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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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| In the Matter of the Application of Starlink Services, LLC for Designation as an Eligible Telecommunications Carrier for Purposes of Receiving Rural Digital Opportunities Fund Support | Docket No. 21-2624-01 |
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Direct Testimony of
Brock Johansen
On behalf of
Utah Rural Telecom Association and its Members

1 **I. Witness Qualifications**

2 **Q. Please state your name, occupation and business address.**

3 A. Brock Johansen. I am the Chief Executive Officer of Emery Telephone (“Emery”),
4 Carbon/Emery Telcom, Inc., Hanksville Telcom, Inc., Emery Telcom HC, Inc., E Fiber
5 Moab, LLC, E Fiber San Juan, LLC, and Emery Telecommunications & Video, Inc.
6 (“Emery Telcom”). Emery Telcom’s business address is 455 East Highway 29,
7 Orangeville, Utah 84537.

8
9 **Q. Please state your educational background and professional background.**

10 A. I have a Bachelor of Science degree in Business and a Juris Doctorate from Brigham
11 Young University. I practiced law in Provo, Utah prior to joining Emery Telcom in 2005.

12

13 **Q. Are you authorized to provide testimony in this case on behalf of the Utah Rural
14 Telecom Association?**

15 A. Yes. In addition to being a member of the Utah Rural Telecom Association (URTA), I am
16 currently the second vice president of URTA.

17

18 **Q. What Starlink materials have you reviewed in this proceeding?**

19 A. I have reviewed the Application of Starlink for Designation as and Eligible
20 Telecommunications Carrier (ETC) for Purpose of Receiving RDOF Funding
21 (“Application”) and the Direct Testimony of Matt Johnson filed on behalf of Starlink in

22 support of its Application. Additionally, I have some personal experience with the
23 subjects on which I am providing testimony.

24

25 **Q. What subjects are those?**

26 A. The purpose of my testimony is to demonstrate that the Federal Communications
27 Commission's (FCC) awarding of RDOF, and the Utah Public Service Commission's
28 (Commission) granting of ETC designation, to Starlink has had, and is likely to have, a
29 detrimental effect on URITA members companies' participation in the USDA ReConnect
30 Loan and Grant Program ("ReConnect Program").

31

32 **Q. How will Starlink's designation as an ETC by the Utah Public Service Commission**
33 **affect URITA members' participation in the ReConnect Program?**

34 A. Starlink's service plans in the RDOF Utah census blocks directly impacted the
35 availability of ReConnect loans and grants in those areas. In 2020, Emery Telcom
36 applied for a ReConnect grant to serve areas in Grand and San Juan counties with fiber to
37 the premise facilities ("ReConnect II Application"). Emery Telcom's ReConnect II
38 Application contained proposed funded service areas (PFSAs) in San Juan and Grand
39 county. The FCC's conditional award to SpaceX/Starlink of RDOF support in Utah
40 included census blocks in San Juan and Grand counties that were also contained in Emery
41 Telcom's ReConnect II Applications. As the FCC conditionally awarded RDOF support
42 to Starlink in Utah, Emery Telcom received a letter from the USDA/RUS on November
43 24, 2020 ("USDA Letter") indicating, among other things, that:

44 “Areas that the FCC has classified as eligible for the Rural Digital Opportunity
45 Fund (RDOF) are ineligible areas [for ReConnect applications]. All parts of the
46 Proposed Funded Service Areas (PFSA) that overlap an RDOF area must be
47 removed and appropriate changes throughout the application must be completed.”
48

49 **Q. How did Emery Telcom respond to the USDA Letter?**

50 A. Emery Telcom petitioned RUS, USDA, and the FCC to allow Emery Telcom to serve the
51 original PFSAs inside SpaceX’s awarded RDOF areas for the following reasons:

- 52 • Emery Telcom had applied to USDA ReConnect to serve the PFSAs prior to
53 inclusion of portions of these PFSAs in Census Block Groups (CBG) of the FCC
54 RDOF auction.
- 55 • Emery Telcom can reasonably serve the PSFA locations with a 100% fiber solution
56 due to their close proximity to Emery Telcom’s existing middle mile and exchange
57 fiber plant.
- 58 • While Emery Telcom had been bidding on some of the RDOF census blocks that
59 SpaceX was ultimately awarded, Emery Telcom ultimately had to stop bidding on
60 those areas for the following reasons:
 - 61 ○ Emery Telcom was not notified of the ReConnect Application status from
62 USDA on the Grand San Juan until AFTER the RDOF auctions and the
63 RDOF reserve price was too low to support a 100% fiber infrastructure inside
64 the entire census block group.

