

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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

REPLY TO COMMENTS ON ETC DESIGNATION PETITION

Starlink Services, LLC (“Starlink”) replies to the comments of the Ensuring RDOF Integrity Coalition (“ERIC”)¹ regarding Starlink’s petition for designation as an Eligible Telecommunications Carrier (“ETC”).² The Bureau should reject ERIC’s arguments as a baseless attempt to obstruct the ETC process, the result of which would serve only to delay what matters most—connecting unserved Americans.

Although ERIC’s membership and funding are clouded in secrecy and remain undisclosed, this so-called coalition essentially repackages filings made by Starlink’s would-be competitors, such as Dish Network Corporation (“DISH”), in other proceedings.³ Hopefully, this mystery filer,

¹ See Comments of Ensuring RDOF Integrity Coalition on Petition for ETC Designation of Starlink Services, LLC, WC Docket No. 09-197 (filed Apr. 7, 2021) (“ERIC Comments”). Starlink previously replied to DISH’s Conditional Opposition, and we incorporate that filing by reference here. See Starlink Reply to Opposition, WC Docket No. 09-197 (filed Mar. 1, 2021).

² See Petition of Starlink Services, LLC for Designation as an Eligible Telecommunications Carrier, WC Docket No. 09-197 (filed Feb. 3, 2021) (“Petition”).

³ While several of these letters were cross-filed in this docket, they do not directly address Starlink’s ETC Petition. See, e.g., Letter from Jeffrey H. Blum, Executive Vice President, DISH Network L.L.C., to Marlene H. Dortch, WC Docket No. 09-197 et al. (filed Apr. 14, 2021) (“DISH Ex Parte”) (referencing Starlink’s ETC Petition only as part of proposed license condition language); Letter from Jeffrey H. Blum to Marlene H. Dortch, WC Docket

which purportedly aims to “ensure integrity” while directly parroting the arguments of others, will dish out the truth about its funding and membership at some point. Regardless, as detailed below, ERIC reiterates baseless and anti-competitive attacks that arise from a lack of information and flawed assumptions about Starlink’s proprietary technology, design, and network. Moreover, ERIC’s alleged concerns are extraneous to Starlink’s ETC designation because they have been or will be resolved in other proceedings in accordance with established Commission decisions that ERIC either ignores or attempts to circumvent.

12 GHz Rulemaking. ERIC correctly notes that Space Exploration Holdings, LLC (“SpaceX”) has been authorized to use Ku-band spectrum for communications with consumers, including downlinks in the 12.2-12.7 GHz band (the “12 GHz band”). Like DISH, ERIC asserts that downlink reliability is somehow “questionable” because the Commission is currently considering the feasibility of allowing terrestrial mobile operations in the 12 GHz band and thus “there is no guarantee that [Starlink] will actually be able to utilize the 12 GHz band for this purpose.”⁴ In making this assertion, and despite claiming to champion “integrity,” ERIC ignores one Commission order and mischaracterizes another.

First, in establishing the RDOF rules and procedures, the Commission sought comment on, deliberately considered, and specifically identified the spectrum that could be used to meet RDOF public interest obligations.⁵ Appendix B of the Commission’s RDOF Procedures, as adopted by

No. 09-197 et al. (filed Apr. 20, 2021) (same); Letter from Amy R. Mehlman, Vice President, Viasat, to Marlene H. Dortch, WC Docket No. 09-197 et al. (filed Apr. 5, 2021) (“Viasat Ex Parte”) (including no reference to ETC designation other than in the list of dockets).

⁴ ERIC Comments at 4.

⁵ *Comment Sought on Competitive Bidding Procedures and Certain Program Requirements for the Rural Digital Opportunity Fund Auction (Auction 904)*, Public Notice, 35 FCC Rcd. 2295, ¶ 40 (2020).

the full Commission, lists the spectrum bands RDOF applicants could rely upon to meet their performance requirements.⁶ That list—like the equivalent spectrum list used for the CAF II auction—unequivocally includes the 12 GHz band. No party challenged that decision, which was relied upon by applicants participating in the RDOF auction. Yet ERIC does not even mention this fundamental RDOF document.

