

Kira M. Slawson
Blackburn & Stoll, LC
257 East 200 South, Suite 800
Salt Lake City, Utah 84111
Telephone: (801) 521-7900
E-Mail: kslawson@blackburn-stoll.com

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Petition of E Fiber San Juan, 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

Docket No. 21-2619-01

REPLY COMMENTS OF E FIBER SAN JUAN, LLC

AND

AMENDMENT TO PETITION OF E FIBER SAN JUAN, 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

I. INTRODUCTION

On May 28, 2021, E Fiber San Juan, LLC (“EFSJ”) filed a Petition for Designation as an Eligible Telecommunications Carrier in the State of Utah for the Purpose of receiving Rural Digital Opportunity Fund and Lifeline Support (the “Petition”). As indicated in the Petition, Emery Telephone was selected by the Federal Communications Commission (“FCC”) as a winning bidder in the Rural Digital Opportunity Fund (“RDOF”) to provide broadband and voice service in certain areas in San Juan County, Utah. Pursuant to the procedures developed by the FCC, Emery Telephone assigned a portion of the winning bids in the service area to its wholly

owned subsidiary, EFSJ. A list of the census block group numbers awarded to EFSJ were attached as Exhibit 1 to the Petition (the “EFSJ RDOF Service Area”).

EFSJ’s Petition sought ETC status in the EFSJ RDOF Service Area and the local exchange area approved by the PSC in its May 10, 2021, Order granting a Certificate of Public Convenience and Necessity (“CPCN”) to EFSJ (“CPCN Order”). As the PSC is aware, in the CPCN Order, the PSC authorized EFSJ to provide facilities-based local exchange service as a carrier of last resort in the LaSal, Monticello, Blanding (excluding the White Mesa community), Bluff, and Mexican Hat exchanges in San Juan County in Utah (the “Local Exchange Area”). The RDOF award areas include census blocks within the Ute Mountain Ute Tribal lands, as identified on Exhibit A, attached (“White Mesa RDOF Census Blocks”). As a result, EFSJ’s Petition included the White Mesa RDOF Census Blocks.

Pursuant to 47 U.S.C. §214(e)(2) and 47 C.F.R. §54.101 through §54.207, EFSJ submitted its Petition to the PSC for designation as an Eligible Telecommunications Carrier (“ETC”) in the EFSJ RDOF Service Area and the Local Exchange Area in Utah for the purpose of receiving federal RDOF support, as well as federal and state Lifeline support. A map showing the Local Exchange Area and the EFSJ RDOF Service Area (collectively referred to as the “ETC Service Area”) was attached as Exhibit 2 to the Petition.

On June 3, 2021 the Utah Public Service Commission (the “PSC”) issued a Notice of Filing and Comment Period setting June 28, 2021 as the deadline for any interested party to submit comments on EFSJ’s Petition. If no comments in opposition were filed, the PSC indicated it would adjudicate EFSJ’s Petition informally. On June 28, 2021, the Ute Mountain Communications Enterprise (“UMCE”) filed comments in opposition to EFSJ’s Petition

(“UMCE Opposition”). EFSJ hereby files these Reply Comments to address the jurisdictional issue raised by UMCE in its opposition.

II. REPLY COMMENTS AND AMENDMENT OF PETITION

In the UMCE Opposition, UMCE opposes EFSJ’s Petition “with respect to the Tribal lands in White Mesa.”¹ Specifically, UMCE challenges the PSC’s jurisdiction to grant ETC status for the Tribal lands in White Mesa. UMCE also makes additional arguments that designation of EFSJ as an ETC over Tribal lands would not be in the public interest, and that EFSJ could not meet the statutory requirements of an ETC in the White Mesa area.

Without conceding that the PSC lacks jurisdiction to grant ETC status to EFSJ for Tribal lands, EFSJ is willing to address UMCE’s concerns by eliminating the White Mesa RDOF Census Blocks from its Petition before the PSC. EFSJ will agree to pursue ETC status for those White Mesa RDOF Census Blocks, encompassing Tribal lands, from the FCC directly, pursuant to 47 U.S.C. §214(e)(6). Therefore, with this filing, EFSJ hereby amends its Petition to eliminate the White Mesa RDOF Census Blocks, as identified on Exhibit A hereto, from its Petition, and seeks ETC status from the PSC for the remaining, non-tribal RDOF Census Blocks as identified in Exhibit B, hereto, and the Local Exchange Area as approved in the CPCN Order. EFSJ hereby replaces Exhibit 2 of the Petition with Exhibit B, attached hereto. Finally, EFSJ hereby replaces Exhibit 1 of the Petition with Exhibit C, attached hereto, which is a revised set of maps to show the Amended ETC Service Area.

