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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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

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**REBUTTAL TESTIMONY OF DOUGLAS MEREDITH  
ON BEHALF OF THE  
UTAH RURAL TELECOM ASSOCIATION - INTERVENOR**

**October 16, 2020**

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**List of Exhibits**

- Exhibit DDM-R01 Utah Economic Development Alliance meeting slides on San Juan metrics
- Exhibit DDM-R02 Frontier Response to OCS DR 3.2, Frontier Network Outage Reporting System (NORS) report
- Exhibit DDM-R03 Emery Telephone Outage Report
- Exhibit DDM-R04 Frontier's Response to the OCS's 4<sup>th</sup> Set of Data Requests

1       **I. Introduction**

2       **Q. Are you the same Douglas Duncan Meredith that provided Direct Testimony**  
3       **on behalf of the Utah Rural Telecom Association in this proceeding?**

4       A. Yes.

5       **Q. What is the purpose of your rebuttal testimony?**

6       A. I have reviewed the Direct Testimony filed by Citizens Telecommunications  
7       Company of Utah d/b/a Frontier Communications (“Frontier”), the Division of  
8       Public Utilities, and the Office of Consumers Services. I have also reviewed the  
9       Data Request responses provided by Frontier. The purpose of this Rebuttal  
10       Testimony is to summarize the rebuttal position, including clarifications and  
11       updates, of the Utah Rural Telecom Association (“URTA”), and to provide  
12       recommendations to the Utah Public Service Commission (“Commission”) for their  
13       consideration in this proceeding.

14       Specifically, I respond to some of the issues raised by Frontier regarding VoIP  
15       service, Frontier’s service, and the public interest factors that should be considered  
16       by the Commission in this proceeding based on the Data Request responses of  
17       Frontier. Finally, I offer a specific solution the Commission could consider for  
18       avoiding Utah Public Telecommunications Service Support Fund (“UUSF”) support  
19       of duplicative networks.

20       **Q. Please summarize URTA’s testimony.**

21       A. URTA recommends the Commission use a set of factors I described in my direct  
22       testimony to determine whether a carrier should receive carrier of last resort  
23       designation in areas served by rural telephone companies in Utah.

24 **Q. Please summarize your recommendations as updated in this rebuttal**  
25 **testimony.**

26 A. In addition to recommending the public interest factors, URTA urges the  
27 Commission to determine that the Applicants' voice service offering is a local  
28 exchange service offering to be regulated by the Commission. The fact that the  
29 Applicants propose to use IP transport in their networks to provide this service in  
30 no way disqualifies it from being regulated as a local exchange service offering.  
31 Furthermore, the Applicants have many other telecommunications services they  
32 propose to offer, as referenced in the Emery Telephone Local Tariff. URTA also  
33 believes it is reasonable for the Commission to determine from the evidence in this  
34 proceeding that Frontier's telephone service is inadequate in the Local Exchanges  
35 identified in this proceeding.

36 **II. URTA'S Rebuttal Position**

37 A. Response to Direct Testimony of John E. Hansen

38 **Q. Have you reviewed the Direct Testimony of John E. Hansen?**

39 A. Yes. Mr. Hansen provides testimony regarding whether the Applicants' proposed  
40 service is VoIP or IP-Enabled service.

41 **Q. Do you agree with Mr. Hansen's conclusions?**

42 A. No.

43 **Q. Please explain how you disagree with Frontier.**

44 A. Preliminarily, it is remarkable to me that Mr. Hansen has the audacity to suggest he  
45 will "set forth how their [the Applicants'] proposed voice services will be  
46 technically structured," (41-42) and then proceeds to generalize from his Frontier

47 experience to suggest that Frontier’s FDV, not offered in Utah, is provisioned “in  
48 substantially the same manner” (158-159). I submit that the unexplained differences  
49 between Frontier’s FDV service outside of Utah and Applicants’ proposed service  
50 are critical to understand how the two services are regulated. Mr. Hansen missed or  
51 glosses over these differences creating a false impression of the E Fiber service for  
52 the Commission. To me his conclusion is tainted because of his lack of critical  
53 analysis.