Second, although the Commission has initiated a rulemaking proceeding to consider the possibility of allowing additional activities in the 12 GHz band, like DISH, ERIC completely and intentionally mischaracterizes the Commission’s stated intent in that proceeding. The notice of proposed rulemaking unanimously rejects proposals that would compromise the ability of next-generation satellite systems to continue operating in the band. Rather, the Commission explicitly states that any changes in the 12 GHz band could only be made if the Commission could do so “without causing harmful interference to incumbent licensees.”⁷ That should be a more than sufficient “guarantee” to satisfy ERIC and obviates the need for SpaceX to explain how it “will be able to use and retain access to 12 GHz spectrum.”⁸

ERIC also correctly notes that the *12 GHz NPRM* raises questions specifically relating to SpaceX’s RDOF winning bids.⁹ However, those questions tracked suggestions made by SpaceX with the clear intent to find a way to avoid the sort of uncertainty ERIC is trying to create here and “to ensure that the locations successfully bid for through the RDOF process get access to the

⁶ *Rural Digital Opportunity Fund Phase 1 Auction Scheduled for October 29, 2020, Notice and Filing Requirements and Other Procedures for Auction 904*, Public Notice, 35 FCC Rcd. 6077, 6188 App. B (2020).

⁷ *Expanding Flexible Use of the 12.2-12.7 GHz Band*, 36 FCC Rcd. 606, ¶ 2 (2021) (“*12 GHz NPRM*”).

⁸ ERIC Comments at 5.

⁹ *Id.* at 4.

broadband Internet access service committed to through that program.”¹⁰ Indeed, the *12 GHz NPRM* reinforces the RDOF spectrum decision discussed above, expressly acknowledging that SpaceX has deployed the largest satellite constellation in the world and that, pursuant to its RDOF-awarded areas, its network will be used to provide high-speed, low-latency broadband service to over 600,000 of the nation’s hardest-to-reach locations.¹¹ The *12 GHz NPRM* makes clear that incumbent licensees must be protected, emphasizing the “public interest benefits that could flow from investments made to provide satellite broadband services, particularly in rural and other underserved communities that might be more expensive to serve through other technologies.”¹² The Commission has clearly stated that any action on the 12 GHz band will preserve the rights of incumbent licensees—including SpaceX—and the Commission should reject ERIC’s attempt to follow DISH’s lead in creating issues where none exist.

Modification of SpaceX’s License. Like DISH, ERIC next seeks to manufacture an ETC issue out of SpaceX’s pending modification proposal to complete the safety upgrade of its non-geostationary orbit (“NGSO”) satellite system. To do so, ERIC selectively cites to arguments opposing the application made by various would-be competitors of SpaceX, such as DISH, in that proceeding.¹³ SpaceX has responded to each and every one of those arguments made by DISH and others—often multiple times—over the year that its application has been pending.¹⁴ Thus, far

¹⁰ *12 GHz NPRM* ¶ 56.

¹¹ *Id.* ¶¶ 17, 56.

¹² *Id.* ¶ 2.

¹³ *See* ERIC Comments at 6-7.

¹⁴ In this regard, Starlink notes that DISH and Viasat, Inc. have cross-filed several *ex parte* letters in this ETC proceeding that respond to arguments made by SpaceX in the modification proceeding. All of the issues involved in those filings have been thoroughly vetted in the modification proceeding, and there is no need for the Commission to consider them here.

from “warrant[ing] some investigation by the Commission or clarification by SpaceX,”¹⁵ the Commission already has all the information necessary to reach a decision on the merits and appears poised to do so in the near future. Here again, like DISH, ERIC has presented a carefully selected subset of facts to the Commission in an attempt to create the misimpression of some potential cause for concern where none exists. The Commission should not be misled by such tactics.

RDOF Authorization Process. Finally, ERIC reiterates competitors’ uninformed and self-interested claims about Starlink’s ability to meet its RDOF public interest obligations.¹⁶ But the Commission designated responsibility to the FCC staff—not Starlink’s competitors—to evaluate whether an applicant is reasonably capable of meeting its RDOF requirements in accordance with winning bids. And the FCC staff—not Starlink’s competitors—have all of the information they need to perform the technical and financial review required to make that determination as part of the Commission’s separate process for evaluating Starlink’s long-form application and authorizing RDOF funding. ERIC again parrots advocacy-laden documents paid for by Starlink’s would-be competitors that purport to analyze the Starlink network. The authors of these documents do not understand Starlink’s technology, how the network operates, or any future plans. The end results are deeply flawed analyses that in no way reflect the actual capacity of the Starlink network.

