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|  | **PENNSYLVANIA**  **PUBLIC UTILITY COMMISSION**  **Harrisburg, PA 17105-3265** |  |

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|  | Public Meeting held August 26, 2021 |
| Commissioners Present: |  |

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| Gladys Brown Dutrieuille, Chairman | | |
| David W. Sweet, Vice Chairman | | |
| John F. Coleman, Jr. | |
| Ralph V. Yanora | |
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| Petition of Starlink Services, LLC for Designation as an Eligible Telecommunications Carrier for Purposes of Receiving Rural Digital Opportunities Fund Support | P-2021-3023580 |

**ORDER**

**BY THE COMMISSION:**

Before the Pennsylvania Public Utility Commission (Commission) for disposition is the January 4, 2021 Application of Starlink Services, LLC (Starlink Services),[[1]](#footnote-2) as supplemented, in which it is seeking designation as an Eligible Telecommunications Carrier (ETC) in the Commonwealth of Pennsylvania for the purpose of receiving federal Universal Service Fund (USF) high-cost support, pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (Act), 47 U.S.C. § 214(e)(2), and Sections 54.101, 54.201-54.203 and 54.205-54.209 of the Federal Communications Commission’s (FCC) regulations, 47 C.F.R. §§ 54.101, 54.201-54.203 and 54.205-54.209, and 52 Pa. Code § 69.2501.

Starlink Services is required to obtain designation as an ETC from the Commission in order for it to be eligible to receive the federal high-cost support funding it has been awarded in the FCC’s Rural Digital Opportunity Fund (RDOF) auction (Auction 904). As such, Starlink Services has made this filing in which it is requesting designation as an ETC in the specific RDOF-eligible census blocks[[2]](#footnote-3) for which it has been awarded funding in Auction 904 (“ETC Designation Petition” or “Petition”).[[3]](#footnote-4) Specifically, Starlink Services was awarded $63,065,275.00 in Auction 904 funding over 10 years to serve 10,952 census blocks in Pennsylvania, encompassing 59,200 locations.

We have reviewed Starlink Services’ Petition and supplements to determine whether it meets the applicable minimum standards necessary under federal and state law to obtain designation as an ETC in Pennsylvania. We hereby conclude that Starlink Services currently does not fully meet all of the pertinent statutory criteria and applicable minimum standards necessary under federal and Pennsylvania state law to obtain designation as a ETC for the purpose of receiving Auction 904 high-cost support. Specifically, Starlink Services does not possess the means to offer or provide voice-grade telecommunications services in Pennsylvania at the moment.[[4]](#footnote-5)

However, since Starlink Services meets most of the other applicable and relevant FCC rules and federal requirements necessary to obtain an ETC designation, the Commission will provisionally grant Starlink Services’ Petition for an ETC designation. We advise that this provisional grant will be revoked if Starlink Services does not file the requisite and sufficient information that it either has self-provisioned voice telecommunications service capable of accessing the Public Switched Telecommunications Network (PSTN) or has executed a contractual agreement with a third-party managed service provider (MSP) voice platform or other provider that will enable it to offer voice telecommunications service capable of accessing the PSTN. It is only upon satisfaction of this condition that Starlink Services will satisfy the public interest standard and be designated an ETC for purposes of receiving Auction 904 high-cost support in those Pennsylvania eligible census block groups where it submitted a winning bid to deploy and maintain networks capable of providing voice and broadband access services.

Starlink Services must satisfy this condition within the time frame set forth in the body of this Order. Thereafter, upon satisfying this condition, Starlink Services will have, among others, an obligation to provide Lifeline services to all eligible low-income customers residing in its Designated Service Area as described in Appendix A to this Order. Upon satisfaction of the condition, the Commission shall affirm the designation of Starlink Services as an ETC throughout its Designated Service Area in Pennsylvania. If Starlink Services does not satisfy this condition within the required time frame, Starlink Services is put on notice that this Order will be considered null and void, and its provisional ETC designation is revoked. The Commission will subsequently provide written confirmation of any such failure regarding this condition.

Thus, Starlink Services’ Petition is provisionally granted subject to the above expressed condition*.*

**BACKGROUND**

**A. FCC’s Re-Purposing of the High Cost Program of the Federal Universal Service Fund**

In 2011, the FCC concluded that the deployment of broadband-capable networks would also be an express universal service principle under Section 254(b) of the Act, 47 U.S.C. § 254(b).[[5]](#footnote-6) For this reason, the FCC comprehensively reformed the High Cost Program of the federal Universal Service Fund (USF) so that it would ensure that robust, affordable voice and broadband services become available to all Americans living in rural areas across the nation who were receiving voice service but lacked access to robust broadband infrastructure and access service.[[6]](#footnote-7)

Up to that time, the six pre-existing programs in the High Cost Program had only supported the provisioning of voice service.[[7]](#footnote-8) In order to accomplish its goal of ensuring all Americans had access to both voice service and robust broadband service, the FCC repurposed the six pre-existing programs so that it would distribute federal high-cost support to recipients so that they could provision both fixed broadband and voice service throughout their service territories.[[8]](#footnote-9) Concomitant with this repurposing, the FCC also renamed the federal High Cost program the Connect America Fund (CAF). With the CAF and the FCC’s subsequent 2018 Connect America Fund Phase II Auction 903 (CAF II Auction or Auction 903),[[9]](#footnote-10) the FCC determined that it would begin to distribute federal high-cost support in the areas served by the incumbent local exchange carriers that operate as price cap carriers under federal law, through a combination of a “new forward-looking model of the cost of constructing modern multi-purpose networks” and a competitive bidding process.[[10]](#footnote-11)

**B. FCC’s Efforts to Modernize the Federal Lifeline Program**

To continue the mission of assisting qualifying low-income Americans to get and stay connected in today’s technological climate, while at the same time relieving some of the burden on the entities providing this service, the FCC also began restructuring the federal USF Lifeline program. Beginning in 2012, the FCC took several steps to comprehensively reform and modernize the Lifeline program in the *2012 Lifeline Reform Order* by improving enrollment and consumer disclosures and eliminating the previous system of tiered support and set an interim funding rate of $9.25 per month and per eligible subscriber or household.[[11]](#footnote-12)

These reforms were adopted by the FCC to strengthen protections against waste, fraud, and abuse in the federal Lifeline program by, among other things: setting a savings target; improving program administration and accountability by creating a National Lifeline Accountability Database (NLAD) to prevent multiple carriers from receiving support for the same household; and confirming a one-per-household support recipient rule applicable to all consumers and Lifeline providers in the program.[[12]](#footnote-13) The FCC also took preliminary steps to modernize the federal Lifeline program by, among other things, allowing Lifeline support for bundled service plans combining voice and broadband or packages including optional calling features.[[13]](#footnote-14) The FCC has issued three later Lifeline reform orders establishing a number of additional enhancements to the federal Lifeline Program, further connecting low-income Americans to voice services and, now, broadband access.[[14]](#footnote-15) These modified requirements have been codified in the FCC’s rules and regulations at Title 47, Chapter I, Part 54, Subpart E. This subchapter of the FCC regulations governs universal service support provided to low-income consumers.

**C. CAF Auctions**

The FCC contemplated that its new competitive bid process to disburse federal universal service high-cost support to federal price cap common carriers would be done as “reverse auctions” and rolled-out in different phases.[[15]](#footnote-16) The second phase of the CAF, but first reverse auction to disburse federal high-cost support, was Auction 903 in 2018. Auction 903 awarded up to $198 million annually for 10 years to all service providers that had committed to provide voice and fixed broadband services to specific locations in unserved high-cost areas, including eligible areas in Pennsylvania.[[16]](#footnote-17)

Acknowledging that Auction 903 was a significant step towards addressing the rural “digital divide” in America but that more work needed to be done to accelerate the deployment of access to broadband in these unserved and underserved communities, on August 1, 2019, the FCC adopted a Notice of Proposed Rulemaking (NPRM) proposing to establish the $20.4 billion RDOF as its next step in bridging the rural digital divide in America.[[17]](#footnote-18) Specifically, the FCC sought to allocate this federal universal service high-cost support to a certain number of locations in eligible census block groups (CBGs) across the United States, including eligible areas in Pennsylvania which were entirely unserved by broadband service of at least 25/3 Mbps.[[18]](#footnote-19)

On January 30, 2020, the FCC adopted the *RDOF Order*, which established the framework for the RDOF auction.[[19]](#footnote-20) The FCC determined that the RDOF would target federal high-cost support to areas that lack access to both fixed voice and 25/3 Mbps broadband services in two phases:  Phase I of the RDOF would assign up to $16 billion for those census blocks that are wholly unserved with broadband at speeds of 25/3 Mbps,[[20]](#footnote-21) and Phase II will make the remaining $4.4 billion, along with any unawarded funds from Phase I available for those census blocks that it later determined through the Digital Opportunity Data Collection, or suitable alternative data source, are only partially served, as well as census blocks unawarded in the Phase I auction.[[21]](#footnote-22)

Phase I of the RDOF Auction began on October 29, 2020, and ended on November 25, 2020. Space Exploration Technologies Corp. (“SpaceX”) submitted a short-form application to participate in the RDOF Phase I. On December 7, 2020, the FCC announced the winning bidders[[22]](#footnote-23) for Phase I of the RDOF auction and awarded up to $923 million annually for 10 years to these winning bidders that had committed to provide voice and fixed broadband internet access services (BIAS) to specific locations in unserved high-cost areas, including areas in Pennsylvania.[[23]](#footnote-24)

In the *RDOF Closing Public Notice*, the FCC announced that SpaceX was awarded a total of $63,065,275 of federal high-cost support funding over ten years for certain designated RDOF-eligible census blocks located throughout the Commonwealth of Pennsylvania.[[24]](#footnote-25) On December 22, 2020, in accordance with Auction 904 rules and procedures,[[25]](#footnote-26) SpaceX assigned all of its winning bids in Pennsylvania to its wholly-owned subsidiary, Starlink Services.[[26]](#footnote-27)

**D. Starlink Services’ Petition and Supplements**

Pursuant to the *RDOF Order* and the *RDOF Public Notice*,[[27]](#footnote-28) winning bidders were required to certify with the FCC that they have obtained an ETC designation that covers all relevant census blocks from the relevant authority for high-cost ETC designation by June 7, 2021.[[28]](#footnote-29) In the instant Petition, Starlink Services requests designation as an ETC in the 10,952 census blocks and 59,200 locations in Pennsylvania where SpaceX has been awarded RDOF Phase I high-cost funding support by the FCC in Auction 904. Starlink Services listed the individual census blocks where SpaceX has assigned to it the awarded Auction 904 high-cost support in Pennsylvania.[[29]](#footnote-30)

Starlink Services states that it is a Delaware corporation headquartered at 1 Rocket Road, Hawthorne, California 90250.[[30]](#footnote-31) Starlink Services has received the requisite authority from the Pennsylvania Department of State to do business in Pennsylvania as a foreign corporation.[[31]](#footnote-32) In its Petition, Starlink Services states that it is a wholly-owned subsidiary of SpaceX. Starlink Services further states that SpaceX, its parent company, is a private American company founded in 2002 by Elon Musk that is also incorporated in Delaware, with its principal office located at 1 Rocket Road, Hawthorne, California 90250.[[32]](#footnote-33)

Starlink Services asserts that SpaceX has a proven track record in building rockets and spacecraft and it is the only provider with an orbital class reusable rocket that has revolutionized space technologies.[[33]](#footnote-34) Starlink Services further asserts that SpaceX is a leading provider of launch services that has leveraged its launch services to deploy a satellite constellation named Starlink that is a space-based broadband system capable of providing low-latency, high-throughput Internet service in remote areas of the country.[[34]](#footnote-35) Starlink Services states that in 2018 the FCC granted authorization for SpaceX to deploy and operate this constellation of more than 4,400 Non-Geostationary Orbit (“NGSO”) satellites in low earth orbit (“LEO”).[[35]](#footnote-36)

Starlink Services states that over 900 NGSO satellites have been deployed in LEO by SpaceX, which has enabled SpaceX to commence beta service for Internet access with thousands of users across multiple states and in some international locations.[[36]](#footnote-37) Specifically, using the NGSO satellites constellation, SpaceX currently offers select users beta consumer-grade broadband Internet access service in the states of Washington, Montana, Minnesota, Oregon, Michigan, Idaho, Wisconsin, Maine, and North Dakota.[[37]](#footnote-38) These SpaceX BIAS beta users are selected to validate technical, operational, and business system readiness of the NGSO satellite constellation in LEO ahead of a broader public beta service roll-out.[[38]](#footnote-39)

Starlink Services states that SpaceX will rely on its current authorization from the FCC to operate this NGSO constellation, which will consist of 4,408 satellites that provide broadband service using Ku- and Ka-band spectrum.[[39]](#footnote-40) SpaceX avers that it has launched a sufficient number of satellites to provide uninterrupted coverage to the northern United States.[[40]](#footnote-41) The graphic below depicts SpaceX’s coverage of the United States.[[41]](#footnote-42)



Starlink Services asserts that SpaceX has sufficient parts on hand and rocket launches on manifest to deploy the remaining satellites needed to complete the NGSO constellation which will allow for uninterrupted coverage over the majority of the United States in the coming months.[[42]](#footnote-43) Starlink Services states that SpaceX aims to achieve total coverage of the contiguous United States and Hawaii with its NGSO satellites in 2021.

Starlink Services explains that it will utilize the Starlink constellation, which is its parent company’s NGSO constellation, and its own associated ground equipment to provide the supported services to its end users.[[43]](#footnote-44) Starlink Services asserts that its comprehensive ground network will communicate with the deployed NGSO satellites (Starlink) so that it may provide the supported services to thousands of users across multiple states and in some international locations.[[44]](#footnote-45)

Specifically, Starlink Services will use the Starlink satellite constellation to provide Internet Protocol (IP) connectivity between customer premises equipment (over its licensed Ku-band spectrum) and its gateways (over its licensed Ka-band spectrum).[[45]](#footnote-46) Starlink Services explains that the satellite constellation leverages beam-forming and beam-steering capabilities to direct Ku-band beams to specific ground locations in targeted geographic areas called “cells.”[[46]](#footnote-47) With SpaceX’s NGSO satellites constellation beam covering a much smaller geographic footprint than traditional satellite Internet services, Starlink Services states that it can allocate and manage capacity and throughput characteristics to a defined group of consumers in a more precise manner.[[47]](#footnote-48) According to Starlink Services, this ability to closely manage traffic resembles a terrestrial-deployed network.[[48]](#footnote-49)

The aggregate consumer data will then travel via terrestrial fiber from regional gateway sites to internet Points of Presence (PoPs) where traffic enters into the Internet. The diagram below summarizes these components of Starlink Services’ network.



