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*Counsel for Applicants*

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**BEFORE THE  
PUBLIC SERVICE COMMISSION OF UTAH**

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<p>Joint Application of</p> <p><b>Red Fiber Parent LLC , Cincinnati Bell Inc.</b></p> <p>and</p> <p><b>CBTS Technology Solutions LLC</b></p> <p>for Approval of a Transfer of Indirect Control of CBTS Technology Solutions LLC to Red Fiber Parent LLC</p>	<p style="text-align: center;"><b>JOINT APPLICATION</b></p> <p style="text-align: center;"><b>Docket No. 20-2548-01</b></p>
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**JOINT APPLICATION**

Red Fiber Parent LLC (“Red Fiber Parent” or “Transferee”), Cincinnati Bell Inc. (“Cincinnati Bell” or “Transferor”), and CBTS Technology Solutions LLC (“CBTS”) (collectively, the “Applicants”), pursuant to Utah Code Ann. §§ 54-4-28 & 54-4-29 and the rules of the Public Service Commission of Utah (“Commission”), including R746-349-7, hereby request

Commission approval, to the extent required,<sup>1</sup> for the proposed transfer of indirect control of Licensee to Transferee.

In support of this Joint Application, Applicants provide the following information:

## **I. DESCRIPTION OF THE APPLICANTS**

### **A. Red Fiber Parent (Transferee)**

Red Fiber Parent is a Delaware limited liability company that has been established as an acquisition vehicle for purposes of the Transaction (defined below). At closing of the Transaction, Red Fiber Parent will be majority owned indirectly by MIP V (FCC) AIV, L.P., a Delaware limited partnership (“MIP V”), a fund managed by an entity within Macquarie Infrastructure and Real Assets (“MIRA”), which is a division of Macquarie Asset Management, an operating group within Macquarie Group Limited (“MGL”). MIRA is a global alternative asset manager with extensive experience in investing in the communications infrastructure industry. For more than two decades, MIRA has partnered with investors, governments, and communities to manage, develop, and enhance assets relied on by more than 100 million people each day. As of March 31, 2020, MIRA managed \$136.95 billion in assets under management (based on proportionate enterprise value), of which \$107.9 billion were invested in infrastructure assets. MIRA’s ultimate parent is MGL, a publicly traded company incorporated in Australia. MGL is a diversified financial group providing clients with asset management and finance, banking, advisory, and risk and capital solutions across debt, equity, and commodities.

At closing of the Transaction, Red Fiber Parent will also be minority owned indirectly by

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<sup>1</sup> See UTAH CODE ANN. §54-8b-3.4 (exempting competitive entrants from requirements of UTAH CODE ANN. § 54-4-28 and § 54-4-29 and requiring only notices of transfer of control).

(i) certain alternative investment vehicles managed by the Private Equity Group of Ares Management Corporation (“Ares Management”), and (ii) Retail Employees Superannuation Trust (“REST”), an Australian superannuation fund managed by Retail Employees Superannuation Pty Limited (“Rest Trustee”), as trustee of the fund.<sup>2</sup>

Ares Management is a global alternative investment manager operating three integrated businesses across Credit, Private Equity, and Real Estate. Ares Management’s global platform had \$149 billion of assets under management as of March 31, 2020 and employs approximately 1,200 employees in over 20 offices in more than 10 countries. The interests in Red Fiber Parent indirectly held by Ares Management will be held by (i) alternative investment vehicles (the “SSF AIVs”) controlled by ASSF Management IV, L.P., a Delaware limited partnership (“SSF IV”), as the general partner of the SSF AIVs, and (ii) alternative investment vehicles (the “ASOF AIVs,” and together with the SSF AIVs, the “Ares AIVs”) controlled by ASOF Management, L.P., a Delaware limited partnership (“ASOF,” and together with SSF IV, “Ares”), as the general partner of the ASOF AIVs.