¹⁵ ERIC Comments at 8.

¹⁶ *See id.* at 8-10.

The authors of the Cartesian Document¹⁷ and the Viasat-funded analysis¹⁸ make numerous factual errors and rely on incorrect assumptions to reach their pre-determined conclusions. For instance, they assume technology is frozen in time and fail to account for even basic future development. While that assumption may hold true for the technologies used by the reports' funders, it does not reflect the rapid deployment of the Starlink network. They fail to account for newer generations of customer premises equipment, software, or satellites. These improvements are not theoretical or in the far-off future—they have either already been introduced or are in the process of introduction. Indeed, Starlink is specifically designed to take advantage of technological advances to serve increasing consumer demand. By replacing our satellite fleet at a regular cadence, Starlink is able to rapidly introduce new technology into our constellation, bringing ever-increasing amounts of network bandwidth to our customers. As an industry leader in launch capabilities and launch economics, SpaceX will leverage this ability to meet and exceed its RDOF service obligations.

Moreover, even if any of ERIC's second-hand claims had any merit (which they do not), they can and will be resolved as part of the RDOF review and authorization process. Bureau precedent clearly distinguishes between that process and this one. When the Bureau granted Viasat's ETC designation in connection with the Connect America Fund II auction, it rejected competitors' arguments premised on "assumptions and speculation ... not directly applicable" to

¹⁷ See Letter from Shirley Bloomfield, CEO, NTCA, and Gary Bolton, President and CEO, Fiber Broadband Ass'n, to FCC Commissioners, WC Docket No. 19-126, OEA Docket No. 20-34 (filed Feb. 8, 2021) ("NTCA and FBA Ex Parte"); "Starlink RDOF Assessment: Final Report," Cartesian, Prepared for Fiber Broadband Association and NTCA – The Rural Broadband Association, WC Docket No. 19-126, OEA Docket No. 20-34 (filed Feb. 8, 2021) ("Cartesian Document").

¹⁸ See Viasat Ex Parte, enclosing "Analysis of the Starlink System's Ability to Satisfy SpaceX's RDOF Commitments."

ETC designation.¹⁹ As the Bureau also explained there:

[T]he ETC designation process is separate from and serves a different purpose than the authorization process and post-authorization accountability measures, including performance testing; the ETC process establishes a petitioner's general eligibility for receiving USF support and imposes certain statutory and regulatory obligations but does not duplicate the Bureau's multifaceted, objective, and consistent process for evaluating . . . long-form applications or future performance.²⁰

The same is true here.

Starlink welcomes the FCC staff's review and scrutiny of its RDOF long-form application as a part of the RDOF authorization process. Starlink has reviewed and assessed its technical and financial capabilities and certified that it will meet all of its obligations for the receipt of universal service funding. None of ERIC's reiterated and specious claims will interfere with Starlink's ability to do so.

Taken together, all of ERIC's arguments appear designed to needlessly obstruct the ETC designation processes as part of larger efforts to hamstring a new, highly competitive entrant to the broadband marketplace, to obtain proprietary and competitively sensitive network information, and to commandeer valuable spectrum already being used to serve American homes and businesses. ERIC presents no valid basis on which to deny or defer Starlink's ETC designation. To the contrary, doing so would delay the provision of high-quality voice and broadband service to many of our nation's hardest-to-serve communities, which have gone unconnected for far too long already. The Commission should reject ERIC's groundless and misplaced attacks and promptly grant Starlink's ETC designation.

¹⁹ *Telecommunications Carriers Eligible for Universal Serv. Support*, Order, 34 FCC Rcd. 8137, ¶ 16 (2019).

²⁰ *Id.* ¶ 17. The Bureau also explained that it was not “necessary to provide the public . . . the opportunity to review the non-public technical information in [applicant's] long-form application in order to act on [an applicant's] ETC Petition.” *Id.*

Respectfully submitted,

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