

KIRA M. SLAWSON (7081)
BRETT N. ANDERSON (11809)
BLACKBURN & STOLL, LC
Attorneys for the Utah Rural Telecom Association
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 DOUGLAS MEREDITH
ON BEHALF OF THE
UTAH RURAL TELECOM ASSOCIATION - INTERVENOR**

September 25, 2020

Table of Contents

List of Exhibits	iii
I. Witness Qualification	1
II. Background	3
III. Proposed Voice Service to be Provided by Applicants	5
IV. Recommended Factors for the Commission’s Public Interest Inquiry	10
A. Factor 1: Is the incumbent provider receiving UUSF support in the area designed by the Applicant?	12
B. Factor 2: Will the Applicants serve all of the incumbent provider’s exchanges in the State of Utah? 14	
C. Factor 3: Has the incumbent provider invested in the efficient development and deployment of advanced telecommunications infrastructure and facilities in its service area?	15
D. Factor 4: Is the incumbent provider providing high quality, affordable public telecommunications services to all residents and businesses its service area?	17
E. Factor 5: Is the incumbent provider in compliance with the Service Quality for Telecommunications Corporations Rules R746-340-4, 5, and 7?	17
F. Factor 6: Have there been material unresolved service complaints filed against the incumbent provider in the Applicant’s requested area?	18
G. Factor 7: Does the incumbent provider have a reasonable plan for providing high quality telecommunications services in the Local Exchanges?	19
H. Factor 8: Are the Applicants seeking to invest in the efficient development and deployment of advanced telecommunications infrastructure and facilities that are technologically equal to or better than Frontier’s infrastructure and facilities in the Local Exchanges?	20
I. Factor 9: Will the Applicants provide high quality, affordable public telecommunications services to all residents and businesses in the Local Exchanges?	20
J. Factor 10: Are the Applicants seeking UUSF support to construct the facilities and provide the services, and if so, is the proposed UUSF reasonable and necessary to provide high quality telecommunications services?	21
V. Other Considerations	21

List of Exhibits

Exhibit DDM-01 NECA Reporting Guideline 8.11 Providing Local Exchange Telephone Service Using Voice over Internet Protocol (VoIP) Technology (Feb 2019)

1 **I. Witness Qualification**

2 **Q. Please state your full name, place of employment and position.**

3 A. My full name is Douglas Duncan Meredith. I am employed by JSI, LLC (“JSI”) as
4 Director – Economics and Policy. JSI is a telecommunications consulting firm
5 headquartered in Greenbelt, Maryland. My office is located at 547 Oakview Lane,
6 Bountiful, Utah 84010. JSI is a full-service consulting firm, providing operational,
7 financial, management, regulatory, marketing, and strategic assistance to
8 independent community-based communications providers. JSI has provided
9 telecommunications consulting services to communications providers since 1963.

10 **Q. Please describe your professional experience and educational background.**

11 A. As the Director of Economics and Policy at JSI, I assist clients with the development
12 of policy pertaining to economics, pricing, and regulatory affairs. I have been
13 employed by JSI since 1995. Prior to my work at JSI, I was an independent research
14 economist in the District of Columbia and a graduate student at the University of
15 Maryland – College Park.

16 In my employment at JSI, I have participated in numerous proceedings for rural and
17 non-rural telephone companies. These activities include, but are not limited to, the
18 creation of forward-looking economic cost studies, the development of policy
19 related to the application of the rural safeguards for qualified local exchange
20 carriers, the determination of Eligible Telecommunications Carriers (“ETCs”), the
21 sustainability and application of universal service policy for telecommunications
22 carriers, as well as supporting incumbent local exchange carriers in arbitration
23 proceedings, rural exemption suspension and/or modification proceedings.

24 In addition to assisting telecommunications carrier clients, I have served as the

25 economic advisor for the Telecommunications Regulatory Board of Puerto Rico
26 since 1997. In this capacity, I provide economic and policy advice to the Board
27 Commissioners on telecommunications issues that have either a financial or
28 economic impact on carriers or end-users. I have participated in a number of
29 arbitration panels established by the Board to arbitrate interconnection issues under
30 Section 252 of the Telecommunications Act of 1996. Many of these arbitration
31 decisions have been appealed to and upheld by the U.S. Court of Appeals, First
32 Circuit.

33 I have participated in numerous national incumbent local exchange carrier and
34 telecommunications groups, including those headed by NTCA—The Rural
35 Broadband Association (including OPASTCO), USTelecom, and the Rural Policy
36 Research Institute. My participation in these groups focuses on the development of
37 policy recommendations for advancing telecommunications capabilities in rural
38 communities, universal service, and other policy matters.

39 I have a Bachelor of Arts degree in Economics from the University of Utah, and a
40 Master's Degree in Economics from the University of Maryland – College Park.
41 While attending the University of Maryland – College Park, I was a Ph.D. candidate
42 in Economics, having completed all coursework, comprehensive and field
43 examinations for a Ph.D. in Economics.

