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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

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| In the Matter of the Petition of Emery Telecommunications & Video, Inc. for Designation as an Eligible Telecommunications Carrier in the State of Utah for the Purpose of Receiving Rural Digital Opportunity Fund Support | Docket No. 21-2272-01 |
|---|------------------------------|

DIRECT TESTIMONY

OF

BROCK JOHANSEN

ON BEHALF OF PETITIONER

February 24, 2021

23 subsidiary of Emery Telephone. ET&V provides high quality affordable voice service to
24 consumers in Moab, Utah. ET&V also provided high quality affordable broadband
25 Internet access service in Emery, Carbon, Grand, San Juan, Wayne, Salt Lake, and Utah
26 Counties, in Utah, and in areas in Colorado. ET&V provides high quality and reliable
27 voice calling and fixed broadband Internet access to its customers using its fiber network
28 and facilities. ET&V manages all aspects of the customer experience, including network
29 and facilities operation, service pricing, installations, marketing materials, and live
30 customer service.

31

32 **Q. What is the purpose of your testimony in this proceeding?**

33 A. The purpose of my testimony is to support the Petition and to demonstrate that ET&V
34 satisfies the requirements of the Utah Public Service Commission (“Commission”) and
35 the Federal Communications Commission (“FCC”), under the rules of the FCC and Utah
36 Admin. Code R746-8-403, *et. seq.*, for designation as an Eligible Telecommunications
37 Carrier (“ETC”) in the State of Utah within the service area proposed in ET&V’s
38 Petition. I will also demonstrate that the grant of this designation is in the public interest.

39

40 **Q. Have you reviewed ET&V’s Petition for Designation as an Eligible**
41 **Telecommunications Carrier in the State of Utah for the Purpose of Receiving Rural**
42 **Digital Opportunity Fund and Lifeline Support (the “Petition”)?**

43 A. Yes. I have reviewed the Petition and I would like to incorporate ET&V’s Petition into
44 this testimony.

45

46 **Q. Why is ET&V seeking to be designated as an ETC in Utah?**

47 A. On January 30, 2020 the Federal Communications Commission (“FCC”) adopted the
48 Rural Digital Opportunity Fund (“RDOF”) Report and Order to bring high speed fixed
49 broadband service to rural homes and small businesses as a step to bridge the digital
50 divide. The RDOF was established as a \$20.4 billion fund which will be disbursed in the
51 context of two reverse auctions. The Phase I RDOF Auction 904 (the “Auction”) was
52 conducted between October 29, 2020 and November 25, 2020 to award support to bring
53 broadband and voice service to census blocks entirely unserved by voice and broadband
54 with download speeds of at least 25 Mbps. Emery Telephone, the ultimate parent
55 company of ET&V participated in the Auction and was the winning bidder in certain
56 areas of Grand and San Juan counties, Utah.

57

58 **Q. If Emery Telephone was the winning bidder why are you seeking ETC designation**
59 **for ET&V?**

60 A. The FCC established the Divide Winning Bids process which permits a winning bidder to
61 assign some or all of its winning bids to related entities. Emery Telephone assigned all of
62 its winning bids to ET&V.

63

64 **Q. Have you identified the areas of the winning bids?**

65 A. Yes. Attached to this testimony as “Exhibit BJ – D1 Census Blocks” is the list of census
66 blocks where ET&V is the designated winning bidder. These are the areas where ET&V

67 seeks ETC designation. A map of these areas is attached to this testimony as Exhibit BJ –
68 D2 Map of ET&V RDOF Areas.”

69

70 **Q. Please describe ET&V’s proposed service are for ETC designation?**

71 A. The particular census blocks identified in Exhibit BJ -- D1 Census Blocks encompass
72 service area where ET&V is seeking ETC designation for RDOF purposes (the “RDOF
73 Service Area”). ET&V will provide the supported service throughout the RDOF Service
74 Area.

