

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

JAMES R. THOMAS; GEORGE WYATT  
THOMAS and CAROLINE LACE  
GABBARD, his wife; CLIFTON  
WOODROW GREENE, JR.; AND  
MICHELLE RICHARDS; AND ON BEHALF  
OF A CLASS OF ALL OTHER PERSONS  
SIMILARLY SITUATED,

**Plaintiffs**

v.

Case No. 3:24-cv-01213

SUWANNEE VALLEY ELECTRIC,  
COOPERATIVE INC., a Florida Not for  
Profit Corporation; and RAPID  
FIBER INTERNET, LLC, a  
Florida  
Limited Liability Company,

**Defendants**

**PLAINTIFFS' AMENDED CLASS ACTION COMPLAINT**

**TO THE HONORABLE UNITED STATES DISTRICT COURT:**

Plaintiffs James R. Thomas, George Wyatt Thomas, Caroline Lace Gabbard, Clifton Woodrow Greene, Jr., and Michelle Richards (collectively, the "Representative Plaintiffs"), for themselves and all similarly situated Florida property owners in Suwannee, Lafayette, Hamilton, and northern Columbia Counties, Florida (the "Class Members"), bring this class action against Defendants Suwannee Valley Electric Cooperative, Inc. ("SVEC") and Rapid

Fiber Internet, LLC (“RFI”) (together, “Defendants”), and respectfully show the following:

**NATURE OF THE CASE**

1. This is a takings case. Beginning in at least early 2023, Defendants commenced constructing, operating, marketing, leasing, and utilizing a 4,100+ mile fiber optic communications network (the “Network”) over Representative Plaintiffs’ and Class Members’ land for purposes unrelated to the transmission and distribution of electricity and/or Defendants’ electricity-related internal communications without Representative Plaintiffs’ and Class Members’ authorization, without notifying Representative Plaintiffs and Class Members, and without paying Representative Plaintiffs and Class Members for the right to do so. Defendants’ wrongful actions, inaction, and/or omissions continue and will only expand going forward.

2. The Network is (and will continue to be) constructed over SVEC’s existing electric power transmission and distribution system constructed on land owned by Representative Plaintiffs and Class Members. Defendants are surreptitiously using (and will continue to use) the Network to transmit commercial, third-party voice, data, and video communications and internet access for profit (collectively, “General Broadband Communications”). Such General Broadband Communications are not authorized by the uniform granting

language in the Right-of-Way (“ROW”) Agreements over Representative Plaintiffs’ and Class Members’ land (to the extent such ROW Agreements exist). Nor have Defendants paid Representative Plaintiffs and Class Members for the right to transmit General Broadband Communications over the Network.

3. As such, Defendants have unconstitutionally infringed on and taken Representative Plaintiffs’ and Class Members’ property rights, without just compensation and without notice to representative Plaintiffs and Class Members, in violation of 42 U.S.C. § 1983, the Fifth Amendment of the United States, and Article X, Section 6(a) of the Florida Constitution (and continue to do so). Defendants’ wrongful actions, inaction, and/or omissions are part of an unlawful scheme to surreptitiously cheat, steal, and take Representative Plaintiffs’ and Class Members’ property rights, and the money derived from such property rights (*i.e.*, the revenues generated from the surreptitious transmission of General Broadband Communications over the Network).

4. Defendants’ wrongful actions, inaction, and/or omissions were committed willfully, maliciously, and with reckless disregard of Representative Plaintiffs’ and Class Members’ property rights in their land and the use of the fruits of their land. By their wrongful actions, inaction, and/or omissions, Defendants intended to injure and harm and, in fact, injured and harmed

Representative Plaintiffs and Class Members in their property and property rights (and continue to do so).

5. Representative Plaintiffs bring this action on behalf of a Class of all individuals and entities that own land in Suwannee, Lafayette, Hamilton, and northern Columbia Counties, Florida over which the Network was (and continues to be) constructed and operated to surreptitiously transmit General Broadband Communications unrelated to the transmission and distribution of electricity and/or Defendants' electricity-related internal communications.

6. Representative Plaintiffs, for themselves and Class Members, seek actual damages, all amounts by which Defendants have been unjustly enriched, punitive damages, attorneys' fees, litigation expenses, court costs, a factor for the time value of money, and equitable relief as may be appropriate, including, without limitation, declaratory relief, an equitable accounting, and/or disgorgement of Defendants' financial benefits from surreptitiously transmitting General Broadband Communications over the Network.

### **JURISDICTION AND VENUE**

7. This Court has subject matter jurisdiction over Representative Plaintiffs' and Class Members' claims under 28 U.S.C. §§ 1331 and 1343 because this action is brought to enforce their rights under 42 U.S.C. § 1983 and the Fifth

Amendment of the United States Constitution, as made applicable to the states through the Fourteenth Amendment of the United States Constitution.<sup>1</sup>

8. This Court has *in personam* jurisdiction over Defendants because at all relevant times, Defendants were found, resided, and/or conducted business in the Middle District of Florida (and continue to do so). Defendants' wrongful actions, inaction, and/or omissions alleged herein were directed, and had the intended effect of causing injury, to individuals and entities owning land in the Middle District of Florida over which the Network is (and will be) constructed and used to surreptitiously transmit General Broadband Communications.

9. Venue is proper in the Jacksonville Division of the Middle District of Florida under 28 U.S.C. § 1391(b) because Defendants reside, transact business, and/or are found in the Jacksonville Division of the Middle District of Florida, and Defendants' wrongful actions, inaction, and/or omissions alleged herein occurred (and continue to occur) within the Jacksonville Division of the Middle District of Florida.

### **PARTIES**

10. Representative Plaintiff James R. Thomas is a resident of Suwannee County, Florida, who owns over two hundred (200) acres of land in Suwannee County, Florida, underlying Defendants' electric power transmission and/or

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<sup>1</sup> *Burlington & Quincy Railroad Company v. City of Chicago*, 166 U.S. 226 (1897).

distribution lines and the Network – over which Defendants have surreptitiously transmitted, and continue to transmit, General Broadband Communications for profit without authorization. Of his acreage, ten (10) acres are encumbered by a standard SVEC ROW Agreement allowing the transmission and distribution of electricity and Defendants’ electricity-related internal communications.

Representative Plaintiff James Thomas’ remaining acreage is nevertheless crossed by other SVEC electric power distribution and/or transmission lines without a ROW Agreement. Defendants never notified Representative Plaintiff James R. Thomas that the Network constructed over his land would be used to transmit General Broadband Communications or paid him for the right to do so. Representative Plaintiff James R. Thomas’ land in Suwannee County, Florida, is identified as tax parcel numbers 17-02S-13E-05240-000000, 18-02S-13E-05241-000000, 18-02S-13E-05241-001000, 14-02S-12E-09934-000000, 14-02S-12E-09936-000000, and 23-02S-12E-10014-000000.