54 Turning now to the details. First, on line 61, Mr. Hansen erroneously states that  
55 plain old telephone service (“POTS”) is a voice service that is provided using Time  
56 Division Multiplexing (“TDM”) to transmit telephone calls within the public  
57 switched telephone network (“PSTN”). This is a misleading statement. Yes, TDM  
58 is a transport system but there are many cases where POTS does not require TDM  
59 transport in the distribution and feeder plant of a non-fiber local exchange carrier.  
60 If Mr. Hansen intended to direct our focus to the PSTN networks that exchange  
61 traffic between carriers, such as the Applicants’ affiliates and Frontier, then his  
62 observation is correct but hardly newsworthy. TDM can be used as a transport  
63 system to exchange traffic. In this proceeding, the Applicants, like Emery’s other  
64 affiliates, will use TDM-based transport trunks to exchange traffic with Frontier  
65 using long-established PSTN conventions. For calls between the Applicants’ end  
66 users and Frontier end-user customers, the Applicants’ customer’s analog call is  
67 converted into a digital/optical signal on the Applicants’ network, it is then  
68 transported to the Applicants’ switch on a dedicated VLAN voice path using IP  
69 technology that only connects to the Applicants’ switch, is switched and is then  
70 converted to TDM and placed on a direct trunk used by the Emery affiliates and  
71 Frontier. This scenario is similar to AT&T’s “IP in the middle” call path. The FCC  
72 declared that AT&T’s use of IP in the middle of a call path did not affect the

73 regulatory treatment of the telecommunications transmission. *See In the Matter of*  
74 *the Petition for Declaratory Ruling that AT&T's Phone-to-Phone IP Telephony*  
75 *Services are Exempt from Access Charges, FCC 04-97, WC Docket No. 02-361,*  
76 *Order dated April 21, 2004 (“AT&T IP in the Middle Order”).*

77 Traditional telephones have always used an analog electrical signal. Originally, that  
78 analog signal required a continuous electrical circuit between the called and calling  
79 party. TDM became commonly used in telephony to combine individual voice paths  
80 into one transport channel or signal path. TDM is a method of transmitting and  
81 receiving independent signals over a common signal path by means of synchronized  
82 switches at each end of the transmission line so that each signal appears on the line  
83 only a fraction of time in an alternating pattern. This is accomplished using a  
84 multiplexer which converts electric analog signals into digital electric signal, or vice  
85 versa (depending on which end of the call the multiplexer is located). TDM  
86 transport allowed for more efficient use of the PSTN because more independent  
87 calls could be transported using TDM than traditional analog electric transport.

88 While TDM made telephone service transport more efficient, TDM is not traditional  
89 POTS. It is a means of performing POTS transport. Similarly, in recent years  
90 transport technology has further evolved and now many carriers employ Internet-  
91 protocol transport, in lieu of, or in addition to TDM in their delivery of POTS. The  
92 internet protocol transport technology uses privately addressed IP transport in a  
93 separate data path from the customer location to the provider’s switch. I understand  
94 this is the most up to date, efficient, and cost-effective method of transport and it is  
95 widely employed in the industry by regulated local exchange telephone companies.  
96 JSI provides consulting services for hundreds of local exchange carriers in the  
97 United States and its territories. IP transport, like I describe, is the norm rather than  
98 the exception for modern local exchange networks.

99 **Q. Does the use of IP transport in the delivery of voice traffic somehow convert**  
100 **the service from basic local exchange service to Voice over Internet Protocol**  
101 **(“VoIP”) service?**

102 **A.** No, on the contrary, as indicated in my direct testimony, the use of IP transport is  
103 widely used in the industry by regulated local exchange companies. Using IP  
104 technology does not alter the service provided to the end-user customer. In fact, due  
105 to the widespread deployment of IP transport by regulated local exchange carriers,  
106 the National Exchange Carriers Association (“NECA”) produced Reporting  
107 Guideline 8.11 entitled “Providing Local Exchange Telephone Service Using Voice  
108 over Internet Protocol (VoIP) Technology.”

109 **Q. Please explain how the service the Applicants propose to provide compares**  
110 **with the NECA Reporting Guideline 8.11.**

111 **A.** The Applicants’ Service Over Fiber diagram compared with the NECA Reporting  
112 Guideline 8.11, Diagram 1, demonstrates that the service proposed by Applicants’  
113 is nearly identical to the service described in Diagram 1. Compare the two:

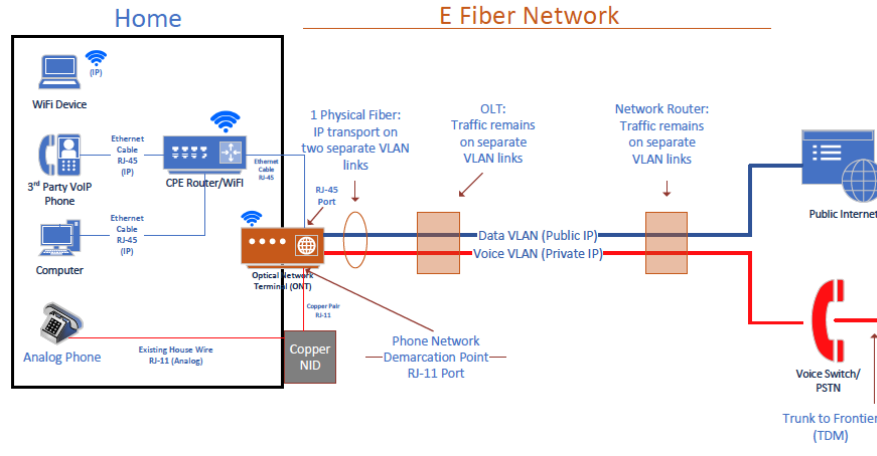


114 **Applicants Service Over Fiber**

**E Fiber Network Services Over Fiber  
 Delivered to Non E Fiber Customer (e.g., Frontier Customer)**

Below is a configuration for E Fiber voice and broadband services at a residential location with the voice call delivered to a non E Fiber customer. In this diagram we use a Frontier customer for the example.

For voice only service, the Data VLAN, the RJ-45 port(s) and WiFi on the ONT are not activated. Only the RJ-11 port providing analog voice is activated on the ONT. The Voice VLAN transports voice traffic to the switch/PSTN.

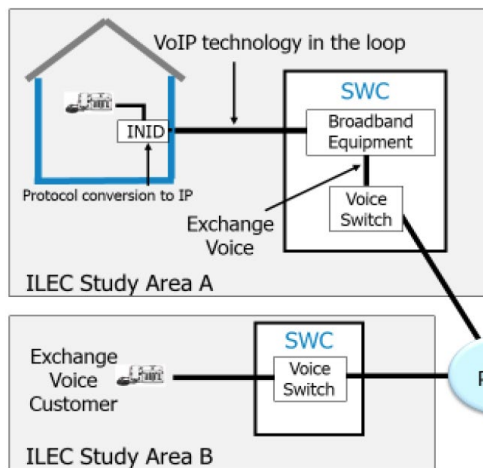


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117 **NECA Reporting Guideline 8.11, Figure 1**

**Scenario 1**  
 Regulated voice service provisioned using VoIP



- Protocol conversion of voice to VoIP occurs within ILEC network
- Voice service is tariffed
  - SLC billed
  - Access measured and billed
  - Not interconnected VoIP
- Non-local voice traffic is delivered to the IXC via as TDM-based direct or tandem switched trunks, Ethernet Switched Access Local Transport Service or Internet Protocol Gateway service or VoIP

118

119

120 Specifically, the protocol conversion of voice traffic to IP occurs in the local  
121 exchange carrier's network at the INID/ONT. The IP technology is used only in the  
122 loop. The local exchange carrier, Applicants in this case, will bill the customer for  
123 the voice service at a tariffed rate, bill the federal subscriber line charge, and  
124 measure and bill access, just like voice service provided using TDM transport.

125 **Q. On lines 124-142, Mr. Hansen describes the differences between POTS voice**  
126 **services and IP-Based voice services. Do you agree with his analysis?**

127 A. No. Mr. Hansen does not distinguish between the use of IP transport across a private  
128 network and the transmission of voice calls over the Internet. His explanation  
129 captures what VoIP service is like if a provider were using the Internet for transport.  
130 In this instance the telephone call is combined with all other types of IP packets,  
131 video and non-voice data, and is transmitted to Internet for ultimate delivery. Mr.  
132 Hansen explains very well how a VoIP service would function in a diverse IP  
133 network. Yet, he fails to explain the Applicants' use of internet protocol because the  
134 Applicants' use of IP transport from the customer to switch DOES NOT allow a  
135 customer to transmit "video and non-voice data" (142). This is where the differences  
136 matter and the observation of "substantially the same" fails to capture these  
137 differences.

138 **Q. Why is that distinction important?**

139 A. That distinction is important in this proceeding because the service proposed to be  
140 provided by Applicants does not transmit calls, video and non-voice data over the  
141 Internet. Rather, the Applicants' service will transport the digital voice packets over  
142 Applicants' private fiber network using IP technology to the Applicants' switch—  
143 this is the same if the digital voice packets were being transported across the  
144 Applicants private fiber network using TDM transport technology. If a voice call

145 transported over fiber using TDM technology can be regulated telephone service, a  
146 voice call transported over fiber using IP technology can be and is regulated  
147 telephone service.

148 A key distinguishing concept, established by federal regulators, is the use of a  
149 broadband connection in the provision of interconnected VoIP. A broadband  
150 connection is defined by the Federal Communications Commission as a  
151 transmission path to the Internet that has the capacity at or exceeding a specified  
152 speed. The IP transmission path proposed to be used by the Applicants for voice  
153 service does not connect to the Internet. This is a very important distinction.