REST is a widely held Australian public offer pension fund managing over AUD 52 billion (USD \$36 billion) on behalf of approximately 1.7 million members. REST’s indirect interest in Red Fiber Parent will be held by Rest Nominees No. 2 Pty Ltd as trustee for the REST US Infrastructure No. 2 Trust (“Rest Immediate Entity”). The Rest Immediate Entity is a special purpose investment vehicle whose sole beneficiary is REST Nominees No. 1 Pty Ltd as trustee for REST International Infrastructure Investments Holding Trust (“Rest Intermediate Entity”). The

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<sup>2</sup> A superannuation fund is a form of regulated pension plan established under Australian law where the employer makes statutory contributions on behalf of its employees to provide for the employees’ retirement where contributions to the fund, earnings on fund investments and withdrawals from the fund may attract certain tax concessions.

sole beneficiary of the Rest Intermediate Entity is REST, which is managed by the Rest Trustee, in its capacity as the trustee of REST.

As set forth in Section III, *infra*, (“Description of the Transaction”), the indirect ownership of Red Fiber Parent by MIP V, the alternative investment vehicles managed by the Private Equity Group of Ares Management and the Rest Trustee as trustee of REST will be through those entities’ interests in Red Fiber Holdings LLC (“RF Holdings”) and, ultimately, RF Topco LLC (“TopCo”), the sole member of Red Fiber Parent.

#### **B. Cincinnati Bell (Transferor) and CBTS (Licensee)**

CBTS is a Delaware limited liability company, with its principal business address at 221 East 4th Street, 103-1080, Cincinnati, OH 45202. In Utah, CBTS is authorized to provide interexchange services<sup>3</sup> and local exchange services pursuant to a Certificate of Public Convenience and Necessity No. 2548 issued in Docket No. 11-2548-01 on February 27, 2012.<sup>4</sup> CBTS also is authorized to provide interstate telecommunications services by the Federal Communications Commission (“FCC.”).

CBTS is an indirect wholly owned subsidiary of Cincinnati Bell (NYSE:CBB), an Ohio corporation. Cincinnati Bell is a publicly traded company, trading under the ticker symbol CBB on the New York Stock Exchange. Through its various subsidiaries, Cincinnati Bell provides high-

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<sup>3</sup> The authorization to provide interexchange services was originally issued to Eclipse Telecommunications Inc. in Docket No. 98-2264-01 in January 1999. The Commission approved a name change from Eclipse Telecommunications Inc. to Broadwing Telecommunications Inc. in Docket No. 99-2264-02 in February 2000. On January 2, 2004, Broadwing Telecommunications Inc. sent a letter to the Commission for approval of a name change to Cincinnati Bell Any Distance Inc. A new Docket Number was not issued.

<sup>4</sup> The authorization was originally issued to Cincinnati Bell Any Distance Inc. (“CBAD”). The Commission acknowledged the name change to CBTS Technology Solutions LLC on November 14, 2017 in Docket No. 17-2548-01.

speed data, video and voice solutions to consumers and businesses over an expanding fiber network and legacy copper network. More detail about Cincinnati Bell can be found at [www.cincinnati-bell.com](http://www.cincinnati-bell.com).

## II. DESIGNATED CONTACTS

Questions, correspondence or other communications concerning this Application should be directed to Applicants' counsel of record:

For Applicants:

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### III. DESCRIPTION OF THE TRANSACTION

Pursuant to the Agreement and Plan of Merger (the “Agreement”), dated March 13, 2020, by and among Red Fiber Parent, RF Merger Sub Inc. (“Merger Sub”), and Cincinnati Bell, Merger Sub will merge with and into Cincinnati Bell (the “Transaction”), and, as a result of such merger, Red Fiber Parent will acquire all of the outstanding shares of common stock of Cincinnati Bell, which shares will be converted into the right to receive \$15.50 in cash at closing of the Transaction.<sup>5</sup>

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<sup>5</sup> On May 7, 2020, at a virtual special meeting, Cincinnati Bell’s shareholders approved the Transaction and all related proposals. For further details please see

Merger Sub, an Ohio corporation formed for the purposes of the Transaction, is a direct, wholly owned subsidiary of Red Fiber Parent, a Delaware limited liability company. More specifically, upon closing of the Transaction, Merger Sub will merge with and into Cincinnati Bell, whereupon the separate existence of Merger Sub will cease to exist and Cincinnati Bell will be the surviving corporation in the merger. Cincinnati Bell will then be a direct wholly owned subsidiary of Red Fiber Parent. As a result of the Transaction, the Licensee will become an indirect subsidiary of Red Fiber Parent. The corporate structure of Cincinnati Bell will otherwise not change.