**11.** Representative Plaintiffs George Wyatt Thomas and Caroline Lace Gabbard, husband and wife, are residents of Suwannee County, Florida, who own twenty (20) acres of land in Suwannee County, Florida underlying SVEC’s electric power transmission and/or distribution lines and the Network – over which Defendants have surreptitiously transmitted, and continue to transmit, General Broadband Communications for profit without authorization. All their

acreage is encumbered by a SVEC ROW Agreement allowing the transmission and distribution of electricity and Defendants' electricity-related internal communications. Defendants never notified Representative Plaintiff George Wyatt Thomas and Caroline Lace Gabbard that the Network constructed over their land would be used to transmit General Broadband Communications or paid them for the right to do so. Representative Plaintiffs George Wyatt Thomas' and Caroline Lace Gabbard's land in Suwannee County, Florida, is identified as tax parcel number 14-02S-12E-09938-000040.

12. Representative Plaintiff Clifton Woodrow Greene, Jr. is a resident of Suwannee County, Florida, who owns one hundred twenty-five (125) acres of land in Suwannee County, Florida underlying SVEC's electric power transmission and/or distribution lines – over which Defendants have surreptitiously transmitted, and continue to transmit, General Broadband Communications for profit without authorization. Of his acreage, sixty (60) acres are encumbered by a standard SVEC ROW Agreement allowing the transmission and distribution of electricity and Defendants' electricity-related internal communications. Defendants never notified Representative Plaintiff Clifton Woodrow Greene, Jr. that the Network constructed over his land would be used to transmit General Broadband Communications or paid him for the right to do so. Representative Plaintiff Clifton Woodrow Greene, Jr.'s real property in

Suwannee County, Florida, is identified as tax parcel number 29-04S-14E-03230-000000.

**13.** Representative Plaintiff Michelle Haas Richards is a resident of Columbia County, Florida, who owns twenty-one (21) acres of land in Suwannee County, Florida underlying SVEC's electric power transmission and/or distribution lines – over which Defendants have surreptitiously transmitted, and continue to transmit, General Broadband Communications for profit without authorization. All her acreage is encumbered by a standard SVEC ROW Agreement allowing the transmission and distribution of electricity and Defendants' electricity-related internal communications. Defendants never notified Representative Plaintiff Michelle Haas Richards that the Network constructed over her land would be used to transmit General Broadband Communications or paid her for the right to do so. Representative Plaintiff Michelle Haas Richards' real property in Suwannee County, Florida is identified as tax parcel number 30-04S-14E-03239-002001.

**14.** Defendant SVEC, which was formed in 1937, is an electric cooperative with its principal place of business in Live Oak, Suwannee County, Florida. Defendant SVEC conducts business in Suwannee, Lafayette, Hamilton, and Columbia Counties, Florida. According to its website, <https://svec-coop.com>, SVEC operates 4,100 miles of electric transmission and distribution



lines, serving over 28,000 customers within a 2,100 square mile service area in the above four Florida counties. Defendant SVEC has already been served with Summons and a copy of the Original Class Action Complaint and removed this action to this Court.

15. Defendant RFI (<https://www.rapid-fiber.com>) is a Florida limited liability company with its principal place of business in Live Oak, Suwannee County, Florida, at the same address as Defendant SVEC. Defendant RFI, in fact, is a wholly owned subsidiary of Defendant SVEC. Defendant RFI has constructed, and continues to Construct, the Network on Defendant SVEC's electric transmission and/or distribution line poles and infrastructure constructed on Representative Plaintiffs' and Class Members' land in Suwannee, Lafayette, Hamilton, and Columbia, Counties, Florida. At all relevant times, Defendant RFI surreptitiously transmitted, and continues to transmit, General Broadband Communications for profit over the Network over Representative Plaintiffs' and Class Members' land without authorization and/or paying them for the right to do so. Defendant RFI has already been served with Summons and a copy of the Original Class Action Complaint and removed this action to this Court.

### **BACKGROUND FACTS**

16. With the advent of long-distance fiber optic transmission technology in the mid-1980's, the telecommunications industry in the United States commenced transitioning from older electric copper wire and microwave technology to modern non-electric fiber optic technology. Fiber optic cable is "dielectric," meaning it does not carry electricity, but rather, allows digital signals to be transmitted at the speed of light through glass fibers. Fiber optic systems enable telephone, television, cablevision, and digital computer data (*i.e.*, General Broadband Communications) to be transmitted in astounding volumes on a single optical fiber. Fiber optic networks only transmit light and information; they do not generate, transmit, or distribute electric power.

17. In July of 2022, SVEC developed a plan to create an extensive communications network using fiber optic cable and other telecommunications apparatuses for the transmission of General Broadband Communications. Shortly thereafter, SVEC launched RFI, a wholly owned subsidiary, to carry out the plan and sell the fiber optic network capacity to transmit General Broadband Communications. On March 27, 2023, the Florida Public Service Commission approved RFI's application for a certificate to provide local telecommunications service, effective April 18, 2023. Together, Defendants have constructed (and continue to construct) the Network along the electric power transmission and

distribution lines on Representative Plaintiffs' and Class Members' land and surreptitiously transmitted General Broadband Communications.

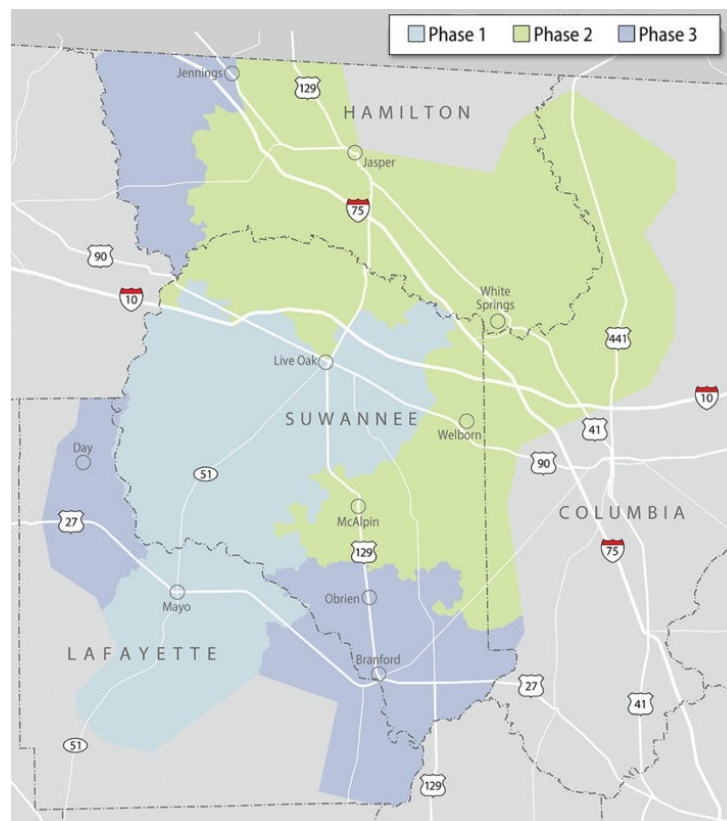
18. However, either by their terms, or by operation of law, the uniform granting language in the standard ROW Agreements encumbering Representative Plaintiffs' and Class Members' land grant Defendants *only* a very limited electric utility easement or occupancy:

[T]he right, privilege, and easement to reconstruct, operate and maintain for such period of time as it may use the same or until the use thereof is abandoned, and electric line or lines for the transmission and distribution of electricity, including necessary communication and other wires, poles, guys, anchors, ground connections, attachments, surface testing terminals, fixtures, equipment, and accessories (hereinafter collectively referred to as "facilities") desirable in connection therewith over, upon, across and under the following described lands in: \_\_\_\_\_  
County Florida.

*Id.* And this does not take into consideration those portions of the Network constructed over Representative Plaintiffs' and Class Members' land for which Defendants do not have ROW Agreements of any kind.

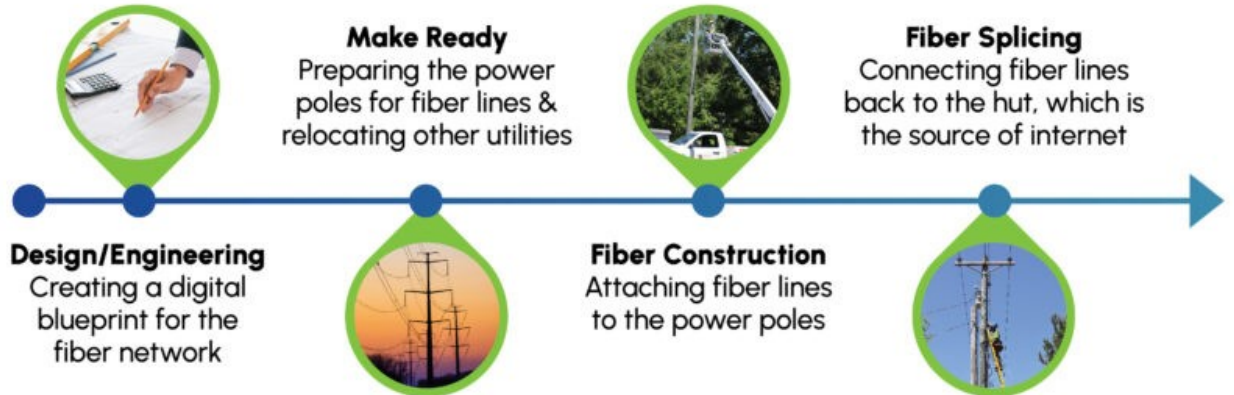
19. Pursuant to the uniform ROW Agreement granting language, Defendants have never held, and cannot use or create any rights in, under, over, or across Representative Plaintiffs' and Class Members' land for any purpose other than transmitting and distributing electricity and Defendants' electricity-related internal communications.

20. Nevertheless, sometime between June 1, 2023, and May 1, 2024, Defendants installed the Network alongside SVEC's electric power transmission and/or distribution lines over Representative Plaintiffs' and Class Members' land, which Defendants have used (and continue to use) to surreptitiously transmit General Broadband Communications for profit without authorization and/or paying for the right to do so. None of the Representative Plaintiffs and Class Members were given prior notice of the installation of the Network and/or its use to transmit General Broadband Communications for profit. Below is a map of the Network appearing on RFI's website ([www.rapidfiber.com/project-info/](http://www.rapidfiber.com/project-info/)).



21. RFI's website (*id.*) also outlines the steps to be performed by

Defendants to construct the Network:



22. Notably missing from the steps outlined is the acquisition of appropriate ROW Agreements from property owners to construct the Network and transmit General Broadband Communications.

23. But that has not deterred Defendants. They pressed forward with constructing the Network and surreptitiously transmitting General Broadband Communications for profit over thousands of miles of land subject to ROW Agreements that do not authorize or allow such communications and over land not subject to ROW Agreements of any kind.

24. On information and belief, Defendants made the conscious business decision to forego the time-consuming and expensive process of negotiating and paying for the necessary easement rights to construct the Network and transmit General Broadband Communications and forge ahead, installing the Network

and surreptitiously transmitting General Broadband Communications, without authorization or paying Representative Plaintiffs and Class Members for the right to do so, in violation of Representative Plaintiffs' and Class Members' property rights and existing ROW Agreements.

25. Thereafter, Defendants doubled down on their surreptitious business practices, seeking forgiveness by "acquiring," after the fact, the necessary rights-of-way to construct the Network and transmit General Broadband Communications (in the form of a perpetual easement) via a single paragraph buried in the 14-page Service Agreement located on RFI's website ([www.rapid-fiber.com/legal/service-agreement/](http://www.rapid-fiber.com/legal/service-agreement/)), misleadingly entitled "Access to Customer Premises:"

#### Access to Customer Premises

As a condition of receiving the Services, and *without compensation*, the Customer grants *a perpetual easement* on and through the service location to provide data and, if applicable, voice services on transport fiber, distribution fiber, and service extension fiber, if applicable, for Service to both the Customer *and to other customers*, and to perform necessary maintenance, service upgrades, and periodic right-of-way maintenance by or for Rapid Fiber; its parent company Suwannee Valley Electric Cooperative; and at Rapid Fiber's direction, a third party. This easement, in addition to all other rights and privileges afforded by Florida law, explicitly allows Rapid Fiber and its agents the right to enter Customer's property at which the Services and/or Rapid Fiber Equipment will be provided for the purposes of installing, configuring, maintaining, inspecting, upgrading, replacing, and removing the Services and/or Rapid Fiber Equipment used to receive any Services.

(emphasis added). This is tantamount to Defendants' admission that they know that they do not have the right to construct the Network and transmit General Broadband Communications over it. But any such rights-of-way are null and void, as a matter of law, because of Defendants' duplicity and their own admission that did not compensate Representative Plaintiffs and Class Members for such property rights. There is no consideration supporting the granting of such right to Defendants by Representative Plaintiffs and Class Members.

**26.** In addition to contracting with each other, upon information and belief, Defendants also have contracted with third parties to use the Network to transmit General Broadband Communications.

**27.** By using the Network to surreptitiously transmit General Broadband Communications, Defendants have received, or expect to receive, revenue from the unauthorized and uncompensated use of Representative Plaintiffs' and Class Members' land over which they have no right to construct a Network and/or transmit General Broadband Communications. In public correspondence and filings for Grant Applications and regulatory purposes, Defendants have conservatively estimated annual Network revenues of more than \$7.5 million. This is an ill-gotten gain that Defendants should disgorge to Representative Plaintiffs and other Class Members.