154 **Q. Please explain.**

155 A. While I am not an attorney, Federal and Utah state law prohibit regulation of Voice  
156 Over Internet Protocol (VoIP) service. However, in reviewing the federal and state  
157 definitions of VoIP service, one of the requirements of VoIP service under both state  
158 and federal law is that the service uses a broadband connection at the user's location.

159 **Q. What is a broadband connection?**

160 A. A broadband connection is defined as a high-speed connection to the Internet.  
161 Specifically, Federal Rule, 47 CFR §1.07001(1), defines a broadband connection as  
162 a wired line, wireless channel, or satellite service that terminates at an end user  
163 location or mobile device and enables the end user to receive information from  
164 and/or send information to the internet at transfer rates exceeding 200 kbps in at  
165 least one direction. The FCC, by order, has since increased the transfer rate to 25  
166 Mbps down and 3 Mbps up in order for a connection to qualify as a broadband  
167 connection for other federal purposes. As discussed further below, the service to be  
168 provided by Applicants does not require or use a broadband connection at the user's

169 location.

170 **Q. On lines 165-201 in his Direct Testimony, Mr. Hansen concludes that**  
171 **Applicants proposed voice services are IP-enabled services or VoIP services as**  
172 **defined by Utah Code<sup>1</sup>. Do you agree with his analysis?**

173 A. No.

174 **Q. Please explain.**

175 A. On lines 144-146, Mr. Hansen states that VoIP is a service that enables real-time,  
176 two-way voice communications originating from or terminating to an end user in  
177 Internet Protocol format, and uses a broadband connection at the users home. His  
178 assessment is factually flawed when applied to the Applicants' proposed service.  
179 First, the voice service proposed by Applicants does not originate from or terminate  
180 to the end user in Internet Protocol format. The Applicants' voice service originates  
181 from and terminates to the user's handset (telephone), in analog electrical format,  
182 not in Internet Protocol format.

183 Second, contrary to Mr. Hansen's direct testimony, as stated numerous times in the  
184 Declaration of Brock Johansen, the Data Request responses provide by Applicants  
185 to the DPU, the OCS, and Frontier, and my direct testimony, the Applicants' voice  
186 service does not use or rely upon a broadband connection.

187 **Q. How does Mr. Hansen conclude that the Applicants' voice service uses a**  
188 **broadband connection at the user's home?**

189 A. Mr. Hansen erroneously concludes that the IP connection from the ONT installed  
190 on or in the customer's home to the fiber is a broadband connection. This is not

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<sup>1</sup> I note that Mr. Hansen's testimony refers, incorrectly, to Utah Code §42-19-102 instead of §54-19-102.

191 accurate.

192 As I discussed above, a broadband connection is a high-speed connection to the  
193 Internet. The VLAN connection is a call path from the ONT to the end-office switch  
194 is not a broadband connection. The VLAN provides no access to the Internet, at any  
195 speed. A customer subscribing to the Applicants' voice service has no connection  
196 to the Internet and has no Internet access.

197 True, many VoIP providers combine the voice packets with video and other non-  
198 voice data at the ONT. Presumably these providers do this to avoid being regulated  
199 as a telecommunications carrier. Providers also may use the Internet for transport  
200 of voice, video, and non-voice data. However, this is not the proposed use of IP  
201 transport in the Applicants' network. The voice transmission is not comingled in  
202 one transmission path or channel. The voice transmission from the end-user location  
203 has only one non-Internet destination—the Applicants' switch. As I explained in my  
204 example with a future call between the Applicants' end users and Frontier end users,  
205 the Applicants' switch is where the voice transmission is converted to TDM  
206 transport and is passed onto Frontier for termination.

207 **Q. Mr. Hansen also states that the voice service to be provided by Applicants is**  
208 **Internet protocol enabled service as defined by Utah Code §54-19-102. Do you**  
209 **agree with his analysis?**

210 A. No. The section of the Utah Code Mr. Hansen references has two parts. §54-19-  
211 102(1) ("Part one") discusses IP-Enabled services generally, including voice, video,  
212 and data. §54-199-102(2) ("Part two") specifically details the provision of voice  
213 service. The distinguishing feature to me of these two parts is that the voice in Part  
214 two connects to the PSTN, while the voice in Part one is silent on this requirement.  
215 Seemingly, the voice in the Part one is different from the voice service in the Part

216 two. But the Utah Code section can be unclear. The NECA Reporting Guideline  
217 8.11, attached to my Direct Testimony as Exhibit DDM-001 discusses two decisions  
218 at the federal level that help clarify this issue. Providing voice from computer to  
219 computer is a voice transmission but is not VoIP since these types of voice  
220 transmissions do not use the PSTN. The second decision is the AT&T IP in the  
221 Middle Order that resolved that when IP is used as transport in the middle of a call  
222 path, this use does not make the service IP-Enabled service or VoIP service. It seems  
223 to me that Mr. Hansen incorrectly applies the computer-to-computer type of voice  
224 to the Applicants' service.

