

BEFORE THE PUBLIC SERVICE COMMISSION
OF
THE STATE OF MISSISSIPPI

DELTA FIBER LLC

DOCKET NO. 20-UA-217

RE: APPLICATION FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER TO RECEIVE RURAL DIGITAL OPPORTUNITY FUND PHASE I AUCTION (AUCTION 904) SUPPORT FOR VOICE AND BROADBAND SERVICES

ORDER

On December 30, 2020, Delta Fiber LLC (“Delta Fiber” or “Company”) filed with the Mississippi Public Service Commission (“Commission”), an application for designation as an Eligible Telecommunications Carrier (“ETC”), pursuant to Section 214(e)(2) of the Communications Act of 1934, as amended (the “Act”), and in accordance with other applicable rules and orders of the Commission,¹ seeking ETC designation in all areas where Delta Fiber has been conditionally allocated Rural Digital Opportunity Fund (“RDOF”) Phase I support by the Federal Communications Commission (“FCC”), as well as Lifeline-only ETC designation status in additional areas. Please see Exhibit A attached hereto containing the amended application of Delta Fiber LLC for designation as an Eligible Telecommunications Carrier.

Delta Fiber, a limited liability company organized and existing under the laws of the State of Mississippi, is a wholly-owned subsidiary of Delta Electric Power Association (“Delta EPA”),

¹ *In the Matter of Eligible Telecommunications Carrier Designation for Federal Universal Service Support*, Docket No. 2005-AD-662, Order on Rehearing Reforming and Modernizing Universal Service Support and Adopting Changes of FCC Order 11-161 (adopted Nov. 15, 2012) (“*November 2012 Order*”). An “Eligible Telecommunications Carrier (‘ETC’) Checklist, Revised to Reflect Changes of FCC 11-161” (“ETC Checklist”) is attached as Exhibit A of the *November 2012 Order*. In 2018, the Commission sought comment on amending the ETC Checklist, stating that “[a]fter receipt of comments and reply comments, the Commission will issue an appropriate Order regarding the revised checklist.” *In the Matter of ETC Designation for Federal Universal Service Support*, Docket No. 2005-AD-662, Order Amending Checklist and Updating Reporting Requirements (adopted Nov. 6, 2018).

a not-for-profit, member-owned electric cooperative. Delta EPA provides electric service to residential, commercial, industrial, and public facilities. Today, Delta EPA currently serves its members in Attala, Bolivar, Carroll, Choctaw, Grenada, Holmes, Humphreys, Leflore, Montgomery, Sunflower, Tallahatchie, Washington, and Webster counties.²

Delta Fiber is engaged in deploying a new state-of-the-art, low-latency, fiber-to-the-home (“FTTH”) network that will provide high-speed broadband and interconnected Voice over Internet Protocol (“VoIP”) enabled voice services throughout the RDOF Phase I-eligible census blocks identified in Exhibit A1 of its ETC application and seeks High-Cost and Low-Income ETC designation from the Commission to serve these census blocks. In addition, Delta Fiber seeks Lifeline-only ETC designation status in additional areas primarily consisting of Delta EPA’s electric service footprint, identified in Exhibit A2 of its ETC application. A map of Delta Fiber’s proposed ETC designation area is displayed in Exhibit B.

Delta Fiber will offer low-latency broadband service at actual speeds of at least 1 gigabit per second (downlink) and 500 Mbps (uplink) and will offer at least 2 terabytes of monthly usage throughout its requested ETC designation area. In addition, Delta Fiber will provide its customers with voice-grade access to the Public Switched Telephone Network (“PSTN”) through its provision of interconnected VoIP-enabled voice service.

The Commission, being fully apprised in the premises and having considered the record before it, as authorized by law and the Commission's Public Utilities Rules of Practice and Procedure, and upon recommendation of the Mississippi Public Utilities Staff (“Staff”), finds as follows:

² Delta EPA Website, accessed at <https://deltaepa.com/>.

1. On January 30, 2020, the FCC issued a Report and Order enabling the FCC to move forward with Auction 904, committing up to \$16 billion over 10 years to support up to gigabit speed broadband networks in rural America wholly unserved by 25/3 Mbps.³ The FCC allocated Auction 904 funding through a multi-round, reverse, descending clock auction favoring faster services with lower latency.

