

**PUBLIC UTILITIES COMMISSION**

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Ratesetting**

TO PARTIES OF RECORD IN APPLICATION 21-03-009:

This is the proposed decision of Administrative Law Judge Seaneen Wilson. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's August 25, 2022 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, *ex parte* communications are prohibited pursuant to Rule 8.2(c)(4).

/s/ KIMBERLY H. KIM for

Anne E. Simon

Chief Administrative Law Judge

AES:mph

Attachment

Decision PROPOSED DECISION OF ALJ WILSON (Mailed 7/22/2022)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Starlink Services, LLC for a Certificate of Public Convenience and Necessity to operate as a Full Facilities-Based and Resale Competitive Local Exchange Carrier throughout the service territories of Pacific Bell Telephone Company, Frontier California, Inc., Frontier Communications of the Southwest, Inc., Consolidated Communications of California Company, and Citizens Telecommunications Company of California, Inc. and Full Facilities-Based and Resale Interexchange Carrier on a statewide basis, and for designation as an Eligible Telecommunications Carrier.

Application 21-03-009

DECISION GRANTING STARLINK SERVICES, LLC A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE FULL FACILITIES-BASED AND RESOLD COMPETITIVE LOCAL EXCHANGE SERVICES AND FULL FACILITIES-BASED AND RESOLD INTEREXCHANGE SERVICES, AND DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER

DECISION GRANTING STARLINK SERVICES, LLC A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE FULL FACILITIES-BASED AND RESOLD COMPETITIVE LOCAL EXCHANGE SERVICES AND FULL FACILITIES-BASED AND RESOLD INTEREXCHANGE SERVICES, AND DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER 1

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DECISION GRANTING STARLINK SERVICES, LLC A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE FULL FACILITIES-BASED AND RESOLD COMPETITIVE LOCAL EXCHANGE SERVICES AND FULL FACILITIES-BASED AND RESOLD INTEREXCHANGE SERVICES, AND DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER

Summary

Pursuant to Public Utilities Code Section 1001, we grant Starlink Services, LLC, a certificate of public convenience and necessity to provide full facilities-based and resold competitive local exchange services and full facilities-based and resold interexchange services and to be designated as an Eligible Telecommunications Carrier in California subject to the terms and conditions set forth in the Ordering Paragraphs.

Application 21-03-009 is closed.

1. Background

On March 15, 2021, Starlink Services, LLC (Starlink or Applicant), filed an application for a certificate of public convenience and necessity (CPCN) to provide: (i) full facilities-based and resold competitive local exchange services in the service territories of Pacific Bell Telephone Company (Pac Bell), Frontier California, Inc. (Frontier), Frontier Communications of the Southwest, Inc. (Southwest), Consolidated Communications of California Company (Consolidated), and Citizens Telecommunications Company of California, Inc. (Citizens); (ii) full-facilities-based and resold interexchange services throughout California; and (iii) to be designated as an Eligible Telecommunications Carrier (ETC) in California. No parties protested the application.

Starlink proposes to provide competitive local exchange services to business and residential customers via existing facilities obtained from other

carriers and utilities and by constructing its own facilities. Construction is expected to consist of relatively short conduit routes, installations of poles where existing facilities are inadequate, and installation or construction of other, small above-ground facilities. Construction generally would occur in existing roadways or other previously developed and disturbed rights-of-way.

Starlink's principal place of business is located at 1 Rocket Road, Hawthorne, CA 90250.

Starlink filed motions for leave to file documents under seal on March 17, April 16, April 23, April 26, May 13, August 17, and September 23, 2021, all of which are discussed below in Section 16 herein.

On April 15, April 23, July 27, and September 14, 2021, and May 24, 2022, the assigned Administrative Law Judge (ALJ) issued rulings requiring Starlink to file and serve additional information. Starlink filed and served responses on April 16, April 23, May 13, August 17, and September 23, 2021, and May 25, 2022, respectively.

A prehearing conference (PHC) was held on September 2, 2021, to address the issues of law and fact, determine the need for hearing, set the schedule for resolving the matter, and address other matters as necessary. Only the Applicant appeared at the PHC.

A Scoping Memo was issued on October 20, 2021. No hearings were held.

All rulings issued by the assigned Commissioner and ALJ are affirmed herein.

2. Jurisdiction

Public Utilities Code (Pub. Util. Code) § 216(a) defines the term "Public Utility" to include a "telephone corporation," which in turn is defined in Pub.

Util. Code § 234(a) as “every corporation or person owning, controlling, operating, or managing any telephone line for compensation within this state.”

Starlink proposes to install satellite gateways (earth stations) and telecommunications facilities (such as conduit and fiber optic cabling) for middle-mile terrestrial transport of communications, including VoIP and broadband data, to and from consumers of its satellite-based services. In addition to providing broadband, Starlink plans to offer interconnected Voice over Internet Protocol (VoIP) services to its customers, including residential, business, and governmental or quasi-governmental entities. Starlink states that it does not currently intend to provide “basic service,” as defined by the California Public Utilities Commission (Commission), or other services for which a tariff is required.

Starlink is a telephone corporation and a public utility subject to the jurisdiction of the Commission (Commission).

Starlink certified that it will operate as an interstate common carrier as defined in Section 153 of the Federal Communications Act of 1934 (Act), as amended, and will be eligible to interconnect with the public switched telephone network pursuant to sections 251 and 252 of the Act; and that if granted a CPCN, it will operate as a telephone corporation under Pub. Util. Code § 234(a), and obey the Public Utilities Code and all Commission rules, decisions, and orders applicable to telephone corporations.

The Commission has authority to grant requests for designation of ETC status, pursuant to Resolution (Res.) T-17002; and in accordance with the federal delegation of authority set forth in the Communications Act in 47 United States Code (U.S.C.) § 214, which states in part:

A State commission shall upon its own motion or upon request, designate a common carrier that meets the requirements of paragraph [214I] (1) as an eligible telecommunications carrier for a service area designated by the State commission.

ETC status is normally requested from this Commission via an advice letter submitted to the Communications Division (CD). To request ETC status, the applicant must hold a CPCN. During the PHC, the assigned ALJ authorized Starlink to request both a CPCN as well as ETC status in the instant application.

3. Full Facilities-Based CPCN

In its application, Starlink requests authorization for a CPCN to provide full facilities-based services. A Proponent's Environmental Assessment (PEA) is required for a full facilities-based CPCN. Starlink provided a PEA in Exhibit C to its Application.

In its PEA, Starlink indicates that it intends to install satellite gateways (earth stations) and telecommunications facilities (such as conduit and fiber optic cabling) for middle-mile terrestrial transport of communications, including VoIP and broadband data, to and from consumers of its satellite-based services. Starlink proposes that such outside plant construction would likely be relatively small in scale and would occur in previously-developed and disturbed areas.

4. California Environmental Quality Act (CEQA)

Pursuant to CEQA and Rule 2.4¹ of the Commission's Rules of Practice and Procedure, the Commission examines projects to determine any potential environmental impacts in order that adverse effects are avoided, and

¹ Unless otherwise noted, items labeled "Rule" are from the Commission's Rules of Practice and Procedure.

environmental quality is restored or enhanced to the fullest extent possible under CEQA.

In the PEA and September 23, 2021 response, Starlink states that its proposed construction activities will generally be relatively small in scale, consisting of installation or construction of relatively short conduit routes and other structures, such as satellite gateways (earth stations), in previously-developed and disturbed areas.

These activities fall within the following classes of projects that are exempt from CEQA and for which neither an Environmental Impact Report nor a Negative Declaration is required.

- Class 1 Exemption: operation, repair, maintenance, leasing or minor alteration of existing public or private structures and facilities, with negligible or no expansion of an existing use. This includes existing facilities used to provide public utility services. (14 CCR § 15301.)
- Class 2 Exemption: replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. (14 CCR § 15302.)
- Class 3 Exemption: construction including water main, sewage, electrical, gas and other utility extensions of reasonable length to serve such construction. This includes the construction of limited numbers of new small facilities or utility extensions. (14 CCR § 15303.)

Starlink's proposed new construction activities are similar to those undertaken by other carriers that we have decided are categorically exempt from CEQA.²

² See, e.g., Decision (D.) 06 04 063 (ClearLinx Network Corporation); D.06 04 067 (CA CLEC LLC).