III. CONCLUSION

¹ UMCE Opposition, p. 2.

The amendment of EFSJ's Petition eliminates the White Mesa RDOF Census Blocks from EFSJ's Petition. As a result, EFSJ's amended Petition does not seek ETC status for White Mesa Tribal lands. By agreeing to eliminate the White Mesa RDOF Census Blocks from its Petition, EFSJ has addressed and eliminated UMCE's opposition to the EFSJ Petition. Given that no other opposition was filed on or before June 28, 2021, the PSC can proceed with adjudicating the Amended Petition informally.

As indicated in its Petition, as amended by this filing, EFSJ satisfies the state and federal requirements for ETC designation in the ETC Service, pursuant to 47 U.S.C. Section 214(e)(2), Utah Code Section 54-8b-15, and state and federal rules. Additionally, as indicated by the Division of Public Utilities in their Comments filed June 28, 2021, designating EFSJ as an ETC is in the public interest because it will enable EFSJ, a rate of return regulated, carrier of last resort, to offer Lifeline Service to the residents of the amended ETC Service Area.

EFSJ respectfully requests that the Commission promptly adjudicate the Petition as amended informally, and designate EFSJ as an ETC in the amended ETC Service Area in the State of Utah for the purpose of receiving state and federal Lifeline support.

Dated this 13th day of July, 2021.

BLACKBURN & STOLL, LC



Kira M. Slawson
Attorneys for E Fiber San Juan, LLC

CERTIFICATE OF SERVICE

I hereby certify that on the 13th day of July, 2021, I served a true and correct copy of E Fiber San Juan, LLC's Reply Comments and Amended 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

Division of Public Utilities
DPUDatarequest@utah.gov
Chris Parker chrisparker@utah.gov
Brenda Salter bsalter@utah.gov
Justin Jetter jjetter@ag.utah.gov

Office of Consumer Services
Michele Beck mbeck@utah.gov
Alyson Anderson akanderson@utah.gov
Robert Moore rmoore@ag.utah.gov

UMCE
Stephanie Weiner
SWeiner@hwglaw.com



Kira M. Slawson

EXHIBIT A

WHITE MESA RDOF CENSUS BLOCKS

<u>auction_id</u>	<u>bidder</u>	<u>Assigned Company</u>	<u>FRN Assigned Company</u>	<u>FRN Applicant</u>	<u>block_id</u>	<u>item</u>	<u>state</u>	<u>county</u>	<u>census_id</u>	<u>Locations</u>	<u>Award Amount</u>
904	Emery Telephone dba Emery Telcom	E Fiber San Juan, LLC	0030298442	1607340	490379782001555	UT-037-9782001	UT	San Juan	490379782001	White Mesa - Ute Mountain Ute Reservation	
904	Emery Telephone dba Emery Telcom	E Fiber San Juan, LLC	0030298442	1607340	490379782001556	UT-037-9782001	UT	San Juan	490379782001	White Mesa - Ute Mountain Ute Reservation	
904	Emery Telephone dba Emery Telcom	E Fiber San Juan, LLC	0030298442	1607340	490379782001559	UT-037-9782001	UT	San Juan	490379782001	White Mesa - Ute Mountain Ute Reservation	
904	Emery Telephone dba Emery Telcom	E Fiber San Juan, LLC	0030298442	1607340	490379782001615	UT-037-9782001	UT	San Juan	490379782001	White Mesa - Ute Mountain Ute Reservation	
904	Emery Telephone dba Emery Telcom	E Fiber San Juan, LLC	0030298442	1607340	490379782001618	UT-037-9782001	UT	San Juan	490379782001	White Mesa - Ute Mountain Ute Reservation	
904	Emery Telephone dba Emery Telcom	E Fiber San Juan, LLC	0030298442	1607340	490379782001619	UT-037-9782001	UT	San Juan	490379782001	White Mesa - Ute Mountain Ute Reservation	
904	Emery Telephone dba Emery Telcom	E Fiber San Juan, LLC	0030298442	1607340	490379782001620	UT-037-9782001	UT	San Juan	490379782001	White Mesa - Ute Mountain Ute Reservation	
904	Emery Telephone dba Emery Telcom	E Fiber San Juan, LLC	0030298442	1607340	490379782001621	UT-037-9782001	UT	San Juan	490379782001	White Mesa - Ute Mountain Ute Reservation	
904	Emery Telephone dba Emery Telcom	E Fiber San Juan, LLC	0030298442	1607340	490379782001622	UT-037-9782001	UT	San Juan	490379782001	White Mesa - Ute Mountain Ute Reservation	
904	Emery Telephone dba Emery Telcom	E Fiber San Juan, LLC	0030298442	1607340	490379782001624	UT-037-9782001	UT	San Juan	490379782001	White Mesa - Ute Mountain Ute Reservation	
904	Emery Telephone dba Emery Telcom	E Fiber San Juan, LLC	0030298442	1607340	490379782001625	UT-037-9782001	UT	San Juan	490379782001	White Mesa - Ute Mountain Ute Reservation	