2. In a December 7, 2020 Public Notice, the FCC announced that the Rural Electric Cooperative Consortium (“RECC”) was a winning bidder in the RDOF Phase I auction.⁴ Delta Fiber, a member of the RECC, was assigned 1,956 of the census blocks in Mississippi awarded by the RECC which includes a total of 10,465 eligible locations. As a result, Delta Fiber is slated to receive a total of \$46,942,795 of RDOF Phase I support over 10 years.⁵

3. Staff issued its First Set of Data Requests to Delta Fiber on January 29, 2021, and Delta Fiber submitted its Responses to Staff on February 24, 2021.

4. Delta Fiber’s receipt of RDOF Phase I Auction funding is conditioned upon Delta Fiber obtaining designation as a High-Cost and Low-Income ETC in the census blocks identified in Exhibit A1 of its ETC application. By June 7, 2021, absent a waiver being granted by the FCC, Delta Fiber must obtain ETC designation in all of the census blocks in which Delta Fiber has been awarded RDOF Phase I support and submit appropriate documentation of such ETC designation to the FCC.

5. Section 254(e) of the Act provides that “only an eligible telecommunications carrier designated under section 214(e)(2) shall be eligible to receive specific federal universal service

³ *In the Matter of Rural Digital Opportunity Fund; Connect America Fund*, Report and Order, 35 FCC Red 686 (2020).

⁴ *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced; FCC Form 683 Due January 29, 2021*, Public Notice, 35 FCC Red 13888 (2020).

⁵ See <https://www.fcc.gov/file/20525/download>.

support.”⁶ Section 214(e)(2) of the Act provides that state commissions “shall designate” common carriers that meet the statutory requirements as ETCs. The FCC has ruled that Section 214(e)(2) of the Act “provides state commissions with the primary responsibility for designating ETCs.”⁷

6. The Commission has stated that the FCC has “charge[d] states with the authority and obligation to certify that all federal high-cost and CAF [Connect America Fund] support is being used by carriers in a manner for which the support is intended[,]”⁸ and that “Section 77-3-35 explicitly authorizes the Commission to regulate and further the provision of universal service”⁹ Therefore, the Commission has the authority and the primary responsibility under federal law to designate Delta Fiber as an ETC for federal universal service support purposes. The *November 2012 Order* and Section I of the ETC Checklist establish the requirements that an applicant must meet in order to be designated as an ETC.

7. To be designated as an ETC, an applicant must be a common carrier.¹⁰ For the customers and locations where RDOF Phase I support has been allocated, Delta Fiber will provide its services on a common carrier basis. Delta Fiber is a common carrier for purposes of Section 214(e) of the Act.¹¹

⁶ 47 U.S.C. § 254(e).

⁷ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 20 FCC Red 6371, 6372 (¶ 1, n.2) (2005) (emphasis added) (interpreting 47 U.S.C. § 254(e)(2)).

⁸ *November 2012 Order* at 3 (¶ 8).

⁹ *Id.* at ¶ 11 (citing M.C.A. § 77-35).

¹⁰ 47 U.S.C. § 214(e)(1) (providing that a “common carrier” must be designated as an ETC to receive universal service support). The Act defines a “common carrier” as “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” 47 U.S.C. § 153(11).

¹¹ 47 U.S.C. § 214(e).

8. To be designated as an ETC, an applicant must offer throughout the area in which it proposed to be an ETC, the services set forth in Section 54.101(a) of the FCC's rules,¹² either by using its own facilities or a combination of its own facilities and the resale of another carrier's services. Delta Fiber will offer, upon designation as an ETC, all of the supported services throughout the areas in which it is requesting designation as an ETC through the provision of VoIP-enabled voice communications service that is interconnected to the PSTN, as well as high-speed broadband services. The Company commits to provide these services consistent with applicable FCC rules relating to high-cost universal service support.¹³

9. Delta Fiber will offer both voice telephony service throughout its proposed ETC designation area and will offer such service at rates that are reasonably comparable to urban rates. This service will include minutes of use for local service provided at no charge to end users and access to emergency service via E-911, wherever available from local government or public safety organizations. If required, Delta Fiber also commits to provide toll limitation services to qualifying low-income consumers as provided in Sections 54.400-54.423 of the FCC's rules.¹⁴

10. Delta Fiber's broadband Internet offering will provide the capability to transmit data to, and receive data from, all or substantially all Internet endpoints, including any capabilities that are incidental to, and enable the operation of, communications services.¹⁵ As noted earlier,

¹² 47 CFR § 54.101(a).