44 **Q. Have you testified previously in federal and state regulatory proceedings on**
45 **telecommunications issues?**

46 A. Yes. I have testified live or in pre-filed regulatory testimony in various states
47 including Utah, Arizona, Colorado, Indiana, Maine, Michigan, Montana, North
48 Dakota, New Hampshire, New York, South Carolina, Tennessee, Texas, Vermont,
49 and Wisconsin. I have also participated in regulatory proceedings in many other

50 states that did not require formal testimony, including Florida, Oklahoma,
51 Louisiana, Mississippi, South Dakota, Puerto Rico, and Virginia. In addition to
52 participating in state regulatory proceedings, I have participated in federal
53 regulatory proceedings through filing of formal comments in various proceedings
54 and submission of an economic report in an enforcement proceeding.

55 **Q. What was the subject of the proceedings in which you have testified?**

56 A. The proceedings in which I have provided testimony or comments involve matters
57 related to incremental costs, interconnection agreements, reform of state universal
58 service policy, reform of state universal service contribution methodology,
59 including moving to a connection-based allocation, National Exchange Carrier
60 Association (“NECA”) tariffs, competitive ETC designation, rural exemption
61 challenges, designation of local traffic, infrastructure reliability, and competitive
62 market analysis.

63 **Q. On whose behalf are you testifying in this proceeding?**

64 A. I am providing testimony on behalf of the Utah Rural Telecom Associations and its
65 members (“URTA”).

66 **Q. Was this testimony prepared by you or under your direct supervision?**

67 A. Yes.

68 **II. Background**

69 **Q. Are you familiar with the E Fiber Moab, LLC and E Fiber San Juan, LLC**
70 **Applications filed in this proceeding?**

71 A. Yes. I have reviewed the Applications for a Certificate of Public Convenience and

72 Necessity (“CPCN”) and Designation as Carrier of Last Resort filed by E Fiber
73 Moab, LLC (“E Fiber Moab”) and E Fiber San Juan, LLC (“E Fiber San Juan”)
74 (Jointly referenced as “Applicants”). I have also reviewed the Applicants’ responses
75 to various data requests propounded by the Division, the Office, and Frontier.

76 **Q. Did you also review the Direct Testimonies filed in this proceeding by Mr.**
77 **Brock Johansen and Mr. Darren Woolsey on behalf of the Applicants?**

78 A. Yes.

79 **Q. What is the purpose of your Direct Testimony in this proceeding?**

80 A. I understand the Applicants are seeking two CPCNs to provide voice service in the
81 Thompson, Moab, LaSal, Monticello, Blanding, Bluff and Mexican Hat exchanges
82 in Utah (hereinafter “Local Exchanges”).¹ They are seeking competitive entry into
83 the Local Exchanges pursuant to Utah Code.² Before the Utah Public Service
84 Commission (“Commission”) grants CPCNs to the Applicants, the Commission is
85 required to determine that granting competitive entry is in the public interest.

86 Additionally, because all of the Local Exchanges except for Moab, are local
87 exchanges of fewer than 5,000 access lines which are served by an incumbent with
88 fewer than 30,000 access lines in the state (“Small Rural Exchanges”), there are
89 additional issues the Commission should consider before granting the competitive

¹ These exchanges are currently assigned to the incumbent local exchange carrier Citizens Telecommunications Company of Utah d/b/a Frontier Communications. This carrier is a subsidiary of Frontier Communications Corporation and is one of 99 Frontier subsidiaries and is one of nine obligors on Frontier’s funded debt. Frontier Communications Corporation, *Disclosure Statement Relating to the Joint Plan of Reorganization of Frontier Communications Corporation and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code*, United States Bankruptcy Court Southern District of New York, Case No. 20-22476. (RDD) (“Disclosure Statement”), May 14, 2020 at 31.

² U.C.A. Section 54-8b-2.1.

90 CPCNs.

91 The purpose of my testimony is to identify and explain several public interest factors
92 that the Commission should consider when determining whether it is in the public
93 interest to grant a competitive certificate of public convenience and necessity in
94 Small Rural Exchanges in general, and in the Local Exchanges identified in the
95 Applications, in particular. I also address why I believe it is important the that the
96 Commission clarify that the Utah Public Telecommunications Service Support
97 Fund (“UUSF”) be used to support reasonable investments in infrastructure in areas
98 where there are two or more COLRs designated to provide service.

99 As a precursor to addressing the public interest factors and my recommendation for
100 determining the reasonableness of UUSF distribution, I will address the particular
101 voice service the Applicants are seeking to provide. This is an important issue
102 because of Frontier’s claim in its Motion for Summary Judgment that the voice
103 service proposed to be provided by the Applicants cannot be regulated by the
104 Commission.

