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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

<b>In the Matter of the Petition of E Fiber Moab, LLC for Designation as an Eligible Telecommunications Carrier in the State of Utah for the Purpose of Receiving Rural Digital Opportunity Fund and Lifeline Support</b>	<b>Docket No. 21-2618-01</b>
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**DIRECT TESTIMONY**

**OF**

**BROCK JOHANSEN**

**ON BEHALF OF PETITIONER**

May 28, 2021

**DIRECT TESTIMONY OF BROCK JOHANSEN**

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**Q. Please state your name, occupation, and business address.**

A. Brock Johansen. I am the Chief Executive Officer of Emery Telephone (“Emery”) and Emery Telcom HC, Inc. Emery Telcom HC, Inc. is a wholly owned subsidiary of Emery and is the parent company of E Fiber Moab, LLC (“E Fiber Moab” or “Petitioner”). The Petitioner’s business address is 445 East Highway 29, Orangeville, Utah 84537.

**Q. Please state your educational background and professional background.**

A. I have a Bachelor of Science degree in Business and a Juris Doctorate from Brigham Young University. I practiced law in Provo, Utah prior to joining Emery in 2005.

**Q. Are you authorized to provide testimony in this case on behalf of the Petitioner?**

A. Yes.

**Q. Have you previously testified before any regulatory commissions?**

A. Yes. I have provided written and oral testimony before the Utah Public Utilities Service Commission.

**Q. Please briefly describe E Fiber Moab and its operations?**

A. E Fiber Moab is a Utah limited liability company with its principal office located in Orangeville, Utah. E Fiber Moab is a wholly owned subsidiary of Emery Telcom HC, Inc. which is a wholly owned subsidiary of Emery Telephone. E Fiber Moab applied for

23 and was recently granted a Certificate of Public Convenience and Necessity (“CPCN”) to  
24 provide rate of return (“ROR”) regulated public telecommunications services as a carrier  
25 of last resort (“COLR”) in the Thompson and Moab local exchanges located in Grand  
26 county and portions of San Juan county in Utah (the “Local Exchange Area”). As an  
27 ROR regulated COLR, E Fiber Moab will construct and install fiber facilities to the  
28 premises to provide high quality affordable voice service and broadband Internet access  
29 service in the Local Exchange Area.

30  
31 Additionally, as described in more detail below, E Fiber Moab was also assigned certain  
32 winning bids in the Rural Digital Opportunity Fund (“RDOF”) Auction 904, to provide  
33 broadband Internet access service and voice service in certain designated census blocks  
34 located within Grand and San Juan counties, Utah (the “E Fiber Moab RDOF Service  
35 Area”).

36

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

38 A. The purpose of my testimony is to support the Petition and to demonstrate that E Fiber  
39 Moab satisfies the requirements of the Utah Public Service Commission (“Commission”)  
40 and the Federal Communications Commission (“FCC”), under the rules of the FCC and  
41 Utah Admin. Code R746-8-403, *et. seq.*, for designation as an Eligible  
42 Telecommunications Carrier (“ETC”) in the State of Utah within the Local Exchange  
43 Area and the E Fiber Moab RDOF Service Area (collectively the “ETC Service Area”) as

44 proposed in E Fiber Moab's Petition. I will also demonstrate that the grant of this  
45 designation is in the public interest.

46

47 **Q. Have you reviewed E Fiber Moab's Petition for Designation as an Eligible**  
48 **Telecommunications Carrier in the State of Utah for the Purpose of Receiving Rural**  
49 **Digital Opportunity Fund and Lifeline Support (the "Petition")?**

50 A. Yes. I have reviewed the Petition and I would like to incorporate E Fiber Moab's Petition  
51 into this testimony.

52

53 **Q. Why is E Fiber Moab seeking to be designated as an ETC in Utah?**

54 A. On April 20, 2020, E Fiber Moab filed an application for CPCN with the Commission  
55 seeking to be designated as a rate of return regulated carrier of last resort in Grand and  
56 San Juan counties in an effort to improve service in the Thompson and Moab local  
57 exchanges.

