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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Petition of E Fiber San Juan, LLC for Declaratory Ruling or In the Alternative Petition for Designation as an Eligible Telecommunications Carrier on Tribal Locations in the State of Utah for the Purpose of Receiving Rural Digital Opportunity Fund and Lifeline Support

Docket No. 21-2619-02

PETITION OF E FIBER SAN JUAN, LLC FOR DECLARATORY RULING OR, IN THE ALTERNATIVE, 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 IN TRIBAL AREAS

I. INTRODUCTION

As this Utah Public Service Commission (“Commission”) is aware, on December 7, 2020, the FCC issued a Public Notice closing Auction 904 (the “Auction”) and announcing the winning bidders in the Auction. 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 eventually assigned a portion of the

winning bids in the service area its wholly owned subsidiary E Fiber San Juan, LLC (“E Fiber San Juan”) after the Commission approved the Application for Certificate of Public Convenience and Necessity (“CPCN”) and authorized E Fiber San Juan to provide facilities-based local exchange service as a carrier of last resort in the LaSal, Monticello, Blanding, Bluff, and Mexican Hat exchanges in San Juan County in Utah.¹ On May 28, 2021, E Fiber San Juan petitioned the Commission for eligible telecommunications carrier (“ETC”) status for the census block group numbers awarded to E Fiber San Juan. The Commission set a comment period to receive Comments on E Fiber San Juan’s Petition. On June 28, 2021, the Ute Mountain Ute Tribe (the “Tribe”) filed Comments in Opposition to E Fiber San Juan’s Petition. The Tribe opposed E Fiber San Juan’s Petition for several reasons:

- The Tribe challenged the Commission’s jurisdiction to designate Petitioner as an ETC in White Mesa
- The Tribe suggested that neither E Fiber San Juan or the FCC adequately consulted with the Tribe in advance of the RDOF award or the filing of E Fiber San Juan’s Petition; and;
- The Tribe has not granted E Fiber San Juan authorization to provide service on the Tribal land in White Mesa so E Fiber San Juan cannot deploy its proposed network on the Tribal reservation land, and thus cannot meet the statutory requirement that it must offer the RDOF qualifying services throughout the territory for which it seeks ETC designation; and

¹ E Fiber San Juan did not have permission from the Tribe to serve the Tribal Locations. As a result it did not seek authority from the Commission to include the Tribal Locations in its CPCN application. As of the filing of this Petition, the Tribe has not given permission for E Fiber San Juan to serve the Tribal Locations.

- Designation of E Fiber San Juan as an ETC on the Tribal land will hinder the Tribe's ability to access governmental funding to provide its own broadband solution on Tribal land.

The RDOF provisional award to E Fiber San Juan consisted of 1,174 separate locations. Of those 1,174 locations, only 89 are located on Tribal land as identified on Exhibit 1 (the "Tribal Locations"). In an effort to simplify the Petition before the Commission and finalize designation of ETC status on the non-tribal locations, E Fiber San Juan amended its Petition on July 12, 2021, and eliminated the 89 Tribal Locations from the ETC Petition so the Commission could proceed with designation on the non-tribal locations. E Fiber San Juan agreed it would seek ETC designation for the Tribal Locations from the FCC and the Commission granted E Fiber San Juan's Amended Petition on that basis. On July 22, 2021, the Commission awarded E Fiber San Juan ETC status in the non-tribal locations.

Since the Commission's designation of E Fiber San Juan as an ETC over the non-tribal areas, E Fiber San Juan has consulted with the Tribe. The Tribe has indicated it is still not willing to grant E Fiber San Juan access to serve the Tribal Locations at this time. Additionally, the Tribe has indicated it will continue to object to this Commission's designation of E Fiber San Juan as an ETC over the Tribal Locations.

In order to seek ETC designation from the FCC, E Fiber San Juan asks this Commission to declare it will not exercise jurisdiction over ETC designation for the Tribal Locations. While E Fiber San Juan believes that the Commission can exercise jurisdiction over E Fiber San Juan's Petition for ETC Designation for the Tribal Locations, E Fiber San Juan appreciates the difficult position the Commission is in as a result of the opposition previously raised by the Tribe. E Fiber San Juan is willing to seek ETC designation from the FCC if the Commission will not exercise

jurisdiction under these circumstances. As a result, E Fiber San Juan hereby requests that the Commission either:

1. Expediently issue a declaratory ruling indicating that it will not exercise jurisdiction over this Petition to enable E Fiber San Juan to pursue designation from the FCC;² or
2. Expediently exercise jurisdiction over this Petition and grant E Fiber San Juan ETC status over the Tribal Locations.

