion to be used over a period of 10 years to service providers that commit to offer voice and broadband services to

fixed locations in eligible unserved high-cost census blocks.[1] In Florida, a total of eleven bidders were selected to receive approximately $192 million of high-cost support in phase I.[2] Starlink will receive $33.6 million in phase I to be used in certain census blocks in Florida.[3]

An ETC designation is a requirement for telecommunications carriers to receive USF dollars for the Lifeline and High-Cost programs. The Lifeline program enables low-income households to obtain and maintain basic telephone and broadband services, and offers qualifying households a discount on their monthly bills. The High-Cost program helps carriers provide voice and broadband service in remote and underserved communities. Although the FCC did not require RDOF auction participants to be designated as an ETC to apply, they did require winning bidders to obtain ETC designation within 180 days of being selected.

Starlink asserts it meets all applicable federal requirements for designation as an ETC in Florida pursuant to 47 U.S.C. 214(e) and 47 C.F.R 54.201. In addition, Starlink acknowledges and asserts that if approved, it will comply with Sections 364.10 and 364.105, Florida Statutes (F.S.), and Rule 25-4.0665, F.A.C., which govern Lifeline service and provide for a transitional discount for those customers no longer eligible for Lifeline.

47 U.S.C. 214(e)(2) authorizes state commissions to designate common carriers as an ETC as follows:

> (2) Designation of eligible telecommunications carriers
>
> A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission. Upon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest.

47 U.S.C. 214(e)(6) provides that the Federal Communications Commission (FCC) will make such ETC designations in cases where a state commission lacks jurisdiction over the common carrier as follows:

> (6) Common carriers not subject to State commission jurisdiction

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[1] FCC, DA 20-1422, Public Notice, *Rural Digital Opportunity Fund; Connect America Fund*, https://docs.fcc.gov/public/attachments/DA-20-1422A1.pdf, accessed February 1, 2021.
[2] FCC, Auction 904 Winning Bidders, Public Notice, Attachment B, https://docs.fcc.gov/public/attachments/DA-20-1422A3.pdf, released December 7, 2020, accessed February 1, 2021.
[3] FCC, Auction 904 Winning Bidders, Public Notice, Attachment A, https://docs.fcc.gov/public/attachments/DA-20-1422A2.pdf, released December 7, 2020, accessed February 1, 2021.

> In the case of a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission, the Commission shall upon request designate such a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the Commission consistent with applicable Federal and State law. Upon request and consistent with the public interest, convenience and necessity, the Commission may, with respect to an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated under this paragraph, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the Commission shall find that the designation is in the public interest.

Our authority to designate a telecommunications company as an ETC is found in Section 364.10, F.S. However, pursuant to Section 364.011, F.S., we do not have jurisdiction over wireless/satellite, or broadband services.

Decision

Pursuant to 47 U.S.C. 214(e)(2), and 47 C.F.R 54.201(b), state commissions designate carriers as ETCs consistent with criteria set forth therein. Per 47 U.S.C. 214(e)(6), if a state lacks jurisdiction over a carrier, the FCC is to make such a designation. Section 364.011, F.S., identifies services that are exempt from our oversight. Included in these non-jurisdictional services are broadband, VoIP, and wireless telecommunications. Until 2011, there was an exception in Section 364.011, F.S., which permitted our oversight of a service if "specifically authorized by federal law." We relied upon this exception to grant ETC status to wireless carriers. The legislature struck this exception by Section 3, Ch. 2011-36, Laws of Florida. Thus, we no longer grant ETC status to wireless carriers.[4] The wireless prohibition has recently been applied to a satellite carrier.[5] Similarly, because the satellite broadband service provided by Starlink is exempt from our oversight, we hereby find that we lack jurisdiction to grant Starlink a Florida ETC designation.

Moreover, by Section 364.10(1)(a), F.S., the legislature defined an ETC as "a telecommunications company, as defined by s. 364.02, which is designated as an eligible telecommunications carrier by the commission pursuant to 47 C.F.R. s. 54.201." Section 364.02(13), F.S., provides that a "telecommunications company" is an entity offering "two-way telecommunications service to the public for hire within [Florida] by the use of a

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[4] This Commission only has the powers, duties, and authority that have been conferred expressly or impliedly to it by the Florida Legislature through statute. *City of Cape Coral v. GAC Utilities, Inc., of Florida,* 281 So. 2d 493, 495-96 (Fla. 1973). Further, this Commission is barred from exercising a power when there is any reasonable doubt as to the lawful existence of that power. *See id*.

[5] Order No. PSC-2018-0531-PAA-TX, issued on November 13, 2018, in Docket No. 20180180-TX, *In re: Application for limited designation as an eligible telecommunications carrier (ETC) to receive Connect America Fund Phase II Auction (Auction 903) support for voice and broadband services with request for expedited consideration by Viasat Carrier Services, Inc.*

telecommunications facility." Thus, whether a carrier is a telecommunications company offering a telecommunications service is also a threshold question for whether we have jurisdiction to grant an ETC designation.[6] Starlink is not currently certificated in Florida, and therefore does not meet the Florida statutory definition of a telecommunications company under Section 364.02(13), F.S. As such, we find that this is a reason to deny the Company's petition for ETC status.

In sum, we find that we lack jurisdiction to grant Starlink Services, LLC ETC status in Florida. We further find that, as a facilities-based provider of non-jurisdictional satellite broadband service, Starlink Services, LLC should apply directly to the FCC for a Florida ETC designation. Starlink Services LLC's alternative request for an affirmative statement declining jurisdiction is moot since we find that we lack jurisdiction.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that Starlink Services, LCC's Application for Designation as an Eligible Telecommunications Carrier is hereby denied as we lack jurisdiction over satellite broadband service and that Starlink Services, LLC should directly apply for Florida ETC designation with the Federal Communications Commission. It is further

ORDERED that the provisions of this Order, issued as proposed agency action, shall become final and effective upon the issuance of a Consummating Order unless an appropriate petition, in the form provided by Rule 28-106.201, Florida Administrative Code, is received by the Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on the date set forth in the "Notice of Further Proceedings" attached hereto. It is further

ORDERED that if no person whose substantial interests are affected by the proposed agency action files a protest within 21 days of the issuance of the order, this docket shall be closed upon the issuance of a Consummating Order.

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[6] In this context, Section 364.02(14), F.S., provides that a "telecommunications facility" includes real estate, easements, apparatus, property, and routes used and operated to provide two-way telecommunications service to the public for hire within [Florida]." "'Service' is to be construed in its broadest and most inclusive sense;" however, the term "does not include broadband service or voice-over-Internet protocol service for purposes of regulation." *Id. at* (12).

By ORDER of the Florida Public Service Commission this 4th day of March, 2021.

ADAM J. TEITZMAN
Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399
(850) 413-6770
www.floridapsc.com

Copies furnished: A copy of this document is provided to the parties of record at the time of issuance and, if applicable, interested persons.

AJW

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing that is available under Section 120.57, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

The action proposed herein is preliminary in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, in the form provided by Rule 28-106.201, Florida Administrative Code. This petition must be received by the Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, by the close of business on March 25, 2021.

In the absence of such a petition, this order shall become final and effective upon the issuance of a Consummating Order.

Any objection or protest filed in this/these docket(s) before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.