58

59 **Q. Was E Fiber Moab successful in obtaining a CPCN from the Commission?**

60 A. Ultimately, yes. E Fiber Moab was granted a CPCN by the Commission on May 10 2021  
61 to provide service in the Local Exchange Area.

62

63 **Q. Does E Fiber Moab need ETC designation in connection with its CPCN?**

64 A. E Fiber Moab was granted a CPCN to provide rate of return regulated public  
65 telecommunications services as a carrier of last resort in the Local Exchange Area. As a

66 result, E Fiber Moab will have the obligation to serve any customer or class of customers  
67 who requests service within the Local Exchange Area. In connection with this service, E  
68 Fiber Moab would like to provide Lifeline service for qualified low-income subscribers.  
69 In order to be eligible to provide Lifeline service, E Fiber Moab must be designated as an  
70 ETC.

71  
72 Additionally, on January 30, 2020 the FCC adopted the RDOF Report and Order to bring  
73 high speed fixed broadband service to rural homes and small businesses as a step to  
74 bridge the digital divide. The RDOF was established as a \$20.4 billion fund which will  
75 be disbursed in the context of two reverse auctions. The Phase I RDOF Auction 904 (the  
76 “Auction”) was conducted between October 29, 2020 and November 25, 2020 to award  
77 support to bring broadband and voice service to census blocks entirely unserved by voice  
78 and broadband with download speeds of at least 25 Mbps. Emery Telephone, the  
79 ultimate parent company of E Fiber Moab participated in the Auction and was the  
80 winning bidder in certain areas of Grand and San Juan counties, Utah. Under FCC rules,  
81 the winning bidders are required to be designated as ETCs in the RDOF service areas.

82

83 **Q. If Emery Telephone was the winning bidder, why are you seeking ETC designation**  
84 **for E Fiber Moab?**

85 A. The FCC established the Divide Winning Bids process which permits a winning bidder to  
86 assign some or all of its winning bids to related entities. Recently Emery Telephone  
87 assigned a portion of its winning bids to E Fiber Moab.

88

89 **Q. Have you identified the areas of the winning bids which were assigned to E Fiber**  
90 **Moab?**

91 A. Yes. Attached to this testimony as “Exhibit BJ – D1 E Fiber Moab RDOF Service Area”  
92 is the list of census blocks where E Fiber Moab is the designated winning bidder. A map  
93 of this E Fiber Moab RDOF Service Area and the Local Exchange Area is attached to this  
94 testimony as “Exhibit BJ – D2 E Fiber Moab Map of ETC Service Area.”

95

96 **Q. Please describe E Fiber Moab’s proposed service area for ETC designation?**

97 A. E Fiber Moab is seeking ETC designation throughout ETC Service Area which includes  
98 the Local Exchange Area and the RDOF Service Area. E Fiber Moab will provide voice  
99 and broadband Internet access service throughout the ETC Service Area.

100

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

102 A. The requirements for ETC designation are contained in Section 214 of the  
103 Communications Act of 1934 (the “Act”) and 47 CFR 54.201. Specifically, an applicant  
104 must: (i) be a common carrier that (ii) offers services that are supported by Federal  
105 Universal Service Support mechanisms either through its own facilities, or a combination  
106 of its own facilities and resale of another carrier’s services; (iii) advertise the availability  
107 of such services and the charges therefor; (iv) make Lifeline service available to  
108 qualifying low income consumers; (v) comply with service requirements; (vi) remain  
109 functional in emergency situations; (vii) satisfy consumer protection and service quality

110 standards; (viii) provide local usage plans comparable to ILECs already operating in the  
111 service area; (ix) comply with all applicable reporting requirements; (x) take steps to  
112 protect against fraud, waste and abuse of the federal USF.