¹³ This commitment also complies with Section I.A.1.a. of the ETC Checklist (required services).

¹⁴ *Id.*, §§ 54.400-54.423. Delta Fiber's compliance and commitments with respect to the applicable federal rules also constitute compliance with Section I.A.4. of the ETC Checklist (voice telephony service). Delta Fiber does not distinguish between toll and non-toll calls in the pricing of its services and, as a result, toll limitation services do not need to be offered for any Lifeline service offered by Delta Fiber.

¹⁵ See 47 CFR § 54.101(a)(2) (stating that "[e]ligible broadband Internet access services must provide the capability to transmit data to and receive data by wire or radio from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up service").

Delta Fiber will (1) offer low-latency Internet service at actual speeds of at least 1 Gbps (downlink) and 500 Mbps (uplink); (2) offer at least 2 terabytes of monthly usage to customers within its proposed ETC designation area; and (3) offer such service at rates that are reasonably comparable to urban rates.

11. As required by Section 54.405(a) of the FCC's rules,¹⁶ Delta Fiber will offer subsidized Lifeline voice and broadband services, including a standalone voice service offering, to qualifying low-income consumers within its proposed ETC designation area and in accordance with the FCC's rules.¹⁷

12. Delta Fiber will comply with the RDOF Phase I service requirements applicable to the federal universal service support that it receives,¹⁸ including the requirements for receipt of RDOF Phase I support. Specifically, Delta Fiber, as an FCC Form 683 applicant for RDOF Phase I support,¹⁹ has:

- a. certified to the FCC that it complies with all statutory and regulatory requirements for receiving the universal service support that it seeks as of the long-form application filing deadline;²⁰

¹⁶ *Id.*, § 54.405(a).

¹⁷ *Id.*, §§ 54.400-54.423.

¹⁸ See ETC Checklist, § I.A.1.b.vi.

¹⁹ Each Auction 904 winning bidder “is required to file an application for Rural Digital Opportunity Fund support, referred to as a long-form application” *Rural Digital Opportunity Fund Phase I Auction Scheduled for October 29, 2020, Notice and Filing Requirements and Other Procedures for Auction 904*, AU Docket No. 20-34, *et al.*, Public Notice, 35 FCC Rcd 6077, 6163 (¶ 286) (2020) (“*Auction 904 Public Notice*”).

²⁰ *Id.* at 6165 (¶ 296) (citing 47 CFR § 54.804(b)(2)(v)).

b. certified to the FCC that it is financially and technically capable of meeting the relevant public interest obligations for each performance tier and latency combination in the geographic areas in which it seeks support;²¹

c. certified to the FCC that it will meet the relevant public interest obligations for each performance tier and latency combination for which it was deemed a winning bidder, including the requirement that it will offer service at rates that are equal to or lower than the FCC's reasonable comparability benchmarks for fixed services offered in urban areas;²²

d. demonstrated to the FCC that it has a design plan with supportable technologies to meet its RDOF Phase I public interest obligations in the areas covered by its winning bids, by submitting technical information to support the operational assertions made;²³ and

e. certified to the FCC that it will have available funds for all project costs that exceed the amount of RDOF support to be received for the first two years of its support term and also described how the required construction will be funded.²⁴

13. Delta Fiber's commitment to comply with the service requirements applicable to the federal universal service support that it receives satisfies the Commission's requirement that applicants for ETC designation must comply with these federal universal service requirements.²⁵

²¹ *Id.* at 6166 (¶ 298) (citing 47 CFR § 54.804(b)(2)(ii)).

²² *Id.* at 6166 (¶ 299) (citing 47 CFR § 54.804(b)(2)(iii)).

²³ *Id.* at 6167 (¶ 301) (citing 47 CFR § 54.804(b)(2)(iv)).

²⁴ *Id.* at 6174 (¶ 312) (citing 47 CFR §§ 54.804(b)(2)(v), 54.804(b)(2)(vi)).

²⁵ *See November 2012 Order* at 5 (ordering clauses 3 and 4).

