

KIRA M. SLAWSON (7081)
BLACKBURN & STOLL, LC
Attorneys for E Fiber Moab, LLC
And E Fiber San Juan, LLC
257 East 200 South, Suite 800
Salt Lake City, Utah 84111
Telephone: (801) 521-7900

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

Applications of E Fiber Moab, LLC)	
and E Fiber San Juan, LLC for Certificates)	
of Public Convenience and Necessity)	Docket No. 20-2618-01
to Provide Facilities-Based Local)	
Exchange Service and Be Designated as Carriers)	
Of Last Resort in Certain Rural Exchanges)	

DIRECT TESTIMONY

OF

BROCK JOHANSEN

ON BEHALF OF APPLICANTS

June 24, 2020

23 A. The purpose of my testimony is to support the Applications and to demonstrate that the
24 Applicants satisfy the statutory and regulatory requirements for receipt of a CPCN, and to
25 show that designation of the Applicants as carriers of last resort who would be eligible for
26 UUSF support, if demonstrated by the Applicants' annual reports to be filed with the
27 PSC, is in the public interest. My testimony is accompanied by the testimony of Darren
28 Woolsey, Emery's Chief Financial Officer.

29
30 **Q. Are you familiar with the Applicant's Applications in this matter?**

31 A. Yes. I have reviewed the Applications for a Certificate of Public Convenience and
32 Necessity ("CPCN") and Designation as Carrier of Last Resort filed by the Applicants in
33 this matter (the "Applications") and verify that the statements made in the Applications
34 are true and correct, subject to the clarification I offer in this testimony. I hereby
35 incorporate the Applications and the Exhibits into this testimony.

36
37 **Q. Can you provide a brief background for the filing of the Applications?**

38 A. I have been the CEO of Emery since 2005. In that capacity I am very familiar with the
39 operations of Emery and its subsidiaries. Emery and its subsidiaries provide telephone
40 and broadband service in Emery, Carbon, and Grand Counties, and Hanksville city, Utah.
41 We also provide broadband service in San Juan County, Utah. I am familiar with the
42 communications services available in eastern and southeastern Utah, and western
43 Colorado. Since 2018, Emery Telecommunications & Video, Inc. ("ET&V") applied for
44 and has been awarded Federal Community Connect Grants and Federal ReConnect

45 Grants through the United States Department of Agriculture, Rural Utilities Service (the
46 “Federal Grants”) for \$7,235,289 in grant funds to provide broadband in unserved areas
47 of Grand and San Juan Counties, Utah, and Dolores County, Colorado.

48 The unserved areas covered by the Federal Grants contain outlying portions of the
49 LaSal, Moab, Monticello, Bluff, and Mexican Hat exchanges, but do not include the more
50 populated town and city centers. Additionally, the unserved areas covered by the Federal
51 Grants do not include the Blanding or Thompson Exchanges. The LaSal, Moab,
52 Thompson, Monticello, Blanding, Bluff, and Mexican Hat exchanges will be collectively
53 referred to as the “Local Exchanges.”

54 I have been aware that the telephone service and the broadband service in several
55 of the Local Exchanges has been the subject of various service complaints. In fact, I have
56 been contacted by some of the complainants and asked to assist with their efforts to get
57 better service. The Local Exchanges are remote and expensive to serve with relatively
58 few customers. Therefore, it is difficult to make a business case to deploy fiber
59 infrastructure in the Local Exchanges without governmental assistance in the form of
60 grant funding or universal service support. Upon review of these customers’ requests for
61 assistance, it occurred to me that Emery could leverage the Federal Grant funds which
62 would bring fiber infrastructure to the outlying areas of the Local Exchanges, and
63 combine Federal Grant funds with funds from the Utah Public Telecommunications
64 Service Fund (“UUSF”) to provide modern telecommunications infrastructure to all of
65 the Local Exchanges. This would allow deployment of infrastructure capable of

66 providing voice and wholesale broadband Internet access services to the Local Exchanges
67 with significantly less UUSF support than if no Federal Grant funds were available.

68

69 **Q. What is the nature of the Applicants' Request?**

70 A. In order to be eligible for UUSF funds in the Local Exchanges, pursuant to Utah Code
71 §54-8b-15, Emery would have to obtain a CPCN and be designated as a carrier of last
72 resort in the Local Exchanges. Emery formed two new companies, E Fiber Moab and E
73 Fiber San Juan to serve as the local exchange carriers for the Local Exchanges, and made
74 application to the Utah Public Service Commission ("PSC") for a CPCN and designation
75 as a carrier of last resort for each Applicant pursuant to Utah Code §54-8b-2.1.