**28.** Defendants knew, or should have known, that the ROW Agreements they have only allow the transmission and distribution of electricity and electricity-related internal communications, and that they have no right to use, install, maintain, or operate fiber-optic cables on Representative Plaintiffs' and Class Members' land for General Broadband Communications. Defendants acted, and continue to act, with reckless disregard of Representative Plaintiffs' and Class Members' property rights by constructing and operating the Network for General Broadband Communications without paying for the right to do so. And this does not even consider those portions of the Network constructed over Representative Plaintiffs' and Class Members' land over which Defendants have no ROW Agreements of any kind.

**29.** At the time that SVEC acquired the large majority, if not all, of the ROW Agreements from Representative Plaintiffs and Class Members that SVEC does have, SVEC did not have statutory authority to engage in the business of providing General Broadband Communications services. Only in 2023, after the passage of Florida HB 2023-1221 amending Section 425.04, Fla Stat. (2022) (effective July 1, 2023) were rural electric cooperatives – such as Defendants – allowed to provide General Broadband Communications to their customers.

**30.** Thus, under Florida law, at the time SVEC acquired the ROW Agreements it actually acquired, SVEC could not obtain, did not intend to obtain,



and indeed, did not obtain, the necessary rights-of-way and landowner authorizations to construct, operate, own, or control a Network for the transmission of General Broadband Communications, and further, was barred, as a matter of law, from acquiring easements by eminent domain or otherwise for transmitting such commercial communications. Thus, such rights-of-way were not contemplated by Florida law in existence at the time SVEC obtained the ROW Agreements it actually obtained. Carrying the analysis to its logical conclusion, the ROW Agreements Defendants currently have with some Representative Plaintiffs and Class Members are limited to the transmission and distribution of electricity and Defendants' electricity-related internal communications. The ROW Agreements specifically do not grant Defendants or others the right to construct and operate a fiber optic Network and/or commercial communications facilities of any kind to transmit General Broadband Communications.

**31.** Other Class Members, like Representative Plaintiff James R. Thomas, own land underlying SVEC's electric power transmission and distribution lines that are not encumbered by any ROW Agreement with SVEC whatsoever, informally or otherwise. In these situations, Defendants and others do not possess any legal right to use their land for any reason, much less, transmitting General Broadband Communications.

32. Other Class Members own land underlying SVEC's electric power transmission and distribution lines under an informal, unrecorded, permissive access agreement for the limited purpose of providing electric power. Under such agreements, SVEC never held – and cannot use, lease, create, convey or otherwise transfer or create – any rights, in, under, over or across Class Members' lands. Thus, Defendants and others do not have any legal right to construct a fiber optic Network or communication facilities of any kind, much less, transmit General Broadband Communications over such Class Members' land for profit or otherwise.

33. Thus, SVEC's rights, and by extension, RFI's rights, hinge on the clear and unambiguous terms of SVEC's ROW Agreements, which restrict SVEC to installing "necessary communication or other wires" "for the transmission and distribution of electricity" and provide no authority for any purpose not related to the transmission of electricity.<sup>2</sup>

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2 Alternatively, any ambiguity in the ROW Agreements must be resolved in favor of Representative Plaintiffs and Class Members because SVEC drafted the ROW Agreements and created the ambiguity. Moreover, any ambiguity in the ROW Agreements must be resolved against the right of SVEC to utilize the lands as part of a business venture to transmit General Broadband Communications considering the surrounding circumstances at the time the ROW Agreements were created, as well as the use of the land after the ROW Agreements were created. Such surrounding circumstances include, *inter alia*:

- (i) Florida statutes and the SVEC corporate charter did not permit General Broadband Communications.
- (ii) Florida law at the time prohibited ownership of an easement for telecommunications

**34.** Although the existing ROW Agreements may authorize SVEC to construct communication lines for sending communication signals to stations and switches to facilitate the transmission and distribution of electric power, the ROW Agreements do not allow Defendants, or any third party, to provide commercial communication services, such as the transmission of General Broadband Communications, to anyone for a fee. The scope of the ROW Agreements permits SVEC to take certain actions necessary for the safe, reliable, and efficient transmission and distribution of electric power – and that’s all. The ROW Agreements do not authorize SVEC to install fiber-optic cables for the transmission of General Broadband Communications.

**35.** SVEC also may not assign any part of its rights under the ROW Agreements to third parties for a purpose or right that is not included among the

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- by an entity not licensed by the state to provide telecommunications services.
- (iii) SVEC was not at the time of acquisition of the ROW Agreements (and currently is not) licensed by the Florida Public Service Commission as a telecommunications company.
  - (iv) The filing of condemnation actions, and the threatened filing of condemnation actions, were used to coerce landowners into signing and delivering the ROW Agreements to SVEC.
  - (v) The rights obtained by SVEC by such ROW Agreements could be no broader than the rights SVEC could obtain from a condemning court, and do not include the authority to transmit General Broadband Communications for a fee.
  - (vi) For decades, SVEC limited the use of communications systems in its rights-of-way to the transmission and distribution of electricity and electricity-related internal communications.

specific rights granted by Representative Plaintiffs and Class Members to SVEC in the ROW Agreements. As such, the terms of the ROW Agreements bar SVEC from assigning the rights granted therein for commercial communications of any kind, including General Broadband Communications.

**36.** In short, assigning SVEC's easements to third parties – such as RFI – for General Broadband Communications was never a right in the extremely narrow bundle of property rights in the ROW Agreements SVEC obtained from Representative Plaintiffs and Class Members. The underlying servient property owners (Representative Plaintiffs and Class Members) retained all interests in the servient estates not inconsistent with the electric transmission purposes set forth in the ROW Agreements. SVEC failed to adhere to the use restrictions in the ROW Agreements when it assigned the ROW Agreements to RFI to transmit General Broadband Communications without obtaining the Representative Plaintiffs' and Class Members' consent or otherwise pay them for the privilege. And again, this does not take into consideration those portions of the Network constructed over Representative Plaintiffs' and Class Members' land for which Defendants do not have ROW Agreements or property rights of any kind.

**37.** By constructing the Network and surreptitiously transmitting General Broadband Communications without the right to do so, Defendants have intruded, and continue to intrude, on the property rights and interests of

Representative Plaintiffs and Class Members, as owners of the fee estates, thereby devaluing the fee estates. Devaluation of the fee estates through these uncompensated intrusions upon Representative Plaintiffs' and Class Members' valuable property interests is an unlawful burden upon such fee estates. This burden is not merely incidental.