Starlink Services states that SpaceX has designed every component of its network—the gateway antennas, the customer premises equipment, the software, and the satellites—for upgradability and scalability.[[49]](#footnote-50) Starlink Services further states that its network architecture will have no significant variations by state, region, or other criteria where it has gateway sites and PoPs already in place, beyond standard regional configurations for standalone voice services such as localized phone number and emergency service integrations.[[50]](#footnote-51) Starlink Services states that it may also offer different language support dependent on the region served.[[51]](#footnote-52) Lastly, Starlink Services states that SpaceX has also applied to the FCC to deploy a next-generation system that will meet future surges in broadband demand, which will similarly be available for Starlink Services’ use.[[52]](#footnote-53)

Starlink Services states it will send directly to the consumer an antenna, wi-fi router, power supply, cables, and a mounting tripod to its customers.[[53]](#footnote-54) This customer premises equipment (CPE) is referred to as the Starlink Kit. The Starlink Kit will enable Starlink Services customers to receive BIAS as well as VoIP telephone service on a bundled or standalone basis.[[54]](#footnote-55) Starlink Services states that the Starlink Kit is intentionally designed to be very easy to set up.[[55]](#footnote-56) Starlink also states that it will not charge its customers an installation fee since they set up the Starlink Kits themselves.[[56]](#footnote-57) Starlink Services further states that it plans to charge each of its prospective customers a single, upfront cost of $499 for all the equipment in the Starlink Kit.[[57]](#footnote-58) Starlink Services states that there is no minimum service term and that customers can cancel service at any time.[[58]](#footnote-59) Starlink Services states that if a customer cancels service within 30 days of shipment of the Starlink Kit and returns it, they receive a full refund of the $499.[[59]](#footnote-60)

Notice of Starlink Services’ Petition was published in the Pennsylvania Bulletin on February 6, 2021.[[60]](#footnote-61) On July 27, 2021, the Ensuring RDOF Integrity Coalition (ERIC) filed comments in response to Starlink Services’ Petition.[[61]](#footnote-62) Starlink Services also filed supplements to its Petition that set forth additional pertinent information.[[62]](#footnote-63)

**DISCUSSION**

Section 254(e) of the Act provides that “only an eligible telecommunications carrier designated under Section 214(e) shall be eligible to receive specific Federal universal service support.”[[63]](#footnote-64) Consequently, a common carrier first must be designated as an ETC under Subsections (2), (3), or (6) of Section 214(e) of the Act to be eligible to receive federal high-cost universal service support in accordance with Section 254 of the Act. Pursuant to Section 214(e)(2) of the Act, state commissions have the primary responsibility for performing ETC designations for common carriers seeking to obtain federal high-cost funding support. Only in those instances where a state cannot or will not make the requisite ETC designation, will the FCC make the ETC designation.[[64]](#footnote-65)

The Commission reserves the right to review any ETC designation request on a case-by-case basis and grant or deny such designation after considering the circumstances particular to each application. Thus, the Commission has reviewed Starlink Services’ Petition, as supplemented, to determine whether it satisfies the federal and state law criteria to receive a designation as an ETC in Pennsylvania.

**I. Requirements for Designation as a High-Cost ETC**

Pursuant to 47 U.S.C. § 214(e)(1), a common carrier must satisfy the following criteria[[65]](#footnote-66) in order to obtain an ETC designation and become eligible to receive federal high-cost universal service support throughout the service area for which the designation is received: (1) certify that it offers or intends to offer all services designated for support by the Commission pursuant to Section 254(c) of the Act;[[66]](#footnote-67) (2) certify that it offers or intends to offer the supported services either using its own facilities or a combination of its own facilities and resale of another carrier’s services;[[67]](#footnote-68) (3) describe how it advertises the availability of the supported services and the charges therefor using media of general distribution;[[68]](#footnote-69) and (4) describe the geographic service area for which it requests to be designated an ETC.[[69]](#footnote-70)

The FCC adopted additional requirements for parties seeking ETC designation that have been codified at 47 C.F.R. § 54.202.[[70]](#footnote-71) As such, a telecommunications carrier must also satisfy the following additional mandatory requirements for it to be designated an ETC and thus eligible to receive federal universal service support: (1) certify that it will comply with the service requirements applicable to the support that it receives in its proposed service area;[[71]](#footnote-72) (2) submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network throughout its proposed service area;[[72]](#footnote-73) (3) demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations;[[73]](#footnote-74) (4) demonstrate that it will satisfy applicable consumer protection and service quality standards;[[74]](#footnote-75) and (5) offer local usage comparable to that offered by the ILEC.[[75]](#footnote-76)

The FCC subsequently added an additional requirement concerning the Anti-Drug Abuse Act of 1988.[[76]](#footnote-77) Specifically, the FCC requires a party seeking ETC designation certify that neither it, nor any party to the application, is subject to a denial of federal benefits pursuant to the Anti-Drug Abuse Act of 1988.

In addition to meeting these statutory requirements, state commissions must also perform a “public interest” review before approving an ETC designation. Section 214(e)(2) of the Act states that, “[u]pon 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 designated service area, so long as the requesting carrier meets the requirements of Section 214(e)(1).

The Commission has adopted these federal standards under independent Pennsylvania law as a starting point for review of a request for ETC designation.[[77]](#footnote-78)

We also have Pennsylvania-specific guidelines discussed below that a federal high-cost ETC petitioner must satisfy before we can approve its request for ETC designation in Pennsylvania. Our review of Starlink Services’ Petition is done consistent with the federal requirements that must be met in order for an applicant to receive designation as an ETC, as codified, which we have adopted and implemented in the Commonwealth as the minimum standards applicable to ETC designation. Additionally, our review of Starlink Services’ Petition is also done to ensure consistency with independent Pennsylvania law as an ongoing obligation.

As will be discussed in more detail below, we provisionally grant Starlink Services’ Petition as it does not currently satisfy all federal requirements applicable to obtaining a high-cost ETC designation, including those embodied in the FCC’s *Universal Service Order*, the *2005 ETC Designation Order*, the *USF/ICC Transformation Order*, the *Lifeline Reform Orders*, and codified in pertinent FCC regulations. Specifically, Starlink Services does not possess the means to offer or provide voice-grade telecommunications services in Pennsylvania at the moment although that service is a requirement under the FCC’s RDOF program.[[78]](#footnote-79)

Normally, the Commission does not grant provisional authority to petitioners seeking designation as an ETC, however, we have reached this determination in this proceeding for three reasons. First, Starlink Services has provided sufficient assurances in its supplements that it will satisfy federal and related Pennsylvania-specific requirements or guidelines at least one year prior to the first RDOF milestone which occurs in 2024.[[79]](#footnote-80) Second, we have directed Starlink Services to submit within 90 days of the entry of this order the requisite proof that it has self-provisioned or has executed a contract with an MSP or other provider that will enable it to offer and provide voice-grade access to the PSTN. Lastly, as an RDOF winning bidder, Starlink Services is still required to comply with the same long-form application process the FCC adopted for Auction 903.[[80]](#footnote-81) Thus, upon receipt of an ETC designation from us once it complies with the above condition, Starlink Services will be subject to a thorough financial and technical review by the FCC during the long-form application stage prior to ultimately receiving the Auction 904 support.[[81]](#footnote-82)

**A. Certification That It Is a Common Carrier and Offering All Services Designated for Federal Universal Service Support**

Starlink Services has filed this Petition seeking to have the Commission designate it a high-cost ETC in the census blocks where it has been awarded Auction 904 federal high-cost support. Federal law dictates that only a common carrier designated an eligible telecommunications carrier under 47 U.S.C. § 214(e)(2) shall be eligible to receive universal service support in accordance with Section 254 of the Act.[[82]](#footnote-83) Thus, in order to obtain an ETC high-cost designation, Starlink Services must demonstrate that it is a common carrier and certify that it offers the services supported by the federal universal service support mechanisms or “supported services.”[[83]](#footnote-84)

Section 153(10) of the Act defines the term “common carrier” as “any person engaged as a common carrier for hire, in interstate or foreign communications by wire or radio[.]” 47 U.S.C. § 153(10).[[84]](#footnote-85) Additionally, pursuant to 47 C.F.R. § 54.101, the FCC defines supported services as qualifying voice service and the offering of qualifying BIAS.[[85]](#footnote-86) Also, as a condition of receiving support, the common carrier must offer qualifying voice service as a standalone service throughout its designated service area and must offer voice telephony services at rates that are reasonably comparable to urban rates.[[86]](#footnote-87)

**1. Qualifying Voice Service**

In order to satisfy the criterion of offering qualifying voice services set forth in 47 C.F.R. § 54.201(a), Starlink Services must be a common carrier that certifies that its eligible voice telephony services provide (1) voice grade access to the PSTN or its functional equivalent; (2) minutes of use for local service provided at no additional charge to end users; (3) access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and (4) toll limitation services to qualifying low-income consumers. Additionally, as an RDOF support recipient, like all other high-cost ETCs, Starlink Services will be required to offer standalone voice service and offer voice and broadband services at rates that are reasonably comparable to rates offered in urban areas.

Starlink Services certifies in its Petition that it is a common carrier that will provide voice telephony services in accordance with 47 C.F.R. §§ 54.500, *et seq.*[[87]](#footnote-88) However, as explained below, based on the record before us, we are not satisfied that Starlink Services has provided substantial evidence to support a finding that it is a common carrier that has the ability to provide standalone voice service in Pennsylvania at the moment under the FCC’s RDOF rules.

**a.** **Voice Grade Access to the Public Switched Telecommunications Network**

In order to satisfy the criterion of providing voice grade access to PSTN, Starlink Services must certify and demonstrate the technical and financial ability to provide voice services meeting or exceeding the RDOF Phase I service standards. Accordingly, the Commission has reviewed Starlink Services’ filings to ensure that Starlink Services NGSO-provided voice telecommunications service will have the approximate latency and service qualities standards as the voice service that is provisioned by a terrestrial, fixed-voice carrier.

Latency is the time it takes for a data packet to travel back and forth through a network. The FCC has defined “low latency” in the context of the RDOF as “95 percent or more of all peak period measurements of network round trip latency at or below 100 milliseconds[.]” 47 C.F.R. § 54.805(b)(4)(i). In its *Rural Digital Opportunity Fund Phase I Auction Scheduled for October 29, 2020*, 35 FCC Rcd. 6077 (2020) (*RDOF Phase I Notice*), the FCC established parameters for Auction 904, which expressly prohibited providers of geostationary, high-earth orbit, or medium-earth orbit technology, which are designated as high latency voice service providers, to submit competitive bids for each of the technology-neutral performance tiers it had adopted.[[88]](#footnote-89) Essentially, the FCC prohibited any providers that intended to use geostationary, high earth orbit, or medium earth orbit satellite technology from selecting “low latency” in combination with any of the performance tiers in its application.[[89]](#footnote-90)

However, the FCC explicitly stated in the *RDOF Order* that it would permit applicants proposing to use LEO satellite networks to bid on offers for low-latency services based on the intrinsic advantages of LEO satellites in providing lower latency services when compared to geosynchronous and medium-earth orbit satellites.[[90]](#footnote-91) Notwithstanding, the FCC noted that it continued to remain skeptical about the fact that the altitude of a satellite’s orbit is the sole determinant of a satellite applicant’s ability to meet the FCC’s low-latency performance requirements.[[91]](#footnote-92) The FCC noted that propagation delay in a satellite network does not alone account for latency in other parts of the network such as processing, routing, and transporting traffic to its destination.[[92]](#footnote-93)

The FCC further noted that applicants seeking to bid as a low-latency provider using LEO satellite networks will face a substantial challenge demonstrating to the FCC that their networks can deliver real-world performance to consumers below the FCC’s 100 millisecond low-latency threshold.[[93]](#footnote-94) Nonetheless, the FCC did not bar or prohibit bidders utilizing LEO satellite technology from participating in Auction 904, as long as they are capable of delivering voice telecommunications service that meets the FCC’s 100 millisecond low-latency threshold. The Commission acknowledges this fact. Therefore, the question that we must consider before designating Starlink Service as an ETC is whether it has adequately certified in its Petition that its NGSO satellite constellation and associated ground network is or will be capable of providing voice service meeting the Auction 904 performance standards.

In its Petition and initial supplements, Starlink Services asserted that it planned to provide interconnected VoIP service to its customers but that it was currently in the midst of exploring avenues to self-provide or collaborate or partner with a third-party MSP voice platform or other provider that will provide access to the PSTN for its proposed interconnected VoIP service.[[94]](#footnote-95) Also, Starlink Services seeks to be able to certify that the voice platform it ultimately secures will allow its NGSO satellite-generated VoIP service to meet or exceed the quality and performance standards for voice-grade service required by the RDOF.[[95]](#footnote-96)

Starlink Services states that when provisioned, it will provide telephone services connecting consumers to the chosen platform using its network capacity, which is available to consumers through their CPE for which Starlink Services anticipates charging voice customers $499.[[96]](#footnote-97) In further updates, Starlink Services affirmed that it has determined that it will initially provide voice services using an MSP voice platform but in the future it may choose to bring certain functions related to its voice service in-house to the extent such action would benefit the customer experience and such service would comply with state and federal requirements.[[97]](#footnote-98)

Starlink Services further states that consumers obtaining its VoIP service will have the option of using a third-party, conventional phone connected to a Session Initiation Protocol (SIP) standards-compliant analog terminal adaptor or a native-IP Phone selected from a list of certified models.[[98]](#footnote-99) Starlink Services’ customers will access Starlink Services’ network using an advanced phase-array terminal designed to connect directly to the satellite assigned to serve the area in which the customer is located.[[99]](#footnote-100)

For these reasons, Starlink Services certifies in its Petition that it is a common carrier that will provide voice telephony services in accordance with 47 C.F.R. §§ 54.500, *et seq.*[[100]](#footnote-101) However, as explained in greater detail below, based on the evidence submitted in the record of this proceeding, the Commission at this time cannot find that Starlink Services is currently a common carrier that has the ability to provide voice-grade access to the PSTN that is necessary to obtain an ETC designation.