II. PETITION FOR DECLARATORY RELIEF

Utah Code 63G-4-503 permits the Commission to issue a declaratory order determining the applicability of a statute, rule, or order within the primary jurisdiction of the agency to specified circumstances. The issue is whether the Commission will exercise jurisdiction to grant E Fiber San Juan ETC designation over the Tribal Locations when the Tribe challenges the Commission's jurisdiction. E Fiber San Juan believes that when the Commission permitted E Fiber San Juan to Amend its Petition to eliminate the Tribal Locations on July 22, 2021, and seek ETC designation for those locations from the FCC, the Commission was tacitly agreeing to allow the FCC to determine the ETC status of the Tribal Locations. As a result, E Fiber San Juan is simultaneously seeking a Waiver of FCC Rules or ETC Designation over the Tribal Locations

² E Fiber San Juan notes that Utah Code Section 63G-4-503 provides a mechanism for seeking a declaratory ruling from the Commission. However, Section 63G-4-503(3) states that an agency may not issue a declaratory order if the person requesting the declaratory order participated in an adjudicative proceeding concerning the same issue within 12 months of the date of the present request. E Fiber San Juan participated in an adjudicative proceeding relating ETC status in Utah, but due to Amendment of its initial Petition, the adjudicative proceeding did not ultimately relate to ETC designation on the Tribal Locations.

from the FCC.³ However, based on discussions with FCC counsel E Fiber San Juan believes it would be beneficial to the process at the FCC if this Commission would issue a specific ruling that it will not exercise jurisdiction to grant E Fiber San Juan ETC designation over the Tribal Locations in light of Tribal opposition. Therefore, E Fiber San Juan hereby requests a declaratory ruling from the Commission that it will not exercise jurisdiction to designate E Fiber San Juan as an ETC over the Tribal Locations, so that E Fiber San Juan can pursue action at the FCC.

III. PETITION FOR ETC DESIGNATION OVER TRIBAL LOCATIONS

If E Fiber San Juan has misread the Commission's intent, and the Commission determines it will exercise jurisdiction over this Petition for ETC Designation for the Tribal Locations, pursuant to 47 U.S.C. §214(e)(2) and 47 C.F.R. §54.101 through §54.207, E Fiber San Juan hereby submits this Petition to the Commission for designation as an Eligible Telecommunications Carrier ("ETC") in the Tribal Locations for the purpose of receiving federal RDOF support, as well as federal and state Lifeline support.

As the Commission is aware, E Fiber San Juan has previously petitioned the FCC for a waiver of the requirement to be designated as an ETC by June 7, 2021 to give this Commission additional time to process and approve E Fiber San Juan's Petition for ETC Designation.

However, E Fiber San Juan requests expeditious action on this Petition.

³ As the Commission is aware, E Fiber San Juan is seeking ETC designation over the Tribal Locations to allow it to comply with the provisional RDOF award. However, to the extent the Tribe wants to deploy its own broadband solution for the Tribal Locations, E Fiber San Juan is amenable to removing those locations from the RDOF award, provided the FCC grants a waiver of any and all penalties against E Fiber San Juan for its failure to serve such locations. Therefore, E Fiber San Juan is Petitioning the FCC to Amend the RDOF award to remove the Tribal Locations and waive all penalties, or, in the alternative, to approve E Fiber San Juan's designation as ETC for such Tribal Locations.

1. COMPANY BACKGROUND

A. Company Overview.

The legal name, address and telephone number of the Company, E Fiber San Juan, LLC, and its designated contact person is as follows:

E Fiber San Juan, LLC
Attn: Brock Johansen
455 East Highway 29
P.O. 629
Orangeville, UT 84537
Tel: 435-748-2223

E Fiber San Juan is a Utah limited liability company organized on February 13, 2020 under the laws of Utah. Applicant is a wholly-owned subsidiary of Emery Telcom HC, Inc., a Utah corporation which is a wholly owned subsidiary of Emery Telephone. Upon designation of E Fiber San Juan as an ETC in the Tribal Locations and upon amendment of its CPCN to include the Tribal Locations, E Fiber San Juan will provide fiber based voice and broadband services to the Tribal Locations in San Juan County, Utah.

B. Identification of ETC Service Area.

The Petitioner seeks designation for the Tribal Locations identified on Exhibit 1.