Following the proposed Transaction, Red Fiber Parent will own directly 100% of the stock of Cincinnati Bell. The sole member of Red Fiber Parent is RF Topco LLC (“TopCo”), a Delaware limited liability company formed at the direction of MIP V. The sole member of TopCo is Red Fiber Holdings LLC (“RF Holdings”), a Delaware limited liability company. At the closing of the Transaction, RF Holdings will be majority owned indirectly by MIP V, which is an unlisted closed-end infrastructure investment fund managed by a member of MIRA as described above.

RF Holdings will also be minority owned indirectly by (i) the Ares AIVs and (ii) REST. At the closing of the Transaction, the Ares AIVs (in the aggregate) and Rest Immediate Entity are expected to own, respectively, approximately 21.2% and 17.3% of the membership interests in RF Holdings, while MIP V is expected to hold the remaining approximately 61.5%. The respective expected membership interests owned at closing of the Transaction by MIP V, the Ares AIVs and Rest Immediate Entity may be subject to change prior to or shortly after closing of the Transaction based on additional equity investment by affiliates of these entities or third party direct or indirect minority co-investors that have not yet been determined. Any such minority co-investor is

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<https://d18rn0p25nwr6d.cloudfront.net/CIK-0000716133/451aab4d-c329-4118-b36a-9be39271f976.pdf>

expected to hold indirectly no more than 10% of the outstanding equity interests of Red Fiber Parent.

Additionally, passive investors will hold indirect equity interests through limited partnership interests in MIP V (or an affiliate entity) or the Ares AIVs, or membership interests in REST. These passive investors will each hold indirect interests of less than 10% in Red Fiber Parent. Passive investors holding indirect equity interests through limited partnership interests will have usual and customary minority investor rights and protections but will have no voting or control rights regarding Red Fiber Parent, Cincinnati Bell, or CBTS. Passive investors holding membership interests in REST will also have no voting or control rights regarding Red Fiber Parent, Cincinnati Bell, or CBTS.

For the Commission's reference, diagrams depicting the pre- and post-Transaction corporate ownership structures are provided in **Exhibit A**.

#### **IV. INFORMATION REQUIRED BY R746-349-7**

Pursuant to R746-349-7, Applicants provide the following information:

**a. identification that it is not an ILEC,**

Applicants confirm that none of the Applicants or their affiliates is an ILEC in Utah.

**b. identification that it seeks approval of the application pursuant to this rule,**

Applicants confirm that they seek approval of the application pursuant to the informal adjudication process set forth in R746-349-7.

**c. a reasonably detailed description of the transaction for which approval is sought,**

A detailed description of the Transaction is provided in Section III, above.

- d. a copy of any filings required by the Federal Communications Commission or any other state utility regulatory agency in connection with the transaction,**

Applicants and/or their affiliates have filed applications with the FCC seeking authority for a transfer of control of domestic and international authorizations held pursuant to Section 214 of the Communications Act, as amended.<sup>6</sup> A copy of the combined domestic and international Section 214 application (as supplemented) is attached as **Exhibit B**. In connection with this Transaction, Applicants and/or their affiliates also expect to request approval for the Transaction from the public utility commissions (“PUCs”) in the following states in addition to Utah: California, Colorado, Hawaii, Indiana, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, New York, Ohio, Pennsylvania, Texas, Virginia, and West Virginia. Due to the voluminous nature of these state filings, most of which contain the same basic information, Applicants have attached as **Exhibit C** a copy of only the New York filing requesting approval as a representative example of the Applicants’ state public utility commission filings. Applicants will also provide notice to the PUCs in the following jurisdictions: Connecticut, District of Columbia, Idaho, Montana, Nevada, New Mexico, North Carolina, Rhode Island, South Dakota, and Washington. Due to the voluminous and repetitive nature of the notices to be sent to the PUCs, Applicants have not included copies of the notice filings. Applicants will provide any additional filings or notices at the request of the Commission or the parties to this docket.