Starlink requests approval to utilize a procedure for expedited review of its projects once it is aware of a specific site or sites in which it plans construction. The proposed procedure tracks the expedited review procedure that we have approved for other carriers. Such a process will expedite CEQA review and is appropriate for the type of construction outlined here, which will be categorically exempt. By establishing this expedited review process, we can review the information on a specific project to confirm that it is categorically exempt from CEQA or to explain why further environmental review is required. At the same time, the proposed CEQA review process will enable Starlink to undertake construction of its projects in an efficient manner without experiencing delays caused by an unnecessarily protracted CEQA review.

Like the procedure approved for other carriers, the following procedure will be used to obtain Commission approval of Starlink's claimed CEQA exemptions for proposed construction projects:

- Starlink will provide the Commission's Energy Division with:
 - A detailed description of the proposed project, including:
 - Customer(s) to be served;
 - The precise location of the proposed construction project; and
 - Regional and local site maps.
 - A description of the environmental setting, to include at a minimum:
 - Cultural, historical, and paleontological resources;
 - Biological resources; and
 - Current land use and zoning.
 - A construction workplan, to include:

- Commission Preconstruction Survey Checklist – Archaeological Resources;
- Commission Preconstruction Survey Checklist – Biological Resources;
- A detailed schedule of construction activities, including site restoration activities;
- A description of construction/installation techniques;
- A list of other agencies contacted with respect to siting, land use planning, and environmental resource issues, including contact information; and
- A list of permits required for the proposed project.
- A statement of the CEQA exemption(s) applicable to the proposed project; and
- Documentation and factual evidence sufficient to support a finding that the claimed exemption(s) is (are) applicable.
- The Energy Division will review Starlink’s submission for the proposed project to confirm that the claimed exemption(s) from CEQA are applicable.
- Within 21 days from the date of Starlink’s submittal, the Energy Division will issue either:
 - A Notice to Proceed (NTP) and file a Notice of Exemption with the State Clearinghouse, Office of Planning and Research, or
 - A letter of denial stating the specific reasons why the claimed exemption(s) are not applicable to the proposed project.

We have reviewed the application and Supplement and find that:

- Starlink’s proposed facilities-based project activities are very limited;
- These activities would in almost all circumstances be very likely to qualify for an exemption from CEQA; and

- The proposed process for reviewing the applicability of CEQA exemptions to Starlink's facilities-based projects is not only adequate for the Commission's purposes as CEQA Lead Agency, but is also in the public interest because it enables Starlink to respond in a timely manner to requests for service without the delay or burden of a full CEQA review when such review is unnecessary.

We therefore approve Starlink's proposed process for Commission review of claimed CEQA exemptions for construction projects undertaken pursuant to Starlink's full facilities-based authority, based on the specific facts of this case with the following modifications related to the Commission's Energy Division review and approval or disapproval of the proposed exemptions.

If the Energy Division disapproves Starlink's claimed CEQA exemption(s) and issues a letter of denial to Starlink, Starlink must either re-design the specific project and facilities and then reapply for a finding of exemption from CEQA or file a formal application with the Commission seeking the requisite approval and full CEQA review, before commencing any construction activities.

Starlink shall not perform any full facilities-based construction activities without first obtaining an NTP from the Energy Division or authorization by the Commission after the requisite environmental review.

We have previously determined that the public convenience and necessity requires that competition be allowed in the provision of competitive local exchange service, Rulemaking 95-04-043/Investigation 95-04-044. Granting this application will benefit the public interest by expanding the availability of technologically advanced telecommunications services within the state.

5. Financial Qualifications

To be granted a CPCN, an applicant for authority to provide full facilities-based and resold competitive local exchange services and full

facilities-based and resold interexchange services must demonstrate that it has a minimum of \$100,000 cash or cash equivalent that is reasonably liquid and readily available to meet the firm's start-up expenses. In its September 23, 2021 response, Starlink provided audited financial statements. This financial documentation demonstrates that \$100,000 would be available to Starlink for one year following certification. Since Starlink has provided documentation that it possesses a minimum of \$100,000 that is reasonably liquid and available, it has demonstrated that it has sufficient funds to meet its start-up expenses and has fulfilled this requirement. Starlink's financial documentation will be subject to verification and review by the Commission for one year to ensure that such funds are available.

In addition to demonstrating financial fitness, Starlink must also demonstrate that an amount equal to the deposit required by Pac Bell, Frontier, Southwest, Consolidated, and Citizens, would be available to Starlink for one year following certification.³ Starlink stated that no deposit is required by these carriers. Therefore, no additional resources are required at this time to cover deposits.

6. Technical Qualifications

To be granted a CPCN for authority to provide competitive local exchange and interexchange service, an applicant must make a reasonable showing of managerial and technical expertise in telecommunications or a related business.⁴ Starlink supplied biographical information on its management in Exhibit A to its

³ The requirement for Competitive Local Carrier (CLC) applicants to demonstrate that they have additional financial resources to meet any deposits required by underlying Local Exchange Carriers (LEC) and/or IECs is set forth in D.95-12-056, Appendix C. For NDIECs, the requirement is found in D.93-05-010.

⁴ D.95-12-056 at Appendix C, Rule 4.A.

application that demonstrates it has sufficient expertise and training to operate as a telecommunications provider.

In its application, and in an amendment to that application dated March 30, 2021, Starlink verified, with one exception (discussed below), that no one associated with or employed by Starlink as an affiliate, officer, director, partner, or owner of more than 10 percent of Starlink, or anyone acting in a management capacity for Starlink: (a) held one of these positions with a company that filed for bankruptcy; (b) been personally found liable, or held one of these positions with a company that has been found liable, for fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; (c) been convicted of a felony; (d) been (to his/her knowledge) the subject of a criminal referral by judge or public agency; (e) had a telecommunications license or operating authority denied, suspended, revoked, or limited in any jurisdiction; (f) personally entered into a settlement, or held one of these positions with a company that has entered into settlement of criminal or civil claims involving violations of §§ 17000 *et seq.*, §§ 17200 *et seq.*, or §§ 17500 *et seq.* of the California Business & Professions Code, or of any other statute, regulation, or decisional law relating to fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; or (g) been found to have violated any statute, law, or rule pertaining to public utilities or other regulated industries; or (h) entered into any settlement agreements or made any voluntary payments or agreed to any other type of monetary forfeitures in resolution of any action by any regulatory body, agency, or attorney general.⁵

⁵ These certifications are required by D.13-05-035, Ordering Paragraph 14.

The exception was disclosed by Applicant in its March 30, 2021 amendment. Applicant disclosed a Securities and Exchange Commission (SEC) civil complaint against one of the officers of Starlink. Applicant explained that the complaint concerned a separate company and was resolved without admission or denial of the allegations. Therefore, we find this event does not prevent Starlink from being granted a CPCN herein.

Also, to the best of Starlink's knowledge, neither Starlink, nor any affiliate, officer, director, partner, or owner of more than 10% of Starlink, or any person acting in such capacity whether or not formally appointed, is being, or has been investigated by the Federal Communications Commission (FCC) or any law enforcement or regulatory agency for failure to comply with any law, rule or order.⁶

For the above reasons, we find that Starlink is in compliance with the requirements of D.13-05-035.

7. Tariffs

Starlink requested detariffed status and may be exempt from the requirement to file tariffs provided that Starlink complies with the consumer protection rules identified in D.98-08-031. Starlink will offer residential voice services using VoIP technology. Applicant states that it plans to offer services on a non-discriminatory basis as well as individual case basis contracts.

Detariffed status is not available for carriers providing residential local exchange service. Based on the application, it does not appear that Starlink intends to provide residential local exchange service at this time. Pursuant to

⁶ *Id.*

D.12-12-038, Appendix A, Section II, parts a and b,⁷ basic service must be tariffed or scheduled. In the future, if Starlink decides to offer services that require a tariff or schedule, such as basic service, Starlink must submit proposed tariffs and/or user guides to the CD via Tier 2 advice letters using the General Order (GO) 96-B advice letter process at least 30 days before initiation of service.

8. Map of Service Territory

To be granted a CPCN for authority to provide competitive local exchange service, an applicant must provide a map of the service territories it proposes to serve.⁸ In its application, Starlink provided a map of the location of its proposed service territory, in compliance with this requirement.