76

77 **Q. Please summarize the Applications?**

78 A. The purpose of the Applications is to obtain CPCNs for the Applicants to provide local
79 exchange service, be designated as carriers of last resort in the Local Exchanges, and be
80 eligible for UUSF support once qualifying infrastructure is installed and services are
81 offered to customers in areas within the boundaries of the Local Exchanges.

82

83 **Q. How do the Applications differ from other applications for CPCN that are filed with
84 the PSC pursuant to Utah Code §54-8b-2.1?**

85 A. Typically, when an application for CPCN is filed with the PSC, the applicant is seeking
86 statewide authority to provide competitive local exchange service in the CenturyLink
87 areas, and the statewide CPCN issued excludes the applicant from providing service in

88 rural exchanges of fewer than 5,000 access lines served by providers with fewer than
89 30,000 access lines in the state. In this case, we are seeking authority to provide local
90 exchange service only in the Local Exchanges identified in the Applications.
91 Additionally, because all of the Local Exchanges with the exception of the Moab
92 Exchange, are small rural exchanges with fewer than 5,000 access lines, served by an
93 incumbent carrier with fewer than 30,000 access lines in the State (“Small Rural
94 Exchanges”), the Applicants are seeking to be designated as carriers of last resort in all of
95 the Local Exchanges, as required by Utah Code §54-9b-2.1(4). This means the
96 Applicants are agreeing to serve any customer or class of customer who requests service
97 in the exchange, subject to line extension requirements in their tariffs.

98

99 **Q. Do the Applicants currently have fiber facilities constructed to enable them to**
100 **provide service to all customers, or classes of customers who request service in the**
101 **Local Exchanges?**

102 A. No.

103

104 **Q. Will the Applicants resell the incumbent’s service until their own facilities are**
105 **constructed?**

106 A. No. We will not use Frontier’s facilities or resell Frontier’s service.

107

108 **Q. How do the Applicants plan on providing service to any customer or class of**
109 **customer who requests service in the Local Exchanges?**

110 A. The Applicants propose using a phased in approach. As fiber facilities are constructed in
111 the Local Exchanges or acquired as discussed in more detail in the testimony below, the
112 Applicants will offer service to the residents and businesses in the Local Exchanges. The
113 Applicants anticipate having the fiber network completed in all of the Local Exchanges
114 within five years, with service available to sections of the Local Exchanges shortly after
115 receiving the CPCNs. Before a Local Exchange is completely built out with fiber
116 facilities, customers will be able to request service subject to the Applicant's line
117 extension tariffs. I provide further detail on this in my testimony below.

118

119 **Q. Are the Applicants seeking carrier of last resort status before they have built out the**
120 **Local Exchanges?**

121 A. Yes.

122

123 **Q. Shouldn't the Applicants be able to serve the entire Local Exchanges before being**
124 **designated as a carrier of last resort?**

125 A. No. Although intuitively it would seem that a provider should have facilities in a local
126 exchange before seeking carrier of last resort status in that exchange, practically that is
127 not possible. As I stated briefly above, the Local Exchanges in the Application are rural,
128 remote, low density areas that are expensive to serve. A business case for deploying fiber
129 infrastructure in the Local Exchanges without governmental assistance in the form of
130 grants or universal service fund dollars cannot be made. It is imperative that the
131 Applicants know they can qualify for UUSF support before they undertake construction

132 and significant investment the Local Exchanges. The Applicants are applying for CPCNs
133 and for designation as carriers of last resort in the Local Exchanges so they can be
134 eligible for UUSF support.

135

136 **Q. Are the Applicants asking the PSC to determine their eligibility for UUSF in these**
137 **Applications?**

138 A. Technically, if the Applications are granted CPCNs for the Local Exchanges, pursuant to
139 Utah Code §54-8b-2.1(4) the Applicants will be required to provide service to any
140 customer or class of customers who requests service in the Local Exchanges. This is the
141 definition of a carrier of last resort under Utah Code Section 54-8b-15(1)(b). So, if the
142 Applications are granted, Applicants will, by statute, be eligible for UUSF support if they
143 provide voice service or wholesale broadband Internet access service and their reasonable
144 costs to provide such services exceed their revenue.

145

146 **Q. Are you suggesting that any carrier of last resort who is providing qualifying**
147 **services is eligible to receive support from the UUSF?**

148 A. Yes. This is my understanding of Utah Code §54-8b-15.

149

150 **Q. Wouldn't that mean that if there is more than one carrier of last resort designated in**
151 **a local exchange, both could qualify for UUSF in the same local exchange?**

152 A. Technically, yes. But as the Division of Public Utilities (“DPU”), the Office of Consumer
153 Services (“OCS”) and the Utah Rural Telecom Association (“URTA”), pointed out in

154 their Comments filed in this Docket, the public interest inquiry should include PSC
155 determination of which carrier of last resort in the Local Exchanges will be eligible to
156 draw from the UUSF.