14. Delta Fiber commits that its FTTH network will have the ability to remain functional in emergency situations, will have a reasonable amount of back-up power to ensure functionality without an external power source, will be able to reroute traffic around damaged facilities, and will be capable of managing traffic spikes resulting from emergency situations.²⁶

15. Under the FCC's regulations, an ETC applicant must "[d]emonstrate that it will satisfy applicable consumer protection and service quality standards."²⁷ Delta Fiber commits to satisfying all FCC requirements related to consumer protection and service quality standards. In addition, with respect to Lifeline service, Delta Fiber commits that it will annually certify compliance with consumer protection and service quality rules consistent with Section 54.422(b)(3) of the FCC's rules.²⁸

16. Delta Fiber commits that it will offer the supported services specified in Section 214(e)(1)(A) of the Act²⁹ throughout its proposed ETC designation area.³⁰

17. Delta Fiber commits to comply with: (1) all applicable provisions of the Commission's Rules and Regulations Governing Public Utility Service;³¹ (2) "designated service quality standards applicable to each carrier;"³² and (3) the requirement to submit to the

²⁶ See 47 CFR § 54.202(a)(2) (providing that a common carrier seeking an ETC designation by the FCC must "[d]emonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations"). Delta Fiber's commitment also satisfies the requirements of Section I.A.2.a. of the ETC Checklist (emergency operations).

²⁷ 47 CFR § 54.202(a)(3).

²⁸ *Id.*, § 54.422(b)(3).

²⁹ 47 U.S.C. § 214(e)(1)(A).

³⁰ ETC Checklist, § I.A.1.b.iv.

³¹ *Id.*, § I.A.3.b.i.

³² *Id.*, § I.A.3.b.ii.

Commission the number of consumer complaints per 1,000 access lines, as required in annual ETC filings.³³

18. Delta Fiber commits that it will advertise the availability of its broadband and interconnected VoIP-enabled voice services, and their associated charges, in media of general distribution,³⁴ and that it will include Lifeline services in its advertising materials.³⁵ Delta Fiber will communicate its fiber availability and construction progress to its potential customers³⁶ in three or more, or any combination of, the following methods:

- a. Direct mail (e.g., postcards, letters);
- b. Door hangers or similar door-to-door communications;
- c. Electronic mail;
- d. Social media or similar electronic communications;
- e. Online (with the option to subscribe);
- f. Live events (with the option to subscribe); and/or
- g. Other forms of advertising.

19. Delta Fiber will offer Lifeline service in compliance with FCC rules. The Commission's ETC Checklist requires information concerning Lifeline plans that an applicant for

³³ *Id.*, § I.A.3.b.iii.

³⁴ *Id.*, § I.A.1.b.i. *See* 47 CFR § 54.201(d)(2).

³⁵ ETC Checklist, § I.A.1.b.i.

³⁶ Nothing herein shall be interpreted to require the disclosure of any competitive data or information by Delta Fiber. Delta Fiber may in its business judgment determine the timing of such communications. Delta Fiber is expected to inform potential customers of the availability of service in advance of or, at a minimum, simultaneously with such service availability in specific areas. Upon request, Delta Fiber shall also provide its best estimate as to service availability in response to customer inquiries.

ETC designation intends to offer.³⁷ Delta Fiber commits to implement its Lifeline plans in accordance with the current rules and policies adopted by the FCC.

20. Delta Fiber will price its Lifeline service at discounted rates and pass through the monthly support amounts for voice and/or broadband services established by the FCC. Delta Fiber's Lifeline service will represent a dollar-for-dollar reduction from its comparable non-Lifeline rates, providing a pass-through of the full amount of federal Lifeline support to qualifying customers.

21. Delta Fiber commits to adhering to any FCC reporting requirements relating to the reporting of service outages, and also commits to provide copies of any such reports to the Commission, upon request.³⁸

22. As a prerequisite to receiving RDOF support, Delta Fiber is required to certify to the FCC "that it is financially and technically capable of meeting the relevant public interest obligations for each performance tier and latency combination in the geographic areas in which it seeks support."³⁹ With respect to financial resources, Delta Fiber will be able to rely on Delta EPA for loan funds at market rates, advances of capital and loaned employee support by Delta Fiber, if necessary, in addition to the RDOF Phase I support being made available to the Applicant. In addition, Delta Fiber must obtain an irrevocable standby letter of credit from a bank acceptable to the FCC.⁴⁰ Therefore, Delta Fiber is financially capable of providing supported services in accordance with FCC and Commission rules.