Despite Starlink Services’ assurance as to its technical ability to provide voice service, Starlink Services has not adequately demonstrated that it is able to provision voice-grade access to the PSTN. At this time and even taking into consideration its parent company’s network and facilities, Starlink Services cannot currently provide standalone voice service, let alone satisfy other voice-related obligations. Moreover, while Starlink Services states that it initially plans to use an MSP as a means to offer standalone voice service in Pennsylvania, we note that Starlink Services does not yet have a contractual agreement with any MSP voice platform that will provide access to the PSTN. Thus, Starlink Services currently cannot provide standalone interconnected VoIP service to potential customers in Pennsylvania and we have no date in the foreseeable future when it will be so able.

To be clear, we acknowledge that Starlink Services is not required to demonstrate to us at this time that its voice service does meet or exceed the RDOF performance standards for voice service. We are fully cognizant of the fact that Starlink Services must again certify and demonstrate, as part of the FCC’s long-form application process, that it has the technical and financial ability to provide voice service meeting or exceeding RDOF Phase I standards prior to being authorized to receive federal high-cost support.[[101]](#footnote-102) We note that any additional obligations relating to the provision of voice service imposed on Starlink Services as part of the FCC’s long-form application process would be applicable in Pennsylvania. Indeed, it is only after the FCC evaluates whether Starlink Services is technically and financially capable of meeting its service obligations that the FCC will authorize the release of the financial support that Starlink Services has won in the auction.

Nonetheless, Starlink Services does not currently own or have access to the facilities necessary to self-provision voice service and does not yet have a contractual agreement with an MSP to allow for access of its VoIP service to the PSTN.[[102]](#footnote-103) Therefore, Starlink Services cannot certify to us that its NGSO satellite-generated, interconnected VoIP service will meet or exceed the quality and performance standards for voice-grade service required by the RDOF, and for that reason, we cannot find that it satisfies that criterion required under the FCC’s rules for RDOF.

At a minimum, Starlink Services is required to provide to us adequate certifications as part of its ETC designation petition that it is at least positioned or has existing written contracts in place that will allow for it to provide voice grade access to the PSTN. However, Starlink Services has simply made assertions in this proceeding without any supporting evidence that its LEO satellite system can and will meet the low-latency standard established by the FCC for Auction 904 federal high-cost funding recipients.[[103]](#footnote-104)

Again, we are not suggesting that Starlink Services is required to demonstrate here that its voice service is capable of meeting the Mean Opinion Score metric for VoIP testing before receiving an ETC designation from us as Starlink Services will be subject to the FCC long-form application review process prior to ultimately receiving the Auction 904 support.[[104]](#footnote-105) Notwithstanding, the record before us indicates that Starlink Services cannot currently offer standalone voice service and has no firm arrangement in place to facilitate standalone voice service. As such, the Commission finds that based on the information and representations in its Petition and responses to data requests, Starlink Services is not a common carrier that is currently able to provide voice grade access to the PSTN as required under 47 U.S.C. § 214(e)(1) and (2). To rectify this deficiency and substantiate its claim that it is positioned to become legally responsible for dealing with customer problems and will provide voice service consistent with the FCC’s universal service requirements, Starlink Services must present to us sufficient evidence demonstrating that it has a binding agreement with an MSP or other provider or can self-provision the necessary services. Only upon the fulfillment of this condition and satisfying this criterion will the Commission be able to recognize that Starlink Services is a common carrier for purposes of obtaining designation as an ETC in Pennsylvania.

Accordingly, Starlink Services is directed to file with the Commission within 90 days of the entry of this order evidence that it can provide standalone voice service, how it will do so, and how it satisfies the remaining voice-related obligations addressed in more detail below.

**b. Minutes of Use for Local Service**

As part of offering voice grade access to the PSTN, an ETC must also provide local calling services to its customers at no additional charge. Although the FCC did not set a minimum local usage requirement, in the *Universal Service Order*, it determined that ETCs should provide some minimum amount of local usage as part of their “basic service” package of supported services.[[105]](#footnote-106) However, the FCC has determined that a carrier satisfies the local usage requirements by including a variety of local usage plans as part of a universal service offering.

Starlink Services has certified that it will offer voice rate plans in the service area that include local calling at no additional charge and will comply with any and all minimum local usage required adopted by the FCC or states with jurisdiction over Starlink Services’ standalone voice service.[[106]](#footnote-107) Additionally, Starlink Services further states that it will offer voice service at rates that are reasonably comparable to rates offered in urban areas, and it will comply with annual results of the Urban Rate Survey published annually by the FCC.[[107]](#footnote-108)

However, based on our prior finding that Starlink Services cannot yet provision voice service with access to the PSTN, we cannot determine that Starlink Services has any existing voice rate plans. Therefore, along with its submittal of the requisite information regarding its ability to provide standalone voice service through an MSP voice platform or otherwise, we direct Starlink Services to provide additional information regarding its voice rate plans for its voice customers in Pennsylvania.

**c. Access to Emergency Services**

As explained above, as a satellite voice provider, Starlink Services may satisfy its voice obligation by offering voice service through an affiliate or by offering a managed voice solution (including VoIP) through a third-party MSP or other provider. Starlink Services has indicated that it will initially use a third-party MSP to provision its voice service in Pennsylvania.

Starlink Services certifies in is Petition that it will provide access to 911 and E911 emergency calling services for all of its customers to the extent the local governments in its service area have implemented 911 and E911.[[108]](#footnote-109) Starlink Services also states that it or its third-party managed VoIP or other provider will ensure that the necessary arrangements are in place with municipalities for this purpose.[[109]](#footnote-110)

Additionally, the FCC requires interconnected VoIP carriers to obtain affirmative acknowledgment from each subscriber that the subscriber understands the circumstances that E911 service may be limited or unavailable. 47 C.F.R. § 9.11(b)(5)(i). Therefore, Starlink Services certified in one of the supplements to its Petition that it will advise every VoIP subscriber, and will provide the necessary disclosure, of the circumstances under which 911 service may not be available or may be in some way limited by comparison to traditional E911 service.[[110]](#footnote-111)

Starlink Services further stated that as it rolls out its VoIP services in accordance with the FCC’s RDOF milestones, it will ensure that all of its VoIP customers, including participants in the Lifeline program, have full access to E911 services in compliance with all FCC rules relating to E911 and Lifeline.[[111]](#footnote-112)

Lastly, in Pennsylvania, interconnected VoIP service providers remain subject to all applicable state 911 requirements under Pennsylvania’s VoIP Freedom Act.[[112]](#footnote-113) Starlink Services certifies that it will comply with all federal and state requirements related to the provision of 911 service.

Starlink Services’ third-party vendor must reach out and make contact with the appropriate 911 authority and testing of 911 and E911 services prior to offering voice service in the municipalities. Since Starlink Services cannot itself provision voice service at this time nor does it have a contractual agreement with an MSP at the moment, Starlink Service must submit evidence to the Commission that its third-party provider has made contact with the appropriate 911 authority in the municipalities prior to offering voice service to any customer so that its voice service customers have access to emergency services.

Accordingly, the Commission determines that once Starlink Services has complied with the directives above, substantial evidence will allow the Commission to support a finding that this criterion of ensuring access to emergency services and that these requirements will apply once Starlink Services finally has the means by which to provision voice service in Pennsylvania.

**d. Toll Limitation Services**

Under the language of Section 54.400, the FCC has defined three terms addressing the service provided by an ETC by which a subscriber may prevent toll charges from accumulating beyond a set point. Specifically, Subsection 54.400(b) of the FCC’s regulations defines “toll blocking” as the service a subscriber may elect to not allow outgoing toll calls. Subsection (c) defines “toll control service” as the service a subscriber may elect to specify a set amount of toll usage allowed per month or per billing cycle. Subsection (d) defines “toll limitation service” as a generic term covering either toll blocking or toll control service for ETCs that are incapable of providing both or covering both services.

Section 54.401(a)(2), toll limitation service, does not need to be offered for any Lifeline service that does not distinguish between toll and non-toll calls in the pricing of the service. If an ETC charges Lifeline subscribers a fee for toll calls that is in addition to the per month or per billing cycle price of the subscribers’ Lifeline service, the carrier must offer toll limitation service at no charge to its subscribers as part of its Lifeline service offering.

In the FCC’s *Lifeline and Link Up Reform Order*, the FCC explained that toll limitation would no longer be deemed a supported service as of 2014.[[113]](#footnote-114) Starlink Services currently does not have Lifeline customers because only carriers designated as an ETC can participate in the Lifeline program. Once designated as an ETC, however, Starlink Services will participate in Lifeline, as required by the FCC’s rules, and will provide toll blocking service.[[114]](#footnote-115) Therefore, the nature of Starlink Services’ service eliminates the concern that low-income customers will incur significant charges for international calls, risking disconnection of their service.

**2. Eligible Broadband Internet Access Services**

An ETC subject to a high-cost public interest obligation to offer BIAS, must offer BIAS that provides the capability to transmit data to and receive data by wire or radio from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up service, within the areas where it receives high-cost support.[[115]](#footnote-116) Additionally, pursuant to Section 54.805 of the FCC’s regulations, recipients of RDOF support are “required to offer broadband service with latency suitable for real-time applications, including VoIP, and usage capacity that is reasonably comparable to comparable offerings in urban areas, at rates that are reasonably comparable to rates for comparable offerings in urban areas.”[[116]](#footnote-117) More specifically, recipients of RDOF support are required to meet the broadband service speeds and performance standards for the relevant performance or the average usage of a majority of fixed broadband customers as announced annually by the FCC’s Wireline Competition Bureau (WCB).[[117]](#footnote-118)

Starlink Services is obligated to offer one service plan that provides BIAS at a speed of at least 100/20 Mbps at low latency.[[118]](#footnote-119) For winners in the RDOF Phase I auction who submitted bids for above baseline tier speed, the FCC required them to show that 95% or more of all testing-hour measurements of network round trip latency are at or below 100 milliseconds (ms) as their latency standard for BIAS.[[119]](#footnote-120)

Starlink Services asserts that it will offer BIAS with the capability to transmit data and receive data by wire or radio from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up service.[[120]](#footnote-121) Starlink Services further certified that it will offer broadband access service at rates that are reasonably comparable to rates offered in urban areas, and it will comply with annual results of the Urban Rate Survey published annually by the FCC.[[121]](#footnote-122)

The Commission notes that Starlink Services plans to use its parent company’s satellite constellation to provide BIAS in Pennsylvania. In its comments regarding the Petition, ERIC expresses concern that SpaceX’s satellite constellation buildout proposal may be fundamentally deficient and risky so as to render Starlink Services incapable of meeting its obligations as an RDOF recipient.[[122]](#footnote-123) ERIC states that Starlink Services may not have the ability to provide the proposed Gigabit service with the limited funding from the RDOF auction that has been awarded to SpaceX.[[123]](#footnote-124) ERIC also specifically states that given the current operation of the Starlink satellite constellation and the nature of Starlink Services’ dynamic network plus the limitations in wireless technology, Starlink Services may be prevented from having the ability to offer its promised Gigabit Internet service due to capacity shortfalls.[[124]](#footnote-125) ERIC also notes that various entities, including DISH Network and Viasat, have argued that SpaceX has insufficient spectrum access, particularly in the 12 GHz band. ERIC further notes that this issue regarding to what extent the band should be shared for 5G terrestrial wireless broadband use is currently subject to an open FCC rulemaking proceeding.[[125]](#footnote-126) Lastly, ERIC has urged the Commission to review Starlink Services’ long-form application to determine whether it will satisfy its ETC obligations and the public interest standards in Pennsylvania.

At this moment, SpaceX has not launched all of the 4,400 NGSO satellites in LEO that will make up the constellation Starlink Service proposes to use to provide high-speed broadband service in Pennsylvania. Since the Starlink satellite constellation is not complete, SpaceX’s satellite Internet service is currently undergoing beta testing from consumers.[[126]](#footnote-127) That means that Starlink Services’ BIAS offering is not quite ready to offer satellite Internet service in Pennsylvania.

Nevertheless, Space X’s business model and technology to create its NGSO satellite constellation makes it easier and more affordable to launch satellites at scale. This means that within the next few years, Starlink Services ostensibly expects to be able offer satellite Internet to the entire planet, not just remote unserved locations in Pennsylvania where internet may not be currently available. Starlink Services is leveraging SpaceX’s technology to build a vast constellation of mass-produced satellites into low-altitude orbit that will transmit Internet signals to Earth-based hubs, delivering superfast connection speeds. Accordingly, while the Commission shares some of the concerns ERIC raises in its comments, the Commission finds that Starlink Services satisfies this criterion because it will be able to furnish BIAS supported service in Pennsylvania in the near future that provides the capability to transmit data to and receive data by wire or radio from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service.

**B. Certification Regarding the Offering of the Supported Services Using a Carrier’s Own Facilities**

In order to obtain a high-cost ETC designation, a common carrier must offer the qualifying supported services throughout its service area “either using its own facilities or a combination of its own facilities and resale of another carrier’s services.”[[127]](#footnote-128) Thus, only common carriers that provide the qualifying supported services as defined under Section 54.101(a), as amended, by using their own facilities will be deemed to meet the requirements of Subsection 214(e)(1)(A) of the Act.