157

158 **Q. Can the PSC make that determination?**

159 A. I believe they can under their rulemaking authority granted by Utah Code §54-8b-
160 15(2)(c) which requires the PSC to develop by rule, policies and procedures to govern the
161 administration of the UUSF.

162

163 **Q. Are the Applicants seeking a specific amount UUSF support in these Applications?**

164 A. No. The Applicants are seeking a determination by the PSC that they will be eligible for
165 UUSF if their costs to provide service exceed their revenues pursuant to Utah Code §54-
166 8b-15(4) and R746-8-401 which was established by the PSC pursuant to Utah Code §54-
167 8b-15(2)(c). R746-8-401 provides that each year the rate-of-return providers file an
168 annual report with the PSC which includes its financial information from the year before.
169 The DPU reviews the annual reports for each provider and makes a recommendation for
170 UUSF distribution for such provider. If the financial information contained in the annual
171 report of an eligible provider demonstrates that its reasonable costs exceed its revenues,
172 the provider is granted UUSF support. Because of regulatory lag, the review of the annual
173 reports results in UUSF support nearly two years after the expenditures are made.

174

175 **Q. Please explain the regulatory lag you referred to?**

176 A. I think an example would be helpful. A company makes expenditures associated with
177 providing public telecommunications services in 2019. Those expenditures are included
178 in the 2019 Annual Report filed with the PSC on April 15, 2020. The DPU reviews the
179 2019 Annual Report and makes a recommendation to the PSC for UUSF support for the
180 company in September of 2020. If such recommendation is approved by the PSC, the
181 company begins receiving that level of support in January of 2021. So, the UUSF
182 support received in 2021 is based on the company's 2019 financial information.

183 This regulatory lag is important to understand because it means Applicants will
184 not be eligible to receive UUSF until well after facilities are constructed and customers
185 are offered service. As the Applicants complete construction in each specific sector of the
186 Local Exchanges, customers are offered Utah universal services. The carrier of last resort
187 obligation means that the Applicants won't be able to just build down the middle of town.
188 Rather, they will be obligated to construct facilities and provide service to any customer
189 or class of customer who reasonably requests it. Applicants will incur build costs nearly
190 two years before they can hope to receive UUSF support for such facilities. Therefore,
191 regulatory lag ensures that Applicants will not receive UUSF support until such facilities
192 are constructed and after such customers are offered service.

193

194 **Q. Are you asking the PSC to decide now which carrier of last resort, Applicants or**
195 **Frontier, would be eligible to draw support from the UUSF?**

196 A. Yes. As stated previously, the Applicants are not able to make a business case for
197 constructing fiber throughout the Local Exchanges, and are unwilling to undertake this

198 construction project without being eligible for support from the UUSF. I agree that it is
199 good public policy to only allow one carrier of last resort to draw from the UUSF in each
200 exchange, and the Applicants need to know if they will be the carriers of last resort
201 eligible to receive UUSF support before they make the added investment in the Local
202 Exchanges.

203

204 **Q. Why do you think the PSC should select the Applicants, rather than Frontier, as the**
205 **carriers of last resort to be eligible for UUSF support in the Local Exchanges?**

206 A. I have reviewed the Comments filed by the OCS and URТА. I think the public interest
207 factors identified by the OCS and URТА provide an excellent set of factors for the PSC to
208 consider. I also think that consideration of those factors argues in favor of granting
209 Applicants' CPCN and designation of Applicants as the carriers of last result eligible for
210 UUSF in the Local Exchanges.

211

212 **Q. What factors, specifically, do you think the PSC should consider in its public interest**
213 **inquiry?**

214 A. Because the Applicants are seeking competitive entry into Small Rural Exchanges, where
215 the Applicants will be carriers of last resort and eligible for UUSF support, I urge the
216 PSC to consider the factors identified by URТА in its public interest inquiry:

217 1. Whether the incumbent is receiving or has received state UUSF in the past 5
218 years;

- 219 2. Whether the competitive applicant is planning to serve all the exchanges of the
220 incumbent in the state;
- 221 3. Whether the incumbent has invested in the efficient development and deployment
222 of advanced telecommunications infrastructure and facilities in the Small Rural
223 Exchange(s) where competitive entry is sought;
- 224 4. Whether the incumbent is providing high quality, affordable public
225 telecommunications services to all residents and businesses in the Small Rural
226 Exchange(s) where competitive entry is sought;
- 227 5. Whether the incumbent is in compliance with the Service Qualities for
228 Telecommunications Corporation Rules, Utah Admin. Code R746-340-4 through
229 R746-340-5, and R746-340-7;
- 230 6. Whether there are material unresolved service complaints filed against the
231 incumbent in the Small Rural Exchange where competitive entry is sought.
- 232 7. Whether the incumbent has a reasonable plan for providing high quality
233 telecommunications services.
- 234 8. Whether the competitive applicant is seeking to invest in the efficient
235 development and deployment of advanced telecommunications infrastructure and
236 facilities equal to or better than the infrastructure and facilities of the incumbent
237 in the Small Rural Exchanges where competitive entry is sought;
- 238 9. Whether the competitive applicant will provide high quality, affordable public
239 telecommunications services to all residents and businesses in the Small Rural
240 Exchange where competitive entry is sought;