105 **III. Proposed Voice Service to be Provided by Applicants**

106 **Q: Are you familiar with Frontier’s Motion for Summary Judgment and the**
107 **Applicants’ response to the allegation that the Applicants’ voice service cannot**
108 **be regulated by the Commission?**

109 A: Yes.

110 **Q: Do you agree with Frontier that there is a prohibition to regulate the**
111 **Applicants’ voice service?**

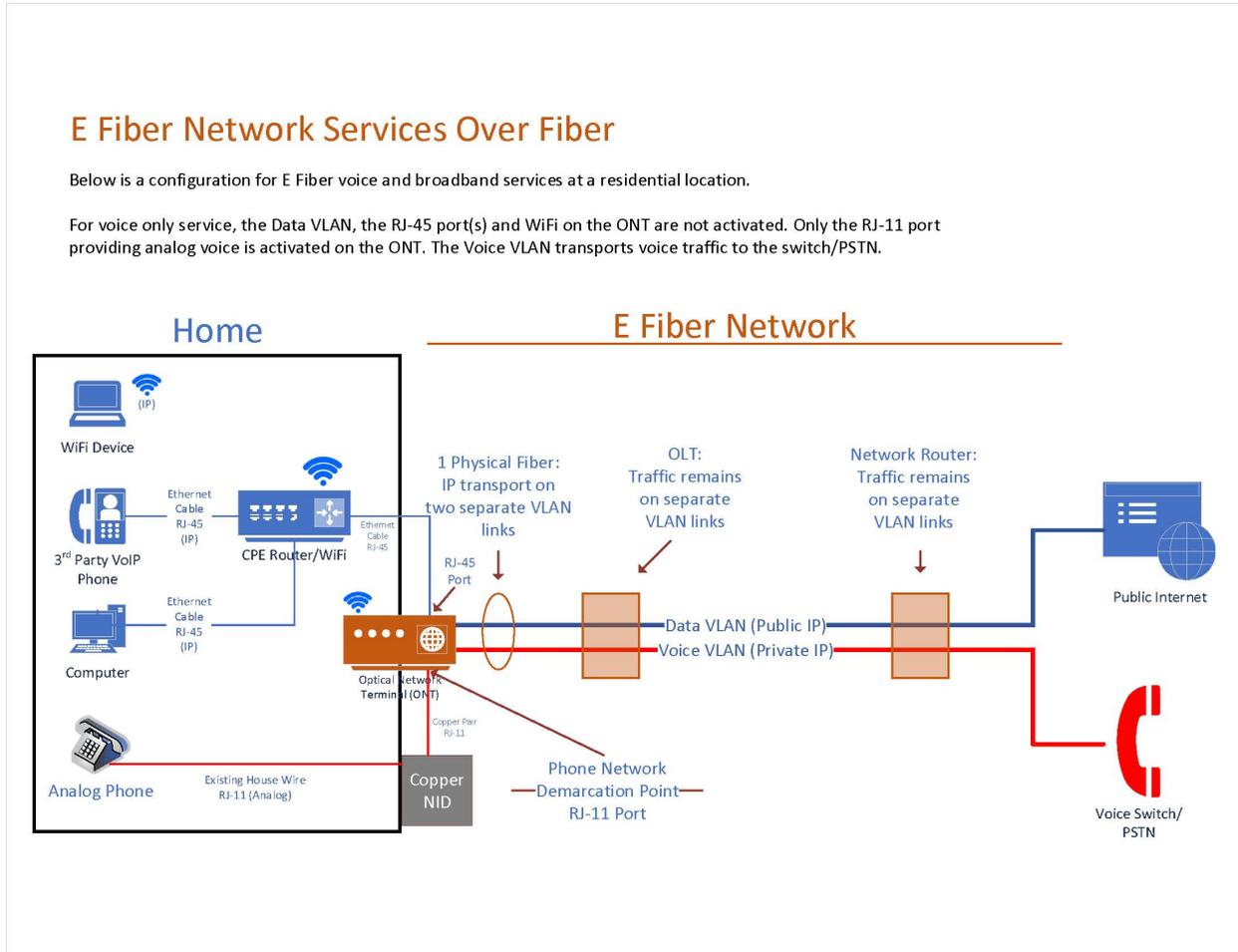
112 A: No.

113 **Q: Please describe the Applicants’ voice service as you understand it.**

114 A: The Applicants seek to provide local exchange voice service. The service is familiar
115 to everyone as plain old telephone service (“POTS”) with the one exception that the
116 Applicants seek to use modern, least cost, and efficient privately addressed Internet
117 Protocol (“IP”) transport within their network. The use of privately addressed IP
118 transport in a separate data path from the customer location to the Applicants’ switch
119 should not be controversial. This configuration is widely used in the industry by
120 regulated local exchange telephone companies and is preferred in 2020 because of
121 the efficiencies and cost savings realized using privately addressed IP transport. The
122 Applicants do not require end-user customers to have a broadband connection to
123 their location for voice service and do not require any type of IP customer premises
124 equipment (“CPE”), such as a telephone handset, that uses a broadband connection
125 to send and receive telephone calls from the Public Switched Telephone Network
126 (“PSTN”). The customer is expected to have a traditional telephone that uses an
127 industry standard RJ-11 jack to plug into either the inside wiring installed
128 throughout the home, or plug into the Applicants’ owned and maintained Optical
129 Network Terminal (“ONT”) at the customer location—this ONT is either on the side
130 of the home or inside the home and is powered using commercial/residential power
131 and is backed up using the Applicants’ battery backup equipment. The Applicants’
132 diagram showing this configuration clearly shows the use of privately addressed IP
133 transport. I include the Applicants’ diagram they provided in Exhibit DPU DR 1.7
134 – Service Over Fiber, as Figure 1.