The FCC has interpreted the term “facilities” to mean “any physical components of the telecommunications network that are used in the transmission or routing of the services designated for support under Section 254(c)(1).”[[128]](#footnote-129) However, as explained by the FCC, “a carrier need not offer universal service wholly over its own facilities in order to be designated an eligible carrier because the statute allows an eligible carrier to offer the supported services through a combination of its own facilities and resale.”[[129]](#footnote-130)

Facilities are the ETC’s “own” if the ETC has exclusive right to use the facilities to provide the supported services[[130]](#footnote-131) or are deemed “owned” by the ETC when the service is provided by the ETC over an affiliate’s network as long as that affiliate is within the same holding company structure.[[131]](#footnote-132) Additionally, a common carrier satisfies its ETC designation obligation to “offer” qualifying services by being legally responsible for dealing with customer problems, providing quality of service guarantees, and meeting federal USF-related requirements.[[132]](#footnote-133) Accordingly, a broadband provider may satisfy its voice obligation by offering voice service through an affiliate or by offering a managed voice solution (including VoIP) through a third-party vendor but cannot simply rely on the availability of over-the-top voice options.[[133]](#footnote-134)

As the Commission has stated throughout this order, Starlink Services does not currently have a binding agreement with an MSP or any voice platform to provide voice service in Pennsylvania. However, the Commission recognizes that the RDOF Phase I funds are intended to fund the expansion of broadband, and the Commission is cognizant that Starlink Services is still in the process of building its network to provide the supported services. Given these circumstances, the Commission is not outright rejecting Starlink Services’ request for ETC designation but conditioning the grant of an ETC designation on Starlink Services filing the requisite evidence of a binding commitment with an MSP or other third party voice platform to the Commission within 90 days of this order.

As it relates to BIAS, Starlink Services plans to use SpaceX’s NGSO satellite constellation to provide its satellite Internet service. Thus, we understand that Starlink Services is certifying that it will offer the qualifying supported services throughout its service area using its facilities or a combination of its own parent company’s facilities and/or resale of another carrier’s services.

**C. Certification Regarding Advertising Supported Services**

Starlink Services has stated that it will advertise the availability of its Lifeline services in a manner reasonably designed to reach those likely to qualify for the service.[[134]](#footnote-135) Starlink Services further attested that it will advertise the availability of Lifeline benefits throughout its ETC service area by media of general distribution which may include partnerships with national and local service organizations; radio, out-of-home or other localized advertising; digital advertising; and direct-to-user communication such as direct mail.[[135]](#footnote-136) Starlink Services will advertise the availability and rates of voice and broadband internet service in languages other than English consistent with the applicable FCC and PUC rules.[[136]](#footnote-137)

**D.Certification to Provide a Detailed Description of the Geographic Service Area Where It Will Be Designated an ETC**

Generally, once an entity is designated an ETC in a service area, it must offer the supported services throughout that entire designated service area. The term service area generally means the overall geographic area for which the carrier shall receive support from federal universal service support mechanisms. A service area is established by a state commission for the purpose of determining universal service obligations and support mechanisms. Thus, an ETC’s “service area” is set by the designating authority and is the geographic area within which an ETC has universal service obligations and may receive universal service support.[[137]](#footnote-138)

Starlink Services was a winning bidder in Auction 904 and has been awarded RDOF Phase I high-cost funding support in specific RDOF-CBGs dispersed throughout Pennsylvania.[[138]](#footnote-139) Pursuant to its Petition, Starlink Services is seeking designation as a high-cost ETC only in the RDOF-eligible CBGs that are located within the local exchanges as listed in Appendix A, which comprises Starlink Services’ Designated Service Area.[[139]](#footnote-140)

Section 214(e)(5) of the Act, 47 U.S.C. § 214(e)(5), normally requires that a competitive high-cost ETC’s (CETC) proposed designated service area conform with the rural incumbent ETC’s designated service area. The rural incumbent ETC’s designated service area is usually its entire service territory. Generally, if a state commission sought to designate a CETC only in a portion of a rural incumbent ETC’s designated service, that rural service area must first be redefined under the process set forth in Section 214(e)(5) of the Act.[[140]](#footnote-141) To accomplish a redefinition of a rural service area, the Commission would be required to conduct a cream-skimming analysis to compare the population density of the wire centers in which the CETC applicant seeks designation against that of the wire centers in the rural service area in which the CETC applicant does not seek designation.[[141]](#footnote-142)

In this proceeding, Starlink Services seeks an ETC designation that is below the service territory of our two non-rural ILECs, Verizon Pennsylvania LLC (Verizon PA) and Verizon North LLC (Verizon North) and fourteen of our rural ILECs (RLECs).  The affected ILECs and all of the corresponding local exchanges where the 10,952 census blocks and 59,200 locations are situated are listed in Appendix A. As explained above, the Commission usually would have to undergo a redefinition analysis of these particular RLECs since the Petitioner requests to be designated only in certain portions of their respective service territories. However, the FCC has eliminated the service area conformance requirement for those winning bidders in the Auction 904 seeking an ETC designation[[142]](#footnote-143) where Starlink Services’ 10,952 RDOF-eligible census blocks and 59,200 locations are located.[[143]](#footnote-144)

Specifically, in its *RDOF Order*, the FCC held that for those entities that were seeking to obtain ETC designations solely as a result of being selected as winning bidders for the Auction 904 support, it was best to forbear from applying Section 214(e)(5) of the Act and Section 54.207(b) of the FCC’s rules insofar as those sections require that the service area of such a competitive ETC conform to the service area of any RLEC serving an area eligible for Phase I support.[[144]](#footnote-145) The FCC noted that like the CAF Phase II auction, it will be maximizing the use of the RDOF support by making it available for only one provider per geographic area.[[145]](#footnote-146)

The FCC further noted that since price cap ETCs had declined the offer of model-based support and another entity is now receiving that declined support through Auction 904, the incumbent ETC’s service area is no longer a relevant consideration in determining the geographic scope of a winning bidder’s ETC designation.[[146]](#footnote-147) Hence, the RLEC’s service area will no longer be relevant because the incumbent ETC may be eventually replaced by the RDOF recipient in those portions of its service area where it may seek relinquishment since it will no longer receive high-cost support to provide the supported services, particularly qualifying voice service.

Here, Starlink Services was a winning bidder in specific eligible census blocks in block groups located within RLECs’ service areas listed in Appendix A. Consequently, it is seeking a high-cost ETC designation only in those specific CBGs dispersed throughout the service territories of our two non-rural ILEC and several RLECs. Since the FCC has waived its rules regarding the redefinition process specifically for Auction 904 funding recipients, there is no need for the Commission to consider the relevant analysis the state and the FCC historically considered when deciding whether to redefine an RLEC’s service area when it receives a request from the winning bidder to have a designated service area that is below the incumbent rural ETC’s entire service area. Accordingly, we approve Starlink Services’ proposed Designated Service Area as set forth in its Petition and relevant supplements as depicted in Appendix A to this Order.[[147]](#footnote-148)

**E*.* Compliance with the Service Requirements Applicable to Auction 904 Support**

Starlink Services must certify that it will comply with requirements applicable to the federal universal service support that it has been awarded by the FCC. In order to satisfy this criterion, an ETC applicant must demonstrate its commitment and ability to provide the supported services to all customers making a reasonable request for service within the ETC’s designated service area.[[148]](#footnote-149)

To satisfy the first prong, an ETC petitioner must ensure that it is providing services to all customers making a reasonable request for service throughout its proposed Designated Service Area. If the ETC’s network already passes or covers the potential customer’s premises, the ETC should provide service immediately. Starlink Services certifies that it will comply with the service and performance requirements applicable to the support that it receives, including the performance requirements and deployment milestones associated with RDOF support. Additionally, Starlink Services certifies that it will comply with all applicable state and federal consumer protection and service quality standards associated with the receipt of RDOF support.[[149]](#footnote-150)

**F*.* Certification Regarding Continued Functionality in Emergency Situations**

Pursuant to 47 C.F.R. § 54.202(a)(2), an ETC applicant is required to demonstrate its ability to remain functional in emergency situations. To satisfy this criterion, an applicant must demonstrate it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations. The FCC’s regulations further require facilities-based fixed residential voice services that are not line-powered (fixed service providers) to offer for sale to subscribers “at least one option that provides a minimum of twenty-four hours of standby backup power” for customer premises equipment by February 13, 2019.[[150]](#footnote-151)

Starlink Services has certified that it intends to design the network with redundancy to enable continuous service.[[151]](#footnote-152) Starlink Services asserts that it will have sufficient back-up power to remain functional without an external power source in emergency situations, will be able to reroute traffic around damaged facilities, and will be able to manage traffic spikes resulting from emergency situations.[[152]](#footnote-153)

Starlink Services is also building redundancy into its network ensuring every user will have multiple satellites in view with which it can communicate.[[153]](#footnote-154) Further, every satellite will have multiple gateway sites in view with which it can communicate.[[154]](#footnote-155) The way Starlink Services routes traffic ensures that every user is served with bandwidth before users demanding more bandwidth get additional throughput assigned, which gives Starlink Services’ network robustness in the event of emergencies requiring high throughput.[[155]](#footnote-156) At the user level, Starlink Services will offer 8-hour and 24-hour battery back-up options for user equipment that will provide the ability to make phone calls during power outages.[[156]](#footnote-157)

**G*.* Certification to Satisfy Customer Service and Service Quality Standards**

Historically, a petitioner seeking an ETC designation for purposes of becoming eligible to receive high-cost support was required to demonstrate its ability to satisfy applicable consumer protection and service quality standards.[[157]](#footnote-158) However, for applicants seeking ETC designation for the purposes of becoming authorized to receive Auction 904 high-cost support, the FCC waived the requirement to submit proof of compliance with consumer protection and service quality standards—finding that the need for such requirements is obviated by specific service quality standards applicable to Auction 904 winning bid areas and specific reporting obligations relating to such standards.[[158]](#footnote-159)

Starlink Services proposes to offer interconnected VoIP service in Pennsylvania and it is also required to offer standalone basic voice.[[159]](#footnote-160) Even though Starlink Services will be providing an interconnected VoIP service throughout its Designated Service Area, interconnected VoIP service remains subject to all applicable consumer protections and quality of service standards under Pennsylvania law.[[160]](#footnote-161)

**H*.* Certification Regarding Financial and Technical Ability to Provide Lifeline Service**

Generally, a carrier seeking only low-income support under Subpart E, 47 C.F.R. §§ 54.400-54.422, must demonstrate that it possesses the financial and technical ability to provide Lifeline service.[[161]](#footnote-162) A carrier seeking only low-income support also must submit information describing the terms and conditions of any voice telephone service plans and the terms and conditions of any BIAS plans offered to Lifeline subscribers.[[162]](#footnote-163) However, Starlink Services is seeking to be designated an ETC only in those high-cost areas within its service area in Pennsylvania where it has been awarded Auction 904 support.[[163]](#footnote-164) As such, per the federal rules, Starlink Services is not required to demonstrate its financial and technical ability to provide Lifeline service in these areas.

Notwithstanding, as an Auction 904 winning bidder, Starlink Services must participate in the federal Lifeline program and offer Lifeline service to low-income eligible customers or households in these census blocks within its Designated Service Area.[[164]](#footnote-165) Therefore, under independent state law, we will ensure that Starlink Services has the technical and financial capability to provide Lifeline services to eligible low-income consumers residing in the Auction 904 census blocks.

As previously noted, Starlink Services was one of the successful bidders in Auction 904 that is aiding with the construction of the planned network facilities in Pennsylvania, and the FCC’s RDOF Phase I bidding process and long-form application process require a demonstration of managerial, technical, and financial fitness elements for the participation of the successful bidders. Accordingly, the Commission determines that with such demonstration before the FCC, Starlink Services will have demonstrated it is technically, managerially, and financially fit to offer and provide Lifeline service to qualifying low-income consumers in all high-cost areas in Pennsylvania where it is authorized to receive support.

Further, upon review, Starlink Services has committed to offering Lifeline services, consistent with the FCC’s rules and the Commission’s rules and guidelines.[[165]](#footnote-166) Starlink Services has provided the requisite information in its accompanying supplements about its Lifeline service plan offerings.[[166]](#footnote-167) Starlink Services describes in detail the voice and BIAS plans that it will offer to Lifeline subscribers, and provides the terms and conditions for these services.[[167]](#footnote-168) Additionally, Starlink Services’ supplements include the requisite description of its voice and Internet access service offerings for Lifeline subscribers. Accordingly, the Commission determines that Starlink Services will provide Lifeline service to qualifying low-income consumers consistent with 47 C.F.R. §§ 54.202(a)(5) and 54.202(a)(6) and Pennsylvania-specific rules in all high-cost areas in Pennsylvania where it is authorized to receive support.

**I.Certification of Eligibility for Benefits under the Anti-Drug Abuse Act**

ETC petitioners must certify that neither the petitioner nor any party to the petition is subject to a denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, as implemented in Section 1.2002 of the FCC’s rules. Starlink Services certifies that no party to its Petition is subject to denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.[[168]](#footnote-169)

**J*.* Certification to Relinquish Its ETC Designation**

Starlink Services may possibly replace the current incumbent price cap ETCs as the only carrier receiving federal USF high-cost support in certain census blocks located within the ILECs’ local exchanges.[[169]](#footnote-170) In the *December 2014 Connect America Order*, the FCC determined that federal price cap carriers can remove their ETC status via the Section 214 process if (1) the census block is determined to be low cost; (2) the census block is served by an unsubsidized competitor offering voice and broadband at speeds of 10/1 Mbps or better to all eligible locations; or (3) the census block is served by a subsidized competitor (another ETC) receiving federal high-cost support to deploy modern networks capable of providing voice and broadband to fixed locations.[[170]](#footnote-171) Thus, in those areas where a new provider is granted high-cost ETC status and is authorized to receive Auction 904 support, the incumbent price cap carrier will be relieved of its federal high-cost ETC obligation to offer voice telephony services in that area.

However, this forbearance action does not relieve the price cap ETC of its other “incumbent-specific obligations” like interconnection and negotiating unbundled network elements pursuant to Sections 251 and 252 of the Act. Additionally, notwithstanding an incumbent price cap carrier’s being relieved of its ETC obligation to provide qualifying voice telephony service, where the CETC is the only entity that receives federal high-cost support, it is still required to do the following: (1) seek relinquishment of its ETC designation as prescribed under Section 214(e)(4) of the Act and (2) maintain existing voice service until they receive discontinuance authority under section 214(a) of the Act and Section 63.71 of the Commission's rules.[[171]](#footnote-172) Thus, price cap carriers will remain subject to ETC obligations other than those covered by the FCC’s forbearances unless or until they relinquish their ETC designations in those areas pursuant to Section 214(e)(4) of the Act.