241 10. Whether the competitive entry is seeking UUSF support to construct the facilities
242 and provide the services, and if so, is the support sought reasonable and necessary
243 to provide high quality telecommunications services.

244

245 **Q. Let's walk through each of those factors in the context of these Applications. Factor,**
246 **1: Is Frontier receiving UUSF support in the Local Exchanges?**

247 A. No. While Frontier has been eligible to receive UUSF support as the carrier of last resort,
248 Frontier is not and has not received UUSF support in the State of Utah since 2007. As a
249 result, there has been no current investment by Frontier in the Local Exchanges funded
250 by the UUSF, and allowing the Applicants to compete in the Local Exchanges will not
251 negatively impact existing UUSF funded investment. This factor should not weigh
252 against the Applicants.

253

254 **Q. Factor 2: Will the Applicants serve all of Frontier's exchanges in the State of Utah?**

255 A. No. The Applicants will serve the Local Exchanges only. While these are all of
256 Frontier's exchanges in Grand and San Juan counties, the proposed service territories do
257 not include exchanges owned/operated by Frontier outside of Grand and San Juan
258 counties.

259

260 **Q. Why is this factor relevant?**

261 A. If a company has investment in exchanges throughout the State and a competitor only
262 seeks to serve certain exchanges, the UUSF calculation becomes more difficult. As

263 indicated above, UUSF is not granted on an exchange by exchange basis. Rather, UUSF
264 is granted on a company wide basis. If the PSC approves a competitive carrier of last
265 resort and designates the competitor as the carrier of last resort that will be eligible for
266 UUSF in the designated local exchanges, some consideration may have to be given when
267 determining UUSF support for the incumbent in other exchanges. This is not an
268 insurmountable problem, but will require additional information to be provided on the
269 annual report, and may require additional PSC rules. However, this theoretical, potential
270 issue, is not applicable in these circumstances because according to the DPU
271 Recommendation in Docket 20-041-01, Frontier has very little rate base in Utah because
272 over 95% of the company's assets are fully depreciated. (See Docket 20-041-01, DPU
273 Recommendation) Therefore, it seems that Frontier is unlikely to qualify for UUSF in the
274 near future and this factor should not weigh against Applicants.

275

276 **Q. Factor 3: Has Frontier invested in the efficient development and deployment of**
277 **advanced telecommunications infrastructure and facilities in the Local Exchanges?**

278 A. As I previously stated, Frontier has not received UUSF in the State of Utah since 2007
279 and over 95% of its rate base in Utah is fully depreciated. Additionally, in the DPU's
280 2019 Recommendation in Docket 19-041-01 the DPU indicated that based on Frontier's
281 annual reports, Frontier has reported declining levels of annual capital investment. The
282 DPU and the PSC should determine whether Frontier has deployed advanced
283 telecommunications infrastructure in the Local Exchanges.

284 Additionally, Frontier has had several service complaints filed against it. Under
285 the circumstances it seems unlikely that Frontier has made any recent significant
286 investment to deploy advanced telecommunications infrastructure or facilities in the
287 Local Exchanges. This factor weighs in favor of granting the Applications and
288 designating the Applicants as the carriers of last resort eligible to receive UUSF support
289 in the Local Exchanges.

290

291 **Q. Factor 4: Is Frontier providing high quality, affordable public telecommunications**
292 **services to all residents and businesses in the Local Exchanges?**

293 A. The formal service complaints, the investigation launched by the DPU, and the request
294 for agency action filed by the OCS suggest that Frontier is not providing high quality,
295 affordable telecommunications services in the Local Exchanges. Additionally, the fact
296 that I have been contacted by Frontier customers and asked to assist them with getting
297 better service indicates the service being provided by Frontier is not adequate. This factor
298 weighs in favor of granting the Applications and designated Applicants as the carriers of
299 last resort to be eligible for UUSF.