135

Figure 1



136

137 As is shown in Figure 1, the Applicants' voice service is identified in red. This voice
138 service begins with an analog phone at the customer location with a standard RJ-11
139 jack plugged into the existing home wire. The phone signal is routed to the E Fiber
140 ONT. The RJ-11 port on the ONT is the network demarcation point (this is similar
141 to the network demarcation point in a traditional Network Interface Device ("NID").
142 The demarcation point signifies the point where the Applicants' network ends and
143 the customer CPE begins. The network equipment (ONT) then transmits this voice
144 signal using privately addressed IP transport to the voice switch. If the call is

145 destined to an end-user outside the E Fiber network, additional transport is used
146 jointly by other carriers connected to the PSTN to terminate the call. All of this is
147 very conventional in today's modern rural carrier local exchange networks. In the
148 example where an E Fiber customer calls a Frontier customer in the San Juan
149 exchange, the process would be as described: analog voice handset, RJ-11 jack and
150 port, ONT, transport within E Fiber network using private address IP transport,
151 switching function on a voice switch, delivery of call to Frontier at a meet-point
152 using TDM transport, and then delivery of call by Frontier to its customer (likely
153 with an analog signal using a traditional RJ-11 handset). (Note: I am not aware of
154 the call termination on the Frontier network so the details after handoff using TDM
155 transport are assumptions in my analysis.)

156 **Q: Having explained the voice service in this way, what do you see as the**
157 **controversy over this voice service?**

158 A: I would describe the present situation more as a misunderstanding than a
159 controversy. The Applicants properly described their voice service as Carrier-grade
160 VoIP in their Application to distinguish their service from the FCC defined term
161 "Interconnected VoIP" and the State of Utah defined term "VoIP." Both the FCC
162 and state defined services require a broadband connection and do not use privately
163 addressed IP transport. Instead, both of these services use a mixed data/voice
164 transport connection to complete a call. This type of VoIP is illustrated in Figure 1
165 as the blue lines signifying a data connection. A third-party VoIP provider, such as
166 Vonage or any other VoIP provider offering services in the market, uses IP-enabled
167 CPE to send and receive calls using the broadband connection (blue lines in Figure
168 1) that uses RJ-45 jacks to plug into the data-side of the ONT. Both the FCC and
169 the State of Utah declare that this data-side voice service is not to be regulated as
170 local exchange telephone service. However, the facts in this proceeding clearly

171 show that the Applicants are not providing this type of VoIP service as shown in
172 Figure 1. Another distinguishing feature of the Applicants' service is that the data-
173 side of the ONT is not required to be activated for the Applicants' voice service
174 since broadband connection to the Internet is not required or used. The Commission
175 should not confuse the blue-line data-type service with the red-line analog voice
176 service.

177 **Q: Has the federal National Exchange Carrier Association (“NECA”) provided**
178 **any guidance on this type of local exchange service?**

179 A: Yes. NECA has produced Reporting Guideline 8.11 entitled “Providing Local
180 Exchange Telephone Service Using Voice over Internet Protocol (VoIP)
181 Technology” which describes much of what I have explained. This document is
182 attached as 20-261Exhibit DDM-01. Scenario 1 listed on page seven of the Exhibit
183 is the scenario that describes how regulated voice service is provisioned using IP
184 transport. This NECA scenario explains that regulated local exchange service
185 matches what is proposed by the Applicants.

186 **Q: Lastly, do you know if the Utah Division of Public Utilities supports your**
187 **recommendation?**

188 A: On September 25, 2020, the Utah Division of Public Utilities filed a Supplemental
189 Memorandum Opposing Frontier Motion for Partial Summary Judgment. In its
190 memorandum it states: “The retail voice service offerings proposed by E Fiber are
191 like those being currently offered and regulated by this Commission in other rural
192 exchange and are not preempted by federal law. Similarly, the voice service
193 proposed by E Fiber does not require a broadband connection. Therefore, the voice
194 service offered does not meet the definition of VoIP such that regulation is
195 prohibited by §54-19-103.” From this I understand that the Division’s review of the

196 matter leads it to conclude that the E Fiber voice service can and should be regulated
197 as traditional local exchange telephone service in Utah.

198 **Q: Given your understanding of the Applicants’ voice service, do you recommend**
199 **the Commission regulate this voice service as traditional local exchange**
200 **telephone service in Utah?**

201 A: Yes. The Applicants’ voice service (defined in the Applications as “Carrier Grade
202 VoIP”) is traditional local exchange voice service that uses privately addressed IP
203 transport within the carrier network—hence “Carrier Grade”. This service should
204 be regulated as traditional local exchange telephone service in Utah. The FCC and
205 State of Utah VoIP preemptions do not apply to this service as it has been described.