2. THE COMMISSION HAS AUTHORITY TO GRANT THE ETC DESIGNATION

In 1995, incumbent local exchange carriers were automatically granted ETC status in connection by the FCC. However, as the Commission is aware states are given authority by 47 U.S.C. §214(e)(2) to designate a qualified carrier as an ETC. Section 214(e)(2) specifically states that a State commission has authority to “designate a common carrier that meets the requirements of an ETC “for a service area designated by the State commission.” This Commission has previously exercised its authority to designate qualified carriers as ETCs’ in the petitions brought

before the Commission. However, this Petition raises novel issues of tribal sovereignty and based on consultation with the Tribe, E Fiber San Juan is informed that the Tribe will object to, and challenge the Commission's jurisdiction over, this Petition.

3. E FIBER SAN JUAN SATISFIES THE FEDERAL REQUIREMENTS FOR DESIGNATION AS AN ETC.

As shown above, Section 214(e)(2) of the Act gives State commissions authority to designate common carriers that meets certain requirements as an ETC for a service area designated by the State commission. The criteria for designation as an ETC are set forth in 47 U.S.C. Section 214(e)(1). Specifically, an applicant must: (i) be a common carrier that (ii) offer services that are supported by Federal Universal Service Support mechanisms either through its own facilities, or a combination of its own facilities and resale of another carrier's services; (iii) advertise the availability of such services and the charges therefor using a media of general distribution (iv) make Lifeline service available to qualifying low income consumers; (v) comply with service requirements; (vi) remain functional in emergency situations; (vii) satisfy consumer protection and service quality standards; (viii) will provide local usage plans comparable to ILECs already operating in the Service Area; (ix) will comply with all applicable reporting requirements; and (x) take steps to protect against fraud, waste and abuse of the federal USF. As demonstrated below, E Fiber San Juan satisfies each of the above-listed requirements for ETC status.

A. E Fiber San Juan is a Common Carrier.

E Fiber San Juan is a common carrier as defined by 47 U.S.C. §153(11). 47 U.S.C. §153(11) provides that "common carrier" means any person engaged as a common carrier for hire, in interstate or foreign communication by wire or radio or interstate or foreign radio transmission of energy..." E Fiber San Juan will provide voice service and broadband Internet access service

on a common carrier basis within the Tribal Locations. As such, E Fiber San Juan is a common carrier. (See 47 USC §214(e)(1); 47 USC §153(11); and 47 CFR §54.201(d).

B. E Fiber San Juan Will Offer Supported Services to the Tribal Locations Area Using its Own Facilities and the Facilities of Its Affiliate.

47 USC § 214 (e) of the Act and 47 C.F.R. §54.101 provide that a common carrier seeking ETC designation must provide the services that are supported by Federal universal service support. E Fiber San Juan's service will be provided over E Fiber San Juan's existing facilities and new facilities to be constructed and owned by E Fiber San Juan, together with facilities owned by its affiliate, ET&V. Specifically, E Fiber San Juan will offer (1) voice grade access to the public switched telephone network ("PSTN") and eligible broadband internet access service; (2) unlimited local voice usage; (3) 911 & E911 enabled access to emergency services; (4) access to operator services; (5) access to directory assistance; (6) toll limitation for qualifying low-income customers. E Fiber San Juan will be a full service wireline carrier.

1. Voice Grade Access to the Public Switched Network and Eligible Broadband Internet Access Service. E Fiber San Juan will provide voice grade access to the PSTN through its network facilities.⁴ E Fiber San Juan's broadband internet access service will have the capability to transmit and receive data by fiber from all or substantially all Internet endpoints, including capabilities that are incidental to and enable the operation of the communications services, but excluding dial-up service.⁵

2. Minutes of Use for Local Service. As part of the voice grade access to the PSTN, an ETC must provide local usage to its customers. Local usage means an amount of

⁴ 47 C.F.R. §54-101(a).

⁵ 47 C.F.R. §54.101(c).

minutes of use of exchange service provided free of charge to end users. E Fiber San Juan's voice service will offer unlimited local calling at no additional cost to the customer beyond the monthly service charge.

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

4. Access to Operator Services. E Fiber San Juan will provide customer access to operator services, which is defined as any automatic or live assistance provided to a consumer to arrange for the billing or completion, or both, of a telephone call.⁶

5. Access to Directory Assistance. The FCC defines directory assistance as a service that "allows subscribers to retrieve telephone numbers of other subscribers."⁷ E Fiber San Juan will provide its customers access to directory assistance.