300

301 **Q. Factor 5: Is Frontier in compliance with the Service Qualities for**
302 **Telecommunications Corporations Rules R746-340-4, 5, and 7?**

303 A. I am not qualified to answer that question, but the inquiry is relevant to this proceeding.

304

305 **Q. Factor 6: Have there been material unresolved service complaints filed against**
306 **Frontier in the Local Exchanges?**

307 A. I am aware that there have been service complaints against Frontier in the Local
308 Exchanges. I believe they are still pending, and therefore, unresolved. This factor seems
309 to weigh in favor of approving the Applications.

310

311 **Q. Factor 7: Does Frontier have a reasonable plan for providing high quality**
312 **telecommunications services in the Local Exchanges?**

313 A. Again, I am not qualified to answer this question, but believe the factor is relevant to the
314 discussion. This is a question that should be answered by the incumbent. If Frontier does
315 not have a reasonable plan for providing high quality telecommunications services in the
316 Local Exchanges, this factor would weigh in favor of approving the Applications.

317

318 **Q. Factor 8: Are the Applicants seeking to invest in the efficient development and**
319 **deployment of advanced telecommunications infrastructure and facilities that are**
320 **technologically equal to or better than Frontier's infrastructure and facilities in the**
321 **Local Exchanges?**

322 A. Yes. The Applicants are proposing to construct brand new fiber optic facilities throughout
323 the Local Exchanges. The proposed build out is expected to be completed within five
324 years and will bring state-of-the-art voice and broadband internet access service with 1
325 Gbps broadband speeds to the residents and businesses of Grand and San Juan counties.

326

327 **Q. Factor 9: Will the Applicants provide high quality, affordable public**
328 **telecommunications services to all residents and businesses in the Local Exchanges?**

329 A. Yes. The Applicants have specifically committed to provide high quality service via fiber
330 optic facilities to the residents and businesses in the Local Exchanges.

331

332 **Q. After the build out is completed will you serve all of the businesses and residences in**
333 **the Local Exchanges?**

334 A. Not likely. As is true for all carriers of last resort, even after our build out is complete
335 some extremely remote locations in the Local Exchanges may still be subject to line
336 extension tariffs. This ensures that the UUSF is used for reasonable costs and expenses.
337 However, if a customer is willing to pay the line extension fees set forth in the tariffs,
338 Applicants will be obligated to serve those customers.

339

340 **Q. Factor 10: Are the Applicants seeking UUSF support to construct the facilities and**
341 **provide the services, and if so, is the proposed UUSF reasonable and necessary to**
342 **provide high quality telecommunications services?**

343 A. Yes. As previously stated, the Applicants would like to be designated as the carriers of
344 last resort eligible to receive UUSF support in the Local Exchanges. Darren Woolsey
345 will provide the testimony specifically related to the amount of UUSF projected, but I
346 have reviewed his calculations and testimony and believe the UUSF projected is
347 reasonable and necessary to construct the fiber network necessary to provide advanced
348 telecommunications services to all residents and businesses in the Local Exchanges. Our

349 facilities will provide carrier grade Voice over Internet Protocol (“VoIP”) service and
350 high-speed wholesale broadband Internet access with latency suitable for real time
351 applications. The Local Exchanges are very rural and remote, but with the Federal Grant
352 funds paying for the fiber network in the outlying areas of the Local Exchanges, the
353 projected UUSF support is extremely reasonable. The Federal Grant funds are particular
354 to Emery, therefore, I believe it is in the public interest to grant the Applications and
355 designate the Applicants as the carriers of last resort eligible to receive UUSF support in
356 the Local Exchanges.

357

358 **Q. Are there other factors that should be considered?**

359 A. Frontier identifies the public interest inquiry that the PSC made in the context of the
360 WWC Holding Co., Inc’s Petition for Designation as an Eligible Telecommunications
361 Carrier, Docket 98-2216-01. Specifically, the PSC considered the burden on the UUSF
362 and any corresponding public benefit if it were to grant ETC designation to WWC.
363 Ultimately, the PSC determined it was not in the public interest to grant WWC’s ETC
364 designation. Ultimately, the Utah Supreme Court upheld the PSC’s decision on appeal,
365 ruling that the PSC could legitimately consider the impact on the UUSF in determining
366 public interest, and that the PSC’s determination that the public benefits did not outweigh
367 the burden on the UUSF (WWC Holding Co., Inc. vs. Public Service Commission, 2002
368 UT 23, ¶15, 44 P.,3d 714) (“WWC Case”).

369

370 **Q. Do you think the current Applications are distinguishable from the WWC Case?**

371 A. Yes, but I agree with the analysis of the PSC in the WWC Case which was affirmed by
372 the Utah Supreme Court. Specifically, I think the PSC can and should determine the
373 impact that certain requests will have on the UUSF, and the PSC should weigh that
374 impact with the potential public benefits to be realized.