Further, price cap carriers in these areas will remain subject to other Title II requirements, including ensuring that voice telephony rates remain just and reasonable and the nondiscrimination obligations of Sections 201 and 202 of the Act. Moreover, pursuant to our Pennsylvania-specific carrier of last resort (COLR) obligations, the Commission will ensure that the local rates that the relinquishing price cap carrier offers in the areas where the FCC may have granted forbearance remain just and reasonable.[[172]](#footnote-173) Lastly, these price cap carriers must continue to satisfy all Lifeline ETC obligations by offering voice telephony service to qualifying low-income individual and households in areas in which they are subject to this limited FCC forbearance.

The same standard will apply to Starlink Services upon its ETC designation as the designation will require it to ensure that *all* customers are served in its service territory upon request. Starlink Services, as a common carrier with an ETC designation, will continue to have the obligation to serve all customers in the Auction 904 census blocks where it will receive federal high-cost support up until the time it is permitted by the Commission to relinquish its ETC designation.[[173]](#footnote-174) Hence, if all other ETCs in Starlink Services’ proposed Designated Service Area are permitted to relinquish their ETC designations, Starlink Services, as the competitive ETC, may be required to ensure that all customers served by the relinquishing carriers in their respective service areas will continue to be served.[[174]](#footnote-175)

Accordingly, if at some point in the future Starlink Services becomes the only entity in the geographic area that receives federal high-cost support, if it seeks to relinquish its ETC designation, it certifies that it will comply with the requirements of Section 54.205 as well as independent state law.

**K*.* Certification Regarding Applicable Annual Reporting and Certification Requirements for High-Cost Support Recipients**

Pursuant to 47 C.F.R. § 54.806, an RDOF recipient is required to comply with

applicable annual reporting requirements, compliance measures, recordkeeping requirements and audit requirements for high-cost support recipients under Sections 54.313, 54.314, 54.316 and 54.320(a)-(c) of the FCC’s rules.[[175]](#footnote-176)

**L.Analysis and Public Interest Standard**

The Commission has conducted this investigation to determine whether Starlink Services has established through the required certifications and related filings that it satisfies the standards applicable to obtaining a high-cost ETC designation and that it will comply with the requisite service requirements and obligations attendant to its high-cost designation as specified in the Act, the Commission’s rules, and under independent state law.

As a part of this regulatory review process, the Commission must determine that designation of Starlink Services as an ETC is in the public interest pursuant to 47 U.S.C. § 214(e)(2). As noted above, the Commission has determined that Starlink Services does not yet meet the ETC requirement of being able to provide voice-grade access to the PSTN. While Starlink Services has provided us with certifications that it will abide by the FCC’s rules for voice and broadband access services in accordance with 47 C.F.R. § 54.805, it does not currently have a contractual agreement with a third-party provider or any other necessary arrangement that will provide it with the capability to provide the supported services or standalone interconnected VoIP service in its Designated Service Area.

The Commission has historically considered the benefits of increased consumer choice and the unique advantages and disadvantages of the petitioner’s service offering in the Designated Service Area when making a public interest determination for an ETC designation under 47 U.S.C. § 214(e)(2).[[176]](#footnote-177) Indeed, the recipients of RDOF Phase I support are required to offer voice and broadband access services at modern speeds with latency suitable for real-time applications, including VoIP, and usage capacity that is reasonably comparable to similar offerings in urban areas.

Additionally, as a condition of obtaining a high-cost ETC designation, Starlink Services is required to serve low-income consumers by offering Lifeline discounts to its service offerings, which ensures the availability of new, facilities-based Lifeline services at competitive prices in these areas. Consequently, designation of Starlink Service as an ETC will ensure greater choice of voice and BIAS service offerings to consumers residing within these rural high-cost areas. Thus, we have determined that once Starlink Services has submitted sufficient requisite supporting information verifying its contractual agreement with a third-party MSP or other provider or other means of providing voice service, then designating Starlink Services as an ETC in the eligible Auction 904 census blocks will be in the public interest.

Consequently, the Commission will provisionally recognize Starlink Services as a common carrier under 47 U.S.C. §§ 214(e)(1) for purposes of ETC designation conditioned upon Starlink Services’ filing the evidence stated above within 90 days of this Order. Designating Starlink an ETC upon satisfaction of this condition is in the public interest because Starlink Services has been assigned a substantial amount of winning bids in Pennsylvania in Auction 904, which will result in Pennsylvania benefitting from the federal support associated with those winning bids.[[177]](#footnote-178) SpaceX assigned its winning bids in Pennsylvania to Starlink Services.[[178]](#footnote-179) This assignment will allow Starlink Services to offer voice and broadband data services to areas in Pennsylvania that currently do not have broadband access services. Starlink Services was assigned SpaceX’s winning bids in Auction 904 in the following manner:

|  |  |  |  |
| --- | --- | --- | --- |
| **Bidder** | **State** | **Annual Assigned Support for 10-year period** | **Locations Assigned** |
| Space Exploration Technologies Corp. | PA | $ 63,065,275.00 | 59,200 |

Essentially, the Auction 904 support will allow Starlink Services to offer voice and broadband data services to areas in Pennsylvania that currently do not have broadband access services. Receipt of Auction 904 high-cost support funding will be a considerable benefit to Pennsylvania, which is otherwise a net-contributor state to the federal USF funding mechanism. It will facilitate the provision of additional access to voice and broadband services to Pennsylvania consumers in rural areas that are expensive and difficult to serve.

Specifically, granting Starlink Services’ request to be designated a high-cost ETC will permit it to secure the release of the total 10-year support of $63,065,275 by the FCC from Auction 904 to deploy broadband-capable networks in rural underserved areas in Pennsylvania where such deployment might otherwise prove more expensive or take longer to implement. Accordingly, we determine that granting an ETC designation to an entity in those areas where it is authorized to receive Auction 904 support as a winning bidder serves the public interest.

Since an ETC designation will assist Starlink Services to secure federal universal service high-cost support funding under RDOF Phase I in its Designated Service Area and also provide voice services while promoting the deployment of advanced telecommunications and BIAS in the relevant areas and locations of the Commonwealth addressed in the Petition, the Commission determines that ETC designation for Starlink Services is in the public interest. It promotes both the FCC’s and the Pennsylvania General Assembly’s goals of preserving and advancing universal telecommunications and broadband services and ensuring the availability of quality telecommunications services at just, reasonable, and affordable rates within rural and high-cost areas. *See* 66 Pa.C.S. §§ 3011(1) and (2), 3012 (definition of universal broadband availability), and 3014(a) and (b).

**II. Federal Requirements of Eligible Telecommunications Carriers for Universal Service Support for Low-Income Consumers**

Upon receiving designation as an ETC in Pennsylvania, Starlink Services must participate in the federal Lifeline program and must offer Lifeline service to qualified low-income eligible customers or households residing in the geographic area where it has been awarded Auction 904 federal high-cost support,[[179]](#footnote-180) in other words, within the individual census blocks that make up Starlink Services’ Designated Service Area.

Starlink Services’ Lifeline service must meet the minimum standards set forth in the FCC’s *Lifeline Reform Orders*, which have been codified at Title 47, Chapter I, Part 54, Subpart E. This Subchapter of the FCC regulations governs universal service support provided to low-income consumers. All other minimum federal requirements of the FCC’s *Lifeline Reform Order* not expressly discussed herein, are nonetheless applicable to ETC designation requests in Pennsylvania. This includes any subsequent developments in those federal requirements.

1. **The FCC’s Rules Applicable to Starlink Services Governing Lifeline**

**1. 47 C.F.R. § 54.405**

**Lifeline service provider obligations**

All ETCs must certify that they do the following: (1) make available Lifeline service, as defined in 47 C.F.R. § 54.401, to qualifying low-income consumers; (2) publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service; (3) explain in its marketing materials using easily understood language that the Lifeline program is a federal government assistance program that provides a monthly subsidy that lowers the monthly cost of phone or internet service (but not both) and is available only to one eligible consumer per household, not per person and that the benefit is non-transferable once the customer is enrolled into the program; and (4) disclose its name on all marketing materials describing the service.

**2. 47 C.F.R. § 54.410**

**Subscriber Eligibility Determinations and De-enrollments**

All high-cost ETCs must certify that they first ensure that their potential Lifeline subscribers are eligible to receive Lifeline services.[[180]](#footnote-181) In Pennsylvania, all ETCs must receive a notice from the National Verifier that their potential Lifeline subscribers are eligible to receive Lifeline services.[[181]](#footnote-182) Lifeline service providers can help Lifeline consumers obtain an eligibility decision from the National Verifier through the service provider portal that links to the National Verifier, or consumers can apply on their own by mail or online.[[182]](#footnote-183)

As Pennsylvania is a National Verifier state, Starlink Services must query the NLAD to ascertain a potential Lifeline applicant’s eligibility for service as determined by the National Verifier. Thereafter, once it has been verified that the consumer is eligible to qualify for Lifeline Service, the ETC may then provide the consumer with an activated landline connection that is eligible for Lifeline service.[[183]](#footnote-184)

Further, a Lifeline service provider must certify that it complies with the FCC federal policy rules for de-enrolling an account from Lifeline support. [[184]](#footnote-185) There are several situations that might result in subscriber de-enrollment from Lifeline-supported service: (1) de-enrollment because the service provider has a reasonable basis to believe a subscriber is no longer eligible to receive a Lifeline benefit;[[185]](#footnote-186) (2) de-enrollment for duplicative support;[[186]](#footnote-187) (3) de-enrollment for non-usage;[[187]](#footnote-188) and (4) de-enrollment for failure to re-certify; and (5) de-enrollment requested by subscriber.

**3. 47 C.F.R. §§ 54.416, 54.417 and 54.422**

**Annual Certifications and Reporting to USAC**

ETCs must certify that they will comply with annual certification requirements relating to the Lifeline program such as certifying annually that they are in compliance with the minimum service levels set forth in 47 C.F.R. § 54.408.[[188]](#footnote-189) ETCs are required to annually certify compliance with the applicable minimum service level rules by submitting Form 481 to USAC.[[189]](#footnote-190)

**B. Pennsylvania-Specific Requirements for Lifeline Program**

In addition to the federal Lifeline standards above, the Commission also has adopted minimum service standards to govern the federal Lifeline program.[[190]](#footnote-191) Section 3019(f) of the Pennsylvania Public Utility Code, 66 Pa.C.S. § 3019(f), sets forth the minimum Pennsylvania requirements for ETCs seeking low-income support from the federal Lifeline Program.

In addition to these Pennsylvania statutory requirements, the Commission also has established other Lifeline eligibility criteria via orders.[[191]](#footnote-192) To the extent that federal law or federal requirements for Lifeline service have not preempted or made our Pennsylvania state-specific Lifeline requirements obsolete, they remain applicable to all Lifeline service providers. For example, our *PA Lifeline Order* requires ETCs to verify the ongoing eligibility of their Lifeline subscribers and submit an annual re-certification of that verification. However, we note that pursuant to the federal rules, Lifeline subscribers will be recertified either automatically through the National Verifier’s state/federal data sources or receive a recertification request from USAC.[[192]](#footnote-193) Additionally, ETCs are required to report to the Commission annual changes in their Pennsylvania Lifeline enrollment. Thus, ETCs must certify that they will comply with relevant requirements set forth in the *Pa. Lifeline Order*, *Tracking Report Order*, and *Policy Statement*.

**C. Analysis**

Starlink Services certifies that this satisfies the minimum standards set forth in the FCC’s *Lifeline Reform Orders*, reporting and performance metrics set forth in the *USF/ICC Transformation Order*, and all related regulations. Further, Starlink Services also certifies that it satisfies and will abide by the Commission’s requirements in the Public Utility Code, our ETC Guidelines, and all other Lifeline-related orders.

We note that Starlink Services states that it does not plan to charge an installation fee for the provision of its services, but it does plan to charge each of its customers for the equipment that will allow them to receive standalone interconnected VoIP service or its voice service bundled with BIAS.[[193]](#footnote-194) As previously mentioned, Starlink Services states that it will be charging its customers a single, upfront cost of $499 for the Starlink Kit which is the equipment that is necessary for a customer to receive interconnected VoIP service and BIAS from Starlink Services.[[194]](#footnote-195) The Commission acknowledges that this upfront $499 cost for the necessary CPE may be considered by many to be exorbitant, especially for any prospective low-income customers in Starlink Services’ Designated Service Area who may be seeking service from Starlink Services; nevertheless, Starlink Services states that it is considering what Lifeline discounts it will apply to the CPE expense and whether it will waive fees as required by applicable FCC rules.[[195]](#footnote-196)

While we understand the need for Starlink Kit CPE for Starlink Services functionality, some consumers may be challenged by the $499 upfront cost of the Starlink Kit. We note the availability of the FCC Emergency Broadband Benefit (EBB) program which provides up to $50 month to support the purchase of broadband service and up to $100 in one-time equipment costs. The EBB program may work to mitigate what might otherwise be a considerable cost burden for EBB-eligible consumers. For this reason, to the extent that Starlink Services determines that it will not participate in the EBB program, Starlink Services is hereby directed to file with the Pennsylvania Public Utility Commission a detailed explanation of why it will not participate in the EBB program for the Commission’s consideration. If required, Starlink Services will file its explanation within ninety days of the entry date of this Order.

Since Starlink Services has committed itself to serve low-income consumers by offering Lifeline discounts to its service offerings and possibly waiving any other applicable fees, the Commission finds that reliance on the commitments made in its Petition, as well as the representations in its accompanying supplements is reasonable and that Starlink Service has satisfied the minimum Lifeline-related regulatory requirements. Accordingly, we find that Starlink Services’ commitment to provide Lifeline service throughout its Designated Service Area is consistent with the public interest and the Act.

**III. Change in Corporate Control and Renewed ETC Designation**

In the event of a change of or transfer in corporate control, as defined in the Commission’s regulations at 52 Pa. Code § 63.322, Starlink Services will have to petition this Commission for a renewal of its ETC status. Corporate changes of control may also be accompanied with changes in ETC status of a particular telecommunications entity with reference to the various and evolving support mechanisms of the federal USF. In this respect, this Commission is lawfully entitled to timely re-examine any such changes and ascertain whether a particular telecommunications entity should continue with an ETC designation. For this reason, we shall require Starlink Services to file for renewal of its ETC designation at the same time it files any application for a change or transfer of control under our regulations.