³⁷ *Id.*, § I.A.1.b.ii.

³⁸ *Id.*, § I.A.2.b.

³⁹ *Auction 904 Public Notice*, 35 FCC Rcd at 6166 (¶ 298) (footnote omitted).

⁴⁰ *Id.* at 6177 (¶ 319).

23. With respect to technical capabilities, Delta Fiber is required to submit a detailed technology and system design description that explains how the design and technologies chosen will meet the relevant performance requirements, including information regarding quality, coverage, voice service, network management and on-going operations. This submission must include a detailed network diagram. The network diagram must be certified by a professional engineer.⁴¹ Further, Delta Fiber must “provide a project plan that describes a network build-out schedule that includes but is not restricted to plans for constructing last mile and middle mile facilities.”⁴² These various FCC requirements ensure that Delta Fiber possesses the financial and technical capabilities to pay for all start-up expenses (*e.g.*, equipment, operations, *etc.*) to deploy its fiber optic network, and to begin the provision of interconnected VoIP-enabled voice and broadband services throughout its proposed ETC designation area.

24. Designating Delta Fiber as an ETC will clearly serve the public interest by enabling the Company to provide low-latency, gigabit-speed broadband, and interconnected VoIP-enabled voice services, to consumers in its proposed ETC designation area, as well as to provide subsidized voice and broadband services to those households that seek and qualify for federal Lifeline benefits. Delta Fiber is well-positioned to help close the digital divide in its service area, allowing improved access to health care, education services, and other social services, helping to create jobs and boosting the economy. Approval of Delta Fiber’s ETC application will help to address the urgent need to deliver broadband to rural Mississippi, enabling consumers and businesses in these regions of the state to have access to broadband services comparable to those in urban areas.

⁴¹ *Id.* (footnotes omitted). The FCC’s requirements include a certification from a professional engineer that the long-form applicant’s fiber optic network is capable of delivering voice and broadband service that meets the requisite performance requirements and is capable of providing sufficient capacity to meet customer demand at or above the prescribed levels during peak usage periods. *Id.*

⁴² *Id.* at 6171 (¶ 307).

25. Delta Fiber's service offerings will preserve and advance universal service⁴³ by providing unique advantages to consumers in its proposed ETC designation area. Most importantly, the Company's provision of high-speed broadband Internet access and interconnected VoIP-enabled voice services using a new state-of-the-art, low-latency, FTTH network will provide enormous benefits that previously have been beyond the reach of consumers and businesses in many of Mississippi's rural areas. The FTTH network will ensure reliable access to gigabit tier broadband, thus enhancing educational programs, promoting business growth, generating jobs, and expanding cultural opportunities for Mississippi residents.

26. Designation of Delta Fiber as an ETC in Mississippi will also ensure the availability of quality services at just, reasonable, and affordable rates⁴⁴ by facilitating the provision of high-quality communications services to those living and working within its proposed ETC designation area.

27. Delta Fiber seeks a waiver of the ETC Checklist requirement for the submission of a five-year improvements and upgrades plan. Such a waiver is appropriate because deployment obligations and timetables imposed on RDOF Phase I support recipients by the FCC are sufficient to ensure timely deployment of voice and broadband services, consistent with the policies reflected in the Commission's five-year plan requirement. Specifically, the FCC requires RDOF Phase I support recipients to commercially offer voice and broadband service to "40% of [a calculated] number of locations in a state by the end of the third full calendar year following funding authorization, and 20% each calendar year thereafter."⁴⁵ In addition, the FCC requires support

⁴³ ETC Checklist, § I.B.1.

⁴⁴ ETC Checklist, § I.B.2.

⁴⁵ *RDOF Order*, 35 FCC Rcd at 709 (¶ 45).

recipients to file annual reports containing location and technology data, and to certify when they have met their service milestones.⁴⁶

28. Delta Fiber meets all the statutory and regulatory requirements for designation as an ETC in the State of Mississippi and is in full compliance with all applicable Commission orders, rules, and regulations and, therefore, is in good standing with the Commission.⁴⁷

IT IS, THEREFORE, ORDERED by the Commission that:

1. Delta Fiber LLC's Application for Designation as an Eligible Telecommunications Carrier to Receive Rural Digital Opportunity Fund Phase I Auction (Auction 904) Support for Voice and Broadband Services in the State of Mississippi is hereby approved. Designation of Delta Fiber as an ETC in the State of Mississippi in the census blocks identified in Exhibit A1 and A2 of its ETC application is in the public interest.