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

116

117 **Q. Let's go through the requirements for designation as an ETC. Is E Fiber Moab a**  
118 **common carrier?**

119 A. Yes. E Fiber Moab is a common carrier as defined by 47 U.S.C. §153(11) which states  
120 that a "common carrier" means any person engaged as a common carrier for hire, in  
121 interstate or foreign communication by wire or radio or interstate or foreign radio  
122 transmission of energy..." E Fiber Moab is also a rural telephone company under 47  
123 U.S.C. §153(44). E Fiber Moab will provide voice service and broadband Internet access  
124 service on a common carrier basis in the ETC Service Area.

125

126 **Q. Are the services that E Fiber Moab will provide supported by Federal universal**  
127 **service support?**

128 A. Yes. E Fiber Moab will offer (1) voice grade access to the public switched telephone  
129 network ("PSTN") and eligible broadband Internet access service; (2) unlimited local voice  
130 usage; (3) 911 & E911 enabled access to emergency services; (4) access to operator

131 services; (5) access to directory assistance; and (6) toll limitation for qualifying low-  
132 income customers. E Fiber Moab will be a full service wireline carrier.

133

134 **Q. Please describe each service.**

135 A. 1. Voice Grade Access to the Public Switched Network. E Fiber Moab will provide  
136 voice grade access to the PSTN through its network facilities.

137 2. Minutes of Use for Local Service. As part of the voice grade access to the  
138 PSTN, an ETC must provide local usage to its customers. Local usage means an amount  
139 of minutes of use of exchange service provided free of charge to end users. E Fiber Moab's  
140 voice service will offer unlimited local calling at no additional cost to the customer beyond  
141 the monthly service charge.

142 3. Access to 911 and E911 Emergency Service. E Fiber Moab will provide 911  
143 and E911 access for all its customers to the extent local government in its service area has  
144 implemented 911 or E911 systems, as required by 47 C.F.R. §54.101(a). E Fiber Moab will  
145 meet this requirement by providing 911 and E911 service from local public service  
146 answering points.

147 4. Access to Operator Services. E Fiber Moab will provide customer access to  
148 operator services, which is defined as any automatic or live assistance provided to a  
149 consumer to arrange for the billing or completion, or both, of a telephone call.

150 5. Access to Directory Assistance. The FCC defines directory assistance as a  
151 service that "allows subscribers to retrieve telephone numbers of other subscribers." E  
152 Fiber Moab will provide its customers access to directory assistance.



153           6. Toll Limitation for Qualifying Low-Income Customers. In its Lifeline Reform  
154 Order, the FCC stated that toll limitation would no longer be deemed a supported service.  
155 However, E Fiber Moab will have the ability to provide toll limitation services to qualified  
156 low-income Lifeline customers.

157           7. Broadband Services. E Fiber Moab will provide its customers with broadband  
158 Internet access service that has the capability to transmit data to and receive data from all  
159 or substantially all of the Internet endpoints at download speeds in excess of 50Mbps,  
160 pursuant to 47 C.F.R. §54.101(a)(2) at rates reasonably comparable to rates offered in rural  
161 Utah.

162

163 **Q. Will E Fiber Moab offer those services utilizing its own facilities?**

164 A. Yes. E Fiber Moab's service in the ETC Service Area will be provided using E Fiber  
165 Moab's facilities and facilities to be constructed by E Fiber Moab and/or its affiliates,  
166 ET&V and E Fiber San Juan.

167

168 **Q. Please explain the circumstances under which E Fiber Moab will use the facilities of**  
169 **its affiliates.**

170 A. As the Commission is aware E Fiber San Juan has received RDOF funding to build fiber-  
171 to-the-home in areas in San Juan County, Utah. Some of these locations are located south  
172 of Moab, in San Juan County, but within the Moab Exchange. E Fiber Moab, as the entity  
173 certificated in the Moab Exchange will use those E Fiber San Juan facilities, consistent  
174 with the affiliate transaction rules, to serve the Moab Exchange.