**CONCLUSION**

As an RDOF winning bidder, Starlink Services is required to comply with the same long-form application process the FCC adopted for Auction 903. While our ETC designation process is separate from and serves a different purpose than the authorization process and post-authorization accountability measures that will be conducted by the FCC,[[196]](#footnote-197) our action to designate Starlink Services does impose certain statutory and regulatory obligations on it once it is authorized to receive the awarded Auction 904 support in the eligible census blocks in Pennsylvania.

Based upon our review of Starlink Services’ Petition as supplemented, we determine that Starlink Services cannot currently offer voice grade access to the PSTN or comply with any of the other voice-related obligations. However, the Commission finds that Starlink Services satisfies all other applicable and relevant FCC rules and federal requirements necessary to obtain a high-cost ETC designation. Additionally, Starlink Services meets the additional requirements for ETC designation as outlined in the Commission’s Policy Statement at 52 Pa. Code § 69.2501. Further, Starlink Services has certified that it will comply with all applicable annual reporting requirements for high-cost support recipients provided under 47 C.F.R. §§ 54.805-806 and 47 C.F.R. §§ 54.313, 54.316, and 54.320.

Accordingly, the Commission will provisionally grant Starlink Services’ Petition for an ETC designation in Pennsylvania. Starlink Services will be designated as an ETC in Pennsylvania only after it files the requisite proof described herein or that it has a binding agreement with an MSP or other third party voice platform and certifies that this entity has made contact with each relevant 911 coordinator in the rural areas located throughout its service territory and that the voice platform will allow the satellite-generated interconnected VoIP service to meet or exceed the quality and performance standards for voice-grade service required by the RDOF.

Granting Starlink Services an ETC designation allows it to receive the RDOF Phase I high-cost support funding to expand voice and broadband-capable networks with service quality that meets the FCC’s and Pennsylvania’s requirements in the listed census block groups in Appendix A attached to this Order. Also, consumers will benefit from Starlink Services obtaining its designation an ETC, which is contingent upon the above directives.

As an ETC receiving federal high-cost support, Starlink Services is obligated to ensure that the support it receives is being used only for the provision, maintenance, and upgrading of facilities and services in the areas where it is designated an ETC. Additionally, because Starlink Services will also be providing voice and BIAS to non­Lifeline customers, we require Starlink Services to comply with applicable Commission and FCC requirements governing the delivery of voice and BIAS to non-Lifeline consumers.

We note that with the grant of this ETC designation, Starlink Services may replace the current incumbent price cap ETCs in the future as the only carrier receiving federal high-cost support in those CBGs within the local exchanges where it has received an ETC designation. If such relinquishment occurs, Starlink Services, as the competitive ETC, will be required to ensure that all customers served by a relinquishing carrier in Starlink Services’ Designated Service Area will continue to be served. Since Starlink Services may become the entity having the ETC COLR obligation, it too must first seek to relinquish its ETC designation before ceasing to provide the qualified supported services.

Upon receipt of a federal high-cost ETC designation, a winning RDOF Phase I bidder is required to offer Lifeline services and is required to comply with the rules and requirements of the federal Lifeline program in all areas throughout its service territory.

In sum, in consideration of the Starlink Services’ Petition for ETC designation, as supplemented, we conclude that it provisionally meets the statutory criteria and applicable minimum standards necessary under federal and state law to obtain an ETC designation and that it is in the public interest to provisionally approve Starlink Services’ request for designation as an ETC upon the condition that it files with the Commission within 90 days of this Order sufficient requisite evidence of a binding agreement with an MSP or other third party voice platform. As a federal high-cost ETC designee, Starlink Services will become eligible to secure the federal high-cost support assigned to the geographic area for which it has received its ETC designation. Our finding to provisionally designate Starlink Services as an ETC in the discrete census block groups included in Auction 904 and reflected in Appendix A hereto, is in accord with Section 214 of the Act, the FCC’s regulations and orders related to ETC designation, Section 3019(f) of the Public Utility Code, and the Commission’s orders on ETC designation. 47 U.S.C.§ 214; 47 C.F.R. §§ 54.201, *et seq*.; and 66 Pa. C.S. § 3019(f); **THEREFORE,**

**IT IS ORDERED:**

1. The Petition of Starlink Services, LLC for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Pennsylvania is provisionally granted, subject to the terms and conditions set forth in this Order.
2. That the Commission provisionally designates Starlink Services, LLC an Eligible Telecommunications Carrier throughout its service territory and its Designated Service Area as depicted in Appendix A attached to this Order.
3. That Starlink Services, LLC must submit evidence of its executed contractual agreement with a managed service provider or other third-party voice platform within 90 days of the entry of this Order or this provisional Eligible Telecommunications Carrier designation is revoked.
4. That upon satisfaction of the condition in Ordering Paragraph No. 3, the Commission shall affirm the designation of Starlink Services, LLC as an Eligible Telecommunications Carrier throughout its Designated Service Area so that it will become qualified to receive the federal high-cost support awarded via the Rural Digital Opportunity Fund in those Phase I-eligible census block groups located in local exchanges throughout the Commonwealth of Pennsylvania as listed in Appendix A attached to this Order.
5. That to the extent the Federal Communications Commission takes official action in Phase I of the Rural Digital Opportunity Fund so that it will no longer provide federal high-cost support to any of the 10,952 census blocks listed in Appendix A, Starlink Services, LLC will serve as a Lifeline-only Eligible Telecommunications Carrier in these unfunded census blocks located in its Designated Service Area.
6. That the rules of the Federal Communications Commission regarding the

redefinition process as it relates to Starlink Services, LLC’s designation as a federal high-cost Eligible Telecommunications Carrier below the study area levels of the rural Incumbent Local Exchange Carriers listed in Appendix A are inapplicable for the reasons set forth in this Order.

1. That, pursuant to the preserved authority set forth in the VoIP Freedom Act, Starlink Services, LLC shall submit a tariff for its qualifying voice service to the Commission’s Bureau of Technical Utility Services but only for those local exchanges where standalone voice service remains a protected service under Chapter 30 of the Public Utility Code. This tariff filing is due within 120 days of the entry of this Order.
2. That Starlink Services, LLC is required to offer Lifeline service to eligible low-income consumers or households only in those census blocks in its service area for which it will be receiving Rural Digital Opportunity Fund Phase I Auction 904 high-cost support as described in this Order.
3. That Starlink Services, LLC shall file a Lifeline tariff for Lifeline services within 120 days of the entry of this Order.
4. That Starlink Services, LLC shall submit its proposed Customer Service Agreement to the Commission’s Bureau of Consumer Services prior to the commencement of service and dissemination to the public to ensure that it complies with all applicable regulations at Chapter 64, Title 52 of the Pennsylvania Code, especially as to the terms and conditions regarding billing standards and practices, and disclosure of early termination and other fees.
5. That Starlink Services, LLC shall submit a mock-up of its final marketing and promotional materials (e.g., advertisements and sales brochures) regarding its RDOF-funded interconnected VoIP service and BIAS and Lifeline service to the Bureau of Consumer Services for its review and approval for plain language requirements at 52 Pa. Code § 69.251 and compliance with all applicable regulations at 47 C.F.R. § 54.405(c) and (d) prior to distribution of these materials to the public.
6. That Starlink Services, LLC is hereby directed to work with the Bureau of Consumer Services to resolve informal complaints and to submit to Commission jurisdiction on formal complaints filed by its Lifeline customers on Lifeline and other related issues.
7. That Starlink Services, LLC shall petition this Commission for any future change to the basic Lifeline service offerings provided through this ETC designation as described herein which represents a limitation or reduction of Lifeline services/equipment provided free of charge and shall provide notice to this Commission of any addition, change or new offering which is in addition to the basic Lifeline offering.
8. That Starlink Services, LLC shall petition this Commission for renewal of its Eligible Telecommunications Carrier status at the same time it files or is implicated in the filing of any application for a change or transfer of control as defined in Pennsylvania law.
9. That Starlink Services, LLC shall pay Pennsylvania’s Telecommunications Relay Service fee, E911 fees, and Pennsylvania Universal Service Fund fees for the duration of its ETC designation.
10. That Starlink Services, LLC shall notify the Commission of any change in its network architecture that will impact its interconnected VoIP or BIAS offerings in Pennsylvania.
11. To the extent that Starlink Services determines that it will not participate in the EBB program, Starlink Services is hereby directed to file with the Pennsylvania Public Utility Commission a detailed explanation of why it will not participate in the EBB program for the Commission’s consideration. If required, Starlink Services will file its explanation within 90 days of the entry date of this Order.
12. That the failure of Starlink Services, LLC to comply with any of the provisions of this Order may result in revocation of its ETC designation(s) for purposes of receiving federal Universal Service Fund high-cost support and the federal Lifeline support or be subject to further Commission process.
13. That the Secretary shall serve a copy of this Order on Starlink Services, LLC, the Office of Consumer Advocate, and the Office of Small Business Advocate and the Incumbent Local Exchange Carriers listed in Appendix A.
14. That Notice of this Order shall be published in the *Pennsylvania Bulletin*.
15. That this docket shall be marked closed.

**BY THE COMMISSION**

Rosemary Chiavetta

Secretary

(SEAL)