2. Delta Fiber is hereby granted a waiver of the ETC Checklist requirement for the submission of a five-year improvements and upgrades plan. Such a waiver is appropriate because deployment obligations and timetables imposed on RDOF Phase I support recipients by the FCC are sufficient to ensure timely deployment of voice and broadband services, consistent with the policies reflected in the Commission's five-year plan requirement.

3. At least thirty days before offering service within its ETC designation area, Delta Fiber shall provide an informational tariff for its ETC designated areas in Exhibits A1 and A2 that outlines its regulatory contact information, customer service contact, terms, and conditions as well as Lifeline Programs. Delta Fiber will also post this same information on its website where rates, terms and conditions may be found.

⁴⁶ *Id.* at 712 (¶ 56).

⁴⁷ ETC Checklist, § I.A.1.b.v.

4. Delta Fiber will file any future changes to its informational tariff with the Commission at least seven days prior to the effective date of change.
5. At least thirty days before offering service within its ETC designation area, Delta Fiber will provide Staff copies of marketing materials, including advertising specific to Lifeline.
6. Delta Fiber will comply, where applicable, with service and reporting requirements of the FCC's High-Cost and Lifeline Programs, the Commission's ETC Docket 2005-AD-662, and the Commission's Lifeline Docket 2007-AD-487.

REMAINDER OF PAGE LEFT BLANK INTENTIONALLY

This Order shall be deemed issued on the day it is served upon the parties herein by the Executive Secretary of this Commission who shall note the service date in the file of this Docket.

COMMISSION VOTE

Chairman Dane Maxwell
 Commissioner Brent Bailey
 Commissioner Brandon Presley

Aye	<u>X</u>	Nay	_____
Aye	<u>X</u>	Nay	_____
Aye	<u>X</u>	Nay	_____

SO ORDERED this the 6th day of April, 2021.

MISSISSIPPI PUBLIC SERVICE COMMISSION



Dane Maxwell
 DANE MAXWELL, CHAIRMAN

Brent Bailey
 BRENT BAILEY, COMMISSIONER

Brandon Presley
 BRANDON PRESLEY, COMMISSIONER

ATTEST A True Copy

Katherine Collier
 KATHERINE COLLIER, EXECUTIVE SECRETARY

Effective this the 6th day of April, 2021.

Before the
MISSISSIPPI PUBLIC SERVICE COMMISSION

FILED
DEC 30 2020
MISS. PUBLIC SERVICE
COMMISSION

Application of Delta Fiber LLC)
For Designation as an Eligible)
Telecommunications Carrier)
Pursuant to Section 214(e)(2) of the)
Communications Act of 1934)
In the State of Mississippi)

Docket No. 20-UA-217

APPLICATION OF DELTA FIBER LLC
FOR DESIGNATION AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER

Pursuant to Section 214(e)(2) of the Communications Act of 1934 (the "Act"),¹ the *November 2012 Order*,² and other applicable rules and orders of the Commission, Delta Fiber LLC ("Delta Fiber," the "Applicant," or the "Company"), hereby files this Application with the Mississippi Public Service Commission ("Commission") for designation as an Eligible Telecommunications Carrier ("ETC") in the State of Mississippi.

This designation is sought in all areas where Delta Fiber, through its participation in the Rural Electric Cooperative Consortium, has been allocated Rural Digital Opportunity Fund ("RDOF") Phase I support by the Federal Communications Commission ("FCC") as a winner in

¹ 47 U.S.C. § 214(e)(2).

² *In the Matter of Eligible Telecommunications Carrier Designation for Federal Universal Service Support*, Docket No. 2005-AD-662, Order on Rehearing Reforming and Modernizing Universal Service Support and Adopting Changes of FCC Order 11-161 (adopted Nov. 15, 2012) (*November 2012 Order*). An "Eligible Telecommunications Carrier ('ETC') Checklist, Revised to Reflect Changes of FCC 11-161" ("ETC Checklist") is attached as Exhibit A of the *November 2012 Order*. In 2018, the Commission sought comment on amending the ETC Checklist, stating that "[a]fter receipt of comments and reply comments, the Commission will issue an appropriate Order regarding the revised checklist." *In the Matter of ETC Designation for Federal Universal Service Support*, Docket No. 2005-AD-662, Order Amending Checklist and Updating Reporting Requirements (adopted Nov. 6, 2018). Further Commission action is pending.



the RDOF Phase I auction ("Auction 904"),³ as well as Lifeline-only ETC designation status in additional areas.