206 **IV. Recommended Factors for the Commission’s Public Interest**
207 **Inquiry**

208 **Q. Turning now to the public interest for the granting of a CPCN, what factors do**
209 **you recommend the Commission consider in its public interest inquiry?**

210 A. Because the Applicants are seeking competitive entry into Small Rural Exchanges,
211 where the Applicants will be designated as COLRs and eligible for UUSF support,
212 I recommend the Commission consider the factors identified by URTA.³ I believe
213 these ten (10) factors will inform the Commission on whether it should grant
214 designation of the Applicants as COLRs and eligible for UUSF support. My
215 recommendation is that the weight of these factors weighs in favor of granting the
216 Applicants’ requests. These factors are:

³ 20-2618-01 URTA Comments filed May 20, 2020 (“URTA Comment”) at 5-10.

- 217 1. Whether the incumbent local exchange carrier currently operating in the
218 designated area is receiving or has received state UUSF in the past five (5)
219 years;
- 220 2. Whether the competitive applicant is planning to serve all the exchanges of
221 the incumbent local exchange carrier in Utah;
- 222 3. Whether the incumbent local exchange carrier has invested in the efficient
223 development and deployment of advanced telecommunications
224 infrastructure and facilities in the Small Rural Exchange(s) where
225 competitive entry is sought;
- 226 4. Whether the incumbent local exchange carrier is providing high quality,
227 affordable public telecommunications services to all residents and
228 businesses in the Small Rural Exchange(s) where competitive entry is
229 sought;
- 230 5. Whether the incumbent local exchange carrier is in compliance with the
231 Service Quality for Telecommunications Corporation Rules;⁴
- 232 6. Whether there are material unresolved service complaints filed against the
233 incumbent local exchange carrier in the Small Rural Exchange(s) where
234 competitive entry is sought.

⁴ Utah Admin. Code R746-340-4 through R746-340-5, and R746-340-7.

235 7. Whether the incumbent local exchange carrier has a reasonable plan for
236 providing high quality telecommunications services.

237 8. Whether the competitive applicant is seeking to invest in the efficient
238 development and deployment of advanced telecommunications
239 infrastructure and facilities equal to or better than the infrastructure and
240 facilities of the incumbent in the Small Rural Exchange(s) where
241 competitive entry is sought;

242 9. Whether the competitive applicant will provide high quality, affordable
243 public telecommunications services to all residents and businesses in the
244 Small Rural Exchange(s) where competitive entry is sought;

245 10. Whether the competitive entry is seeking UUSF support to construct the
246 facilities and provide the services, and if so, is the support sought
247 reasonable and necessary to provide high quality telecommunications
248 services.

249 A. Factor 1: Is the incumbent provider receiving UUSF support in the
250 area designed by the Applicant?

251 **Q. Let's walk through each factor you recommend. Please explain why each**
252 **factor is helpful in informing the Commission on its determination of the public**
253 **interest. Then provide any information you have to inform the Commission**
254 **about the Applicants' request for CPCN and eligibility for UUSF. Beginning**
255 **with Factor 1: Is Frontier receiving UUSF support in the Local Exchanges?**

256 A. Factor 1 is important because it helps the Commission determine whether an

257 incumbent has been investing in its service area to the extent that it qualifies for
258 UUSF. If the incumbent has received UUSF recently (within the past five years),
259 then the Commission should weigh this information carefully as to not create an
260 inefficient disbursement of UUSF to another provider. A fundamental principle
261 guiding the public interest should be that UUSF support should be utilized to support
262 reasonable and prudent investment. This is particularly important when there is
263 more than one COLR in a specific area.

264 I understand that Frontier has not received UUSF support in the State of Utah since
265 2007. This indicates to me that no substantial investment has been made by Frontier
266 in the Local Exchanges. No Frontier investment has been supported by the UUSF
267 for the past 13 years.

268 In its Disclosure Statement filed with the Bankruptcy Court on May 15, 2020,
269 Frontier Communications Corporation admits that it “grew exponentially through a
270 series of Growth Transactions from 2010 through 2016.”⁵ And that it “has not been
271 able to fully realize the economies of scale expected from the Growth Transactions,
272 as evidenced by a loss of approximately 1.3 million customers.”⁶ Prior to entering
273 Chapter 11 Bankruptcy, Frontier attempted to “deleverage outstanding debt and
274 extend maturities.”⁷ This suggests that Frontier has experienced a reduced cash flow
275 and likely reduced any planned projects in Utah to concentrate on its spoiled Growth
276 Transactions properties in other parts of the nation.

277 My review of this factor shows me that allowing the Applicants to compete in the

⁵ Frontier Communications Corporation, along with all of its direct and indirect subsidiaries filed a Proposed Joint Plan of Reorganization and related Disclosure Statement on May 15, 2020 (the “Disclosure Statement”). In the Disclosure Statement at 31, Frontier stated that Growth Transactions were the purchase of multiple Verizon and AT&T properties. The California, Texas, and Florida acquisitions doubled the size of Frontier for a second time in a six-year span.

⁶ Id. at 32.

⁷ Id.

278 Local Exchanges will not negatively impact existing investment supported by
279 UUSF. However, the Commission should be mindful that it would not be prudent to
280 support duplicative infrastructure in the same area segments in an exchange.
281 Therefore, once updated infrastructure has been installed by one of the COLRs in a
282 segment of the exchange, the UUSF should not be used to fund duplicative
283 infrastructure by the second COLR in this same segment.