75

76 **Q. What are the requirements for designation as an ETC?**

77 A. The requirements for ETC designation are contained in Section 214 of the
78 Communications Act of 1934 (the “Act”) and 47 CFR 54.201. Specifically, an applicant
79 must: (i) be a common carrier that (ii) offer services that are supported by Federal
80 Universal Service Support mechanisms either through its own facilities, or a combination
81 of its own facilities and resale of another carrier’s services; (iii) advertise the availability
82 of such services is eligible for designation as an ETC; (iv) make Lifeline service available
83 to qualifying low income consumers; (v) comply with service requirements; (vi) remain
84 functional in emergency situations; (vii) satisfy consumer protection and service quality
85 standards; (viii) provide local usage plans comparable to ILECs already operating in the
86 service area; (ix) comply with all applicable reporting requirements; (x) take steps to
87 protect against fraud, waste and abuse of the federal USF.

88 Additionally, section 214(e)(2) of the Act provides that in the case of an area
89 served by a rural telephone company, before designating an additional ETC, the state
90 Commission must find that the designation is in the public interest.

91

92 **Q. Let’s go through the requirements for designation as an ETC. Is ET&V a common**
93 **carrier?**

94 A. Yes. ET&V is a common carrier as defined by 47 U.S.C. §153(11) which states that a
95 “common carrier” means any person engaged as a common carrier for hire, in interstate or
96 foreign communication by wire or radio or interstate or foreign radio transmission of
97 energy...” ET&V is also a rural telephone company under 47 U.S.C. §153(44). ET&V
98 will provide voice service and broadband Internet access service on a common carrier
99 basis in the RDOF Service Area.

100

101 **Q. Are the services that ET&V provides supported by Federal universal service**
102 **support?**

103 A. Yes. ET&V will offer (1) voice grade access to the public switched telephone network
104 (“PSTN”) and eligible broadband internet access service; (2) unlimited local voice usage;
105 (3) 911 & E911 enabled access to emergency services; (4) access to operator services; (5)
106 access to directory assistance; and (6) toll limitation for qualifying low-income customers.
107 ET&V will be a full service wireline carrier.

108 **Q. Please describe each service.**

109 A. 1. Voice Grade Access to the Public Switched Network. ET&V will provide voice
110 grade access to the PSTN through its network facilities.

111 2. Minutes of Use for Local Service. As part of the voice grade access to the
112 PSTN, an ETC must provide local usage to its customers. Local usage means an amount
113 of minutes of use of exchange service provided free of charge to end users. ET&V's voice
114 service offers unlimited local calling at no additional cost to the customer beyond the
115 monthly service charge.

116 3. Access to 911 and E911 Emergency Service. ET&V provides 911 and E911
117 access for all its customers to the extent local government in its service area has
118 implemented 911 or E911 systems, as required by 47 C.F.R. §54.101(a). ET&V meets this
119 requirement by providing 911 and E911 service from local public service answering points.

120 4. Access to Operator Services. ET&V provides customer access to operator
121 services, which is defined as any automatic or live assistance provided to a consumer to
122 arrange for the billing or completion, or both, of a telephone call.

123 5. Access to Directory Assistance. The FCC defines directory assistance as a
124 service that "allows subscribers to retrieve telephone numbers of other subscribers." ET&V
125 provides its customers access to directory assistance.

126 6. Toll Limitation for Qualifying Low-Income Customers. In its Lifeline Reform
127 Order, the FCC stated that toll limitation would no longer be deemed a supported service.
128 However, ET&V has the ability to provide toll limitation services to qualified low-income
129 Lifeline customers.

130 5. Broadband Services. ET&V provides its customers with broadband access that
131 has the capability to transmit data to and receive data from all or substantially all of the
132 Internet endpoints at download speeds in excess of 50Mbps, pursuant to 47 C.F.R.
133 §54.101(a)(2). ET&V's rates for broadband service will be reasonably comparable to rates
134 offered in rural Utah.

135

136 **Q. Will ET&V offer those services utilizing its own facilities?**

137 A. Yes. ET&V's service in the RDOF Service Area will be provided using ET&V's existing
138 facilities and facilities to be constructed by ET&V.

139

140 **Q. Federal law requires ETCs to advertise the availability of supported services. How**
141 **will you fulfill that obligation?**

142 A. ET&V will offer its voice service and broadband Internet access service to both residential
143 and business customers in the RDOF Service Area in Grand and San Juan Counties, Utah,
144 and ET&V will advertise the availability and rates of the voice and broadband service
145 throughout the RDOF Service Area, using media of general distribution such as billboard,
146 radio, newspaper, television, direct mail, and Internet advertising. ET&V will also have a
147 website that provides information regarding the voice telephone and broadband Internet
148 access service. ET&V also anticipates using outreach and community events and working
149 with charitable and non-profit organizations as a means of reaching low-income customers.