175

176 Similarly, in areas of the Moab Exchange located in Castle Valley, where facilities have  
177 been constructed by ET&V using Community Connect funding, E Fiber Moab will utilize  
178 those facilities, consistent with the affiliate transaction rules, to serve the Moab Exchange.

179

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

182 A. E Fiber Moab will offer its voice service and broadband Internet access service to both  
183 residential and business customers in the ETC Service Area and will advertise the  
184 availability and rates of the voice and broadband service throughout the ETC Service Area,  
185 using media of general distribution such as billboard, radio, newspaper, television, direct  
186 mail, and Internet advertising. E Fiber Moab will also have a website that provides  
187 information regarding the voice telephone and broadband Internet access service. E Fiber  
188 Moab also anticipates using outreach and community events and working with charitable  
189 and non-profit organizations as a means of reaching low-income customers.

190

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

193 A. Yes. E Fiber Moab's marketing materials will state, in easily understood language, that:  
194 (1) the service is a Lifeline service; (2) Lifeline is a government assistance program; (3)  
195 the service is non-transferable; (4) only eligible consumers may enroll in the program; (5)  
196 documentation is required for enrollment and on-going eligibility; (6) the program is

197 limited to one discount per household; and (7) E Fiber Moab, or its affiliate, is the provider  
198 of the service, in compliance with FCC rules.

199

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

201 A. Absolutely. E Fiber Moab will make a discounted Lifeline service offering that meets all  
202 applicable Lifeline requirements available to qualified low-income consumers in the ETC  
203 Service Area.

204

205 **Q. Will the E Fiber Moab comply with the service requirements applicable to the**  
206 **support it receives?**

207 A. Yes. E Fiber Moab will provide telecommunications services to all its customers within  
208 the ETC Service Area by utilizing its own facilities or its affiliates' facilities and certifies  
209 that it will comply with the service and performance requirements applicable to the  
210 support it receives consistent with 47 CFR §54.202(a)(1)(i).

211

212 **Q. Is E Fiber Moab an ETC in any other states?**

213 A. No.

214

215 **Q. How will E Fiber Moab remain functional in an emergency situation?**

216 A. E Fiber Moab will have the ability to remain functional in emergency situations. Since E  
217 Fiber Moab will provide service using its own facilities and its affiliates' facilities, E  
218 Fiber Moab will provide its customers functionality in emergency situations, including

219 access to back up power at the customer's premises and utilization of generators to ensure  
220 functionality of its primary or external power supply is unavailable, rerouting of traffic  
221 around damaged facilities, and managing traffic spikes resulting from emergencies.

222 Additionally, the switch connectivity to the public switched network contains redundant  
223 rings in various areas often enabling traffic to continue if a particular route is damaged.

224

225 **Q. How will E Fiber Moab satisfy applicable consumer protection and service quality**  
226 **standards?**

227 A. E Fiber Moab is a rate of return regulated carrier of last resort and commits to satisfying  
228 all applicable consumer protection and service quality standards applicable to RDOF  
229 support recipients and ETC designated entities.

230

231 **Q. Is E Fiber Moab financially and technically capable of providing Lifeline services in**  
232 **compliance with FCC Rules.**

233 A. Yes. The FCC rules require ETC petitioners to demonstrate financial and technical  
234 capability to comply with the FCC's Lifeline service requirements. The factors to be  
235 considered are: (1) a carrier's prior offering of service to non-Lifeline subscribers; (2) the  
236 length of time the carrier has been in business; (3) whether the carrier relies exclusively on  
237 Lifeline reimbursement to operate; (4) whether the carrier receives revenues from other  
238 sources; and (5) whether the carrier has been subject to enforcement action or ETC  
239 revocation proceedings in any state.