9. Rule 3.1(i) Statement

Rule 3.1(i) sets forth the requirement that a utility filing an application under Pub. Util. Code § 1001, provide a statement regarding GO 104-A, Section 2. Starlink states that it is not aware of any reportable matters pursuant to GO 104-A, Section 2. Starlink, therefore, has nothing to report under this rule.

On a going forward basis, though, Starlink must file all reports required of a public utility under Commission jurisdiction.

⁷ D.12-12-038, Appendix A, Section II, parts a and b: a) A basic service provider must file and maintain tariffs or schedules with the Commission by a Tier 2 Advice Letter for its basic service offerings which must include its basic service rates, charges, terms, and conditions; and must make them publicly available. Requirements for customer notice and/or Commission filings for revisions in basic service rates, charges, terms, and/or conditions must be made in accordance with the applicable requirements for tariff filings set forth in General Order 96-B.

b) If a carrier chooses to offer basic service in all or part of its service territory using multiple, different technologies, each type of offering must be tariffed or scheduled with the Commission. This requirement does not extend beyond basic service.

⁸ D.95-12-056 at Appendix C, Rule 4.F.

10. Expected Customer Base

Starlink provided its estimated customer base and customer requirements for the first and fifth years of operation in Section XVI of its application.

Therefore, Starlink has complied with this requirement.

11. Request for Treatment as a Non-Dominant Interexchange Carrier

Applicant requests treatment as a non-dominant interexchange carrier (NDIEC), which would exempt it from the requirements of Pub. Util. Code §§ 816-830 concerning stocks and security. Applicant also requests an exemption from Pub. Util. Code § 851, solely for the transfer and encumbrance of utility property to secure debt. The Commission detailed its rules regarding exemption of non-dominant carriers in D.85-01-008, and subsequently modified in D.85-07-081 and D.85-11-044. Pursuant to D.85-07-081 and D.85-11-044 (addressing NDIECs) and D.97-01-015 (addressing CLECs), NDIECs and CLECs are exempt from Pub. Util. Code §851 for the sole purpose of the transfer or encumbrance of utility assets to secure debt. We grant Applicant's request for NDIEC status, which provides an exemption from Pub. Util. Code §§ 816-830 concerning stocks and security, provided Applicant follows all rules detailed in the above referenced decisions. We also grant Applicant's request for exemption from Pub. Util. Code §851 for the sole purpose of securing debt pursuant to the decisions referenced above.

12. Designation as an ETC

On February 7, 2020, the FCC adopted the Rural Digital Opportunity Fund (RDOF) program to build broadband in rural and unserved/underserved

communities.⁹ The RDOF program has a budget of approximately \$20.4 billion over the next ten years to support infrastructure with minimum broadband speeds of 25/3 Mbps. The RDOF program is awarding funding in two phases – Phase I targets unserved communities, and Phase II will target partially served communities.¹⁰

On December 7, 2020, the FCC issued a Public Notice announcing the winning bidders for the RDOF Phase I Auction 904. There were 180 winning bidders nationwide in Auction 904. The award amount totals \$9.23 billion dollars over a 10-year period, with 5,220,833 locations covering 49 states and one territory. Over 99.7% of locations in Auction 904 areas have bidders providing download speeds of at least 100 Mbps.¹¹ There were 15 companies in California provisionally awarded Phase I amounts totaling \$695 million.¹²

The FCC will also provide oversight of the projects whereby bidders are subject to penalties or forfeiture if they do not meet service milestones.¹³ Bidders must meet certain deployment obligations to receive RDOF support. For example, carriers must commercially offer voice and broadband services to 40% of the locations receiving RDOF support within each state, as applicable, by the

⁹ See *In the Matter of Rural Digital Opportunity Fund, Connect America Fund*, Report and Order, WC Dkts. 19-126 & 10-90, (FCC 20-5), released February 7, 2020.

¹⁰ *Id.*, at 3.

¹¹ See *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes, Winning Bidders Announced*, Public Notice, AU Dkt. 20-34, WC Dkts. 19-126 & 10-90, (DA 20-1422), released December 7, 2020.

¹² *Id.*, Attachment B.

¹³ RDOF Order, paras. 45-55.

end of the three-year funding cycle, and then 20% of the locations each year thereafter until reaching 100%.¹⁴

Winning RDOF bidders must obtain an ETC designation in the state(s) where they seek support to receive federal funding. Starlink is among the 15 bidders that provisionally won RDOF awards in California. Starlink must satisfy all federal and state ETC requirements to receive an ETC designation. Commission staff conducted a due diligence review to determine Starlink's business practice behavior, financial capabilities, technical and operational capabilities, and customer protection that may call into question its fitness to be granted ETC designation to serve California consumers.

The Commission finds that Starlink meets the following federal and state ETC requirements:

- **Demonstration that the services intended to be offered to comply with the voice telephony definition** – Pursuant to 47 U.S.C. § 214(e)(1) and 47 C.F.R. § 54.101(a), a carrier must submit that on a common carrier basis, it will provide the functional equivalent of voice-grade calls using its own facilities-based network/infrastructure or a combination of its own facilities and resale of another carrier's services. Starlink will offer standalone residential VoIP telephony services via a white-label managed service provider voice platform and broadband internet access using satellite technology.¹⁵ As an RDOF recipient, Starlink must also offer federal Lifeline subsidies to eligible qualifying low-income households.
- **Advertise using media of general distribution** – Pursuant to 47 C.F.R. § 54.201(d)(2), all ETCs must advertise the availability of voice and broadband services throughout

¹⁴ RDOF Order, para. 45.

¹⁵ Starlink Application at 19-22.

their entire service areas.¹⁶ Starlink will advertise the availability of the supported services using media of general distribution.¹⁷

- **Commitment to provide supported service throughout the designated service area** – Starlink must provide service to all requesting customers within the areas that it is designated an ETC based on its own network facilities. Starlink is committed to the deployment milestones as determined and required by the RDOF program. If Starlink cannot serve a customer after it meets the RDOF milestone(s), then the company will report the unfulfilled request with the Commission within 30 days.¹⁸
- **Demonstration of ability to remain functional**¹⁹ – Pursuant to 47 C.F.R. § 54.202(a)(2), Starlink indicates that it can remain functional in emergency situations. The company will offer a 24-hour battery backup power for user equipment. Starlink’s network will have built-in redundancy and employ a traffic routing system.²⁰
- **Demonstration of financial, operational, and technical capability** – Pursuant to 47 C.F.R. § 54.202(a)(4), Starlink affirms that it is financially and technically capable of providing their proposed satellite broadband Internet access and VoIP telephony services. Starlink is a wholly owned subsidiary of Space Exploration Technologies Corp. (SpaceX). By early 2021 SpaceX had deployed more than 1,200 satellites to provide broadband services to users in its testing markets.²¹ Additionally, the entity Space Exploration Technologies Corp. is the FCC-announced “winning bidder” which, “pursuant to procedures

¹⁶ RDOF Order, para. 54.

¹⁷ Starlink Application at 22.

¹⁸ RDOF Order, paras. 45-55 and Starlink Application at 24-25.

¹⁹ D.21-02-029.

²⁰ Starlink Application at 23.

²¹ Starlink Application at 14.

developed by the FCC, SpaceX assigned its winning bids to Starlink” as stated by the applicant.²²

Starlink provided proof of financial surety from parent company SpaceX, sufficient to cover the full RDOF award of \$5,746,960 and the buildout cost of the FCC-identified locations comprising the federal Commission’s announced winning bid for the provider.²³

In addition, satellite broadband continues to be a niche solution in California based on the low number of subscribers to satellite-based service, and we find the proposed number of locations to be funded, 6,297, is managerially and operationally reasonable.

However, the Commission joins many telecommunications industry analysts, engineers, and public advocates in expressing caution about the technical capability of Starlink to operate its proposed Low Earth Orbital (LEO) satellite and ground station network to deliver the bandwidth and latency required by the FCC’s RDOF Program on a national scale while maintaining adequate customer service standards.²⁴

To address those concerns, the Commission will require Starlink to file with the Commission the enhanced

²² Starlink Applications at 15.

²³ Starlink response to February 26, 2021 data request providing funding description and letter of credit, both filed confidentially.