225 Also noteworthy is that it is well established that IP-Enabled Services require the  
226 use of a broadband connection and other features that are absent with the  
227 Applicants' service. Discussing these features, the FCC has stated:

228       Indeed, the practical inseparability of other types of IP-enabled services  
229 having basic characteristics similar to DigitalVoice would likewise preclude  
230 state regulation to the same extent as described herein. **Specifically, these**  
231 **basic characteristics include: a requirement for a broadband**  
232 **connection from the user's location; a need for IP-compatible CPE; and**  
233 **a service offering that includes a suite of integrated capabilities and**  
234 **features, able to be invoked sequentially or simultaneously, that allows**  
235 **customers to manage personal communications dynamically, including**  
236 **enabling them to originate and receive voice communications and access**  
237 **other features and capabilities, even video (FCC Vonage Holdings**  
238 **Corporation Petition, Memorandum Opinion and Order, WC Docket**  
239 **No. 03-211, November 12, 2004, 32).**

240 None of the FCC identified basic IP-Enabled characteristics appear in the  
241 Applicants' voice offering. This is because the Applicants' offering uses IP  
242 transport in its networks to convey voice transmission from the end-user to the voice  
243 switch. The customers do not have a broadband connection, they do not need IP-  
244 compatible CPE such as a special IP telephone handset, and they cannot

245 dynamically manage their voice communications with other features and  
246 capabilities like video. IP-Enabled services are quite impressive, but the Applicants'  
247 local exchange voice service does not belong to the IP-Enabled service family. It  
248 really is an apples to oranges comparison.

249 **Q. Mr. Hansen also claims that the Applicants' proposed service meets the**  
250 **definition of interconnected VoIP as defined by 47 USC §153(25) and 47 CFR**  
251 **§9.3. Do you agree with his conclusion?**

252 A. No. Interconnected VoIP under Federal Code and Rules requires a broadband  
253 connection from the user's location and requires internet protocol-compatible  
254 customer premises equipment (CPE). As explained previously, Applicants'  
255 proposed service does not require a broadband connection as that term is defined  
256 and used by the FCC. Nor does the Applicants' proposed service require CPE for  
257 the origination, routing, or termination of telecommunications.

258 **Q. Can you summarize your rebuttal testimony as it relates to Mr. Hansen's direct**  
259 **testimony?**

260 A. Nothing offered by Mr. Hansen should persuade the Commission to determine that  
261 the Applicants' voice offering is anything other than basic local exchange telephone  
262 service. Such service should be regulated just as the other services that use an  
263 efficient transmission protocol for the delivery of voice transmission from one  
264 network point to another network point—in this service from the ONT to the end  
265 office switch.

266 B. Response to Carl Erhart Direct Testimony

267 **Q. Have you reviewed the redacted Direct Testimony of Carl Erhart?**

268 A. Yes. I have also reviewed Frontier's Data Request Responses and the Testimony of

269 the DPU and the Office.

270 **Q. Are there any preliminary matters related to Mr. Erhart's Direct Testimony**  
271 **that you would like to address?**

272 A. Yes. As a preliminary matter, Mr. Erhart identifies four Applicant requests in this  
273 proceeding:

274 1. Applicants' request for CPCN;

275 2. Applicant's request to be designated as a rate of return regulated  
276 carrier of last resort;

277 3. Applicants' request to receive UUSF distributions; and

278 4. Applicants' request that the Commission rule that Frontier is barred  
279 from receiving UUSF.

280 **Q. Has Mr. Erhart properly identified the Applicants' requests as contained in**  
281 **the Applications?**

282 A. No. As I reviewed the Applicants' Applications, I did not see any request that  
283 Frontier be barred from receiving UUSF. Rather, URTA filed Comments in this  
284 docket before the proceeding was converted to a formal proceeding. In those  
285 Comments, URTA suggested that the public interest inquiry required by Utah Code  
286 §54-8b-2.1, should include consideration of whether it is in the public interest for  
287 two carriers of last resort to qualify for UUSF for the same area. URTA identified  
288 ten possible factors to inform the Commission's public interest determination.  
289 Brock Johansen discussed those ten factors in his Direct Testimony. Similarly, I  
290 addressed the ten factors in my direct testimony. The Applications, however, do  
291 not request that Frontier be barred from receiving UUSF.