EXHIBIT B

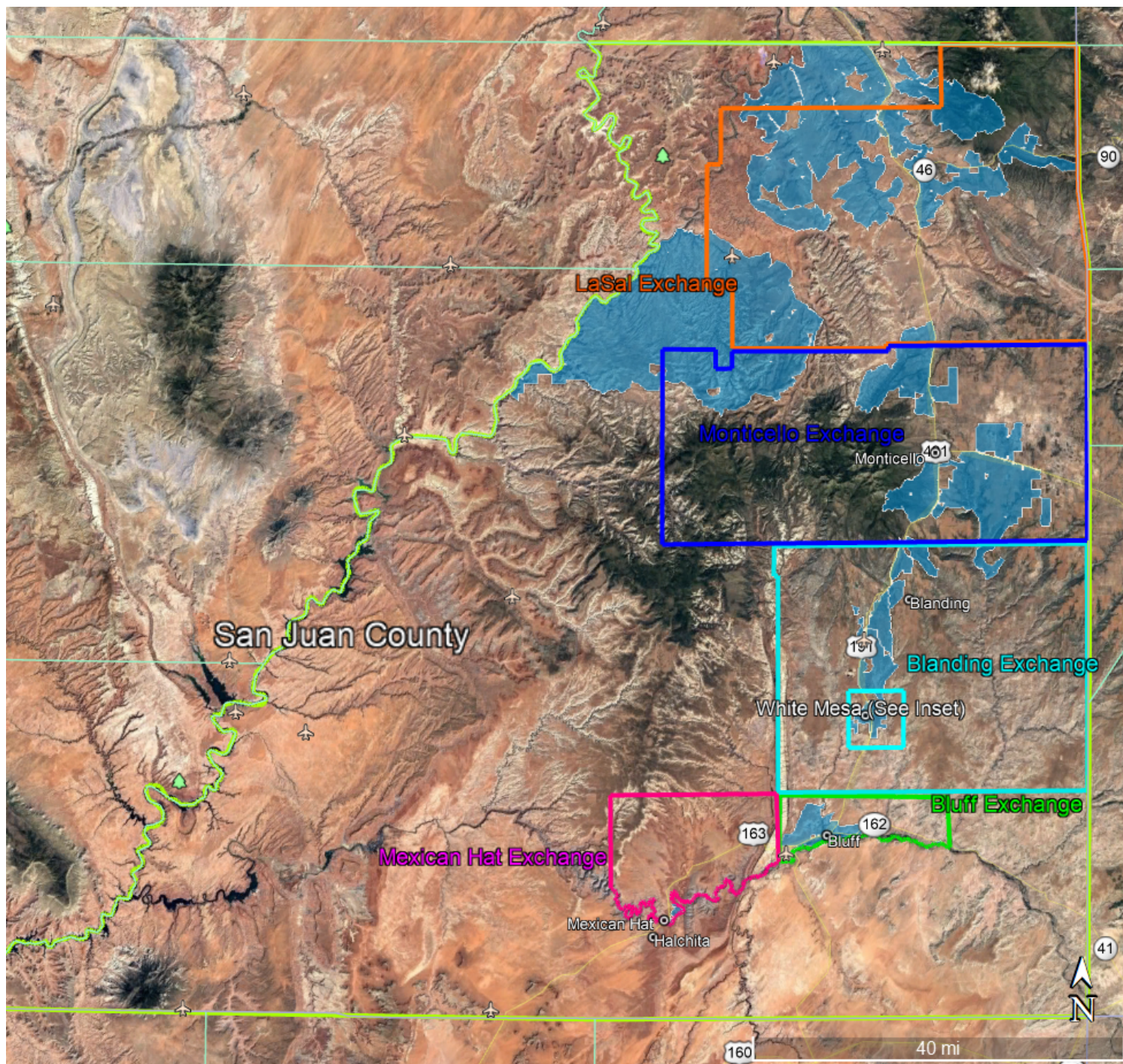
E FIBER SAN JUAN AMENDED RDOF SERVICE AREA (Census Blocks)

[illegible]

[illegible]

EXHIBIT C

AMENDED ETC SERVICE AREA MAP



**White Mesa
Inset Area**

Legend

-  Inset Area
-  White Mesa Tribal Boundary Exclusion from Blanding Exchange

White Mesa

Hovenweep Rd

262

191