**38.** For example, present on various Class Members' property as part of the Network are inspection portals installed on electric distribution lines, which consist of wires coming down from the top of the distribution lines and running into a small metal box constructed on numerous poles. The purpose of these inspection portals is to allow the testing and calibrating of the fiber optic wires and systems located along the Network. Such inspection portals are located at periodic intervals along the Network on land owned by the Representative Plaintiffs and Class Members. The presence of the inspection portals on the Representative Plaintiffs' and Class Members' property is visually displeasing. The inspection portals also increase the frequency and nature of inspection and maintenance activities on their land over and above that required for the distribution of electric power, thereby increasing greatly the burden on the servient estates. This burden also is not merely incidental.

**39.** Further, in 2023, the Florida legislature passed Chapter 2023-199, creating Section 364.391, Fla. Stat. (2022), entitled “Rural electric cooperatives engaged in the provision of broadband,” stating, in part:

- (2) If a cooperative engages in the provision of broadband:
  - (a) All poles owned by the cooperative are subject to regulation under s. 366.04(8) on the same basis as if such cooperative were a public utility under that subsection; . . .

Thus, unless Defendants’ access to the Network constructed on Representative Plaintiffs’ and Class Members’ land is found to be beyond the terms of the ROW Agreements and/or improper because there is no ROW Agreement, Defendants will be forced to allow all telecommunications carriers access to its power poles on Representative Plaintiffs’ and Class Members’ land to construct even more fiber optic lines. If Defendants have the right to assign their use of the easements to third parties for General Broadband Communications, they effectively “own or control” the easements, and Section 364.391 Fla. Stat. (2022) applies. Unlimited access by any and all telecommunication carriers to the SVEC’s power poles will greatly increase the burden on Representative Plaintiffs’ and Class Members’ land in contravention of Florida law and the express language of the ROW Agreements – where such exist. This burden also is not merely incidental.

**40.** Should Defendants be permitted to use Representative Plaintiffs’ and Class Members’ land covered by existing ROW Agreements to transmit

General Broadband Communications, telecommunication activities in the easements would not be limited to fiber optic wires and lines but could include various other equipment and apparatuses used by other communication companies, including wireless companies. The installation of any of these appurtenances would greatly increase regular maintenance and repair activities, thereby further and unreasonably increasing the activity and burden on Representative Plaintiffs' and Class Members' land. This burden also is not merely incidental.

**41.** The presence of third parties on Representative Plaintiffs' and Class Members' lands also greatly increases their liability exposure for negligent actions, inaction, and/or omissions on their land. Representative Plaintiffs' and Class Members' potential tort liability would no longer be limited to the original grantee, SVEC, but would include any and all third parties utilizing their land. Damages that Representative Plaintiffs and Class Members might inadvertently inflict on communication systems installed on their land could result in excessive, expensive, burdensome, and unwarranted liability. This burden also is not merely incidental.

**42.** By their wrongful installation of the Network and transmission of General Broadband Communications, Defendants have already increased the intensity of inspections, preventive services, replacements, and repairs that have

burdened Representative Plaintiffs' and Class Members' property. This includes, among other things, increased aerial spraying of herbicides that may kill crops or normal residential vegetation and increased use of noisy heavy machinery, such as wood chippers, sprayers, and tractors. This burden also is not merely incidental.

**43.** Should the continued use of Representative Plaintiffs' and Class Members' land for the transmission General Broadband Communications be permitted, the intrusiveness of routine and emergency maintenance activities on the easements would, as the terms of the ROW Agreements provide, no longer be limited to the needs of transmitting and distributing electric power. The easements would be expanded to include the needs of numerous third parties for transmitting General Broadband Communications of all kinds worldwide. This would be an additional and unlawful burden upon Representative Plaintiffs' and Class Members' land. This burden also is not merely incidental.

**44.** Representative Plaintiffs, for themselves and Class Members, therefore, bring this action to (i) stop Defendants' above-described wrongful actions, inaction, and omissions, (ii) minimize the unwarranted and substantial burdens on their land, and (iii) obtain the rightful compensation they deserve for Defendants' construction of the Network and unauthorized surreptitious transmission of General Broadband Communications over their land.



### CLASS ACTION ALLEGATIONS

45. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, Representative Plaintiffs bring this action against Defendants as a class action, for themselves and all members of the following Class of similarly situated individuals and entities (“Class Members”):

All individuals and entities that own real property in Suwannee, Hamilton, Lafayette, and Columbia Counties, Florida underlying Defendants’ electric power transmission and/or distribution lines and on or in which Defendants have installed (or will install) fiber optic cable(s) over which General Broadband Communications unrelated to the transmission or distribution of electricity and Defendants’ electricity-related internal communications have been (or will be) transmitted.

Excluded from the Class are (i) Defendants and their directors and officers, (ii) railroads, (iii) federal, state and/or local government agencies, and (iv) the Court and its personnel.

46. On information and belief, the proposed Class consists of several thousand Class Members, the joinder of whom in one action is impracticable. There are more than 11,000 SVEC ROW Agreements with identical relevant granting language pertaining to real property owned by Representative Plaintiffs and Class Members underlying Defendants’ electric power transmission and/or distribution lines and the Network. There also are numerous Class Members that own land underlying Defendants’ electric power transmission and/or

distribution lines and the Network for which Defendants do not have ROW Agreements of any kind. That said, the precise number and identities of the Class Members are readily ascertainable from Defendants' real estate and Network records, as well as the real property records of Suwannee, Hamilton, Lafayette, and Columbia Counties, Florida. Fed. R. Civ. P. 23(a)(1).

47. By their wrongful actions, inaction, and/or omissions, Defendants' have violated (and continue to violate) Representative Plaintiffs' and Class Members' property rights in the same way by knowingly, willfully, surreptitiously, and unlawfully constructing the Network over their land and surreptitiously transmitting General Broadband Communications unrelated to the transmission and distribution of electricity and Defendants' electricity-related internal communications, without authorization or paying Representative Plaintiffs and Class Members for the right to do so – thereby inflicting injury, harm, and damages on Representative Plaintiffs and Class Members and their property and property rights in the same manner.