292 **Q. By way of summary, have your recommendations on the public interest inquiry**



293 **changed since you filed your Direct Testimony?**

294 A. The factors I identified in my direct testimony for evaluating the public interest  
295 remain the same, and I believe they provide an excellent framework for the  
296 Commission's public interest inquiry. However, after reviewing the data request  
297 responses of Frontier, the Testimony of the OCS, and the Testimony of Frontier, I  
298 believe the Commission can conclude that the service provided by Frontier in the  
299 Local Exchanges is not adequate, and the Applicants should be allowed entry in the  
300 Local Exchanges. Additionally, below I specifically address portions of Mr. Erhart's  
301 testimony related to the ten factors.

302 **Q. What about the risk that allowing two carriers of last resort (COLR) in the**  
303 **Local Exchanges may result in both COLRs being eligible for UUSF?**

304 A. As I previously stated in my Direct Testimony, I do not believe it would be in the  
305 public interest for UUSF support to be used to pay for duplicative networks.  
306 However, the Commission can guard against that in their statutorily required annual  
307 determination of each COLR's reasonable costs. Before any costs are eligible for  
308 UUSF support, the Commission with the assistance of the DPU, determine if a  
309 company's expenditures are reasonable and prudent. There is absolutely no reason  
310 the Commission cannot use this practice to determine which COLR's costs will be  
311 eligible for UUSF, while ensuring that UUSF is not used to support the deployment  
312 of duplicative networks.

313 **Q. Please explain how this could be accomplished.**

314 A. Okay. Let's assume that the Commission grants the Applicants' Applications and  
315 allows Applicants entry into the Local Exchanges. Applicants have stated they plan  
316 to build fiber facilities to the premises in the Local Exchanges. Obviously, this fiber

317 deployment cannot happen overnight. Nothing would prohibit Frontier from using  
318 its CAF funds to deploy state of the art fiber facilities in the Local Exchange. The  
319 Commission could determine that whichever COLR, Applicants or Frontier,  
320 constructs and deploys the fiber facilities first, would be entitled to include those  
321 reasonable costs in their UUSF calculation. If the other company moves forward  
322 with construction and deployment of fiber facilities in the same area, the  
323 Commission could determine that those costs were not reasonably and prudently  
324 incurred and could eliminate such expenditures from the COLR's UUSF  
325 calculation. It strikes me that this may spur a race between the competing COLRs  
326 to construct facilities and provide services in the Local Exchange which would  
327 clearly benefit the under or unserved areas in the Local Exchanges and be in the  
328 public interest.

329 **Q. Mr. Erhart states that the Commission does not determine UUSF on a “per-**  
330 **exchange basis.” Rather, Mr. Erhart states that eligibility for UUSF**  
331 **distributions is based on costs and revenues from a carrier’s state-wide**  
332 **operations, and that calculating UUSF on an exchange basis would be**  
333 **complicated and unreliable. Do you agree?**

334 **A.** Mr. Erhart is correct that UUSF is not currently calculated on a “per-exchange basis”  
335 but rather is based on the costs and revenues from a carrier’ state-wide operations.  
336 However, I disagree that calculating UUSF on an exchange basis would be  
337 particularly complicated or unreliable. Rate of return regulated carriers track their  
338 costs. There is no reason this could not be done reliably on a per exchange basis.  
339 However, it really is not necessary. As state above, the Commission and the DPU  
340 currently review all of a company’s costs to determine if they are reasonable and  
341 eligible for UUSF support. In the event there are two COLRS in a particular  
342 exchange, the COLRS could be required to provide network mapping data and

343 construction data related to the deployment of facilities so the DPU could review  
344 the costs associated with such deployment to determine whether such costs were  
345 reasonably and prudently incurred. This could be accomplished by a data request.

346 **Q. You previously stated that you believe that a race to install facilities could**  
347 **benefit under and unserved areas in the Local Exchanges. However, Mr.**  
348 **Erhart states that Frontier has built out a network that provides high quality**  
349 **and affordable services to all residents and business in it exchanges. What**  
350 **makes you say the Local Exchanges are under or unserved?**

351 A. Several things. First, I note that two additional complaints about Frontier's service  
352 have been filed as public comments in this proceeding. The first complaint is that  
353 Frontier's voice service is so unreliable that the IT Manager for San Juan County  
354 has had to seek other providers for 911 service and normal phone lines. The second  
355 complaint from Dustin Frandsen at Moab Lodging is that Frontier's service is slow  
356 and unreliable. Also Mr. Frandsen indicates that Frontier does not have facilities in  
357 at least two new subdivisions in Moab, Entrada at Moab and Sage Creek. As the  
358 carrier of last resort, I don't know why Frontier would not have service to those  
359 newly developed areas.