375 In this case, the Applicants are offering to construct, deploy and manage a state-
376 of-the-art fiber optic network in the Local Exchanges at a very low cost due to the
377 Federal Grants. While it is true that Frontier is providing telephone service in the Local
378 Exchanges, that service is not without issues. Several customers have complained about
379 the service and about the lack of broadband availability throughout the Local Exchanges.
380 The approval of the Applications and the selection of the Applicants to be the carriers of
381 last resort eligible for UUSF support will result in connecting a historically underserved
382 area in the state with advanced telecommunications services through the fiber network.

383

384 **Q. What makes you say the area is underserved?**

385 A. First, there have been several service complaints that are still pending at the PSC
386 regarding telephone and DSL service. Second, clearly the outlying areas in the Local
387 Exchanges are underserved (or unserved) because Emery was awarded Community
388 Connect and ReConnect Grants to serve those areas. Only underserved or unserved areas
389 (areas with network speeds of less than 10 Mbps down and 1 Mbps up) are eligible for
390 the Federal Grants. Additionally, I drove around with the USDA field representative in
391 connection with our applications to confirm the grant areas were under or unserved
392 through speed tests.

393 Providing reliable and robust fiber service to the Local Exchanges will have an
394 impact on the UUSF, but the impact is lower than if another provider were to build out
395 the Local Exchanges, due to the Federal Grant funds received by Emery. And, more
396 importantly, the robust and reliable fiber service is desperately needed to provide
397 connectivity to these communities. In the case of these Applications, the public benefit of
398 the upgraded service in the Local Exchanges outweighs the potential impact to the UUSF.

399

400 **Q. Determining that an Applications for CPCN is in the public interest is one of the**
401 **requirements for issuance of a CPCN as stated in Utah Code §54-8b-2.1(2)(b). Can**
402 **you also demonstrate that the Applicants have sufficient technical, financial, and**
403 **managerial resources and abilities to provide the public telecommunications services**
404 **applied for, as required by Utah Code 54-8b-2.1(2)(a)?**

405 A. Yes. Applicants operations will be managed by me, as CEO; Jared Anderson, as COO;
406 and Darren Woolsey as CFO. Our specific qualifications were attached to the
407 Applications. Although Applicants are newly formed companies, Darren, Jared, and I
408 have extensive telecommunications technical and managerial experience. Therefore, the
409 Applicants are qualified to provide public telecommunications services in the Local
410 Exchanges. With regard to financial resources, Applicants are wholly owned subsidiaries
411 of Emery. Pursuant to R746-349-3(10)(c) the Financial Statements of Emery and the
412 balance sheet of Applicants were attached to the Applications.

413

414 Additionally, while the Applicants have access to financing and capital sources as
415 needed to provide public telecommunications services in the Local Exchanges, the
416 Applicants are seeking eligibility for and support from the UUSF. In connection with the
417 Applications, Applicants have provided a Proforma Five-Year Plan (“Proforma”) which
418 was prepared by the Emery management team. Darren Woolsey will provide detailed
419 testimony related to the Proforma. As shown in the Proforma, as the build out of the fiber
420 facilities in the Local Exchanges is completed, Applicants anticipate qualifying for UUSF
421 support. I believe that UUSF support to the Applicants to construct, install, and operate
422 the fiber facilities necessary to bring advanced telecommunications services, including
423 voice and high-speed broadband to the Local Exchanges is in the public interest. By
424 leveraging the Federal Grant funds, the impact to the UUSF to bring fiber service to the
425 Local Exchanges is reduced. If another provider were to try to serve the local exchanges
426 with fiber, the cost to the UUSF would be greatly increased.

427

428 **Q. Are you confident in your UUSF projections?**

429 A. Yes. As Darren Woolsey states in his testimony, we were conservative in our projections
430 and believe they are an accurate estimation of costs and revenues, but they are
431 projections. Ultimately, UUSF support will be based on actual costs and revenues
432 realized in the project, not projections. Also, while it is not addressed in the Proforma,
433 Emery has applied for an additional federal grant in 2020. If this grant is awarded, Emery
434 will have additional grant funds available to assist with the fiber build in portions of the

435 Local Exchanges. These additional federal grant funds would further reduce the UUSF
436 support needed by the Applicants.

437

438 **Q. What types of service will the Applicants offer?**

439 A. The Applicants are seeking authority to provide all forms of local exchange public
440 telecommunications services as carriers of last resort on a facilities-based basis.

441 Applicants will provide access to ordinary intraLATA and interLATA message toll
442 calling, operator services, directory assistance, directory listings, and emergency services
443 such as 911 and E911.