284 B. Factor 2: Will the Applicants serve all of the incumbent provider's
285 exchanges in the State of Utah?

286 **Q. Please explain Factor 2 and its relevance.**

287 A. Factor 2 addresses whether there would need to be further analysis and data from
288 the incumbent. If a carrier has investment in exchanges throughout the State and a
289 competitor only seeks to serve certain exchanges, the assessment of the effect on
290 UUSF becomes more difficult. UUSF is granted on a companywide basis. If the
291 Commission approves a competitive COLR and designates the competitor as the
292 COLR eligible for UUSF in the designated local exchanges, consideration may have
293 to be given when determining UUSF support for the incumbent in other exchanges.
294 While this is not an insurmountable problem, it would require additional
295 information to be provided from the incumbent and may require additional
296 Commission rules.

297 However, this issue and concern is not applicable in current proceeding because
298 according to the DPU Recommendation in Docket 20-041-01, Frontier has very
299 little rate base in Utah: over 95 percent of the company's assets are fully
300 depreciated.⁸ Given its current financial health, Frontier isn't likely to invest heavily
301 in rural Utah while its California, Texas, and Florida "Growth Transactions" are

⁸ Docket 20-041-01, DPU Recommendation dated May 21, 2020 at 2.

302 hemorrhaging due to significant shortfalls in economies of scale and fierce
303 competition in its fiber-rich metropolitan areas.⁹ Therefore, it seems that Frontier is
304 unlikely to qualify for UUSF in the near future.

305 The Applicants will serve the Local Exchanges only. While these are all of
306 Frontier's exchanges in Grand and San Juan counties (except White Mesa), the
307 proposed service territories do not include exchanges owned/operated by Frontier
308 outside of Grand and San Juan counties.

309 C. Factor 3: Has the incumbent provider invested in the efficient
310 development and deployment of advanced telecommunications
311 infrastructure and facilities in its service area?

312 **Q. Has Frontier invested in the efficient development and deployment of advanced**
313 **telecommunications infrastructure and facilities in the Local Exchanges?**

314 A. Factor 3 is important as the Commission weighs the benefits of a second COLR in
315 an area of the state. As I previously stated, Frontier has not received UUSF in the
316 State of Utah since 2007 and over 95 percent of its rate base in Utah is fully
317 depreciated. Additionally, the DPU indicated that based on Frontier's annual
318 reports, Frontier has reported declining levels of annual capital investment.¹⁰

319 Frontier has had several service complaints filed against it. Under the circumstances
320 it seems unlikely that Frontier has made any recent significant investment to deploy

⁹ Disclosure Statement at 31 (The California, Texas and Florida ("CTF") Transaction provided an opportunity for the Company, which had historically operated largely in rural areas of the United States, to expand its service territory to residential, commercial, and wholesale customers in more urban, albeit more competitive markets, with a fiber-centric network in those states. ... Serving the new [CTF] territories proved more difficult and expensive than the Company anticipated, and integration issues made it more difficult to retain customers. Simultaneously, the Company faced industry headwinds stemming from fierce competition in the telecommunications sector, shifting consumer preferences, and accelerating bandwidth and performance demands, all redefining the competitive landscape for infrastructure telecommunications companies.")

¹⁰ Docket 19-041-04 DPU Status Report, dated July 8, 2019 at 2.

321 advanced telecommunications infrastructure or facilities in the Local Exchanges.

322 Frontier reports that “in summer 2019, the Debtors [it] identified several investment
323 opportunities to expand their fiber network to increase competitiveness and market
324 share. Fiber provides faster broadband network services to customers than copper
325 cables. The Debtors recognized a number of opportunities to invest in fiber network
326 within its existing copper broadband markets, rural lower speed markets, and
327 adjacent expansion markets. However, the Debtors’ capital structure constrained
328 their ability to execute such initiatives. The Debtors’ inability to access cash to fund
329 these growth opportunities also hindered their capacity to use such opportunities to
330 stabilize revenue and adjusted EBITDA. Furthermore, the Debtors were unable to
331 pursue accretive mergers and acquisitions and other strategic transactions because
332 of the limitations imposed by the Debtors’ funded debt liability overhang.
333 Consequently, in September 2019, after approximately nine months of robust
334 analysis and discussion, it became apparent that a debt-oriented liability
335 management transaction alone was unlikely to achieve sufficient deleveraging to
336 allow the Debtors to re-access the capital markets, rightsize its capital structure,
337 and/or adequately reinvest in the business to sustain or grow business
338 performance.”¹¹

339 This frank admission of significant financial distress and DPU information indicates
340 that subsequent to the Growth Transactions, which began in 2010, Frontier has
341 focused on its acquired properties and has largely ignored investment in its rural
342 Utah properties.

¹¹ Disclosure Statement at 34.

343 D. Factor 4: Is the incumbent provider providing high quality, affordable
344 public telecommunications services to all residents and businesses its
345 service area?

346 **Q. Is Frontier providing high quality, affordable public telecommunications**
347 **services to all residents and businesses in the Local Exchanges?**

348 A. Factor 4 addresses whether the incumbent is optimizing its infrastructure to provide
349 needed services in the communities it serves. Not executing a service deployment
350 strategy after an infrastructure deployment would provide an incumbent with cost
351 recovery support through UUSF without a good faith effort to ultimately deliver the
352 availability of services to end users.