240           While E Fiber Moab is a newly formed entity, its ultimate parent company has been  
241 in business for over 70 years and has been a certificated local exchange provider providing  
242 Lifeline telephone service to subscribers since Lifeline service was established. E Fiber  
243 Moab will not rely solely on Lifeline reimbursement. Rather E Fiber Moab will rely on  
244 revenues generated from non-Lifeline customers to support its business. Being certified as  
245 an ETC will merely allow E Fiber Moab to offer low-income customers a local choice for  
246 reliable mobile service, as required by the FCC for RDOF eligibility.

247           E Fiber Moab's management team has substantial experience in wireline networks.  
248 E Fiber Moab's management team is very familiar with the Lifeline service requirements,  
249 the National Verifier Lifeline enrollment and eligibility requirements, as well as the  
250 procedures for de-enrollment. Neither E Fiber Moab, nor its parent Emery Telephone has  
251 been subject to a Lifeline enforcement action or an ETC revocation in any state.

252

253 **Q. How will E Fiber Moab protect against fraud, waste, and abuse?**

254 A. E Fiber Moab will take all steps necessary to prevent fraud, waste, and abuse, and will  
255 comply with all applicable requirements adopted by the FCC for purposes of preventing  
256 fraud, waste, and abuse for RDOF, high cost, and Lifeline support, and including the  
257 Lifeline enrollment procedures and de-enrollment procedures outlined by the FCC in 47  
258 C.F.R. §54.401 through §54.422.

259

260 **Q. How will E Fiber Moab comply with the subscriber eligibility determination and**  
261 **certification?**

262 A. E Fiber Moab will utilize the National Verifier consistent with USAC's policies and  
263 procedures. E Fiber Moab's management team has extensive experience with the  
264 Lifeline National Verifier and eligibility and certification rules.

265

266 **Q. How will E Fiber Moab comply with the FCC rules on deposits, fees, and reports?**

267 A. E Fiber Moab, in compliance with 47 C.F.R. Section 401(c), will not collect a deposit in  
268 order to initiate service for its Lifeline service plan. Additionally, in compliance with 47  
269 C.F.R. § 401(e) E Fiber Moab will not charge Lifeline customer a monthly number-  
270 portability charge. E Fiber Moab will comply with the FCC's annual reporting  
271 requirements for ETCs as set forth in 47 C.F.R. § 54.422.

272

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

274 A. Yes. E Fiber Moab, as a rate of return regulated carrier of last resort is seeking support  
275 from the Utah Public Telecommunications Service Support Fund ("UUSF").

276

277 **Q. Are you familiar with the State requirements for receiving State Lifeline support  
278 from the Utah Public Telecommunications Service Support Fund ("UUSF")?**

279 A. Yes. The Commission has adopted requirements for Lifeline support which are outlined  
280 in Utah Admin Code R746-8-403. The Commission's rules provide that state Lifeline  
281 support may not exceed \$3.50 per Lifeline subscriber per month of subscription to a  
282 service that provides service over landlines; or meets FCC broadband requirements as set  
283 forth in 47 C.F.R. 54.408. The rules also state that the ETC will be eligible for ongoing

284 Lifeline distribution if the company is an ongoing participant in an approved Lifeline  
285 program and if the Commission finds it is in the public interest.

286

287 **Q. Will E Fiber Moab’s Lifeline services meet those requirements?**

288 A. Yes. E Fiber Moab’s Lifeline offering will provide unlimited voice services over  
289 landlines or will exceed the fixed broadband Lifeline requirements of 47 CFR 54.408. E  
290 Fiber Moab will initially offer the following Lifeline plans:

- 291 • 25Mb X 5Mb with unlimited usage – \$44.95
- 292 • 100Mb X 100Mb with 1TB usage – \$54.95
- 293 • Unlimited usage 1G internet – \$64.95

294 These Lifeline offerings plainly meet and exceed the requirements as outlined by the  
295 Commission to be eligible for UUSF Lifeline support. E Fiber Moab’s offerings also comply  
296 with the minimum FCC service standards and will enable Lifeline customers to receive the full  
297 value of their Lifeline subsidy. Additionally, E Fiber Moab as a ROR regulated COLR will  
298 comply with all the rules and regulations that the Commission may lawfully impose upon E  
299 Fiber Moab in its provision of service.