ORDER ADOPTED: August 26, 2021

ORDER ENTERED: August 26, 2021

1. Although Starlink Services has styled its ETC designation request as an application, we are deeming its filing as a petition since ETC designations are properly sought through a petition per our regulations. 52 Pa. Code § 1.2. [↑](#footnote-ref-2)
2. It is in these federally funded census block groups, also identified as Starlink Services’ “Designated Service Area” as set forth in Appendix A to this Order, that Starlink Services is seeking federal high-cost ETC designation and will be offering voice and broadband access services under federal law consistent with the FCC’s public interestobligations. [↑](#footnote-ref-3)
3. *See* footnote 1. [↑](#footnote-ref-4)
4. As described herein, Starlink Services will offer interconnected VoIP service in Pennsylvania and will use a third-party entity that will act as a full-scale managed VoIP provider to provide access to the PSTN on its behalf. We note that Starlink Services has not requested a certificate of public convenience from the Commission. However, certification as a public utility is not a prerequisite to obtaining an ETC designation from the Commission. We further note that the issue of certification is not squarely before us and is beyond the scope of this time-sensitive ETC designation proceeding where substantial federal funding to support broadband deployment in rural areas of the Commonwealth is at stake. For these and other reasons, we do not address Starlink Services’ certification status at this time. Nevertheless, our order addressing Starlink Services’ request for ETC designation is without prejudice to any future Commission action or decision that may occur regarding the certification status of Starlink Services. [↑](#footnote-ref-5)
5. *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17672 para. 17 (2011) (*USF/ICC Transformation Order*), *aff’d sub nom. In re FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014). [↑](#footnote-ref-6)
6. *Id*. at 17667, para. 1. [↑](#footnote-ref-7)
7. *Id*. at 17725, para. 156-57. [↑](#footnote-ref-8)
8. *Id.* [↑](#footnote-ref-9)
9. *Connect America Fund et al.*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 5949 (2016) (*CAF* *Phase II Auction Order*). [↑](#footnote-ref-10)
10. *Id*. [↑](#footnote-ref-11)
11. *See generally Lifeline and Link Up Reform and Modernization, et al., Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656 (2012) (2012 Lifeline Reform Order* or *Lifeline FNPRM).* Per subsequent FCC orders, the Lifeline benefit has been reduced, and it is currently set at $5.25 for stand-alone voice. However, Lifeline support for standalone voice services is set to go from $5.25 to zero after December 1, 2021, although that decision is under reconsideration at the FCC. [↑](#footnote-ref-12)
12. *Id*. at 6690-91, paras. 77-78 [↑](#footnote-ref-13)
13. *Id.* [↑](#footnote-ref-14)
14. *Lifeline and Link Up Reform and Modernization et al.*, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, Second Report and Order, and Memorandum Opinion and Order, 30 FCC Rcd 7818 (2015) (*2015 Lifeline FNPRM*); *Lifeline and Link Up Reform and Modernization et al.*, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 4038, para. 211 (2016) (*2016 Lifeline Modernization Order*); *Fourth Report and Order, Order on Reconsideration, Memorandum Opinion and Order, Notice of Proposed Rulemaking, and Notice of Inquiry*, 32 Rcd 10475 (2017), vacated and remanded, *National Lifeline Association et al. v. FCC*, Docket Nos. 18-1026, Order issued February 1, 2019 (D.C. Cir. 2019) (*2017 Lifeline NPRM and NOI*) (collectively *Lifeline Reform Orders*). [↑](#footnote-ref-15)
15. *USF/ICC Transformation Order*, 26 FCC at 17732, para. 178. [↑](#footnote-ref-16)
16. *Connect America Fund Phase II Auction (Auction 903) Closes; Winning Bidders Announced; FCC Form 683 Due October 15, 2018*, AU Docket No. 17-182, WC Docket No. 10-90, Public Notice, 33 FCC Rcd 8257 (*Auction 903 Closing Public Notice*). [↑](#footnote-ref-17)
17. *Rural Digital Opportunity Fund; Connect America Fund*; Notice of Proposed Rulemaking, 34 FCC Rcd 6778 (2019) (*Rural Digital Opportunity Fund NPRM*). [↑](#footnote-ref-18)
18. *Id*. The FCC made eligible for Auction 904 certain high-cost census block groups in RDOF Phase I in unserved areas nationwide that were not served by an unsubsidized service provider. [↑](#footnote-ref-19)
19. *Rural Digital Opportunity Fund et al.,* Report and Order, 35 FCC Rcd 686 (2020) (*RDOF Order*). [↑](#footnote-ref-20)
20. The FCC determined that eligible areas for Phase I would include (1) the census blocks for which price cap carriers currently receive CAF Phase II model-based support; (2) any census blocks that were eligible for, but did not receive, winning bids in the CAF Phase II auction; (3) any census blocks where a CAF Phase II auction winning bidder has defaulted; (4) the census blocks excluded from the offers of model-based support and the CAF Phase II auction because they were served with voice and broadband of at least 10/1 Mbps; (5) census blocks served by both price cap carriers and rate-of-return carriers to the extent that the census block is in the price cap carrier’s territory, using the most recent study area boundary data filed by the rate-of-return carriers to identify their service areas and determine the portion of each census block that is outside this service area; (6) any unserved census blocks that are outside of price cap carriers’ service areas where there is no certified high-cost eligible telecommunications carrier (ETC) providing service, such as the Hawaiian Homelands, and any other populated areas unserved by either a rate-of-return or price cap carrier; and (7) any census blocks identified by rate-of-return carriers in their service areas as ones where they do not expect to extend broadband.  *Id*. at 691, para. 12. [↑](#footnote-ref-21)
21. *Id*. at 690, para. 9. [↑](#footnote-ref-22)
22. *See Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced; FCC Form 683 Due January 29, 2021*, Public Notice, 35 FCC Rcd 13888, 13890-91, paras. 9-15 (RBATF, OEA, WCB 2020) (*RDOF Closing Public Notice*). [↑](#footnote-ref-23)
23. As a result of Auction 904, some homes and businesses would have voice as well as broadband Internet access services available with download speeds of at least 100 Mbps. [↑](#footnote-ref-24)
24. SpaceX was awarded Auction 904 support in a total of 35 states. [↑](#footnote-ref-25)
25. *RDOF Order*, 35 FCC Rcd at 725, para. 85. [↑](#footnote-ref-26)
26. Petition at 1, 5. [↑](#footnote-ref-27)
27. *RDOF Order*, 35 FCC Rcd at 722, para. 79, 726, para. 90; *RDOF Closing Public Notice*, 35 FCC Rcd at 18893-95, para. 17. [↑](#footnote-ref-28)
28. *RDOF Closing Public Notice*, 35 FCC Rcd 13893-95 para. 17; *see also* 47 C.F.R. § 54.804(b)(5). On May 24, 2021, the Commission issued a “good faith” letter to Starlink Services stating that our review of its Petition would not be completed prior to deadline despite Starlink Services’ good faith efforts.  Starlink Services filed a waiver request of the Auction 904 deadline with the FCC on June 7, 2021. *Starlink Services, LLC’s Petition for Waiver and Extension of the June 7, 2021 ETC Designation Deadline*, AU Docket No. 20-34. [↑](#footnote-ref-29)
29. Petition at 1 and 9; Exhibit 1 and Appendix A hereto. [↑](#footnote-ref-30)
30. Petition at 2. [↑](#footnote-ref-31)
31. *See Id*. and fn 4. Starlink Service’s Business Registration number is 7185451. [↑](#footnote-ref-32)
32. Id. [↑](#footnote-ref-33)
33. *Id.* [↑](#footnote-ref-34)
34. *Id*. [↑](#footnote-ref-35)
35. *Id* at 3. [↑](#footnote-ref-36)
36. *Id*. at 4 and 6. The brand name of SpaceX’s satellite Internet service is Starlink. [↑](#footnote-ref-37)
37. *Id*. at 4. [↑](#footnote-ref-38)
38. *Id*. at 4. [↑](#footnote-ref-39)
39. *Id*. at 6. [↑](#footnote-ref-40)
40. *Id*. [↑](#footnote-ref-41)
41. *Id*. at 7. [↑](#footnote-ref-42)
42. *Id*. at 6. [↑](#footnote-ref-43)
43. *Id*. [↑](#footnote-ref-44)
44. *Id*. at 4 and 6. [↑](#footnote-ref-45)
45. *Id*. at 7. [↑](#footnote-ref-46)
46. *Id*. [↑](#footnote-ref-47)
47. *Id*. [↑](#footnote-ref-48)
48. *Id*. [↑](#footnote-ref-49)
49. *Id*. at 8. [↑](#footnote-ref-50)
50. *Id*. [↑](#footnote-ref-51)
51. *Id*. [↑](#footnote-ref-52)
52. *Id*. [↑](#footnote-ref-53)
53. May 28, 2021 DR Responses para. 15. [↑](#footnote-ref-54)
54. *Id.* [↑](#footnote-ref-55)
55. *Id.* [↑](#footnote-ref-56)
56. *Id.* [↑](#footnote-ref-57)
57. *Id.* [↑](#footnote-ref-58)
58. *Id.* [↑](#footnote-ref-59)
59. *Id.* [↑](#footnote-ref-60)
60. 51 Pa.B. 763. [↑](#footnote-ref-61)
61. ERIC submitted its correspondence with the Commission’s Executive Director, which delayed its proper docketing. [↑](#footnote-ref-62)
62. Starlink filed supplements in response to Commission data requests on March 17, 2021, May 28, 2021, June 9, 2021, and July 9, 2021. [↑](#footnote-ref-63)
63. 47 U.S.C. § 254(e). [↑](#footnote-ref-64)
64. 47 U.S.C. § 214(e)(6). [↑](#footnote-ref-65)
65. *See Federal-State Joint Board on Universal Service*, Report and Order, 12 FCC Rcd 8776, 8847‑76, paras. 128-180 (1997)*.* [↑](#footnote-ref-66)
66. 47 U.S.C. § 214(e) (1)(A); *see also* 47 C.F.R. § 54.201(d)(1). [↑](#footnote-ref-67)
67. 47 U.S.C. § 214(e)(1)(A); *see also* 47 C.F.R. § 54.201(d)(1). [↑](#footnote-ref-68)
68. 47 U.S.C. § 214(e)(1)(B); *see also* 47 C.F.R. § 54.201(d)(2). [↑](#footnote-ref-69)
69. 47 U.S.C. § 214(e)(5); *see also* 47 C.F.R. § 54.207(a). [↑](#footnote-ref-70)
70. *See 2005 ETC Designation Order*,20 FCC Rcd at 6380, para. 20 (citing *Federal-State Joint Board on Universal Service*, Recommended Decision, 19 FCC Rcd 4259, para. 5 (Fed-State Jt. Bd. 2004)).  [↑](#footnote-ref-71)
71. 47 C.F.R. § 54.202(a)(1)(i). [↑](#footnote-ref-72)
72. 47 C.F.R. § 54.202(a)(1)(ii). The FCC subsequently eliminated the five-year improvement

    plan requirement for CAF recipients since it had adopted more specific measures to track

    deployment, including annual reporting of service to geocoded locations and certification of compliance

    with benchmark milestones. *See Connect America Fund et al.*, ETCs Annual Reports and Certifications,