353 The formal service complaints, the investigation launched by the DPU, and the
354 request for agency action filed by the OCS suggest that Frontier is not providing
355 high quality, affordable telecommunications services in the Local Exchanges. The
356 fact that Mr. Johansen has been contacted by Frontier customers and asked to assist
357 them with getting better service strongly indicates a lack of attention on Frontier's
358 part for its customers in Utah and that its services are not adequate.

359 Furthermore, the indication by Frontier that it has numerous instances where it
360 needed to inform the FCC through its Network Outage Reporting System ("NORS")
361 suggests that customers in these exchanges are not receiving reliable, high-quality
362 services. This weighs against Frontier and favors granting the application in my
363 recommendation to the Commission.

364 E. Factor 5: Is the incumbent provider in compliance with the Service
365 Quality for Telecommunications Corporations Rules R746-340-4, 5,
366 and 7?

367 **Q. Please describe Rules R746-340-4, 5, and 7.**

368 A. These rules relate to the availability of emergency operations (4), maintenance of
369 plant and equipment (5), and end user service standards (7). These Commission
370 rules are important safeguards to ensure that voice communications are secure in
371 the communities where the incumbent operates. Requiring carriers follow these
372 rules is clearly in the public interest and if a COLR is receiving UUSF support, these
373 rules safeguard UUSF support ensuring that the support is being used to provide
374 adequate voice communications.

375 **Q. Is Frontier in compliance with the Service Quality for Telecommunications**
376 **Corporations Rules R746-340-4, 5, and 7. Do you have any information on this**
377 **factor related to Frontier?**

378 A. I have no personal information concerning Frontier on this factor. However, the
379 NORS reports provided by Frontier suggest there have been numerous instances
380 where 911 service was not available. These data would weigh against Frontier in
381 my recommendation to the Commission.

382 F. Factor 6: Have there been material unresolved service complaints filed
383 against the incumbent provider in the Applicant's requested area?

384 **Q. Have there been material unresolved service complaints filed against Frontier**
385 **in the Local Exchanges?**

386 A. This factor seeks to examine the benefit the customers are receiving having a COLR
387 designated in their community and eligible for UUSF. If a service provider is not
388 adequately addressing service problems, beyond what is expressed in Commission
389 rule R746-340-7, then the Commission should weigh this factor against the
390 incumbent in determining the public interest.

391 I am aware that there have been service complaints against Frontier in the Local

392 Exchanges but have no specific details regarding these complaints. I understand
393 from reviewing the Commission’s on-line docket system that they may still be
394 pending, and therefore, unresolved.

395 G. Factor 7: Does the incumbent provider have a reasonable plan for
396 providing high quality telecommunications services in the Local
397 Exchanges?

398 **Q. Does Frontier have a reasonable plan for providing high quality**
399 **telecommunications services in the Local Exchanges?**

400 A. This factor seeks to ensure that incumbent is adequately preparing for the future in
401 offering high quality telecommunications and broadband to customers. This is a
402 factor that should be addressed. As I mentioned earlier, Frontier Communications
403 Corporation had a plan to advance its service quality and scope but it seems this was
404 directed at the recently acquired properties in California, Texas, and Florida as there
405 is no specific mention of its Utah properties in its Disclosure Statement related to
406 this topic. The plan has been discarded.¹² Furthermore, Frontier notes that its
407 Chapter 11 Bankruptcy may evolve into a Chapter 7 Bankruptcy if “the court finds
408 this would be in the best interest of creditors and/or the debtor.”¹³ Chapter 7 would
409 involve liquidation of the debtors’ assets for distribution. Even the possibility of
410 Frontier facing Chapter 7 liquidation suggests to me that no effort is being
411 undertaken to ensure that high quality services are being offered in the Local
412 Exchanges and moreover, it strongly suggests that improvements or advancements
413 in services are not occurring.

¹² Disclosure Statement at 31.

¹³ Id. at 59.

414 H. Factor 8: Are the Applicants seeking to invest in the efficient
415 development and deployment of advanced telecommunications
416 infrastructure and facilities that are technologically equal to or better
417 than Frontier’s infrastructure and facilities in the Local Exchanges?

418 **Q. Are the Applicants seeking to invest in the efficient development and**
419 **deployment of advanced telecommunications infrastructure and facilities that**
420 **are technologically equal to or better than Frontier’s infrastructure and**
421 **facilities in the Local Exchanges?**

422 A. This factor now turns to the Applicants. If the Applicants have a plan to remedy
423 clear deficiency in the Local Exchanges, then this favors the public interest.

424 The Applicants are proposing to construct brand new fiber optic facilities
425 throughout the Local Exchanges and have the current resources to execute their
426 plan. The proposed build out is expected to be completed within five years and will
427 bring state-of-the-art voice and broadband internet access service with 1 Gbps
428 broadband speeds to the residents and businesses of Grand and San Juan counties.

429 I. Factor 9: Will the Applicants provide high quality, affordable public
430 telecommunications services to all residents and businesses in the
431 Local Exchanges?