6. Toll Limitation for Qualifying Low-Income Customers. In its Lifeline Reform Order, the FCC stated that toll limitation would no longer be deemed a supported service.⁸ However, E Fiber San Juan has the ability to provide toll limitation services to qualified low-income Lifeline customers.

⁶ *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Second Report and Order and Memorandum Opinion and Order*, 11 FCC Rcd 19392, 19448 ¶ 110 (1996).

⁷ *Performance Measurements and Reporting Requirements for Operations Support Systems, Interconnection, and Operator Services and Directory Assistance, Notice of Proposed Rulemaking*, 12FCC Rcd 12817, 12823 n.14 (1998).

⁸ In the Matter of Lifeline and Linkup Reform and Modernization, et al., WC Docket 11-42, Report and Order, FCC 12-11, ¶367 ("Lifeline Reform Order").

7. Broadband Services. E Fiber San Juan will provide broadband Internet access service that has the capability to transmit data to and receive data from all or substantially all of the Internet endpoints at download speeds in excess of 50Mbps, pursuant to 47 C.F.R. §54.101(a)(2). The rates for broadband service will be reasonably comparable to rates offered in rural Utah.

47 U.S.C Section 214(e)(1)(a) requires that a carrier must use its own facilities or a combination of its own facilities and resale of another carrier's facilities in order to provide universal service supported services. E Fiber San Juan does NOT seek forbearance from the "own facilities" requirement as E Fiber San Juan will utilize its own facilities and ET&V facilities to provide its service. This network will be used for all calls to and from E Fiber San Juan's customers in Utah.

C. E Fiber San Juan Will Advertise the Availability of Supported Services

E Fiber San Juan will offer its voice service and broadband Internet access service to both residential and business customers in the Tribal Locations, and using media of general distribution such as billboard, radio, newspaper, television, direct mail, and Internet advertising, pursuant to 47 USC §214(e) and 47 C.F.R. §54.201(d), will advertise the availability and rates of the voice and broadband Internet access service throughout the Tribal Locations. E Fiber San Juan will also have a website that provides information regarding the voice telephone and broadband Internet access service.

D. E Fiber San Juan Will Make Lifeline Service Available to Qualifying Low-Income Consumers.

As required by 47 C.F.R. §54.405, upon designation as an ETC in the Tribal Locations, E Fiber San Juan will make available to qualified low-income consumers in the E Fiber San Juan Tribal Locations, a discounted service offering that meets all applicable Lifeline requirements. E

Fiber San Juan will advertise the Lifeline service by media of general distribution. In addition, E Fiber San Juan will comply with the FCC's revised rules regarding information to be included in marketing materials.⁹ Specifically, E Fiber San Juan's marketing materials will state, in easily understood language, that: (1) it provides a Lifeline service; (2) Lifeline is a government assistance program; (3) the service is non-transferable; (4) only eligible consumers may enroll in the program; (5) documentation is required for enrollment and on-going eligibility; (6) the program is limited to one discount per household; and (7) E Fiber San Juan is the provider of the service.¹⁰ Finally, E Fiber San Juan will develop an information sheet that explains the program qualification process.

E. Service Requirements

Pursuant to 47 CFR §54.202(a)(1)(i), E Fiber San Juan will provide telecommunications services to all its customers within the Tribal Locations by utilizing its own facilities and the facilities of its affiliate, ET&V, and certifies that it will comply with the service and performance requirements applicable to the support it receives consistent with 47 CFR §54.202(a)(1)(i).

F. E Fiber San Juan Will Remain Functional in an Emergency Situation

Additionally, consistent with FCC rules, E Fiber San Juan will have the ability to remain functional in emergency situations. Since E Fiber San Juan will provide service using its own or affiliated facilities, E Fiber San Juan will provide its customers functionality in emergency situations, including access to back up power, rerouting of traffic around damaged facilities, and managing traffic spikes resulting from emergencies.

G. Commitment to Consumer Protection and Service Quality

⁹ See 47 C.F.R. §54.405.

¹⁰ For Lifeline Broadband Internet Access Service, the retail service will be provided by E Fiber San Juan's affiliate, Emery Telecommunications & Video, Inc., with the underlying wholesale broadband Internet access service provided by E Fiber San Juan.

Under FCC guidelines, an ETC applicant must demonstrate that it will satisfy applicable consumer protection and service quality standards.¹¹ E Fiber San Juan, in general, commits to satisfying all applicable consumer protection and service quality standards applicable to ETC designated entities.