150

151 **Q. Are you aware that the FCC has revised rules regarding information that must be**
152 **included in marketing materials?**

153 A. Yes. ET&V's marketing materials will state, in easily understood language, that: (1) the
154 service is a Lifeline service; (2) Lifeline is a government assistance program; (3) the service
155 is non-transferable; (4) only eligible consumers may enroll in the program; (5)
156 documentation is required for enrollment and on-going eligibility; (6) the program is
157 limited to one discount per household; and (7) ET&V is the provider of the service, in
158 compliance with FCC rules.

159 **Q. Will you make Lifeline service available to qualifying low-income customers?**

160 A. Absolutely. ET&V will make a discounted Lifeline service offering that meets all
161 applicable Lifeline requirements available to qualified low-income consumers in the
162 RDOF Service Area.

163

164 **Q. Will the ET&V comply with the service requirements applicable to the support it**
165 **receives?**

166 A. Yes. ET&V will provide telecommunications services to all its customers within the
167 RDOF Service Area by utilizing its own facilities and certifies that it will comply with
168 the service and performance requirements applicable to the support it receives consistent
169 with 47 CFR §54.202(a)(1)(i).

170

171 **Q. Is ET&V an ETC in any other states?**

172 A. No.

173

174 **Q. How will ET&V remain functional in an emergency situation?**

175 A. ET&V will have the ability to remain functional in emergency situations. Since ET&V
176 will provide service using its own facilities, ET&V will provide its customers
177 functionality in emergency situations, including access to back up power at the
178 customer's premises and utilization of generators to ensure functionality of its primary or
179 external power supply is unavailable, rerouting of traffic around damaged facilities, and
180 managing traffic spikes resulting from emergencies. Additionally, the switch connectivity
181 to the public switched network contains redundant rings in various areas often enabling
182 traffic to continue if a particular route is damaged.

183

184 **Q. How will ET&V satisfy applicable consumer protection and service quality**
185 **standards?**

186 A. To demonstrate its commitment to high service quality, ET&V commits to satisfying all
187 applicable consumer protection and service quality standards applicable to RDOF support
188 recipients and ETC designated entities.

189 **Q. Is ET&V financially and technically capable of providing Lifeline services in**
190 **compliance with FCC Rules.**

191 A. Yes. The FCC rules require ETC petitioners to demonstrate financial and technical
192 capability to comply with the FCC's Lifeline service requirements. The factors to be

193 considered are: (1) a carrier's prior offering of service to non-Lifeline subscribers; (2) the
194 length of time the carrier has been in business; (3) whether the carrier relies exclusively on
195 Lifeline reimbursement to operate; (4) whether the carrier receives revenues from other
196 sources; and (5) whether the carrier has been subject to enforcement action or ETC
197 revocation proceedings in any state.

198 ET&V's has been in business since 1993 and has been a certificated competitive
199 local exchange provider since 1999, providing non-Lifeline telephone service to
200 subscribers since at least 2012. ET&V has not, and will not, rely solely on Lifeline
201 reimbursement. Rather ET&V has relied, and will continue to rely, on revenues generated
202 from non-Lifeline customers to support its business. Being certified as an ETC will merely
203 allow ET&V to offer low-income customers a local choice for reliable mobile service, as
204 required by the FCC for RDOF eligibility.

205 ET&V's management team has substantial experience in wireline networks. Its
206 parent company is an incumbent local exchange carrier, that has been providing wireline
207 service for over 70 years (including Lifeline service). ET&V's management team is very
208 familiar with the Lifeline service requirements, the National Verifier Lifeline enrollment
209 and eligibility requirements, as well as the procedures for de-enrollment. Neither ET&V,
210 nor its affiliated incumbent local exchange carrier has been subject to a Lifeline
211 enforcement action or an ETC revocation in any state.

212

213 **Q. How will ET&V protect against fraud, waste, and abuse?**

214 A. ET&V will take all steps necessary to prevent fraud, waste and abuse, and will comply
215 with all applicable requirements adopted by the FCC for purposes of preventing fraud,
216 waste and abuse for RDOF and Lifeline support, and including the Lifeline enrollment
217 procedures and de-enrollment procedures outlined by the FCC in 47 C.F.R. §54.401
218 through §54.422.