360 Second, I recently participated in the Utah Economic Development Alliance  
361 meeting. Rebecca Dilg the executive director of the Broadband Outreach Center  
362 shared some data showing the lack of broadband service in San Juan County. I am  
363 attaching the relevant slides as Exhibit DDM-R01. Although Mr. Erhart claims that  
364 Frontier's service is adequate, the customer complaints and available statistics say  
365 otherwise.

366 Third, according to the Frontier's Response to the OCS DR 3.2, Frontier has  
367 reported numerous significant outages or disruptions of service from 2015 to 2020

368 totaling over 165 hours just in the Moab, Monticello, and Blanding exchanges  
369 through the Network Outage Reporting System (NORS). See Exhibit DDM-R02.  
370 According to the data provided by Frontier in its response to OCS DR 3.2, many of  
371 these outages negatively impacted 911 service in the local exchanges. Additionally,  
372 it is important to note that because of the threshold for NORS reporting, not all of  
373 Frontier's outages/disruptions would be reported to NORS. In comparison, Emery  
374 Telcom's affiliated regulated local exchange carriers, reported a total of one  
375 network outage that occurred during a maintenance window for four hours over the  
376 same time period. See Exhibit DDM-R03 – Emery Outage Report.

377 It does not appear that Frontier's service is adequate, reliable, or comparable to the  
378 service in other rural exchanges in Utah, particularly those served by Emery Telcom  
379 and its affiliates.

380 **Q. Applicants' estimate that deploying fiber facilities to the premises in the Local**  
381 **Exchanges will cost the UUSF \$14.9M over five years. In your experience, is**  
382 **that a reasonable amount to deploy fiber to the premises throughout seven local**  
383 **exchanges?**

384 A. Yes. Based on my experience working with many incumbent local exchange carriers  
385 across the nation, this timeframe appears reasonable given the circumstances. There  
386 is no argument that the Local Exchanges are remote, high cost areas. In my  
387 estimation, if Frontier were to provide fiber to the premises in the Local Exchanges  
388 the costs would far exceed \$14.9M because Frontier has not received any  
389 Community Connect or ReConnect grant funds to assist with the infrastructure  
390 deployment. Additionally, of the \$9.26M in CAF Phase II funds that Frontier  
391 received to deploy 10/1 broadband facilities to 3,867 households in Utah, according  
392 to Frontier's Response to the OCS's 4<sup>th</sup> Set of Data Requests, attached as Exhibit

393 DDM-R04, Frontier did not deploy any fiber to the premise facilities.

394 **Q. If Frontier were interested in deploying a fiber to the premises project, could**  
395 **they qualify for UUSF support?**

396 A. Because I am not fully familiar with Frontier's financial situation, I cannot say for  
397 certain. However, Mr. Erhart testified that "revenue reductions are exceeding  
398 Frontier's ability to reduce costs and it is approaching the point where eligible costs  
399 will soon exceed eligible revenues, at which point Frontier will once again be entitled  
400 to receive UUSF Distributions." (129-132) Presumably, if Frontier's costs without  
401 additional investment exceed their revenues, investment in a fiber to the premises  
402 construction project will increase Frontier's costs and rate base (on which they will  
403 be entitled to an established rate of return) and Frontier would be eligible for UUSF  
404 support.

405 **Q. Turning now to the public interest factors, looking at Mr. Erhart's Direct**  
406 **Testimony regarding Factor 1, Mr. Erhart, on lines 647-669, states that**  
407 **Frontier is not rate of return regulated carrier for its "interstate or FCC**  
408 **regulated operations." Mr. Erhart states that if UUSF eligibility were**  
409 **determined on an "intrastate" basis, Frontier's net operating margin would**  
410 **likely qualify for UUSF or a substantial rate increase if it were to file a general**  
411 **rate case. Frontier claims that since it is the only rural incumbent local**  
412 **exchange carrier in the state that is regulated on a price cap basis for interstate**  
413 **services, it's UUSF support qualification should be calculated on a purely**  
414 **intrastate basis. Do you agree?**

415 A. No.

416 **Q. Please explain.**

417 A. Frontier is and should be treated like all other local exchange carriers in Utah. The  
418 process for determining Utah USF is based on a total company review, not just  
419 intrastate operations. This policy protects the state USF program and avoids  
420 potential overearning by carriers because the operations were siloed into separate  
421 jurisdictions.

422 **Q. Are all of the rural incumbent local exchange carriers in Utah rate of return**  
423 **regulated for their interstate services?**

424 A. No. Besides Frontier, which is a price cap carrier, several of the rural incumbent  
425 local exchange carriers in Utah have elected to receive A-CAM model-based  
426 support, making them non-rate-of-return or quasi price cap carriers on the federal  
427 side, and rate of return regulated carriers for their intrastate services.