48. Certain questions of law and fact common to the proposed Class predominate over any questions affecting individual Class Members, including, *inter alia*:

- (i) whether Defendants have the right to construct the Network over Representative Plaintiffs' and Class Members' land;

- (ii) whether Defendants surreptitiously constructed the Network over Representative Plaintiffs' and Class Members' land without notifying them;
- (iii) whether Defendants have the right to transmit General Broadband Communications over the Network constructed over Representative Plaintiffs' and Class Members' land;
- (iv) whether Defendants surreptitiously transmitted General Broadband Communications over the Network constructed over Representative Plaintiffs' and Class Members' land without notifying them;
- (v) whether Defendants' above-described wrongful actions, inaction, and/or omissions violated (and continue to violate) the Fifth Amendment of the United States Constitution and Article X, Section 6(a) of the Florida Constitution;
- (vi) whether Defendants' above-described wrongful actions, inaction, and/or omissions violated (and continue to violate) 42 U.S.C. § 1983;
- (vii) whether Defendants' above-described wrongful actions, inaction, and/or omissions constitute trespass under Florida common law;
- (viii) whether Defendants' above-described wrongful actions, inaction, and/or omissions constitute unlawful detainer under Florida common law;
- (ix) whether Defendants' above-described wrongful actions, inaction, and/or omissions constitute inverse condemnation under Florida common law;
- (x) whether Defendants' above-described wrongful actions, inaction, and/or omissions constitute unjust enrichment under Florida common law;
- (xi) whether Representative Plaintiffs and Class Members are entitled to compensation and/or damages from Defendants for surreptitiously

constructing the Network over their land over which Defendants transmitted (and continue to transmit) General Broadband Communications without authorization and/or paying Representative Plaintiffs and Class Members for the right to do so and, if so, the appropriate measure of such damages;

- (xii) whether Representative Plaintiffs and Class Members are entitled to declaratory relief; and
- (xiii) whether Representative Plaintiffs and Class Members are entitled to recover their attorneys' fees, litigation expenses, and court costs.

Fed. R. Civ. P. 23(a)(2).

**49.** Representative Plaintiffs' claims are typical of Class Members' claims because Representative Plaintiffs and Class Members suffered (and continue to suffer) injury, harm, and damages to their property and property rights due to Defendants' above-described wrongful actions, inaction, and/or omissions in the same manner; to wit, (i) Defendants constructed the Network over Representative Plaintiffs' and Class Members' land over which Defendants surreptitiously transmitted (and continue to transmit) General Broadband Communications without authorization and/or paying Representative Plaintiffs and Class Members for the right to do so, (ii) Representative Plaintiffs' and Class Members' claims and causes of action occurred during the same general period of time, (iii) each Representative Plaintiff and Class Member is an affected landowner, (iv) the type of damages incurred and its measurement are the same

for each Representative Plaintiff and Class Member in a particular line segment (and may be easily measured and apportioned on a per foot basis), and (v) Defendants' anticipated defenses are the same for each Representative Plaintiff and Class Member. Fed. R. Civ. P. 23(a)(3).

**50.** Representative Plaintiffs and their counsel will fairly and adequately represent the interests of Class Members. Representative Plaintiffs have no interests antagonistic to, or in conflict with, the interests of any Class Member. Representative Plaintiffs' counsel are experienced in prosecuting takings claims involving unauthorized fiber optic networks constructed over electric power transmission and distribution lines, and leading and prosecuting large class actions, complex commercial litigation, and mass torts. Fed. R. Civ. P. 23(a)(4).

**51.** Class certification, therefore, is appropriate pursuant to Fed. R. Civ. P. 23(b)(1) because the prosecution of separate actions by individual Class Members would create the risk of inconsistent or varying adjudications with respect to other Class Members, which would establish incompatible standards of conduct for Defendants, and which would, as a practical matter, be dispositive of the interests of the other Class Members not parties to such adjudications, substantially impairing or impeding their ability to protect their interests.

**52.** Class certification also is appropriate pursuant to Fed. R. Civ. P. 23(b)(2) because Defendants have acted on asserted grounds generally applicable

to the Class, so that declaratory relief is appropriate with respect to the Class as a whole.

**53.** Class certification also is appropriate pursuant to Fed. R. Civ. P. 23(b)(3) because the above questions of law and fact common to Class Members predominate over any questions affecting only individual Members, and a class action is a superior method for the fair and efficient adjudication of the controversy.

**54.** Litigating this case as a class action is appropriate because (i) a class action will avoid a multiplicity of suits and the corresponding burden on the courts and Parties, (ii) the expense and burden of individual litigation would effectively make it impracticable for individual Class Members to intervene in this action as individual parties-plaintiff and seek redress for the wrongs alleged herein, (iii) a class action will foster an orderly and expeditious administration of Representative Plaintiffs' and Class Members' claims, and (iv) a class action will result in economies of time, effort and expense, and a uniformity of decision.

**55.** Not permitting this matter to proceed as a class action would be contrary to the public policy encouraging the economies of judicial, attorney, and litigant time and resources. Public policy and judicial precedent favor class actions for the purpose of, *inter alia*, deterring wrongdoing and providing judicial relief for small, individual claims with a common basis, such as Representative

Plaintiffs' and Class Members' claims alleged herein.

56. Defendants' above-described wrongful actions, inaction, and/or omissions injured, harmed, and damaged (and continue to do so) Representative Plaintiffs' and Class Members' property and property rights, for which Representative Plaintiffs, for themselves and Class Members, seek damages, compensation, and declaratory relief. Absent a class action, Defendants will retain the benefits of their wrongdoing despite their serious violations of the existing ROW Agreements and the law. This action, therefore, should be certified as a class action.

## CLAIMS AND CAUSES OF ACTION

### COUNT I

#### **TAKING PRIVATE PROPERTY WITHOUT COMPENSATION UNDER COLOR OF STATE LAW IN VIOLATION OF THE U.S. CONSTITUTION, 42 U.S.C. § 1983, AND THE FLORIDA CONSTITUTION**

57. The preceding factual statements and allegations are incorporated by reference.

58. Defendants violated Representative Plaintiffs' and Class Members' property rights by surreptitiously constructing the Network over Representative Plaintiffs' and Class Members' land over which Defendants surreptitiously transmitted (and continue to transmit) General Broadband Communications without authorization and/or paying Representative Plaintiffs and Class

Members for the right to do so. Such property rights are constitutionally protected property rights under the Fifth Amendment of the United States Constitution and Article X, Section 6(a) of the Florida Constitution. Any violation of such property rights – such as surreptitiously constructing the Network and transmitting (and continuing to transmit) General Broadband Communications over Representative Plaintiffs’ and Class Members’ land without compensating them for the right to do so – constitutes an unlawful taking.

**59.** Any wrongful action that takes, harms, or destroys property rights without compensation is prohibited by the Fifth Amendment of the United States Constitution and Article X, Section 6(a) of the Florida Constitution. Here, by constructing the Network over Representative Plaintiffs’ and Class Members’ land over which Defendants surreptitiously transmitted (and continue to transmit) General Broadband Communications without authorization and/or paying Representative Plaintiffs and Class Members for the right to do so, Defendants have taken (and continue to take) Representative Plaintiffs’ and Class Members’ property and property rights, without compensation, in violation of the Fifth Amendment of the United States Constitution, 42 U.S.C. § 1983, and Article X, Section 6(a) of the Florida Constitution.

**60.** Representative Plaintiffs and Class Members have reasonable, investment-backed expectations that they will be able to develop their land,



which has been (and continues to be) thwarted by Defendants' above-described wrongful actions, inaction, and/or omissions.