²⁴ A survey of trade publication articles and papers on the subject of Starlink’s’ technical capabilities and challenges includes: Arnason, B. (2022, January, 7) Starlink Satellite Broadband Not Exactly Hitting It Out of the Ballpark. Telecompetitor.; Bode, K. (2022, May 26) Starlink Users Miffed They Have To Pay Extra To Skip The Long Wait. Techdirt; Engebretson, J. (2022, January 18) Analyst: Good Luck With That Starlink Broadband Plan, SpaceX Launch Cycle Doesn’t Add Up. Telecompetitor; Farrar, T. (2022, January 13) Starlink’s reach won’t be enough to solve rural broadband dilemma. Fierce Wireless; Patel, N. (2021, September 6) Who is Starlink really for? MIT Technology Review

verification and testing results provided to the FCC under the Rural Broadband Accountability Plan.²⁵

- **Commitment to meet public interest requirements for the proposed service areas** – Starlink states that receiving the ETC designation will serve the public interest by bringing high-speed broadband and voice services to unserved/underserved areas as identified by the RDOF. RDOF support will allow the company to accelerate service and prioritize deployment in unserved/underserved areas.²⁶ The company will offer all eligible locations access to broadband services and voice services.

We therefore reasonably conclude it is in the public interest to award to Starlink an ETC designation based on: 1) The applicant has demonstrated its financial capability and has provided financial surety sufficient of deploy satellite receivers to the 6,297 FCC-required RDOF locations in California. 2) The applicant has the operational capability to successfully meet the geographic and subscribership scale expansion requirements of the RDOF Program, as mandated by its winning bid in California.²⁷ 3) The applicant's risk profile for successful RDOF Program compliance is limited, given the relatively small number of RDOF locations in the state, the applicant's financial capabilities, and its statement of financial surety. 4) This Decision's requirement for the filing by Starlink with the Commission of the enhanced reporting now required by the FCC under the federal Rural Broadband Accountability Plan provides the needed assurance CPUC will have the data to support oversight of compliance by the applicant.

²⁵ Factsheet, *FCC Creates Rural Broadband Accountability Plan*, Rel. 01/28/2022, available as of this writing at: <https://www.fcc.gov/rbap>

²⁶ Starlink Application at 26-27.

²⁷ RDOF timeframes for network buildouts are available here (47 CFR § 54.802; Rural Digital Opportunity Fund Order or RDOF Report and Order, available as of this writing at: <https://docs.fcc.gov/public/attachments/FCC-20-5A1.pdf>).

- **Commitment to satisfy all applicable consumer protection and service quality standards** – Pursuant to 47 C.F.R. § 54.202 (a)(3) Starlink confirms it will comply with all applicable state and federal consumer protection and service quality standards.²⁸

We approve Starlink's request for ETC designation to obtain federal high-cost support and LifeLine support, subject to authorization from the FCC on final approval of the RDOF award, and the following conditions. Starlink must:

- a. File required annual reports and compliance reports with the Commission, including FCC Form 481 and Section 54.314 certifications;
- b. Provide ad-hoc and recurring reports to the Commission as required by PU Code Sections 581, 582 & 584;
- c. Submit information to the Universal Service Administrative Company (USAC), pursuant to 47 CFR § 54.401(d), demonstrating that its Lifeline service meets the FCC requirements. A copy of the information submitted to USAC shall also be provided to the Director of the Communications Division, within 30 days after filing with USAC at email address: cdcompliance@cpuc.ca.gov;
- d. File a current copy of the Letter of Credit (as required by the FCC) shall also be provided to the Director of the Communications Division, using the email address as stated in the previous condition, within 30 days after issuance of this Decision;
- e. Continue to comply with Commission User Fee and surcharge remittance and reporting requirements. Failure to do so may result in enforcement action including penalties, fines, denial, suspension, and/or revocation of its ETC designation;

²⁸ Starlink Application at 26.

- f. Contact the California LifeLine Program's Third-Party Administrator prior to offering federal VoIP Lifeline services and file Tier II Advice Letter with the Communications Division to provide terms and conditions, disclosures, and marketing materials, to the Commission CD Staff for review and approval prior to dissemination, and/or availability to the public;
- g. Post safety-related information about VoIP/satellite telephone service coverage limitations on distributed terms and conditions, disclosures, marketing materials, including scripts used by customer service representatives, and on its company website;
- h. Abide by all applicable state and federal consumer protection rules, including Commission General Order 168, the Consumer Bill of Rights Governing Telecommunications Services;
- i. To the extent applicable, if network facilities are located in Tier II and III High Fire Threat Districts (HFTDs), comply with D.21-02-029 to ensure network resiliency and have at least 72-hours of backup in these facilities to provide uninterrupted services to Californians;
- j. Maintain the 911 Automatic Location Identification (ALI) database so that a caller's registered address will be available to first responders;²⁹ and
- k. Comply with all FCC RDOF program rules and regulations, including but not limited to service milestones, reporting requirements, and performance targets.
- l. Provide to the Commission copies of all documents, filings, and reports filed with the Universal Service Administrative Company (USAC) pursuant to the Rural Broadband Accountability Plan (RBAP) of the FCC, as these materials are filed with USAC. A copy of the RBAP information submitted to USAC shall also be provided to the Director

²⁹ The Commission has the authority to regulate 9-1-1/E9-1-1 services regardless of what technology is used to provide the service.

of the Communications Division, within 30 days after filing with USAC at email address: cdcompliance@cpuc.ca.gov

13. Request for Exemption from the Requirement to Keep its Books and Records in Accordance with the Uniform System of Accounts

Starlink requests that it be exempted from any requirement to maintain its books and records in accordance with the Uniform System of Accounts (USOA) specified in Title 47 I.E Part 32. Starlink asserts that it is not part of an ILEC corporate entity and should therefore be exempted from the requirement to keep its books of account in conformance with the USOA as we did for all CLECs in D.99-02-038. We agree and cite D.07-04-024 as additional authority to do so.

14. Safety Considerations

With the adoption of the *Safety Policy Statement of the California Public Utilities Commission* on July 10, 2014, the Commission has, among other things, heightened its focus on the potential safety implications of every proceeding. We have considered the potential safety implications here. The Commission is satisfied that Starlink will meet the Commission's minimum safety goals and expectations of competitive local exchange carriers (CLECs) because: (1) Starlink has taken steps to meet the financial requirements as set forth in this decision for a facilities-based CLEC, and (2) Starlink is a public utility that is required pursuant to Pub. Util. Code § 451 to "... furnish and maintain such adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities ... as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public."

15. Conclusion

We conclude that the application conforms to our rules for certification as a competitive local exchange and interexchange carrier. Accordingly, we grant Starlink a CPCN to provide (i) full facilities-based and resold competitive local

exchange services in the service territory of Pac Bell, Frontier, Southwest, Consolidated, and Citizens, (ii) full-facilities-based and resold interexchange services throughout California, and (iii) be designated as an ETC in California, subject to compliance with the terms and conditions set forth in the Ordering Paragraphs.

The CPCN granted by this decision provides benefits to Starlink and corresponding obligations. Starlink receives authority to operate in the prescribed service territory, and this authority enables Starlink, pursuant to Section 251 of the Act, as amended by the 1996 Telecommunications Act (47 U.S.C. § 251), to interconnect with telecommunications carriers.³⁰ This authority also enables Starlink to obtain access to public rights-of-way in California,³¹ subject to the CEQA requirements set forth in this decision.

In return, Starlink is obligated to comply with all Public Utilities Code provisions, Commission rules, General Orders, and decisions applicable to telephone corporations providing approved services. The applicable statutes, rules, General Orders, and decisions include, but are not limited to consumer protection rules, tariffing, and reporting requirements. Moreover, Starlink must pay all Commission-prescribed user fees and public purpose program surcharges as set forth in Appendix B of this decision, to comply with CEQA, and to adhere to Pub. Util. Code § 451, which states that every public utility “. . . shall furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities, as

³⁰ The California Public Utilities Code uses the term “telephone corporation.” Its counterpart in federal law is a “telecommunications carrier.”

³¹ D.98-10-058; *see also T-Mobile West LLC v. City and County of San Francisco* (2019) 6 Cal. 5th 1107.

defined in § 54.1 of the Civil Code, as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.”