444

445 **Q. The Applications indicated that each Applicant anticipates using its own facilities
446 and/or using the facilities and networks from its affiliate Emery
447 Telecommunications & Video, Inc. (“ET&V”) or affiliates ET& V and Emery
448 Telecom Video, LLC, in the case of E Fiber Moab, to provide local exchange services
449 while the Applicant builds out its fiber network in the Local Exchanges. Can you
450 please describe that process?**

451 A. After re-reading the language used in Section 3 of the Applications, I believe the
452 language used in Section 3 of the Applications is confusing and needs further
453 explanation. Also, there are some differences between the processes that will be utilized
454 for E Fiber Moab and E Fiber San Juan which are not obvious from the statements made
455 in the Applications.

456

457 **Q. Please describe the process you will utilize for E Fiber Moab.**

458 A. ET&V is currently providing competitive voice service in Moab utilizing coaxial
459 facilities purchased from a cable television company and some fiber that was constructed
460 by ET&V to serve primary businesses and higher density areas in Moab. Our plan is to
461 move the fiber facilities, and the associated rate base, cost, customers, and revenue from
462 ET&V to E Fiber Moab immediately upon approval of the Application and the granting
463 of the CPCN. The coaxial facilities of ET&V and Emery Telcom Video, LLC will not be
464 moved to the regulated E Fiber Moab company. Rather, E Fiber Moab will construct fiber
465 facilities to replace and upgrade the aging coaxial facilities. As E Fiber Moab constructs
466 the fiber facilities, customers will be shifted from ET&V and Emery Telcom Video, LLC
467 to E Fiber Moab.

468

469 **Q. Why are you suggesting that the ET&V fiber facilities, and associated rate base,**
470 **costs, customers and revenue be transferred to E Fiber Moab?**

471 A. The ET&V fiber facilities were constructed to provide service to primary businesses and
472 certain high-density residential areas in Moab. As a result, the costs associated with
473 construction and service were relatively low, while the revenues from such customers
474 was relatively high. Transferring this low hanging fruit of low cost/high revenue
475 customers to E Fiber Moab ensures that the rate of return regulated company, E Fiber
476 Moab, has the lower cost/high revenue customers in the exchange to offset the higher
477 cost/relatively lower revenue, lower density customers across the exchange that will be
478 built out by E Fiber Moab. To not move these facilities and customers to E Fiber Moab

479 would increase E Fiber Moab's UUSF draw by keeping all the higher margin facilities
480 and customers in the non-regulated ET&V. E Fiber Moab's proposed approach allows for
481 cost averaging across the whole exchange, ultimately resulting in lower UUSF
482 distributions to E Fiber Moab.

483 In effect, Emery is avoiding having its non-regulated affiliate compete with its
484 regulated E Fiber Moab so its non-regulated affiliate could not "cherry pick" the more
485 profitable, lower cost customers from E Fiber Moab.

486

487 **Q. So, will E Fiber Moab utilize the facilities of ET&V and Emery Telcom Video, LLC**
488 **as stated in its Application?**

489 A. Technically, no. Initially, after the ET&V fiber facilities are transferred to E Fiber Moab,
490 E Fiber Moab will provide voice service to the customers served by those fiber facilities,
491 but at the time of service by E Fiber Moab, the ET&V fiber facilities will have already
492 been transferred to E Fiber Moab. ET&V already has authority, to provide voice service
493 across the coaxial network of Emery Telcom Video, LLC, and will continue to provide
494 such service until the coaxial network is replaced by E Fiber Moab fiber plant.

495

496 **Q. Is that analysis the same for E Fiber San Juan?**

497 A. No. There are some differences with E Fiber San Juan's Application. First, Emery does
498 not have any affiliate authorized to provide voice service in the exchanges of Monticello
499 Blanding, Bluff, or Mexican Hat (the "San Juan Exchanges"). Therefore, we are not
500 currently providing any voice services in the San Juan Exchanges. We have constructed

501 limited fiber facilities through ET&V to some of the schools and businesses for
502 broadband internet access. ET&V also provides broadband internet access service using
503 the aging coaxial cable plant of Emery Telcom Video, LLC. Our plan is to move the
504 ET&V fiber facilities, and the associated fiber rate base, cost, customers, and revenue
505 from ET&V to E Fiber San Juan immediately upon approval of the Application and the
506 granting of the CPCN. The coaxial facilities of Emery Telcom Video, LLC will not be
507 moved to the regulated E Fiber San Juan company. Rather, E Fiber San Juan will
508 construct fiber facilities to replace and upgrade the aging coaxial facilities. As E Fiber
509 San Juan constructs the fiber facilities, coaxial customers will be shifted from ET&V and
510 Emery Telcom Video, LLC to E Fiber San Juan.

511 However, because ET&V is not certificated to provide voice service in the San
512 Juan Exchanges, E Fiber San Juan will provide voice service in the San Juan exchanges
513 using the fiber facilities that will be transferred from ET&V, and also using the coaxial
514 cable facilities of Emery Telcom Video, LLC, until E Fiber San Juan constructs fiber
515 facilities in the San Juan exchanges.

