

December 22, 2020

Ms. Debra Howland
Executive Director and Secretary
New Hampshire Public Utilities Commission
21 South Fruit Street
Concord, NH 03301

**RE: Expedited Request for Statement Disclaiming Jurisdiction
Starlink Services, LLC ETC Designation
Response Requested by December 31, 2020**

Dear Ms. Howland:

Space Exploration Technologies Corp. (“SpaceX”) was recently announced as a winning bidder in the Federal Communications Commission’s (“FCC”) Rural Digital Opportunity Fund (“RDOF”) auction.¹ On December 22, 2020, SpaceX assigned its right to receive RDOF funding to its wholly owned subsidiary Starlink Services, LLC (“Starlink”). Starlink intends to offer satellite broadband internet access and Voice-over-Internet-Protocol (“VoIP”) service to consumers within the state of New Hampshire. As a condition of its eligibility to receive RDOF funds, Starlink seeks designation as an Eligible Telecommunications Carrier (“ETC”) in New Hampshire.

As a satellite provider of broadband internet access and VoIP service, it is our understanding that Starlink is not subject to New Hampshire Public Utilities Commission (“PUC”) jurisdiction, pursuant to RSA 362:7, II, which states that the PUC shall not

enact, adopt, or enforce, either directly or indirectly, any law, rule, regulation, ordinance, standard, order, or other provision having the force or effect of law that regulates or has the effect of regulating the market entry, market exit, transfer of control, rates, terms, or conditions of any VoIP service or IP enabled service or any provider of VoIP service or IP-enabled service. VoIP services and IP-enabled services are not public utility services and a provider of VoIP service or IP-enabled service is not a public utility under RSA 362:2, or an excepted local exchange carrier under RSA 362:7; I(c) and shall not be regulated as a public utility in any manner other than as set forth in [RSA 362:7, III].

None of the exceptions set forth in RSA 362:7, III would allow the PUC to consider an ETC designation request with respect to VoIP services or IP-enabled services.

¹ *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes*, Public Notice, DA 20-1422 (Dec. 7, 2020).

The FCC has ETC designation authority when "a common carrier [is] providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission."² For purposes of the RDOF, the FCC requires winning bidders seeking an ETC designation from the FCC to "demonstrate that the FCC has jurisdiction" by submitting "an affirmative statement from the relevant state commission declining jurisdiction."³

Starlink hereby requests that the PUC provide Starlink a Secretarial Letter declaring that it declines jurisdiction over the services to be offered by Starlink and, therefore, defers to the FCC the determination of Starlink's eligibility for designation as an ETC. Starlink requests that the PUC provide its response to this letter expeditiously and, in any event, no later than **December 31, 2020**, to allow Starlink sufficient time to prepare and file its ETC application with the FCC by January 6, 2021.⁴

Should you have any questions or require further information, please contact either Jennifer Richter, our counsel at Akin Gump, at (202) 887-4524 or jrichter@akingump.com or the undersigned at (585) 455-6672 or ted.price@spacex.com. Thank you in advance for your consideration.

Very truly yours,

/s/ R. Edward Price

R. Edward Price
Senior Counsel

² 47 U.S.C. § 214(e)(6).

³ *Rural Digital Opportunity Fund Phase I Auction Scheduled for October 29, 2020 – Notice and Filing Requirements and Other Procedures for Auction 904*, Public Notice, AU Docket No. 20-34, WC Docket Nos. 19-126, 10-90, 35 FCC Rcd. 6077, para. 133 (2020). See also *WCB Reminds Connect America Fund Phase II Auction Applicants of the Process for Obtaining a Federal Designation as an Eligible Telecommunications Carrier*, Public Notice, WC Docket Nos. 09-197, 10-90, 33 FCC Red 6696 (2018), at n.4.; *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Red 5949, 5999, para. 141 (2016) (Phase II Auction Order) para. 154 (quoting *2000 Tribal Order*, 15 FCC Red at 12214, para. 7).

⁴ The FCC requires winning RDOF bidders to obtain the required ETC designations by June 7, 2021. In the event that an applicant is unable to obtain the necessary ETC designation within this timeframe, the applicant will be eligible for an extension if it can demonstrate that "it has engaged in good faith efforts to obtain an ETC designation, but the proceeding is not yet complete," which is presumed if the applicant files its ETC with the state commission or FCC within 30 days of the Auction 904 closing public notice. Therefore, Starlink must submit its ETC applications by January 6, 2021 to be eligible to obtain a waiver of the ETC designation deadline if needed. See *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced*, Public Notice, AU Docket No. 20-34, WC Docket Nos. 19-126, 10-90, para. 34 (Dec. 7, 2020).