16. Request to File Under Seal

Pursuant to Rules 11.1 and 11.4, Pub. Util. Code §583 and General Order 66-D, Starlink filed motions for leave to file documents on March 17, April 16, April 23, April 26, May 13, August 17, and September 23, 2021, as confidential materials under seal as summarized in the table below.

Date Motion Filed (in 2021)	Documents Requested to be Filed Under Seal	Contents of Exhibit(s)
March 17	Exhibit F to Application	Non-Public Financial information
April 16	Attachment A to Response	Identifying information of selected management
April 23	Attachments A and B to Response	Non-Public Technological and Financial information
April 26	Attachments A and B to Response	Non-Public Technological and Financial information
May 13	Attachments 1 and 5 to Response	Private Employee information and carriers that Applicant has contracted with
August 17	Attachments B and C to Response	Non-Public Technological and Financial information
September 23	Attachment A to Response	Non-Public Financial information

Starlink represents that the information contained in these exhibits is sensitive, and disclosure could place Starlink at an unfair business disadvantage. Having reviewed the exhibits, we agree that this material should be kept confidential for three years after the date of this decision and grant the request for that period.

17. Comments on Draft Decision

The proposed decision of Administrative Law Judge (ALJ) Seaneen Wilson in the matter was mailed to the parties in accordance with Pub. Util. Code § 311 and comments were allowed under Rule 14.3. Comments were filed on _____, and reply comments were filed on _____ by _____.

18. Assignment of Proceeding

Commissioner John Reynolds is the assigned Commissioner and Seaneen Wilson is the assigned ALJ in this proceeding.

Findings of Fact

1. Starlink is a telephone corporation and a public utility as defined in Pub. Util. Code § 234(a) and § 216(a).
2. Starlink indicates that it intends to install satellite gateways (earth stations) and telecommunications facilities (such as conduit and fiber optic cabling) for middle-mile terrestrial transport of communications, including VoIP and broadband data, to and from consumers of its satellite-based services. Starlink proposes that such outside plant construction would likely be relatively small in scale and would occur in previously-developed and disturbed areas.
3. The Commission is the Lead Agency for this project under CEQA.
4. Starlink's proposed construction activities appear to fall within one or more CEQA categorical exemptions.
5. Starlink's authority to provide telecommunications services will not have a significant adverse effect upon the environment.
6. Starlink has a minimum of \$100,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses.
7. No deposits are expected to be required by other telephone corporations to provide the proposed service.

8. Starlink's management possesses sufficient experience, knowledge, and technical expertise to provide local exchange services to the public.

9. The Applicant disclosed that the SEC filed a civil complaint against one of the officers of Starlink. Applicant explained that the complaint concerned was about a separate company, and was resolved without admission or denial of the allegations.

10. Except for the disclosure noted in Finding of Fact 9 above, no one associated with or employed by Starlink as an affiliate, officer, director, partner, agent, or owner (directly or indirectly) of more than 10 percent of Starlink, or anyone acting in a management capacity for Starlink: (a) held one of these positions with a company that filed for bankruptcy; (b) been personally found liable, or held one of these positions with a company that has been found liable, for fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; (c) been convicted of a felony; (d) been the subject of a criminal referral by judge or public agency; (e) had a telecommunications license or operating authority denied, suspended, revoked, or limited in any jurisdiction; (f) personally entered into a settlement, or held one of these positions with a company that has entered into settlement of criminal or civil claims involving violations of §§ 17000 *et seq.*, §§ 17200 *et seq.*, or §§ 17500 *et seq.* of the California Business & Professions Code, or of any other statute, regulation, or decisional law relating to fraud, dishonesty, failure to disclose, or misrepresentations to consumers or others; or (g) been found to have violated any statute, law, or rule pertaining to public utilities or other regulated industries; or (h) entered into any settlement agreements or made any voluntary payments or agreed to any other type of monetary forfeitures in resolution of any action by any regulatory body, agency, or attorney general.

11. To the best of Starlink's knowledge, neither Starlink, nor any affiliate, officer, director, partner, owner of more than 10 percent of Starlink, or any person acting in such capacity whether or not formally appointed, is being, or has been investigated by the FCC or any law enforcement or regulatory agency for failure to comply with any law, rule or order.

12. Starlink requested and is eligible for exemption from tariffing requirements and must observe the consumer protection rules adopted in D.98-08-031.

13. Starlink provided a map of the location of its proposed service territory.

14. Starlink has no information to report under Rule 3.1(i), which requires that a utility filing an application under Pub. Util. Code § 1001, provide a statement regarding compliance with GO 104-A, Section 2.

15. Starlink provided an estimate of its customer base and customer requirements for the first and fifth year of operation.

16. Pursuant to Rule 11.4, Starlink filed motions for leave to file confidential materials under seal, including a personal guaranty, account statement, long-form FCC application, non-audited financial statements, and audited 2019 financial statements.

17. Starlink provided proof of financial surety sufficient to cover the difference between the possible RDOF award and buildout costs of the FCC-identified locations in California, comprising the federal Commission's announced winning bid for Starlink.

18. The scale of expansion proposed by Starlink is managerially and operationally reasonable and feasible.

19. On February 7, 2020, the FCC adopted the RDOF Order program to build broadband in rural and unserved/underserved communities.

20. On December 7, 2020, the FCC issued a Public Notice announcing the winning bidders for the RDOF Phase I Auction 904. Starlink is among the 15 bidders that provisionally won RDOF awards in California.

21. Winning RDOF bidders must obtain an ETC designation in the state(s) where they seek support to receive federal funding.

22. Starlink satisfies the following federal and state ETC requirements in order to receive an ETC designation:

- a Starlink demonstrates that the services intended to be offered comply with the voice telephony definition – Pursuant to 47 U.S.C. § 214(e)(1) and (6), a carrier must submit that on a common carrier basis, it will provide the functional equivalent of voice-grade calls using VoIP technology through its own facilities-based network/infrastructure or a combination of its own facilities and resale of another carrier’s services.
- b Starlink will advertise the availability of voice and broadband services throughout the entire service areas.
- c Starlink commits to provide supported service throughout the designated service areas.
- d Starlink demonstrates that it has the ability to remain functional in emergency situations.
- e Starlink affirms that it is financially and technically capable of providing their proposed broadband Internet access and VoIP telephony services.
- f Starlink commits to meeting public interest requirements for the proposed service areas.
- g Starlink commits to satisfying all applicable state and federal consumer protection and service quality standards.

Conclusions of Law

1. Starlink should be granted a CPCN to provide (i) full facilities-based and resold competitive local exchange services in the service territories of

AT&T California, Frontier California, Frontier Communications, Consolidated Communications, (ii) full facilities-based and resold interexchange services in California, (iii) broadband internet and voice-over-internet service provider service, and (iv) be designated as an ETC in California, subject to the terms and conditions set forth in the Ordering Paragraphs.

2. Starlink should be allowed to use the Energy Division's 21-day CEQA exemption process.

3. Starlink, once granted a CPCN, should be subject to the applicable Commission rules, decisions, GOs, and statutes that pertain to California public utilities.

4. Starlink, once granted ETC status, should be subject to the applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

5. Starlink should be granted an exemption from the requirement to file tariffs at this time.

6. In the future, if Starlink decides to offer services that require a tariff or schedule, such basic service, Starlink should submit proposed tariffs and/or user guides and/or schedules to the Communications Division via Tier 2 advice letters using the GO 96-B advice letter process before initiation of service.

7. Starlink's motions to file under seal its Exhibit F to Application, Attachment A to its April 16, 2021 Response, Attachments A and B to its April 23, 2021 Response, Attachments A and B to its April 26, 2021 Response, Attachments 1 and 5 to its May 13, 2021 Response, Attachments B and C to its August 17, 2021 Response, and Attachment A to its September 23, 2021 Response, should be granted pursuant to the Ordering Paragraphs herein.