219

220 **Q. How will ET&V comply with the subscriber eligibility determination and**
221 **certification?**

222 A. ET&V will utilize the National Verifier consistent with USAC's policies and procedures.
223 ET&V's management team has extensive experience with the Lifeline National Verifier
224 and eligibility and certification rules.

225

226 **Q. How will ET&V comply with the FCC rules on deposits, fees, and reports?**

227 A. ET&V, in compliance with 47 C.F.R. Section 401(c), will not collect a deposit in order to
228 initiate service for its Lifeline service plan. Additionally, in compliance with 47 C.F.R. §
229 401(e) ET&V will not charge Lifeline customer a monthly number-portability charge.
230 ET&V will comply with the FCC's annual reporting requirements for ETCs as set forth
231 in 47 C.F.R. § 54.422.

232

233 **Q. Are you seeking state Lifeline support from Utah?**

234 A. No. Although our Petition is entitled Petition of Emery Telecommunications & Video,
235 Inc. for Designation as an Eligible Telecommunications Carrier in the State of Utah for
236 the Purpose of Receiving Rural Digital Opportunity Fund and Lifeline Support, ET&V is
237 not seeking support from the Utah Public Telecommunications Service Support Fund
238 (“UUSF”) at this time. If ET&V seeks UUSF in the future, we will file a separate
239 application requesting such support.

240

241 **Q. Will the grant of this Application and the designation of ET&V as an ETC serve the**
242 **public interest?**

243 A. Yes. Designation of ET&V as an ETC in the RDOF Service Area is in the public interest.
244 Under 47 U.S.C. Section 214(e)(2), “[u]pon request and consistent with the public interest,
245 convenience, and necessity, the State commission may, in the case of an area served by a
246 rural telephone company, and shall, in the case of all other areas, designate more than one
247 common carrier as an eligible telecommunications carrier” for a designated service area,
248 so long as the requesting carrier meets the requirements of Section 214(e)(1).¹

249 Designation of ET&V in the RDOF Service Area is in the public interest. ET&V
250 has been provisionally awarded \$9,822,853 in federal support over ten years in the RDOF
251 Service Area. This award is contingent upon ET&V being designated as an ETC. The
252 receipt of \$9,822,853 in federal funding will mean the direct investment of \$9,822,853 by
253 ET&V in fiber infrastructure in the State of Utah. This will directly benefit the citizens and
254 businesses of the RDOF Service Area by bringing them high-speed broadband Internet

¹ 47 U.S.C. § 214(e)(1).

255 access and voice service, enabling them to participate in the global marketplace. The FCC
256 has determined that the voice and broadband services that ET&V will deploy through
257 RDOF support will advance the goal of the RDOF to “ensure continued and rapid
258 deployment of broadband networks to unserved Americans.” RDOF support will allow
259 ET&V to accelerate deployment of fiber facilities, and ultimately voice and broadband
260 Internet access service to those who need it most in the underserved RDOF Service Area.
261 Designation of ET&V as an ETC in the RDOF Service Area will further the public interest
262 by providing Lifeline eligible customers an excellent voice and broadband service offerings
263 at a lower price.

264

265 **Q. Will the ET&V comply with all other FCC and Commission Rules application to**
266 **ETC operations in Utah?**

267 A. Yes. ET&V will comply with the rules and regulations of the FCC and of this
268 Commission with respect to provision of RDOF and Lifeline services in Utah, except as
269 may be waived by the Commission.

270

271 **Q. Will the ET&V timely pay all applicable federal, state, and local regulatory fees and**
272 **assessments applicable to its ETC operations in Utah?**

273 A. Yes. ET&V acknowledges and accepts its obligations with respect to payment of federal,
274 state, and local regulatory fees, taxes, and assessments, including, but not limited to,
275 universal service fees (subject to Utah Code Admin. R746-8-403), emergency services,
276 and relay services.

277

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

279 **A. Yes.**

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of February, 2021, I served a true and correct copy of the Direct Testimony of Brock Johansen in Support of Emery Telecommunications & Video, Inc.'s Petition for Designation as an Eligible Telecommunications Carrier in the State of Utah for the Purpose of Receiving RDOF via e-mail transmission to following persons at the e-mail addresses listed below:

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