

–BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH–

IN THE MATTER OF Applications of E Fiber
Moab, LLC and E Fiber San Juan, LLC for
Certificates of Public Convenience and
Necessity to Provide Facilities-Based Local
Exchange Service and Be Designated as
Carriers of Last Resort in Certain Rural
Exchanges.

DOCKET NO. 20-2618-01
Exhibit No. DPU 1.0 DIR

FOR THE DIVISION OF PUBLIC UTILITIES
DEPARTMENT OF COMMERCE
STATE OF UTAH

Direct Testimony of

Ronald Slusher

September 25, 2020

1 **INTRODUCTION**

2 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND TITLE.**

3 A. My name is Ronald Slusher (Ron). My business address is Heber M. Wells Building,
4 160 East 300 South, 4th Floor, Salt Lake City, Utah. I am a Utility Technical Consultant
5 with the Division of Public Utilities (Division or DPU).

6 **Q. WHAT IS YOUR EDUCATIONAL BACKGROUND AND PROFESSIONAL**
7 **EXPERIENCE?**

8 A. I received a Bachelor of Science degree from Westminster College in Computer Science
9 in 1991. Prior to joining the Division in 2004, I worked as Project Manager for a local
10 commercial construction company and an international machinery manufacturing
11 company, preparing and completing action plans; implementing production, productivity,
12 quality, and customer-service standards; and resolving problems, and completing audits.

13 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING?**

14 A. The Division.

15 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

16 A. The purpose of my testimony is to support the Division's position that it is in the public
17 interest to grant a Certificate of Public Convenience and Necessity ("CPCN") to E Fiber
18 Moab and E Fiber San Juan (the "Applicants or E Fiber Companies").

19 **Q. DID YOU FILE THE RESPONSE TO THE ACTION REQUEST ISSUED BY THE**
20 **UTAH PUBLIC SERVICE COMMISSION ("COMMISSION") ON APRIL 20,**
21 **2020?**

22 A. Yes.

23 **Q. WILL YOU GIVE A SUMMARY OF THE DIVISION’S POSITION IN THIS**
24 **MATTER?**

25 A. The Division reviewed the applications submitted by the E Fiber Companies and
26 concluded that each had provided the necessary information to fulfill the requirements as
27 stated in the existing Public Service Commission rules for a CPCN (see EXHIBIT 1 -
28 Docket No. 20-2618-01 E Fiber Moab - DPU Action Request Response – dated 5-12-
29 2020 and EXHIBIT 2 – Docket No. 20-2619-01 E Fiber San Juan - CPCN – dated 5-15-
30 2020).

31 **Q. DOES THE DIVISION HAVE ANY CONCERNS ABOUT THE ISSUANCE OF A**
32 **CPCN AND THE CARRIER OF LAST RESORT (“COLR”) TO THE**
33 **APPLICANTS?**

34 A. As stated in my response to the action request, the Division’s concerns are with the
35 potential for two rate-of-return regulated providers serving the same territory and seeking
36 UUSF funds for duplicate services. The Division believes that as we move forward with
37 this docket, the Commission will need to provide guidance on how it will determine the
38 reasonableness of expenses where duplicate build-outs might occur so that the utilities
39 know before they spend the money how the Commission will review a request for
40 recovery.

41 **Q. DOES THE DIVISION BELIEVE THAT THE SERVICES THAT ARE GOING**
42 **TO BE PROVIDED BY THE E FIBER COMPANIES FALL UNDER THE**
43 **JURISDICTION OF THE COMMISSION’S RULES?**

44 A. Yes, based on the explanation given of the Applicants use of the term “Carrier Grade
45 VoIP” a customer voice line will not require broadband connections nor will it require a
46 net conversion to or from internet protocol to place or receive a call. Under State law
47 Voice Over Internet Protocol Service (“VoIP”) is defined as “any service that: (a) enables
48 real time, two-way voice communication originating from or terminating at the user’s

49 location in Internet protocol or a successor protocol; (b) uses a broadband connection
50 from the user's location; and (c) permits a user to receive a telephone call that originates
51 on the public switched telephone network and to terminate a call to the public switched
52 telephone network. See U.C.A. §54-19-102(2). Under U.C.A. §54-19-103 the state is
53 only prohibited from regulating voice over Internet protocol service that meets the
54 definition contained in U.C.A. §54-19-102.

55 **Q. WHY DOES THE DIVISION BELIEVE IT IS IN THE PUBLIC INTEREST TO**
56 **GRANT THE APPLICANTS A CERTIFICATE?**

57 A. In the review of the applications submitted by the E Fiber Companies as to whether it is
58 in the public interest to issue a certificate or not, the Division took into account filings
59 with the Commission from or that deal with the current service provider, Frontier
60 Communications ("Frontier"), in those exchanges. Those filings involve informal and
61 formal complaints from customers in Frontier's service territory and a filing for a Chapter
62 11 reorganization of the company. The complaints are still under investigation by the
63 Office of Consumer Services ("OCS") and the Division.

64 The Division has also observed declining levels of annual capital investment and
65 increasing customer complaints. Frontier has failed to maintain or upgrade its facilities
66 over time despite the availability of the UUSF to cover reasonable costs of system
67 upgrade that are not recovered through rates or other revenue sources. It is because of
68 this pattern of degrading service quality and lack of investment that the Division
69 recommends that it is in the public interest to issue a CPCN to the E Fiber Companies
70 who have a proposal to offer modernized service to customers in the exchanges.

71 **CONCLUSION**

72 **Q. DOES THIS COMPLETE YOUR TESTIMONY?**

73 A. Yes, it does.