8. Starlink should be granted non-dominant carrier status, subject to Commission rules and regulations as detailed in D.85-01-008 and modified in D.85-07-081 and D.85-11-044.
9. Starlink should be exempted from any requirement to maintain its books and records in accordance with the USOA specified in Title 47 I.E Part 32.
10. Starlink's request for a limited exemption from Pub. Util. Code § 851 regarding the transfer or encumbrance of utility assets to secure debt should be granted.
11. Starlink should obtain a performance bond of at least \$25,000 in accordance with D.13-05-035.
12. Starlink should not allow its performance bond to lapse during any period of its operation.
13. The Commission has authority to grant requests for designation of ETC status, in accordance with the federal delegation of authority set forth in the Communications Act in 47 U.S.C. § 214.
14. Designating Starlink as an ETC is consistent with Res. T-17002.
15. Because Starlink satisfies the following federal and state ETC requirements it should be granted ETC designation:
 - a. Starlink demonstrates that the services intended to be offered comply with the voice telephony definition - Pursuant to 47 U.S.C. § 214(e)(1) and (6), a carrier must submit that on a common carrier basis, it will provide the functional equivalent of voice-grade calls using VoIP technology through its own facilities-based network/infrastructure or a combination of its own facilities and resale of another carrier's services.
 - b. Starlink will advertise the availability of voice and broadband services throughout the entire service areas.

- c. Starlink commits to provide supported service throughout the designated service areas.
- d. Starlink demonstrates that it has the ability to remain functional in emergency situations.
- e. Starlink affirms that it is financially and technically capable of providing their proposed broadband Internet access and VoIP telephony services.
- f. Starlink commits to meeting public interest requirements for the proposed service areas.
- g. Starlink commits to satisfying all applicable state and federal consumer protection and service quality standards.

16. Starlink's request for ETC designation to obtain federal high-cost support and LifeLine support, subject to authorization from the FCC on final approval of the RDOF award, should be authorized herein with the following conditions.

Starlink should:

- a. File required annual reports and compliance reports with the Commission, including FCC Form 481 and § 54.314 certifications;
- b. Provide ad-hoc and recurring reports to the Commission as required by Pub. Util. Code §§ 581, 582 and 584;
- c. Submit information to the USAC, pursuant to 47 CFR § 54.401(d), demonstrating that its Lifeline service meets the FCC requirements. A copy of the information submitted to USAC shall also be provided to the Director of the Communications Division, within 30 days after filing with USAC at email address cdcompliance@cpuc.ca.gov [mailto;](mailto:cdcompliance@cpuc.ca.gov);
- d. File a current copy of the Letter of Credit (as required by the FCC) shall also be provided to the Director of the Communications Division, using the email address as stated in the previous condition, within 30 days after issuance of this Decision;

- e. Continue to comply with CPUC User Fee and surcharge remittance and reporting requirements. Failure to do so may result in enforcement action including penalties, fines, denial, suspension, and/or revocation of its ETC be designated;
 - f. Contact the California LifeLine Program's Third-Party Administrator prior to offering federal VoIP Lifeline services and file Tier II Advice Letter with the Communications Division (CD) to provide terms and conditions, disclosures, and marketing materials, to the CPUC CD Staff for review and approval prior to dissemination, and/or availability to the public;
 - g. Post safety-related information about VoIP/satellite telephone service coverage limitations on distributed terms and conditions, disclosures, marketing materials, including scripts used by customer service representatives, and on its company website;
 - h. Abide by all applicable state and federal consumer protection rules, including CPUC GO 168, which is the Consumer Bill of Rights Governing Telecommunications Services;
 - i. To the extent applicable, if network facilities are located in Tier II and III HFTDs, comply with D.21-02-029 to ensure network resiliency and have at least 72-hours of backup in these facilities to provide uninterrupted services to the Californians; VoIP providers must maintain the 911 ALI database so that a caller's registered address will be available to first responders; and
 - j. Comply with all FCC RDOF program rules and regulations, including but not limited to service milestones, reporting requirements, and performance targets.
17. This proceeding should be closed.

O R D E R**IT IS ORDERED that:**

1. A certificate of public convenience and necessity is granted to Starlink Services, LLC to provide (i) full facilities-based and resold competitive local exchange services in the territories of Pacific Bell Telephone Company d/b/a AT&T California, Frontier California Inc., Citizens Telecommunications Company of California, Inc. d/b/a/ Frontier Communications of California, and Consolidated Communications of California Company, (ii) full facilities-based and resold interexchange services in California, (iii) broadband internet and voice-over-internet service provider service, and (iv) be designated as an Eligible Telecommunications Carrier in California, subject to the terms and conditions in this decision.

2. The request of Starlink Services, LLC to be designated as an Eligible Telecommunications Carrier (ETC) is granted, subject to authorization from the Federal Communications Commission (FCC) on final approval of the Rural Digital Opportunity Fund (RDOF) award, and with the following conditions. Starlink must:

- a. File required annual reports and compliance reports with the California Public Utilities Commission (Commission), including FCC Form 481 and § 54.314 certifications;
- b. Provide ad-hoc and recurring reports to the Commission as required by Public Utilities (PU) Code §§ 581, 582 and 584;
- c. Submit information to the Universal Service Administrative Company (USAC), pursuant to 47 CFR § 54.401(d), demonstrating that its Lifeline service meets the FCC requirements. A copy of the information submitted to USAC shall also be provided to the Director of the Commission's Communications Division, within 30 days after filing with USAC at email address cdcompliance@cpuc.ca.gov;

- d. File a current copy of the Letter of Credit (as required by the FCC) shall also be provided to the Director of the Commission's Communications Division, using the email address as stated in the previous condition, within 30 days after issuance of this Decision;
- e. Continue to comply with the California Public Utilities Commission User Fee and surcharge remittance and reporting requirements. Failure to do so may result in enforcement action including penalties, fines, denial, suspension, and/or revocation of its ETC be designated;
- f. Contact the California LifeLine Program's Third-Party Administrator prior to offering federal Voice Over Internet Protocol (VoIP) Lifeline services and file Tier II Advice Letter with the Commission's Communications Division to provide terms and conditions, disclosures, and marketing materials, to the Commission's Communications Division Staff for review and approval prior to dissemination, and/or availability to the public;
- g. Post safety-related information about VoIP/satellite telephone service coverage limitations on distributed terms and conditions, disclosures, marketing materials, including scripts used by customer service representatives, and on its company website;
- h. Abide by all applicable state and federal consumer protection rules, including Commission General Order 168, which is the Consumer Bill of Rights Governing Telecommunications Services;
- i. To the extent applicable, if network facilities are located in Tier II and III High Fire Threat Districts, comply with Commission Decision 21-02-029 to ensure network resiliency and have at least 72-hours of backup in these facilities to provide uninterrupted services to the Californians;
- j. Maintain the 911 ALI database so that a caller's registered address is available to first responders; and

- k. Comply with all FCC RDOF program rules and regulations, including but not limited to service milestones, reporting requirements, and performance targets.
3. The corporate identification number assigned to Starlink Services, LLC, U-7386-C, must be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.
4. Starlink Services, LLC must file, in this docket, a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this decision. Written acceptance filed in this docket does not reopen the proceeding.
5. The certificate granted by this decision will expire if not exercised within 24 months of the effective date of this decision. If the applicant requires additional time to commence service, applicant must submit a request for an extension of time to comply with a Commission decision by email or letter to the Executive Director at least five business days before the existing date for compliance pursuant to Rule 16.6 of the Commission's Rules of Practice and Procedure.
6. Starlink Services, LLC must notify the Director of the Communications Division of the date that competitive local exchange service is first rendered to the public, no later than five days after service first begins, by email to cdcompliance@cpuc.ca.gov.
7. Starlink Services, LLC (Starlink) must obtain a performance bond of at least \$25,000 in accordance with Decision 13-05-035. The performance bond must be a continuous bond (i.e., there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the California Public Utilities Commission must be listed as the obligee on the bond. Within five days of acceptance of its certificate of public convenience and necessity authority, Starlink must submit a Tier-1 Advice Letter to the

Communications Division, containing a copy of the license holder's executed bond, and submit a Tier-1 Advice Letter annually, but not later than March 31 of each year, with a copy of the executed bond.

8. Starlink Services, LLC must not allow its performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the Commission may revoke a certificate of public convenience and necessity if a carrier is more than 120 days late in providing the Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Communications Division.

9. In addition to all the requirements applicable to competitive local exchange carriers and interexchange carriers included in Attachments B, C, and D to this decision, Starlink Services, LLC is subject to the Consumer Protection Rules contained in General Order 168, and all applicable California Public Utilities Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

10. Starlink Services, LLC (Starlink) must report intrastate revenue and pay the resulting public purpose program surcharges specified in Attachment B monthly, through the Commission's proprietary Telecommunications and User Fee Filing System (TUFFS) even if there are no revenues (\$0) and resulting surcharges to report and remit. The Commission's Communications Division must issue a compliance directive to the Starlink primary contact, providing directions for reporting and remitting surcharges and the User Fee through the TUFFS system.