516

517 **Q. How will E Fiber San Juan compensate Emery Telcom Video, LLC, for the use of**
518 **the coaxial cable facilities?**

519 A. There would be an intercompany transaction between Emery Telcom Video, LLC, and E
520 Fiber San Juan for use of the coaxial cable to provide telephone service. Intercompany
521 transactions with a regulated entity are required to be at the lower of cost or market value.

522

523 **Q. Can you explain how this transfer of fiber assets from ET&V to E Fiber Moab and**
524 **E Fiber San Juan will affect their respective rate bases?**

525 A. Yes. First, it will help to understand that a significant portion of the construction of the
526 ET&V fiber facilities in the Local Exchanges were paid for by Utah Education and
527 Telehealth Network (“UETN”) contracts. As a result, ET&V’s investment in these
528 facilities was reduced due to aid in construction received from UETN. The ET&V fiber
529 facilities and plant transferred to E Fiber Moab and E Fiber San Juan will be transferred
530 at net-book value (and less any aid in construction). Thus, the ET&V plant is not being
531 recapitalized and the investment (rate base) when transferred to E Fiber Moab and E
532 Fiber San Juan is lower for UUSF purposes.

533 Additionally, significant portions of the fiber facilities in the outlying areas of the
534 Local Exchanges are being constructed using Federal Grant funds. These assets will
535 ultimately be transferred to the Applicants, but with a very low rate base when aid in
536 construction is factored in.

537
538 **Q. You indicated the Applicants will provide services as they obtain or construct fiber**
539 **facilities. The Applications state Applicants anticipate offering their services after**
540 **the approval of the Application for CPCN and upon negotiations of an**
541 **interconnection agreement with Frontier. Can you explain further?**

542 A. Yes. As explained above, upon approval of the CPCN and negotiation of an
543 interconnection agreement with Frontier, certain fiber facilities of ET&V will be
544 transferred to the Applicants. Contemporaneously with the transfer of those fiber

545 facilities to the Applicants, Applicants will begin providing service to those customers
546 served by the fiber facilities. Additionally, in San Juan, E Fiber San Juan will begin
547 providing voice service using the coaxial cable facilities of Emery Telcom Video, LLC.
548 Fiber construction and build out is anticipated to occur within five years. Thus,
549 Applicants anticipate a five-year implementation schedule.

550

551 **Q. Have any complaints been made or any investigation taken against Applicants or**
552 **their parent company for unauthorized slamming?**

553 A. No. Applicants will comply with federal and state law, and the Federal Communications
554 Commission regulations regarding how carriers may change a consumer's primary local
555 exchange provider and primary interexchange carrier.

556

557 **Q. Are Applicants seeking to be rate-of-return regulated?**

558 A. Yes. Applicants affirmatively stated they seeking to rate-of-return regulated carriers of
559 last resort, subject to Utah Code §54-4-4, §54-7-12, and PSC Rule R746-8-200 (12).
560 Upon approval of the Applications, Applicants will file exchange maps and tariffs as
561 required by R746-340-2(E)(1) and (2).

562

563 **Q. One last question, the E Fiber San Juan Application indicates it will not be serving**
564 **the White Mesa portion of the Blanding exchange. Can you explain?**

565 A. The White Mesa community is part of the Ute Mountain Ute Tribe Reservation (the
566 "Tribe"). It is my understanding that the Tribe is in the process of deploying their own

567 fiber optic network in that community or attempting to apply for grants to do so. In any
568 event, E Fiber San Juan does not have permission from the Tribe to construct and deploy
569 fiber facilities in that area. As a result, we have eliminated it from the requested
570 certificated area. In the future, if permission is granted from the Tribe, E Fiber San Juan
571 could apply to have that area included in the Blanding exchange so E Fiber San Juan
572 could serve the community with fiber.

573

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

575 **A. Yes.**

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of June, 2020, I served a true and correct copy of the Direct Testimony of Brock Johansen in Docket 20-2618-01 via e-mail transmission to following persons at the e-mail addresses listed below:

Division of Public Utilities

Chris Parker

Brenda Salter

chrisparker@utah.gov

bsalter@utah.gov

dpudatarequest@utah.gov

Office of Consumer Services

Michelle Beck

mbeck@utah.gov

Assistant Utah Attorneys Generals

Justin Jetter

Robert Moore

jjetter@utah.gov

rmoore@utah.gov

Citizens Telecommunications Company of Utah

Phillip Russell

prussell@jdrsllaw.com

Gregory Brubaker

Gregory.c.brubaker@ftr.com

/s/Kira M. Slawson