H. Protections Against Fraud, Waste and Abuse

E Fiber San Juan will take all steps necessary to prevent fraud, waste, and abuse, and will comply with all applicable requirements adopted by the FCC for purposes of preventing fraud, waste, and abuse for Lifeline support, and including the Lifeline enrollment procedures and de-enrollment procedures outlined by the FCC in 47 C.F.R. §54.401 through §54.422.

I. Compliance with Subscriber Eligibility Determination and Certification.

E Fiber San Juan will utilize the National Verifier consistent with USAC’s policies and procedures. E Fiber San Juan’s management team has extensive experience with the Lifeline National Verifier and eligibility and certification rules.

J. Compliance with FCC Rules on Deposits, Fees, and Reports.

In compliance with 47 C.F.R. Section 401(c), E Fiber San Juan will not collect a deposit in order to initiate service for its Lifeline service plan. Additionally, in compliance with 47 C.F.R. §54.401(e) E Fiber San Juan will not charge Lifeline customer a monthly number-portability charge. E Fiber San Juan will comply with the FCC’s annual reporting requirements for ETCs as set forth in 47 C.F.R. § 54.422.

4. E FIBER SAN JUAN SATISFIES THE STATE REQUIREMENTS FOR RECEIVING STATE LIFELINE SUPPORT FROM THE UUSF.

¹¹ See 47 C.F.R § 54.202(a)(3). E Fiber San Juan notes that the FCC has waived this requirement because the FCC “adopted more specific measures to track deployment, including annual reporting of service to geocoded locations and certification of compliance with benchmark milestones. *FCC ETC Procedure Notice 4-5*.”

The Commission has also adopted requirements for Lifeline support which are outlined in Utah Admin Code R746-8-403. The Commission's rules provide that state Lifeline support may not exceed \$3.50 per Lifeline subscriber per month of subscription to a service that (i) provides service over landlines; or (ii) meets FCC broadband requirements as set forth in 47 C.F.R. 54.408 and does not include a voice component.¹² The rules also state that the ETC will be eligible for ongoing Lifeline distribution if the company is an ongoing participant in an approved Lifeline program and if the Commission finds it is in the public interest.¹³

As discussed herein, E Fiber San Juan's Lifeline offering will include unlimited voice services or fixed broadband Internet access service as follows:

- 25Mb X 5Mb with unlimited usage – \$49.95 fiber in bundle
- 100Mb X 100Mb with 1TB usage – \$59.95 fiber in bundle
- Unlimited usage 1G internet – \$69.95 fiber in bundle

E Fiber San Juan's proposed offerings plainly meet the requirements as outlined by the Commission to be eligible for UUSF Lifeline support. E Fiber San Juan's offerings also comply with the minimum FCC service standards and will enable Lifeline customers to receive the full value of their Lifeline subsidy. As discussed in Section VI. below, E Fiber San Juan's request for ETC designation, including state Lifeline support from the UUSF is in the public interest.

Additionally, as a rate of return regulated carrier of last resort, E Fiber San Juan hereby acknowledges it is required to comply with all the rules and regulations of the Commission lawfully imposed upon E Fiber San Juan's provision of service contemplated by this Petition. Upon Commission request, E Fiber San Juan shall be prepared to answer questions or present

¹² R746-8-403(2)(a)(i)-(iii).

¹³ R746-8-403(1)

additional testimony or other evidence about its services within the state.

5. DESIGNATION OF E FIBER SAN JUAN AS AN ETC WILL SERVE THE PUBLIC INTEREST

As stated above, under 47 U.S.C. Section 214(e)(2), “[u]pon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier” for a designated service area, so long as the requesting carrier meets the requirements of Section 214(e)(1).¹⁴ Therefore, designating E Fiber San Juan as an ETC will not prevent the Tribe from seeking ETC status at a later date.

E Fiber San Juan believes that designation of E Fiber San Juan in the Tribal Locations is in the public interest because E Fiber San Juan has facilities located very near the Tribal Locations; has provisionally received RDOF support to serve the Tribal Locations; and is well-equipped and experienced to provide voice and broadband service to the Tribal Locations at a lower cost than any other provider given the federal funding available and the proximity of its existing facilities. E Fiber San Juan’s Chief Executive Officer, Brock Johansen, previously testified in Docket 21-2619-01 that E Fiber plans to build out fiber to the premise facilities to the residents and businesses in the Tribal Locations. E Fiber San Juan has been provisionally awarded \$582,314 in federal RDOF support over ten years for the Tribal Locations which will directly benefit the citizen in the Tribal Locations. The FCC has determined that the voice and broadband services that E Fiber San Juan will deploy through RDOF support will advance the goal of the RDOF to “ensure continued and rapid deployment of broadband networks to unserved Americans.” RDOF support will allow

¹⁴ 47 U.S.C. § 214(e)(1).