**COUNT II**  
**TRESPASS**

**61.** The preceding factual statements and allegations are incorporated by reference.

**62.** Defendants entered Representative Plaintiffs' and Class Members' land, without legal authority and/or paying them for the right to do so, to construct the Network and surreptitiously transmit General Broadband Communications over it. Defendants' entry onto Representative Plaintiffs' and Class Members' land, which was (and continues to be) unlawful, without right, and without justification or authority, constitutes trespass at Florida common law. Defendants' past and ongoing trespass on Representative Plaintiffs' and Class Members' land has deprived (and will continue to deprive) Representative Plaintiffs and Class Members of their property, property rights, and money they should have received for the use of their property to transmit unauthorized General Broadband Communications.

**63.** As a direct and/or proximate result of Defendants' past, present, and continued trespasses, Representative Plaintiffs and Class Members have suffered (and will continue to suffer) the above-described injury, harm, damage,

and substantial burdens to their property, property rights, and finances, including in the form of, *inter alia*: (i) for such land over which SVEC ROW Agreements exist, the fair market value of the right to construct, operate, maintain, market, use, sell, and/or lease the rights-of-way for the transmission of General Broadband Communications, (ii) for such land over which SVEC ROW Agreements do not exist, the fair market of the right to construct, operate, maintain, market, use, sell, and/or lease one or more rights-of-way over their land for the transmission of General Broadband Communications, (iii) a physical burden on Representative Plaintiffs' and Class Members' land in the form of Defendants' various communications networks transmitting General Broadband Communications, including ongoing entry on Representative Plaintiffs' and Class Members' land to construct, repair, and maintain such networks, and (iv) a legal burden on Representative Plaintiffs' and Class Members' land in the form of an express and/or prescriptive easement rights that, as a matter of law, could be mandatorily expanded into other communications corridors by numerous other companies transmitting General Broadband Communications.

**COUNT III**  
**UNLAWFUL DETAINER**

**64.** The preceding factual statements and allegations are incorporated by reference.

65. Defendants' entry on Representative Plaintiffs' and Class Members' land, without legal authority and/or paying them for the right to do so, to construct the Network and surreptitiously transmit General Broadband Communications also constitutes "unlawful entry" and "unlawful detention" pursuant to Section 82.02, Fla. Stat. (2022).

66. Defendants' (i) surreptitious transmission of General Broadband Communications over the Network, (ii) leasing, licensing, or conveying the Network for other entities to transmit General Broadband Communications, and/or (iii) allowing other General Broadband Communications providers to construct communications networks on Defendants electric power transmission and distribution lines collectively amount to an ouster of Representative Plaintiffs and Class Members from their property in the same manner as a residuary property right.

67. As a direct and/or proximate result of Defendants' above-described wrongful actions, inaction, and/or omissions, Representative Plaintiffs and Class Members have been, and continue to be, deprived of the full possessory rights in their servient estates, and are entitled to summary relief and a judgment for possession and damages, pursuant to Sections 82.071 and 82.091, Fla. Stat. (2022), consisting, at a minimum, of double the reasonable rental value.

**COUNT IV**  
**INVERSE CONDEMNATION**

68. The preceding factual statements and allegations are incorporated by reference.

69. As set forth in detail above, by entering Representative Plaintiffs' and Class Members' land, without legal authority and/or paying them for the right to do so, to construct the Network and surreptitiously transmit General Broadband Communications over it Defendants intentionally took (and continue to take) Representative Plaintiffs' and Class Members' land and property rights without due process and just compensation. Defendants' wrongful actions constitute inverse condemnation at Florida common law.

**COUNT V**  
**UNJUST ENRICHMENT**

70. The preceding factual statements and allegations are incorporated by reference.

71. Defendants have been (and continue to be) unjustly enriched by their above-described wrongful actions, inaction, and/or omissions in the form of, *inter alia*, the (i) as yet unpaid compensation owed to Representative Plaintiffs and Class Members for using their land for purposes other than transmitting electricity and the Defendants' electricity-related internal communications, (ii) revenues generated by surreptitiously transmitting General Broadband

Communications over Representative Plaintiffs' and Class Members' land, without authorization, that should be disgorged to them, (iii) return on investment generated by the amounts described in (i) and (ii), and (iv) creation (and continued appreciation) of a valuable corporate asset (*i.e.*, the Network). Accordingly, Representative Plaintiffs, for their benefit and the benefit of Class Members, seek to impose a constructive trust over (and recover) all amounts by which Defendants have been unjustly enriched.

### AMBIGUITY

72. The preceding factual statements and allegations are incorporated by reference.

73. Should such be necessary, and in response to any claim or allegation by Defendants that the ROW Agreements allow them to utilize the Network and/or the land owned by Representative Plaintiffs and Class Members for purposes other than transmitting electricity and Defendants' electricity-related internal communications (*i.e.*, transmitting General Broadband Communications), Representative Plaintiffs, for themselves and Class Members, assert that the term "communications" as used in the ROW Agreements is, *inter alia*:

- (i) ambiguous in that the term is uncertain or it is reasonably susceptible to more than one meaning, taking into consideration the

surrounding circumstances at the time the ROW Agreements were obtained; or

- (ii) latently ambiguous because although unambiguous on its face, the ambiguity manifests itself in the context of unauthorized, third-party General Broadband Communications.

### ESTOPPEL

74. The preceding factual statements and allegations are incorporated by reference.

75. During SVEC's acquisition of the ROW Agreements, by contract or through condemnation proceedings, it routinely and systematically represented to public and private landowners and in open court during condemnation proceedings that the rights-of-way sought and/or acquired were only for the transmission of electricity and its electricity-related internal communications. Should such be necessary, therefore, and in response to any claim or allegation by Defendants that the ROW Agreements allow them to utilize the Network and/or the land owned by Representative Plaintiffs and Class Members for purposes other than transmitting electricity and the Defendants' electricity-related internal communications (*i.e.*, transmitting General Broadband Communications), Representative Plaintiffs and Class Members assert that Defendants are estopped from asserting any legal position to the contrary.

## DECLARATORY JUDGMENT

76. The preceding factual statements and allegations are incorporated by reference.

77. Based on the allegations set forth herein, there exists a case of actual controversy that should be resolved by this Court exercising its declaratory judgment jurisdiction. Because of Defendants' above-described wrongful actions, inaction, and/or omissions, there exists a bona fide, present, and practical need for a judicial declaration establishing the rights and duties of the Parties pursuant to the clear language of the ROW Agreements and Defendants' use of Representative Plaintiffs' and Class Members' land where such agreements do not exist. There is a substantial controversy between the Parties, who have adverse legal interests, which are of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.