428 **Q. Do any of the carriers who have elected to receive A-CAM Model based**  
429 **support qualify for State UUSF?**

430 A. Yes. At least five of the rural ILECs that receive A-CAM model-based support also  
431 qualify for UUSF support.

432 **Q. Why do these carriers qualify for support?**

433 A. Because intrastate rate-of-return regulated carriers of last resort are eligible for  
434 UUSF support if their reasonable costs plus the federal rate of return on investment  
435 exceed their revenues from all sources (including rates for service and Federal  
436 Universal service Funds – which includes model based support).

437 **Q. Why does Utah look at the total company, rather than just intrastate revenues**  
438 **and expenses?**

439 A. Examining the costs and revenues on a total company basis, eliminates the

440 possibility of assigning costs and revenues to a particular jurisdiction to maximize  
441 the higher rate of return that may be associated with a particular jurisdiction. It is a  
442 good policy that protects the state's universal service funds.

443 **Q. Mr. Erhart further states that “the fact that Frontier has not qualified for**  
444 **UUSF funding for the past 13 years is not indicative of a lack of investment in**  
445 **its Utah operations. Rather, it is the result of the current financial needs test**  
446 **for UUSF distributions, which is determined on a Total Company rate of**  
447 **return basis, utilizing the weighted average cost of capital rate of return**  
448 **prescribed by the FCC for rate of return. Can you explain this?**

449 A. Yes. Any carrier eligible for state USF must qualify for state USF support through  
450 a total company examination of costs and revenues. If a carrier, any carrier, has high  
451 earnings in the interstate jurisdiction, the state policy is that it cannot simply ignore  
452 high earnings in one jurisdiction and claim it needs state support. Instead, the state  
453 program will require that high earnings in one jurisdiction be at the level of the  
454 authorized intrastate rate of return before state funds are distributed. The opposite  
455 occurs if a carrier experiences low earnings—the state program provides support to  
456 make sure the carrier has the opportunity to achieve an authorized rate of return on  
457 all of its telecommunications operations. The state program looks at the total  
458 company to make sure the company is eligible for state USF distributions. It is  
459 evident, given Frontier does not receive state USF, that it does not need state USF  
460 support to achieve an overall earnings level that is at or above the authorized rate of  
461 return established by Utah.

462 **Q. Regarding Factor 2, Mr. Erhart states that because the Applicants will not**  
463 **serve all of Frontier's exchange in the state, the customers in Frontier's**  
464 **exchanges will be prejudiced if Frontier is deemed ineligible to receive UUSF**

465 **distributions because Frontier’s ability to continue investing in additional**  
466 **infrastructure in the Local Exchanges or the 16 other exchanges. Do you**  
467 **agree?**

468 A. No. First, the Applicants did not seek in their Applications to have Frontier deemed  
469 ineligible to receive UUSF distributions in the Local Exchanges or any other  
470 exchange. Rather, the Applicants merely acknowledge that it would not be in the  
471 public interest for two COLRS to receive UUSF support for duplicative investment  
472 in the same exchanges. As a result, there is nothing stopping Frontier from investing  
473 in infrastructure and receiving UUSF support for its reasonably prudent investment,  
474 as determined by the PSC.

475 **Q. Do you have anything to add regarding the remaining public interest factors?**

476 A. Mr. Erhart states in several places that the Applicants’ service will not be subject to  
477 regulation or service quality rules. (312-320, 611, 616-617, and 720). This claim is  
478 not accurate. The Applicants are seeking to provide rate of return regulated service  
479 as a COLR. If the Applications are granted, all of the services provided by  
480 Applicants will be subject to tariff and regulation by the Commission.

481 C. Response to Alyson Anderson Direct Testimony

482 **Q. Have you reviewed the Testimony of Alyson Anderson on behalf of the OCS?**

483 A. Yes.

484 **Q. On lines 169-176, Ms. Anderson identifies three factors the Commission should**  
485 **consider in evaluating whether investments are reasonable. Do you agree with**  
486 **these three factors?**

487 A. Yes. Ms. Anderson suggests consideration of the following:



488 (1) whether the proposed infrastructure is redundant of the current telecom  
489 infrastructure?

490 (2) what is the current service quality in the service territory? And

491 (3) what is the level of commitment of the provider to provide telecom service  
492 in the service territory.

493 These factors are relevant and should be considered. URITA supports the factors as  
494 identified by Ms. Anderson.

495 **Q. Does this conclude your Rebuttal Testimony?**

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

## CERTIFICATE OF SERVICE

I hereby certify that on the 16<sup>th</sup> day of October, 2020, I served a true and correct copy of the Rebuttal Testimony of Douglas Meredith in Docket 20-2618-01 via e-mail transmission to following persons at the e-mail addresses listed below:

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