11. Starlink Services, LLC must pay an annual minimum user fee of \$100 or at the standard user fee remittance rate applied to the gross intrastate revenue, whichever is greater. The standard user fee remittance rate is posted on the

Commission's webpage. Under Public Utilities Code § 405, carriers that are in default of reporting and submitting user fees more than 30 days after the quarterly user fee payment due dates of January 15th, April 15th, July 15th, and October 15th, or more than 30 days after the January 15th due date for those utilities paying the annual minimum user fee of \$100, will be subject to penalties including suspension or revocation of their authority to operate in California.

12. Prior to initiating service, Starlink Services, LLC must provide the Commission's Consumer Affairs Branch with the name(s), address(es), e-mail address, and telephone number(s) of its designated contact person(s) for purposes of resolving consumer complaints. This information must be updated if the name(s), address(es), or telephone number(s) change, or at least annually.

13. Prior to initiating service, Starlink Services, LLC must provide the Commission's Communications Division with the name(s), address(es), e-mail address, and telephone number(s) of its designated regulatory/official contact person(s). This information must be provided electronically, using the "Contact Information Request Update" form at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone> under Service Provider Requirements and Programs. This information must be updated if the name or telephone number changes, or at least annually by June 1 of each calendar year.

14. Starlink Services, LLC must submit an affiliate transaction report to the Director of the Commission's Communications Division, by email to cdcompliance@cpuc.ca.gov, in compliance with Decision (D.) 93-02-019, on a calendar year basis using the form contained in Attachment D.

15. Starlink Services, LLC must submit an annual report to the Director of the Commission's Communications Division, by email to cdcompliance@cpuc.ca.gov, in compliance with General Order 104-A, on a

calendar-year basis with the information contained in Attachment C to this decision.

16. The staff of the Commission's Energy Division is authorized to review, process, and act upon Starlink Services, LLC's requests for a determination that its full facilities-based construction activities are exempt from the requirements of the California Environmental Quality Act.

17. If Starlink Services, LLC (Starlink) wishes to engage in full facilities-based construction activities and believes that these activities are exempt from California Environmental Quality Act (CEQA), Starlink shall first apply to the Commission's Energy Division staff for a determination of exemption from CEQA by providing the Commission's Energy Division (Energy Division) with:

- a. A detailed description of the proposed project, including:
 - i. Customer(s) to be served;
 - ii. The precise location of the proposed construction project; and
 - iii. Regional and local site maps.
- b. A description of the environmental setting, including at a minimum:
 - i. Cultural, historical, and paleontological resources;
 - ii. Biological resources; and
 - iii. Current land use and zoning.
- c. A construction workplan, including:
 - i. Commission Preconstruction Survey Checklist – Archaeological Resources;
 - ii. Commission Preconstruction Survey Checklist – Biological Resources;
 - iii. A detailed schedule of construction activities, including site restoration activities;
 - iv. A description of construction/installation techniques;

- v. A list of other agencies contacted with respect to siting, land use planning, and environmental resource issues, including contact information; and
- vi. A list of permits required for the proposed project.
- d. A statement of the CEQA exemption(s) claimed to apply to the proposed project; and
- e. Documentation supporting the finding of exemption from CEQA.
- f. The Energy Division will then review the submittal and notify Starlink of either its approval or its denial of Starlink's claim for exemption from CEQA review within 21 days from the time that Starlink's submittal is complete.

18. If the Commission's Energy Division (Energy Division) approves Starlink Services, LLC's (Starlink) claimed California Environmental Quality Act (CEQA) exemption(s), the staff shall prepare a Notice to Proceed and file a Notice of Exemption with the State Clearinghouse, Office of Planning and Research. If the Energy Division disapproves Starlink's claimed CEQA exemptions, the staff shall issue to Starlink a letter which states the specific reasons that the claimed CEQA exemptions do not apply to the proposed project.

19. If the Commission's Energy Division disapproves Starlink Services, LLC's (Starlink) claimed CEQA exemption(s), Starlink shall either re-design the specific project and facilities and then reapply for a finding of exemption from CEQA, or file a formal application with the Commission seeking the requisite approval and full CEQA review, before commencing any full facilities-based construction activities.

20. Starlink Services, LLC is granted an exemption from the requirement to file tariffs at this time.

21. In the future, if Starlink Services, LLC's (Starlink) decides to offer services that require a tariff, such as basic service, Starlink must submit proposed tariffs

and/or user guides to the Commission's Communications Division via Tier 2 Advice Letters using the General Order 96-B Advice Letter process 30 days before initiation of service.

22. Starlink Services, LLC's request for a limited exemption from Public Utilities Code § 851 regarding the transfer or encumbrance of utility assets to secure debt is granted.

23. Starlink Services, LLC's (Starlink) motions to file under seal its Exhibit F to Application, Attachment A to its April 16, 2021 Response, Attachments A and B to its April 23, 2021 Response, Attachments A and B to its April 26, 2021 Response, Attachments 1 and 5 to its May 13, 2021 Response, Attachments B and C to its August 17, 2021 Response, and Attachment A to its September 23, 2021 Response, are granted for a period of three years after the date of this decision. During this three-year period, this information shall not be publicly disclosed except on further Commission order or ALJ ruling. If Starlink believes that it is necessary for this information to remain under seal for longer than three years, Starlink may file a new motion showing good cause for extending this order by no later than 30 days before the expiration of this order.

24. Application 21-03-009 is closed.

This decision is effective today.

Dated _____, at Sacramento, California.

ATTACHMENT A

This attachment is intentionally left blank.

(END OF ATTACHMENT A)

ATTACHMENT B

ATTACHMENT B**REQUIREMENTS APPLICABLE TO COMPETITIVE LOCAL EXCHANGE CARRIERS AND INTEREXCHANGE CARRIERS**

1. Applicant must file, in this docket with reference to this decision number,³² a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.

2. The certificate granted and the authority to render service under the rates, charges, and rules authorized will expire if not exercised within 24 months of the date of this decision.

3. Applicant is subject to the following fees and surcharges that must be regularly remitted. Per the instructions in Exhibit E to Decision (D.) 00-10-028, carriers authorized to operate in California shall report intrastate revenue and remit the resulting public purpose program surcharges specified as follows monthly, through the Commission's proprietary Telecommunications and User Fee Filing System (TUFFS) even if there is no intrastate revenue (\$0) and resulting surcharges to report and remit. Communications Division shall issue a compliance directive to the carrier's primary contact, providing directions for reporting and remitting surcharges and the User Fee through TUFFS.

- a. The Universal Lifeline Telephone Service Trust Administrative Committee Fund (Pub. Util. Code § 277);
- b. The California Relay Service and Communications Devices Fund (Pub. Util. Code § 2881; D.98-12-073);
- c. The California High-Cost Fund-A (Pub. Util. Code § 275.6; D.96-10-066, at 3-4, App. B, Rule 1.C);

³² Written acceptance filed in this docket does not reopen the proceeding.

- d. The California High-Cost Fund-B (Pub. Util. Code § 276.5), D.96-10-066, at 191, App. B, Rule 6.F.; D.07-12-054);
- e. The California Advanced Services Fund (Pub. Util. Code § 281; D.07-12-054);
- f. The California Teleconnect Fund (Pub. Util. Code § 280; D.96-10-066, at 88, App. B, Rule 8.G);
- g. The User Fee provided in Pub. Util. Code §§ 431-435. The minimum annual User Fee is \$100, as set forth in D.13-05-035.

Note: These fees change periodically. In compliance with Resolution T-16901, December 2, 2004, Applicant must check the joint tariff for surcharges and fees filed by Pacific Bell Telephone Company (d/b/a AT&T California) and apply the current surcharge and fee amounts in that joint tariff on end-user bills until further revised. Current and historical surcharge rates can be found at

<https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/telecommunications-surcharges-and-user-fees/surcharge-rates>.