E Fiber San Juan to accelerate deployment of fiber facilities, and ultimately voice and broadband Internet access service to those who need it most in the underserved Tribal Locations.

Additionally, designation of E Fiber San Juan as an ETC will enable it to offer Lifeline services in the Tribal Locations, to bring an affordable voice and broadband service to low-income residents. With regard to Lifeline service, the FCC has stated that “the best way to [increase competition and innovation] is to increase the number of service providers offering Lifeline services.”¹⁵ Designation of E Fiber San Juan as an ETC in the Tribal Locations will further the public interest by providing consumers with lower prices and higher quality services.

Finally, the designation of E Fiber San Juan as an ETC and allowing it to receive reimbursement from the UUSF for State Lifeline will not have a negative impact on the UUSF. In the case of Lifeline support, an ETC only receives Lifeline support for the customers it obtains. Therefore, if E Fiber San Juan’s offerings do not provide consumer benefits, then customers will not elect Lifeline service from E Fiber San Juan and E Fiber San Juan will receive no Lifeline support from the UUSF. In that case, no consumer or party is harmed and the UUSF is not impacted. On the contrary, if customers do choose the E Fiber San Juan’s Lifeline service, there will be an impact to the UUSF, but other competitors will likely respond by improving their service offerings in order to retain or attract customers, and ultimately customers will benefit. To the extent E Fiber “wins” the customer from another Lifeline provider, the net result to the UUSF is the same.

IV. CONCLUSION

¹⁵ *In the Matter of Lifeline and Link Up Reform and Modernization et. al.*, WC Docket 11-42, Proposed Rule, FCC 15-71 (FCC rel. June 22, 2015) at ¶121.

offerings in order to retain or attract customers, and ultimately customers will benefit. To the extent E Fiber “wins” the customer from another Lifeline provider, the net result to the UUSF is the same.

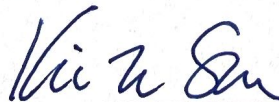
IV. CONCLUSION

E Fiber San Juan requests that the Commission issue a declaratory ruling, pursuant to Utah Code 63G-4-503, confirming that the Commission will not exercise jurisdiction to designate E Fiber San Juan as an ETC over the Tribal Locations. In the alternative, if the Commission will exercise such jurisdiction, E Fiber San Juan satisfies the state and federal requirements for ETC designation in the Tribal Locations, pursuant to 47 U.S.C. Section 214(e)(2), Utah Code Section 54-8b-15, and state and federal rules, and designating E Fiber San Juan as an ETC is in the public interest because it will enable E Fiber San Juan, a rate of return regulated, carrier of last resort, to offer RDOF and Lifeline Service to the residents of the Tribal Locations.

For the reasons set forth herein, E Fiber San Juan respectfully requests that the Commission promptly either (1) expeditiously enter a ruling indicating it will not exercise jurisdiction over this matter and defer to the FCC; or (2) designate E Fiber San Juan as an ETC in the Tribal Locations in the State of Utah for the purpose of receiving state and federal Lifeline support.

Dated this 9th day of September, 2021.

BLACKBURN & STOLL, LC



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

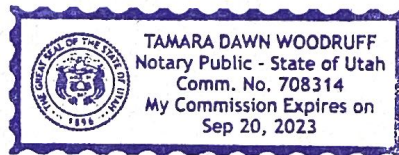
Grand County)
:SS
State of Utah)

On this 9 day of September, 2021, before me Tamara Dawn Woodruff, notary public, personally appeared Kira M. Slawson, proved on the basis of satisfactory evidence to be the person whose name is subscribed to in this document, and acknowledged she executed the same.

Tamara Dawn Woodruff
Notary Public
Residing at: 725 N. main Market
84532

My Commission Expires:

Sept 20, 2023



CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of September, 2021, I served a true and correct copy of E Fiber San Juan, LLC's Petition for Declaratory Ruling or in the Alternative Petition for Designation as an Eligible Telecommunications Carrier in the Tribal Locations 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
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Kira M. Slawson

EXHIBIT 1

E FIBER SAN JUAN RDOF Tribal Locations - 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>	
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