432 **Q. Will the Applicants provide high quality, affordable public**
433 **telecommunications services to all residents and businesses in the Local**
434 **Exchanges?**

435 A. This factor, like Factor 8, addresses the adequacy of the Applicants when compared
436 with the incumbent. It is important that the Commission have a remedy that
437 squarely addresses the public interest and provides for rural community needs in the
438 future.

439 The Applicants have specifically committed to provide high quality service via fiber

440 optic facilities to the residents and businesses in the Local Exchanges.

441 J. Factor 10: Are the Applicants seeking UUSF support to construct the
442 facilities and provide the services, and if so, is the proposed UUSF
443 reasonable and necessary to provide high quality telecommunications
444 services?

445 **Q. Are the Applicants seeking UUSF support to construct the facilities and**
446 **provide the services, and if so, is the proposed UUSF reasonable and necessary**
447 **to provide high quality telecommunications services?**

448 A. This factor addresses the need for UUSF in the granting of an application to become
449 a COLR in rural Utah.

450 The Applicants would like to be designated as the COLRs eligible to receive UUSF
451 support in the Local Exchanges. The Applicants' proposals appear to use Federal
452 Grant funds to offset paying for the fiber network in the outlying areas of the Local
453 Exchanges; therefore, it seems that the projected UUSF support is extremely
454 reasonable for the service value being offered.

455 **V. Other Considerations**

456 **Q. You mentioned above that when there are two COLRs in a particular area the**
457 **Commission should take particular care to ensure that investments are**
458 **reasonable and prudent. Please elaborate.**

459 A. I understand the Commission is statutorily obligated to determine that a COLR's
460 expenses are reasonably incurred before they will be eligible for UUSF.¹⁴ When
461 there are two COLR's in an area, something provided for by statute, the UUSF
462 should not be used to support duplicative network infrastructure. For example, if a

¹⁴ See Utah Code 54-8b-15.

463 COLR seeks to replace old degraded copper facilities with upgraded fiber facilities
464 that will bring better or additional service to the customers, that infrastructure
465 expense would be reasonably incurred and eligible for UUSF support. If, however,
466 a COLR were to seek to install duplicative fiber facilities in an area where fiber
467 facilities were already available for use by a customer from a second COLR, that
468 infrastructure expense would likely not be reasonably incurred since it would not
469 bring additional services to customers in that area. Of course, the provider can
470 install such infrastructure, but it likely should not be classified as a reasonable
471 expense eligible for UUSF support.

472 **Q. Are you saying that the first COLR to install upgraded facilities in an area**
473 **would be eligible for UUSF for those expenditures, while the second COLR**
474 **who sought to upgrade its facilities in that area would not be eligible for UUSF**
475 **for such expenditures?**

476 **A.** I recommend that these are issues the Commission should consider in determining
477 the reasonableness of expenditures for UUSF purposes. These are theoretical issues
478 that are not at play in this docket, and while these issues could be addressed by rule
479 with stakeholder approval, they go to the reasonableness of the UUSF expenditures,
480 not the issue of whether the Applicants should be granted competitive entry in this
481 docket.

482 **Q. Are there other factors that the Commission should consider in making its**
483 **public interest determination?**

484 **A.** Frontier identifies the public interest inquiry that the Commission made in the
485 context of the WWC Holding Co., Inc's Petition for Designation as an Eligible
486 Telecommunications Carrier, Docket 98-2216-01. Specifically, the Commission
487 considered the burden on the UUSF and any corresponding public benefit if it were

488 to grant federal Eligible Telecommunications Carrier (“ETC”) designation to
489 WWC. Ultimately, the Commission determined it was not in the public interest to
490 grant WWC’s ETC designation. The Utah Supreme Court upheld the Commission’s
491 decision on appeal, ruling that the Commission could legitimately consider the
492 impact on the UUSF in determining public interest, and that the Commission’s
493 determination that the public benefits did not outweigh the burden on the UUSF
494 (WWC Holding Co., Inc. vs. Public Service Commission, 2002 UT 23, ¶15, 44 P.,3d
495 714) (“WWC Case”).

496 I believe the ten factors I describe above informs the Commission on promoting the
497 public interest in designating a second COLR and identifying one specific provider
498 for UUSF support.

499 **Q. Does this conclude your Direct Testimony?**

500 A. Yes, but I request the ability to amend and/or supplement this testimony during this
501 proceeding.

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of September, 2020, I served a true and correct copy of the 20-2618-01 Direct Testimony of Douglas Meredith for URTA via e-mail transmission to following persons at the e-mail addresses listed below:

Division of Public Utilities

Brenda Salter

Artie Powell

bsalter@utah.gov

dpudatarequest@utah.gov

wpowell@utah.gov

Office of Consumer Services

Michelle Beck

Alyson Anderson

mbeck@utah.gov

akanderson@utah.gov

Assistant Utah Attorneys Generals

Justin Jetter

Robert Moore

jjetter@utah.gov

rmoore@utah.gov

Citizens Telecommunications Company of Utah

Phillip Russell

Gregory Brubaker

prussell@jdrslaw.com

Gregory.c.brubaker@ftr.com

/s/Kira M. Slawson