- i. Carriers must report and remit CPUC telephone program surcharges online using the CPUC TUFFS. Information and instructions for online reporting and payment of surcharges are available at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone/telecommunications-surcharges-and-user-fees>. **Error! Hyperlink reference not valid.** To request a user ID and password for TUFFS online filing and for questions, please e-mail Telcosurcharge@cpuc.ca.gov.
- ii. Carriers must submit and pay the PUC User Fee (see Item 3.g above) quarterly, through the Commission's TUFFS system within 15 days after the end of each calendar quarter (December 31, March 31, June 30 and September 30) and by the 30th day after the 15-day reporting and payment requirement to avoid a

one-time 25% penalty. For questions regarding the User Fee, please email userfees@cpuc.ca.gov.

4. If Applicant is a competitive local exchange carrier, the effectiveness of its future competitive local exchange carrier tariffs is subject to the requirements of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).

5. If Applicant is a non-dominant interexchange carrier, the effectiveness of its future non-dominant interexchange carrier tariffs is subject to the requirement of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).

6. Tariff filings must reflect all fees and surcharges to which Applicant is subject, as reflected in Item 3 above.

7. Applicant must obtain a performance bond of at least \$25,000 in accordance with Decision 13-05-035. The performance bond must be a continuous bond (*i.e.*, there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of acceptance of its certificate of public convenience and necessity authority, Applicant must submit a Tier-1 Advice Letter to the Communications Division, containing a copy of the license holder's executed bond, and submit a Tier-1 Advice Letter annually, but not later than March 31, with a copy of the executed bond.

8. Applicant must not allow its performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the Commission may revoke a certificate of public convenience and necessity if a carrier is more than 120 days late in providing the Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Communications Division.

9. Applicants providing local exchange service must submit a service area map as part of their initial tariff to the Communications Division.

10. Prior to initiating service, Applicant must provide the Commission's Consumer Affairs Branch with the name(s), address(es), e-mail address(es) and telephone number(s) of its designated contact person(s) for purposes of resolving consumer complaints. This information must be provided electronically, using the "Contact Information Request Update" form found at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone> under Service Provider Requirements and Programs. This information must be updated if the name(s), address(es), and telephone number(s) change, or at least annually by June 1 of each calendar year.

11. In addition, Applicant must provide the Commission's Communications Division with the name(s), address(es), and telephone number(s) of its designated regulatory/official contact persons(s). This information must be provided electronically, using the "Contact Information Request Update" form found at <https://www.cpuc.ca.gov/industries-and-topics/internet-and-phone> under Service Provider Requirements and Programs. This information must be updated if the name(s), address(es), and telephone number(s) change, or at least annually by June 1 of each calendar year.

12. Applicant must notify the Director of the Communications Division, in writing submitted by email to cdcompliance@cpuc.ca.gov, no later than five days after service first begins, of the date that local exchange service is first rendered to the public.

13. Applicant must keep its books and records in accordance with the Generally Accepted Accounting Principles.

14. In the event Applicant's books and records are required for inspection by the Commission or its staff, it must either produce such records at the Commission's offices or reimburse the Commission for the reasonable costs incurred in having Commission staff travel to its office.

15. Applicant must submit an annual report to the Director of the Communications Division at cdcompliance@cpuc.ca.gov, in compliance with GO 104-A, on a calendar-year basis with the information contained in Attachment C to this decision.

16. Applicant must submit an affiliate transaction report to the Director of the Communications Division at cdcompliance@cpuc.ca.gov, in compliance with D.93-02-019, on a calendar-year basis using the form contained in Attachment D.

17. Applicant must ensure that its employees comply with the provisions of Pub. Util. Code § 2889.5 regarding solicitation of customers.

18. Within 60 days of the effective date of this order, Applicant must comply with Pub. Util. Code § 708, Employee Identification Cards, and notify the Director of the Communications Division of its compliance in writing, by email to cdcompliance@cpuc.ca.gov.

19. If Applicant is 90 days or more late in submitting an annual report, or in remitting the surcharges and fee listed in #3 above, and has not received written permission from the Communications Division to file or remit late: the Communications Division must issue a citation pursuant to Resolution T-17601. Failure to comply with the issued citation or timely appeal the citation may result in a revocation of the company's operating authority and/or a referral to the CPUC Consumer Protection and Enforcement Division (CPED) for enforcement action, which could result in additional fines, penalties, or other sanctions.

20. Applicant is exempt from Rule 3.1(b) of the Commission's Rules of Practice and Procedure.

21. Applicant is exempt from Pub. Util. Code §§ 816-830.

22. If Applicant decides to discontinue service or file for bankruptcy, it must immediately notify the Communications Division's Bankruptcy Coordinator.

23. Applicant must send a copy of this decision to concern local permitting agencies no later than 30 days from the date of this order.

(END OF ATTACHMENT B)

ATTACHMENT C

**ATTACHMENT C
ANNUAL REPORT**

In addition to the annual reports requirement pursuant to General Order 104-A, submit the following information electronically via email to cdcompliance@cpuc.ca.gov no later than March 31st of the year following the calendar year for which the annual report is submitted.

Failure to submit this information on time may result in a penalty as provided for in Pub. Util. Code §§ 2107 and 2108.

1. Required information: Exact legal name and U # of the reporting utility.
2. Address.
3. Name, title, address, and telephone number of the person to be contacted concerning the reported information.
4. Name and title of the officer having custody of the general books of account and the address of the office where such books are kept.
5. Type of organization (*e.g.*, corporation, partnership, sole proprietorship, etc.).
If incorporated, specify:
 - a. Date of filing articles of incorporation with the Secretary of State.
 - b. State in which incorporated.
6. Number and date of the Commission decision granting the Certificate of Public Convenience and Necessity.
7. Date operations were begun.
8. Description of other business activities in which the utility is engaged.
9. List of all affiliated companies and their relationship to the utility. State if affiliate is a:
 - a. Regulated public utility.
 - b. Publicly held corporation.
10. Balance sheet as of December 31st of the year for which information is submitted.
11. Income statement for California operations for the calendar year for which information is submitted.

12. Cash Flow statement as of December 31st of the calendar year for which information is submitted, for California operations only.

For any questions concerning this report, please send an email to cdcompliance@cpuc.ca.gov with a subject line that includes: "CD Annual Reports."

(END OF ATTACHMENT C)

ATTACHMENT D

ATTACHMENT D
CALENDAR YEAR AFFILIATE TRANSACTION REPORT

Submit the following information electronically via e-mail to cdcompliance@cpuc.ca.gov no later than May 1st of the year following the calendar year for which the annual affiliate transaction report is submitted.

1. Each utility must list and provide the following information for each affiliated entity and regulated subsidiary that the utility had during the period covered by the Annual Affiliate Transaction Report.

- Form of organization (*e.g.*, corporation, partnership, joint venture, strategic alliance, etc.);
- Brief description of business activities engaged in;
- Relationship to the utility (*e.g.*, controlling corporation, subsidiary, regulated subsidiary, affiliate);
- Ownership of the utility (including type and percent ownership)
- Voting rights held by the utility and percent; and
- Corporate officers.

2. The utility must prepare and submit a corporate organization chart showing any and all corporate relationships between the utility and its affiliated entities and regulated subsidiaries in #1 above. The chart must have the controlling corporation (if any) at the top of the chart, the utility and any subsidiaries and/or affiliates of the controlling corporation in the middle levels of the chart, and all secondary subsidiaries and affiliates (*e.g.*, a subsidiary that in turn is owned by another subsidiary and/or affiliate) in the lower levels. Any regulated subsidiary must be clearly noted.

3. For a utility that has individuals who are classified as “controlling corporations” of the competitive utility, the utility must only report under the requirements of #1 and #2 above any affiliated entity that either (a) is a public utility or (b) transacts any business with the utility filing the annual report excluding the provision of tariff services.

4. Each annual report must be signed by a corporate officer of the utility stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.

5. Any required material that a utility is unable to provide must be reasonably described and the reasons the data cannot be obtained, as well as the efforts expended to obtain the information, must be set forth in the utility's Annual Affiliate Transaction Report and verified in accordance with Section I-F of Decision 93-02-019.

6. Utilities that do not have affiliated entities must submit, in lieu of the annual transaction report, an annual statement to the Commission stating that the utility had no affiliated entities during the report period. This statement must be signed by a corporate officer of the utility, stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.

For any questions concerning this report, please send an e-mail to cdcompliance@cpuca.ca.gov with a subject line that includes: "CD Annual Reports."

(END OF ATTACHMENT D)