300

301 **Q. Will the grant of this Application and the designation of E Fiber Moab as an ETC**  
302 **serve the public interest?**

303 A. Yes. Designation of E Fiber Moab as an ETC in the ETC Service Area is in the public  
304 interest. Under 47 U.S.C. Section 214(e)(2), “[u]pon request and consistent with the public  
305 interest, convenience, and necessity, the State commission may, in the case of an area

306 served by a rural telephone company, and shall, in the case of all other areas, designate  
307 more than one common carrier as an eligible telecommunications carrier” for a designated  
308 service area, so long as the requesting carrier meets the requirements of Section 214(e)(1).<sup>1</sup>  
309

310 The Commission has already determined that it is in the public interest to allow E Fiber  
311 Moab to serve as a ROR regulated COLR in the Local Exchange Area. Designation of E  
312 Fiber Moab as an ETC in the ETC Service Area is also in the public interest. E Fiber Moab  
313 has been provisionally awarded \$1,790,011.00 in federal support over ten years to serve  
314 the designated census blocks in the E Fiber Moab RDOF Service Area. This award is  
315 contingent upon E Fiber Moab being designated as an ETC. The receipt of \$1,790,011.00  
316 in federal funding will mean the direct investment of that amount by E Fiber Moab in fiber  
317 infrastructure in the State of Utah. This will directly benefit the citizens and businesses of  
318 the ETC Service Area by bringing them high-speed broadband Internet access and voice  
319 service, enabling them to participate in the global marketplace. The FCC has determined  
320 that the voice and broadband services that E Fiber Moab will deploy through RDOF  
321 support will advance the goal of the RDOF to “ensure continued and rapid deployment of  
322 broadband networks to unserved Americans.” RDOF support will allow E Fiber Moab to  
323 accelerate deployment of fiber facilities, and ultimately voice and broadband Internet  
324 access service to those who need it most in the underserved ETC Service Area. Designation  
325 of E Fiber Moab as an ETC in the ETC Service Area will further the public interest by  
326 providing Lifeline eligible customers an excellent voice and broadband service offerings

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<sup>1</sup> 47 U.S.C. § 214(e)(1).



327 at a lower price.

328

329 **Q. Will E Fiber Moab comply with all other FCC and Commission Rules application to**  
330 **ETC operations in Utah?**

331 A. Yes. E Fiber Moab will comply with the rules and regulations of the FCC and of this  
332 Commission with respect to provision of RDOF and Lifeline services in Utah, except as  
333 may be waived by the Commission.

334

335 **Q. Will the E Fiber Moab timely pay all applicable federal, state, and local regulatory**  
336 **fees and assessments applicable to its ETC operations in Utah?**

337 A. Yes. E Fiber Moab acknowledges and accepts its obligations with respect to payment of  
338 federal, state, and local regulatory fees, taxes, and assessments, including, but not limited  
339 to, universal service fees (subject to Utah Code Admin. R746-8-403), emergency  
340 services, and relay services.

341

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

343 A. Yes.

## CERTIFICATE OF SERVICE

I hereby certify that on the 28<sup>th</sup> day of May, 2021, I served a true and correct copy of the Direct Testimony of Brock Johansen in Support of E Fiber Moab, LLC's Petition for Designation as an Eligible Telecommunications Carrier in the State of Utah for the Purpose of Receiving State and Federal Lifeline Support via e-mail transmission to following persons at the e-mail addresses listed below:

Utah Public Service Commission

[PSC@Utah.gov](mailto:PSC@Utah.gov)

Division of Public Utilities

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