- e. copies of any notices, correspondence or orders from any federal agency or any other state utility regulatory agency reviewing the transaction which is the subject of the application.**

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<sup>6</sup> 47 C.F.R. § 214.

Applicants have received numerous correspondence and notices from the federal and state agencies reviewing the Transaction and, due to the voluminous nature of their federal and state filings, expect to receive countless additional correspondence and notices from the same. Accordingly, Applicants have not included copies of these correspondence and notices but will provide any such materials at the request of the Commission or the parties to this docket. Additionally, Applicants will provide any orders or similar actions approving or denying approval of the Transaction as they become available.

## **V. PUBLIC INTEREST CONSIDERATIONS**

Applicants submit that the Transaction is in the public interest. Red Fiber Parent and its owners are managerially, technically, and financially well-qualified to complete the Transaction and assume indirect ownership and control of CBTS, which will continue to be a subsidiary of Cincinnati Bell under the ownership of Red Fiber Parent. CBTS is expected to continue to be managed and operated by the same officers and key personnel. CBTS will continue to have the managerial, technical, and financial qualifications to provide high quality telecommunications services to consumers in Utah. Cincinnati Bell's existing management team would be supplemented with the managerial capabilities and resources of Red Fiber Parent and its owners. MIRA and its affiliates are experienced asset managers and operators of comparable companies with a focus on utilities and energy, transportation, and communications infrastructure in the U.S. and globally. Through its predecessor funds, MIRA has held investments in various communications infrastructure and utilities companies and will be able to leverage its considerable track-record to effectively manage the investment in Cincinnati Bell.

The Transaction will strengthen the financial position of the Cincinnati Bell enterprise as a whole by providing access to capital from new funding sources and enabling accelerated

investment in the company's strategic products that is not presently available to Cincinnati Bell as a standalone company. The Transaction is expected to allow the enterprise to drive growth and maximize value over the long term. With the substantial financial resources of the investors in Red Fiber Parent, Cincinnati Bell and CBTS will be better positioned to deliver next generation, integrated communications for its customers. The financial, management, and other resources made available to Cincinnati Bell and CBTS will enhance its networks and services to the benefit of their customers.

The Transaction is structured only as a change of ownership at the holding company level and will not affect any of the operations or legal identity of CBTS. The proposed Transaction will not result in a change of carrier for any customers or any assignment of existing Commission authorizations. Further, Red Fiber Parent has no immediate plans to change CBTS's current rates or terms and conditions of services in connection with the Transaction. Therefore, the Transaction will be seamless to customers, as they will not experience any immediate changes in services, or rates, terms and conditions of service. Any future changes will be executed with careful planning and implementation in the normal course of business operations.

Further, there will be no need to change any billing systems or operational support systems before closing the Transaction. Since no system cutovers are required upon implementation of the combination, CBTS's existing customer-facing systems will remain in place after the closing. Any future information technology upgrades to Cincinnati Bell's systems will be executed with careful planning and execution in the normal course of business operations.

Finally, the Transaction will serve the public interest in promoting competition among telecommunications carriers by providing CBTS with access to greater financial resources that will allow it to become a more effective competitor to larger incumbent telecommunications

providers. In essence, the Transaction will make CBTS a stronger competitor and thereby benefit consumers.

## VI. CONCLUSION

For the foregoing reasons, Applicants submit that the public interest, convenience, and necessity would be furthered by grant of this Application, authorizing Applicants to complete the Transaction described herein.

Respectfully submitted the 9th day of September, 2020.



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*Counsel for Applicants*

## **LIST OF EXHIBITS**

Exhibit A      Diagrams of the Pre- and Post-Transaction Corporate Ownership Structures

Exhibit B      Copy of FCC Section 214 Application

Exhibit C      Copy of Petition to New York Public Service Commission

Verifications

## CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of September 2020, I caused to be e-mailed, a true and correct copy of the foregoing **JOINT APPLICATION** and accompanying **EXHIBITS A, B, and C** thereto to:

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