    Report and Order, 32 FCC Rcd 5944, 5944-48, paras. 3-14 (2017) (*ETC Reporting Streamlining Order*) (eliminating requirements relating to the reporting of network outages, unfulfilled service requests, complaints, and pricing and the certification of compliance with applicable service quality standards). [↑](#footnote-ref-73)
73. 47 C.F.R. 54.202(a)(2). [↑](#footnote-ref-74)
74. 47 C.F.R. § 54.202(a)(3). The FCC also has eliminated this requirement for CAF support recipients finding that the need for it was obviated by the specific service quality standards applicable to CAF support recipients and specific reporting obligations relating to such standards. *See generally ETC Reporting Streamlining Order*. [↑](#footnote-ref-75)
75. In the *2005 ETC Designation Order*, the FCC had established that an ETC may be required to provide equal access if all other ETCs in the service area relinquish their designations. In the *USF/ICC Transformation Order*, the FCC determined that the above ETC equal access requirement was obsolete and deleted it from 47 C.F.R. § 54.202. The FCC stated because this rule was obsolete, it found good cause to delete it without notice and comment. *USF/ICC Transformation Order*, FCC Rcd 17872, para. 647and Appendix A. [↑](#footnote-ref-76)
76. 21 U.S.C. § 862; 47 C.F.R. § 1.2002(a)–(b). [↑](#footnote-ref-77)
77. 52 Pa. Code § 69.2501(a). [↑](#footnote-ref-78)
78. *RDOF Phase I Notice*, 35 FCC Rcd 6082-83, para. 15. *See also generally* March 17, 2021 DR Responses, April 8, 2021 DR Responses, May 28, 2021 DR Responses and July 9, 2021 DR Responses [↑](#footnote-ref-79)
79. May 28, 2021 DR Responses at para. 1. [↑](#footnote-ref-80)
80. *RDOF Order*, 35 FCC Rcd at 724-25, para. 84. [↑](#footnote-ref-81)
81. As a part of the FCC’s long-form application process, Starlink Services must file more extensive information demonstrating to the FCC that it is legally, technically and financially qualified to meet the public interest obligations in each area for which it seeks Auction 904 support. *Id*. at 717-18, paras. 66-70. We note that any additional obligations imposed on Starlink Services arising from the FCC’s long-form application review would be applicable in Pennsylvania. [↑](#footnote-ref-82)
82. 47 U.S.C. § 254(e). [↑](#footnote-ref-83)
83. 47 C.F.R. § 54.201(d). [↑](#footnote-ref-84)
84. Pursuant to Section 153(10) of the Act, a “telecommunications carriers” has been defined to include, with one minor exception, any provider of “telecommunications services.” 47 U.S.C. §153(51). The Act defines a “telecommunications service,” as “the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.” 47 U.S.C. §153(53). In turn, telecommunications means “the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent or received.” 47 U.S.C. § 153(50). The definition of “telecommunications carrier” in the Act goes on to state that “[a] telecommunications carrier” shall be treated as a *common carrier* under this Act only to the extent that it is engaged in providing telecommunications services, except that the Commission shall determine whether the provision of fixed and mobile satellite service shall be treated as “common carriage.” 47 U.S.C. §153(51) (emphasis supplied). [↑](#footnote-ref-85)
85. 47 C.F.R. § 54.101 (including both eligible voice telephony and eligible broadband Internet access as services “supported by federal universal service support mechanisms,” and characterizing the provision of eligible broadband service as a high-cost public interest obligation); *see also USF/ICC Transformation Order,* 26 FCC Rcd at 17691-94, paras. 74-89 (describing the “core functionalities of the supported services as ‘voice telephony service,’” and as a separate condition of receiving federal high-cost universal service support, all ETCs are required to offer BIAS in their supported area that meets certain basic performance requirements). [↑](#footnote-ref-86)
86. *USF/FCC Transformation Order*, 26 FCC Rcd at 17693, paras. 80-81; *see also* 47 C.F.R. § 54.101(b). [↑](#footnote-ref-87)
87. Petition at 9-10. [↑](#footnote-ref-88)
88. *RDOF Phase I Notice*, 35 FCC Rcd. 6113 para. 99 [↑](#footnote-ref-89)
89. *Id*. at para. 109 [↑](#footnote-ref-90)
90. *Id*. at para. 111. [↑](#footnote-ref-91)
91. *Id*. at para. 112. [↑](#footnote-ref-92)
92. *Id*. [↑](#footnote-ref-93)
93. *Id*. [↑](#footnote-ref-94)
94. Petition at 10; May 28, 2021 DR Responses at para. 1. [↑](#footnote-ref-95)
95. Petition at 10. [↑](#footnote-ref-96)
96. *Id*. [↑](#footnote-ref-97)
97. July 9, 2021 DR Responses at para. 1. [↑](#footnote-ref-98)
98. *Id*. [↑](#footnote-ref-99)
99. March 17, 2021 DR Responses para. 13. [↑](#footnote-ref-100)
100. Petition at 9-10. [↑](#footnote-ref-101)
101. *See generally RDOF Phase I Notice*. [↑](#footnote-ref-102)
102. Petition at 9-14. [↑](#footnote-ref-103)
103. Petition at 6-8. [↑](#footnote-ref-104)
104. As a part of the FCC’s long-form application process, Starlink Services must file more extensive information demonstrating to the FCC that it is legally, technically, and financially qualified to meet the public interest obligations in each area for which it seeks Auction 904 support. *Id*. at 717-18, paras. 66-70. [↑](#footnote-ref-105)
105. *See Universal Service Order*,12 FCC Rcd 8776, 8813, para. 67. Although the FCC’s rules define “local usage” as “an amount of minutes of use of wire center service, prescribed by it, provided free of charge to end users,” the FCC has not specified a number of minutes of use. *See* 47 C.F.R.  54.101(a)(1). *See also Federal-State Joint Board on Universal Service*, Recommended Decision, CC Docket No. 96‑45, FCC 02J-1 (rel. Jul. 10, 2002). [↑](#footnote-ref-106)
106. Petition at 9. [↑](#footnote-ref-107)
107. March 17, 2021 DR Responses para. 25. [↑](#footnote-ref-108)
108. *See* Petition at 11-12. [↑](#footnote-ref-109)
109. March 17, 2021 DR Responses para 19. [↑](#footnote-ref-110)
110. March 17, 2021 DR Responses para. 12 and May 28, 2021 DR Responses para. 13. [↑](#footnote-ref-111)
111. *Id*. at para. 19 and May 28, 2021 DR Responses para. 12. [↑](#footnote-ref-112)
112. 73 P.S. § 2251.6(1)(i). Under the VoIP Freedom Act, the Commission has retained jurisdiction to enforce applicable federal and Pennsylvania statutes or regulations on interconnected VoIP services, which includes jurisdiction over the provision and administration of enhanced 911 service and nondiscriminatory enhanced 911 fees. [↑](#footnote-ref-113)
113. *In the Matter of Lifeline and Link Up Reform and Modernization, et. Al.*, WC Docket No. 11-42, Report and Order, FCC 12-11, para. 229 (Feb. 6, 2012). [↑](#footnote-ref-114)
114. Petition at 12. [↑](#footnote-ref-115)
115. 47 C.F.R. §§ 54.101(a)(2) and (c). [↑](#footnote-ref-116)
116. 47 C.F.R. § 54.805(a). [↑](#footnote-ref-117)
117. 47 C.F.R. § 54.805(b). [↑](#footnote-ref-118)
118. *RDOF Phase I Auction Order*, para. 31-32 and March 17, 2021 DR Responses para. 26. [↑](#footnote-ref-119)
119. *RDOF Phase I Auction Order*, para. 32. [↑](#footnote-ref-120)
120. Petition at 12. [↑](#footnote-ref-121)
121. March 17, 2021 DR Responses at para. 25. [↑](#footnote-ref-122)
122. ERIC Comments at 1. [↑](#footnote-ref-123)
123. *Id.* [↑](#footnote-ref-124)
124. *Id* at 1-2. [↑](#footnote-ref-125)
125. *Id*. at 2. [↑](#footnote-ref-126)
126. Petition at 4. [↑](#footnote-ref-127)
127. 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.101. [↑](#footnote-ref-128)
128. *Universal Service Order*, 12 FCC Rcd at 8847, para. 128; 47 C.F.R. § 54.201(e). [↑](#footnote-ref-129)
129. *Id.* at 8870, para. 169; 47 C.F.R. § 54.201(f) and (g). [↑](#footnote-ref-130)
130. *Id.* at 8866, para. 160. [↑](#footnote-ref-131)
131. *December 2014 CAF Order*,29 FCC Rcd at 15668 n.43*; see also* 47U.S.C. § 153(2) (defining an affiliate as “a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person”). [↑](#footnote-ref-132)
132. *Cf.* Connect *America Fund*,Report and Order, 28 FCC Rcd 7211, 7215, para. 9 (2013) (*Phase II Challenge Process Order*) (finding that it is not sufficient for a broadband provider to qualify as an “unsubsidized competitor” if a consumer must obtain voice service from a third party, because that broadband provider would not be offering a voice service)*.* [↑](#footnote-ref-133)
133. *See Rural Digital Opportunity Fund Phase I Auction Order*, FCC 20-77, Para. 139*.* [↑](#footnote-ref-134)
134. Petition at 13. [↑](#footnote-ref-135)
135. March 17, 2021 DR Responses para. 27. [↑](#footnote-ref-136)
136. *Id*. para. 7. [↑](#footnote-ref-137)
137. 47 U.S.C. § 214(e)(5); 47 CFR § 54.207(a). [↑](#footnote-ref-138)
138. Appendix A. [↑](#footnote-ref-139)
139. We note that the FCC has recently sent communication to some RDOF recipients addressing the accuracy of the census blocks. Letters from Michael Janson, Kris Monteith, and Giulia McHenry, FCC, to David Finlay, Starlink Services, LLC (July 26, 2021).  Accordingly, on this matter, we note that if Starlink Services seeks to make subsequent changes to any of the 10,952 census blocks currently incorporated within Appendix A to this Order that is the subject to our approval, we will treat such action as a modification that requires a filing seeking Commission approval following notice and comment [↑](#footnote-ref-140)
140. Section 214(e)(5) of the Act provides that a CETC service area is defined as the RLEC’s study area unless and until the state commission and the FCC, taking into consideration any recommendations from the Joint Board, redefine the RLEC’s service area to be something other than its study area. [↑](#footnote-ref-141)
141. *See ETC Designation Order*, 20 FCC Rcd at 6392-95, paras. 48-53. [↑](#footnote-ref-142)
142. *RDOF Order*, 35 FCC Rcd at 727-728, paras. 91-93. [↑](#footnote-ref-143)
143. Petition at 1. *RDOF Order*, 35 FCC Rcd at 727-728, paras. 91-93. [↑](#footnote-ref-144)
144. *Id.* para. 92. [↑](#footnote-ref-145)
145. *Id.* [↑](#footnote-ref-146)
146. *Id.* [↑](#footnote-ref-147)
147. To the extent that any of these 10,952 census blocks become unfunded by the RDOF, Starlink Services will serve as a Lifeline-only ETC in those unfunded census blocks. [↑](#footnote-ref-148)
148. The FCC has determined CAF high-cost recipients need not submit a formal five-year improvement plan that demonstrates how universal service funds will be used to improve coverage, signal strength, or capacity that would not otherwise occur absent the receipt of high-cost support. *See generally* *WCB Reminds Connect America Fund Phase II Applicants of the Process for Obtaining Federal Designation as an Eligible Telecommunications Carrier*, WC Docket Nos. 09-197, 10-90, Public Notice, DA 18-714, 3-4 (rel. July 10, 2018). [↑](#footnote-ref-149)
149. Petition at 13. [↑](#footnote-ref-150)
150. 47 C.F.R. § 9.20; *see also* *Ensuring Continuity of 911 Communications*, Report and Order, 30 FCC Rcd 8677 (2015). [↑](#footnote-ref-151)
151. Petition at 14. [↑](#footnote-ref-152)
152. Petition at 14. [↑](#footnote-ref-153)
153. *Id*. [↑](#footnote-ref-154)
154. *Id*. [↑](#footnote-ref-155)
155. *Id*. [↑](#footnote-ref-156)
156. *Id*. [↑](#footnote-ref-157)
157. 47 C.F.R. § 54.202(a)(3). [↑](#footnote-ref-158)
158. *See* *RDOF Order*. [↑](#footnote-ref-159)
159. We note that standalone basic voice service has not been reclassified as competitive under Section 3016 of the Code, 66 Pa.C.S. § 3016, in any of the ILEC service area exchanges or wire centers where Starlink Services proposes to provide voice services. [↑](#footnote-ref-160)
160. *See* 73 P.S. §§ 2251.5 and 2251.6(1)(v). Under the VoIP Freedom Act, the Commission has retained jurisdiction to enforce applicable federal and Pennsylvania statutes or regulations on interconnected VoIP services relating to the following subject matters: (i) The provision and administration of enhanced 911 service and nondiscriminatory enhanced 911 fees; (ii) telecommunications relay service fees; (iii) universal service fund fees; (iv) switched network access rates or other intercarrier compensation rates for interexchange services provided by a local exchange telecommunications company; and (v) rates, terms or conditions of protected services provided under tariffs which are subject to approval by the Commission.  73 P.S. § 2251.6(1)(i)-(v); *see Eileen Floyd v. Verizon Pennsylvania LLC*, Docket No. C-2012-2333157 (Order entered April 30, 2013); *Application of Momentum Telecom, Inc. for Approval of the Abandonment or Discontinuance of Competitive Local Exchange Carrier and Interexchange Carrier Reseller Services to the Public in the Commonwealth of Pennsylvania*, Docket No. A-2014-2450071 (Order entered May 20, 2015); *see also Mozilla Corp. v. FCC*, 940 F.3d 1, 74-86 (D.C. Cir. 2019). [↑](#footnote-ref-161)
161. 47 C.F.R. § 54.202(a)(4) [↑](#footnote-ref-162)
162. 47 C.F.R. §§ 54.202(a)(5) and 54.202(a)(6). [↑](#footnote-ref-163)
163. April 8, 2021 DR Responses at 1, n.2. [↑](#footnote-ref-164)
164. As stated *infra* at footnote 11, federal rules currently limit Lifeline funding support to $5.25 per month per subscriber for voice services.  While Lifeline supports both broadband access and voice service, subscribers, a subscriber cannot receive the $5.25 support separately for each service.  The Lifeline subscriber’s $5.25 support may be applied to BIAS a Lifeline consumer may choose to purchase or the Lifeline support may be used for broadband access and voice bundles so consumers choosing a bundled package containing voice and broadband access service can apply the $5.25 monthly support to that bundle. [↑](#footnote-ref-165)
165. Petition at 13-20. [↑](#footnote-ref-166)
166. *See generally* April 8, 2021 DR Responses, April 22, 2021 Supplemental DR Responses, June 22, 2021 DR Responses. [↑](#footnote-ref-167)
167. See Mockup of advertising and marketing materials: April 8, 2021 DR Responses, Exhibits 1 and 2; June 22, 2021 DR Responses, Exhibit 1. [↑](#footnote-ref-168)
168. Petitionat 14. [↑](#footnote-ref-169)
169. Notwithstanding Pennsylvania state law, a state commission must allow an ETC to relinquish its designation in any area served by more than one ETC pursuant to Section 214(e)(4) of the Act if conditions are met. *See* 47 U.S.C. § 214(e)(2). The relinquishing ETC must provide advance notice of such relinquishment to the state commission. Prior to allowing the relinquishing carrier to cease providing universal service, the state commission must require the remaining ETC or ETCs to ensure that all customers served by the relinquishing carrier will continue to be served. The state commission also must require sufficient notice to the remaining ETC or ETCs to permit the purchase or construction of adequate facilities, with such purchase occurring within a specific time period. *See* 47 U.S.C. § 214(e)(4). [↑](#footnote-ref-170)
170. *See* *December 2014* *Connect America Order*, Report and Order, 29 FCC Rcd 15644, 15663-71, paras. 50-70. [↑](#footnote-ref-171)
171. *RDOF Order*, 35 FCC Rcd at 743-744, paras. 134-35. [↑](#footnote-ref-172)
172. *Id.* at para. 134. *See also* 66 Pa.C.S. §1301. [↑](#footnote-ref-173)
173. 47 U.S.C. § 214(e)(4) (emphasis added). [↑](#footnote-ref-174)
174. *2005 ETC Designation Order*, 20 FCC Rcd at 6386, para 36.  The FCC stated that under Section 214(e)(4) of the Act, the state commission or, in the case of a common carrier not subject to state commission jurisdiction, the FCC “shall permit an eligible telecommunications carrier to relinquish its designation as such a carrier in any area served by more than one eligible telecommunications carrier.”  However, prior to allowing the carrier to cease providing universal service in the area, the remaining ETC or ETCs will be required to ensure that all customers served by the relinquishing carrier will continue to be served.  Furthermore, under Section 251(h)(2) of the Act, the Commission may treat another carrier as the incumbent LEC if that carrier occupies a position in the market that is comparable to the position occupied by the incumbent LEC, if such carrier has substantially replaced an incumbent LEC, and if such treatment is consistent with the public interest, convenience and necessity. Moreover, applicable Pennsylvania law notwithstanding, ILECs seeking to relinquish their ETC designations will remain obligated, however, to maintain existing voice service unless and until they receive authority under 47 U.S.C. § 214(a) to discontinue that service. They also will remain subject to the obligation to offer Lifeline service to qualifying low-income consumers or households throughout their service territory. [↑](#footnote-ref-175)
175. 47 C.F.R. §§ 54.313, 54.314, 54.316 and 54.320(a)-(c). [↑](#footnote-ref-176)
176. *See generally* *Federal-State Joint Board on Universal Service, Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier for the Commonwealth of Virginia*, Memorandum Opinion and Order, 19 FCC Rcd. 6422, 6424, para. 4 (2004); *Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, Memorandum Opinion and Order, 19 FCC Rcd 1563, 1565. para. 4 (2004)*.* [↑](#footnote-ref-177)
177. *See* Petition at 2-3. [↑](#footnote-ref-178)
178. Petition at 1. [↑](#footnote-ref-179)
179. *RDOF Order*, 35 FCC Rcd at707-08, para. 42. [↑](#footnote-ref-180)
180. 47 C.F.R. § 54.410. [↑](#footnote-ref-181)
181. In its *2016 Lifeline Order*, the FCC established the National Verifier as the entity designated to make the initial eligibility determination regarding a potential Lifeline subscriber. *2016 Lifeline Order*, 31 FCC Rcd 3962, 4007, para. 128 (2016). [↑](#footnote-ref-182)
182. New and potential Lifeline consumers receive their initial eligibility determination by signing into CheckLifeline.org from any computer or mobile device to create an account, receive an eligibility decision, and use the list of service providers in their area to contact one to enroll. [↑](#footnote-ref-183)
183. The Universal Service Administrative Company (USAC), the administrator of the federal Lifeline program, manages the National Verifier and its customer service department, the Lifeline Support Center. The National Verifier makes an initial determination of a subscriber's eligibility based on prospective subscriber’s eligibility to qualify for Lifeline service using either income-based eligibility criteria or program-based eligibility criteria is codified at Sections 54.410(b) and (c), respectively. [↑](#footnote-ref-184)
184. *See* 47 C.F.R. § 54.405(e). Every Lifeline consumer’s eligibility is to be recertified annually. 47 C.F.R. § 54.410(f). Lifeline subscribers will be recertified either automatically through the National Verifier’s state/federal data sources or receive a recertification request from USAC. In Pennsylvania, service providers query NLAD to verify their current Lifeline subscribers’ continued eligibility. [↑](#footnote-ref-185)
185. 47 C.F.R. §54.405(e)(1). [↑](#footnote-ref-186)
186. If the USAC provides notification to a service provider that a subscriber has more than one discounted account, or that more than one member of a subscriber’s household is receiving service, the service provider must de-enroll the subscriber within five business days. 47 C.F.R. § 54.405(e)(2). [↑](#footnote-ref-187)
187. If the subscribers do not use their Lifeline service at least every 30 days, they will be notified by the provider that they may be de-enrolled if they do not use their service during the 15-day notice period (the “cure period”). [↑](#footnote-ref-188)
188. 47 C.F.R. § 54.416. [↑](#footnote-ref-189)
189. 47 C.F.R. § 54.422. [↑](#footnote-ref-190)
190. 52 Pa. Code § 69.2501. [↑](#footnote-ref-191)
191. *In Re: Lifeline and Link-up Programs*, Docket No. M-00051871 (Order entered May 23, 2005) (*PA Lifeline Order*); *Re: Section 3015(f) Review Regarding Lifeline Tracking Report, Accident Report, and Services Outage Report*, 100 Pa. P.U.C. 553 (Dec. 30, 2005) (*Tracking Report Order*); *Final Policy Statement on Commonwealth of Pennsylvania Guidelines for Designation and Annual Recertification as an Eligible Telecommunications Carrier (ETC) for Purposes of Federal Universal Service Support*, Docket No. M-2010-2164741, Final Policy Statement Order (Order entered August 2, 2010). [↑](#footnote-ref-192)
192. We acknowledge that many of the Pennsylvania-specific requirements set forth in our *PA Lifeline Order* such as the requirements for certification and verification of a customer’s initial and continued eligibility for Lifeline services have been impacted by developments at the federal level. For example, the creation of the National Verifier and the NLAD has made certain Pennsylvania-specific requirements for verification of Lifeline eligibility and re-certification moot. [↑](#footnote-ref-193)
193. *Id.* [↑](#footnote-ref-194)
194. May 28, 2021 DR Responses para. 15. [↑](#footnote-ref-195)
195. *Id*. [↑](#footnote-ref-196)
196. The ETC designation that we grant to Starlink Services simply establishes its general eligibility for receiving the awarded Auction 904 support in the eligible CBGs in its Designated Service Area in Pennsylvania. [↑](#footnote-ref-197)