78. A declaratory judgment will establish the clear legal position of the Parties, as well as clarify the legal relationships at issue. Defendants' above-described wrongful actions, inaction, and/or omissions create doubts about the legal authority of Defendants' activities on Representative Plaintiffs' and Class Members' land under the clear language of the ROW Agreements, as well as on Representative Plaintiffs' and Class Members' land not subject to ROW Agreements, which require resolution by way of declaratory judgment.

79. Accordingly, the following critical questions require resolution by declaratory judgment:

- (i) Whether Defendants own and control rights-of-way over Representative Plaintiffs' and Class Members' land permitting Defendants (or their assigns) to use such rights-of-way to transmit General Broadband Communications via wire, fiber optic cable, and/or wireless telecommunications apparatuses constructed under, over, and/or in Representative Plaintiffs' and Class Members' land?
- (ii) Whether any rights to transmit General Broadband Communications allegedly acquired by Defendants via the single paragraph buried in the 14-page Service Agreement located on RFI's website, misleadingly entitled "Access to Customer Premises," are null and void as a matter of law because of Defendants' deception and their own admission that they did not compensate Representative Plaintiffs and Class Members for such property rights?

#### **RELIEF REQUESTED**

80. The preceding factual statements and allegations are incorporated by reference.

81. **ACTUAL, CONSEQUENTIAL, COMPENSATORY, AND ECONOMIC DAMAGES AND/OR EQUITABLE RELIEF.** As a direct and proximate result of Defendants' above-described wrongful actions, inaction, omissions, cover-up, deception, concealment, and conspiracy of silence, Representative Plaintiffs and Class Members have suffered (and will continue to suffer) the above-described actual and consequential injury, harm, and damage to their property and property rights – for which Representative Plaintiffs and Class Members are



entitled to monetary compensation in the form of, *inter alia*: (i) for such lands over which SVEC ROW Agreements exist, the fair market value of the right to construct and operate the Network for the transmission of General Broadband Communications, (ii) for such lands over which SVEC ROW Agreements do not exist, the fair market value of the right to construct and operate the Network for the transmission of General Broadband Communications, and (iii) the revenues and other amounts by which Defendants have been unjustly enriched by unlawfully using Representative Plaintiffs' and Class Members' property for the transmission of General Broadband Communications (including a full accounting and a factor for the time value of money or Defendants' return on investment). Alternatively, as to prior damages, Representative Plaintiffs and Class Members are entitled to equitable relief in the form of the disgorgement of Defendants' revenues to date from the transmission of General Broadband Communications and/or restitution in the form of the fair market rental value of Representative Plaintiffs' and Class Members' land from the inception of Defendants' transmission of General Broadband Communications to date. All injury, harm, and damage suffered (and to be suffered) by Representative Plaintiffs and Class Members were reasonably foreseeable by Defendants. All conditions precedent to Representative Plaintiffs' and Class Members' claims for relief have been performed or occurred.

**82. DECLARATORY RELIEF.** Representative Plaintiffs and Class Members also are entitled to the declaratory relief set forth above, including, without limitation, a declaration that as a matter of law, (i) Defendants do not own and/or control rights-of-way over Representative Plaintiffs' and Class Members' land and/or any rights permitting Defendants (or their assigns) to transmit General Broadband Communications via wires, fiber optic cables, and/or wireless telecommunications apparatuses constructed under, over, and/or in Representative Plaintiffs' and Class Members' property, and (ii) any rights to transmit General Broadband Communications allegedly acquired by Defendants via the single paragraph buried in the 14-page Service Agreement located on RFI's website, misleadingly entitled "Access to Customer Premises," are null and void as a matter of law because of Defendants' deception and their own admission that they did not compensate Representative Plaintiffs and Class Members for such property rights. All conditions precedent to Representative Plaintiffs' and Class Members' claims for relief have been performed or occurred.

**83. PUNITIVE DAMAGES.** Defendants' above-described surreptitious business practices and wrongful actions, inaction, and omissions were committed intentionally, willfully, and with reckless disregard of Representative Plaintiffs' and Class Members' property rights. Defendants knew precisely what they were doing, but rather than taking the time to do the right thing and pay Representative

Plaintiffs and Class Members for the right to transmit General Broadband Communications over their land, Defendants forged ahead, constructed the Network, and surreptitiously transmitted General Broadband Communications over Representative Plaintiffs' and Class Members' land without authorization—hoping that they would not get caught. Accordingly, Representative Plaintiffs and Class Members also are entitled to an award of punitive damages against Defendants, both as punishment and to discourage such wrongful conduct in the future.

**84. ATTORNEYS' FEES, LITIGATION EXPENSES, AND COURT COSTS.**

Representative Plaintiffs and Class Members also are entitled to recover their attorneys' fees, litigation expenses, and court costs pursuant to, *inter alia*, 42 U.S.C. § 1988. All conditions precedent to Representative Plaintiffs' and Class Members' claims for attorneys' fees, litigation expenses, and court costs have been performed or occurred.

**WHEREFORE**, Representative Plaintiffs, for themselves and Class Members, respectfully request that (i) Defendants be cited to answer Plaintiffs' Amended Complaint, (ii) this action be certified as a class action, (iii) Representative Plaintiffs be designated the Class Representatives, and (iv) Representative Plaintiffs' counsel be appointed Class Counsel. Representative

Plaintiffs, for themselves and Class Members, also request that upon final trial or hearing, judgment be awarded against Defendants in their favor for:

- (i) actual, consequential, compensatory, and economic damages to be determined by the trier of fact;
- (ii) all amounts by which Defendants have been unjustly enriched;
- (iii) an equitable accounting for all benefits, consideration and profits received, directly or indirectly, by Defendants, including the imposition of a constructive trust, the voiding of unlawful transfers, and the disgorgement of all ill-gotten gains and profits;
- (iv) a factor for the time value of money (or Defendants' return on investment);
- (v) declaratory relief as set forth above;
- (vi) punitive damages;
- (vii) reasonable and necessary attorneys' fees and litigation expenses incurred through the trial and any appeals of this case;
- (viii) costs of suit; and
- (ix) such other and further relief the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Representative Plaintiffs, for themselves and Class Members, respectfully demand a trial by jury of all issues so triable.

Date: January 10, 2025

Respectfully submitted,

/s/ James W. Prevatt, Jr.

James W. Prevatt, Jr.

FL Bar No. 0352012

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**ATTORNEYS FOR THE  
REPRESENTATIVE PLAINTIFFS AND  
PUTATIVE CLASS**

**CERTIFICATE OF SERVICE**

I hereby certify that on January 10, 2025, I served a true and correct copy of Plaintiffs' Amended Class Action Complaint on all counsel of record, via the Court's CM/ECF system.

/s/ James W. Prevatt, Jr. \_\_\_\_\_  
James W. Prevatt, Jr.