- 65 ○ The RDOF auctions would not allow a mix of technologies inside a CBG or a
66 change in the technology (cheaper deployment) being bid by a bidder after
67 the auction began (ie: we could not switch from FTTH to WISP technology).
68 ○ RDOF funding requires a provider to obtain State designation of ETC status
69 to serve as well as provide voice service. As some of the Space X CBGs
70 actually overlap existing ILEC serving areas where coverage is already
71 provided, and the state has previously been reluctant to award ETC status in
72 rural high cost exchanges less than 5,000 subs, it is possible that SpaceX will
73 be denied ETC status in the subject census block groups.
74 ○ SpaceX is offering a solution suitable for unique, temporary applications, but
75 should be viewed as secondary or supplementary to a robust land/facilities-
76 based solutions such as the Gigabit+ capable fiber network proposed by
77 Emery Telcom.
78 • Based on those arguments Emery Telcom revised its application to address the
79 other issues identified in the USDA Letter, but continued to include the areas
80 within the SpaceX awarded RDOF areas that were shown to be completely
81 underserved.

82

83 **Q. Has USDA/RUS acted on your resubmitted second chance application?**

84 A. Not yet.

85

86 **Q. What are your concerns with Starlink's Application for ETC designation?**

87 A. I have several concerns with designating Starlink as an ETC in the State of Utah. First, I
88 don't think the evidence presented in the record by Starlink is detailed enough to support
89 ETC designation. Starlink has provided only vague claims that they will be offering
90 voice service as a common carrier using a white label service of another provider, but
91 they offer no details on who that provider might be, or how the service will be performed.
92 I do not believe the vague conclusory statements contained in the testimony provide
93 enough detailed analysis to permit the State of Utah to designate Starlink as an ETC.
94 Starlink should provide, and the Commission should require facts and evidence to
95 confirm that Starlink is or will be a telecommunications carrier, and that the service they
96 propose to offer is in fact telecommunications service. This should include detailed
97 findings as to the parameters of that service such as tariffing or other indicators of public
98 offering. The record should also include evidence as to the rates at which such service
99 will be offered to the public. If the service will not be provided at an affordable rate, it
100 will not be adopted by subscribers, yet, as discuss below, it's deployment may undermine
101 public funding for other technologies in the areas.

102 Second, I am concerned that the Starlink voice service is an unproven and
103 untested service. The voice service to be provided by Starlink will need to be able to
104 complete emergency 911 calling for the subscribers. Besides a conclusory statement that
105 Starlink will provide 911 service, there is no technical evidence in the record explaining
106 how that will be completed, or whether Starlink's equipment will permit simultaneous
107 911 calling to all its RDOF supported locations.

108 Finally, I am concerned about the public policy of designating Starlink as an ETC
109 in Utah. While satellite service may provide access to unserved locations, it's
110 deployment should not be a roadblock to access public funding sources for the
111 deployment of more proven technologies, such as fiber to the premises. Utah should be
112 mindful of whether approving Starlink as an ETC will bar access to other federal and
113 state funding programs for the deployment of terrestrial broadband infrastructure in
114 RDOF areas.

115 For these reasons, I do not think the State of Utah should merely rubber-stamp
116 this Application, but rather should ensure that the record is developed robustly and
117 completely before making this determination which is likely to have long-term public
118 policy implications in Utah.

119

120 **Q. Does this conclude your testimony?**

121 **A. Yes.**

CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of March, 2021, I served a true and correct copy of the Direct Testimony of Brock Johansen in Docket 21-2624-01 via e-mail transmission to following persons at the e-mail addresses listed below:

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