I. INTRODUCTION.

Delta Fiber meets all of the statutory and regulatory requirements and prerequisites for ETC designation by the Commission. Designation of Delta Fiber as an ETC in the State of Mississippi will serve the public interest by enabling the Company to provide subsidized voice and gigabit tier broadband services to consumers and businesses in rural areas that it proposes to serve.

If designated as an ETC, Delta Fiber will use high-cost support to assist with the deployment of its voice and gigabit tier broadband network to serve consumers throughout its proposed ETC designation area; to offer and maintain high-quality voice and broadband services to customers; and to ensure the reliability of its network providing advanced broadband services to the public. Additionally, Delta Fiber will provide Lifeline discounted service to qualifying low-income customers who reside within the Company's service areas in the State of Mississippi and who may otherwise not be able to afford service.

Delta Fiber is obligated by the FCC to obtain ETC designation status by June 7, 2021, which is 180 days after the announcement by the FCC on December 7, 2020, that the Company is a winning bidder in the RDOF Phase I auction in the census blocks in which the Company was awarded RDOF Phase I support.⁴ As a result, Delta Fiber requests expeditious action by the Commission so that the Company may meet this FCC requirement.

³ *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes, Winning Bidders Announced, FCC Form 683 Due January 29, 2021*, AU Docket No. 20-34, WC Docket No. 19-126, WC Docket No. 10-90, FCC Public Notice, DA 20-1422 (Dec. 7, 2020). The Rural Electric Cooperative Consortium submitted a short-form application in the RDOF Phase I auction that included Delta Fiber as a consortium member.

⁴ *Rural Digital Opportunity Fund, et al.*, WC Docket No. 19-126, *et al.*, Report and Order, 35 FCC Rcd 686, 727 (¶ 92) (2020) ("RDOF Order") (establishing the 180-day deadline).

Please address all correspondence, communications, pleadings, notices, orders, and decisions relating to this Application to:

Sam Fonda, Esq.
Lott Franklin Fonda & Flanagan
P.O. Box 1176
Greenwood, MS 38935-1176
Phone: (662) 453-6576
Fax: (662) 453-2777
E-mail: samfonda@bellsouth.net

II. BACKGROUND.

Delta Fiber is a wholly-owned subsidiary of Delta Electric Power Association ("Delta EPA" or "Association"), a non-profit rural electric cooperative that is owned by its members, and is organized and existing under the laws of the State of Mississippi. Delta EPA received its certificate of incorporation from the Mississippi Secretary of State in 1938. The Association currently serves its members in Attala, Bolivar, Carroll, Choctaw, Grenada, Holmes, Humphreys, Leflore, Montgomery, Sunflower, Tallahatchie, Washington, and Webster counties.⁵

Delta Fiber, a domestic limited liability company formed in the State of Mississippi in June of this year, will, in coordination with Delta EPA, deploy and operate a new state-of-the-art, low-latency, fiber-to-the-home ("FTTH") network, and will provide high-speed broadband Internet access and interconnected Voice over Internet Protocol ("VoIP")-based voice services to customers in its service area, many of whom currently lack any access to such services. Delta Fiber will eventually make access to FTTH services available to all members in Delta EPA's service area.

Delta Fiber will deploy broadband and interconnected VoIP-based voice services throughout the RDOF Phase I-eligible census blocks identified in Exhibit A1 and seeks High-Cost and Low-Income (Lifeline) ETC designation from the Commission to serve these census blocks. In

⁵ Delta EPA Website, accessed at <https://deltaepa.com/>.

addition, Applicant seeks Lifeline-only ETC designation status in additional areas primarily consisting of Delta EPA's electric service footprint, identified in Exhibit A2. A map of Delta Fiber's proposed ETC designation area is displayed in Exhibit B.

Delta Fiber will offer low-latency broadband service at actual speeds of at least 1 gigabit per second downstream and 500 Mbps upstream, and will offer at least 2 terabytes of monthly usage. In addition, Applicant will provide its customers with voice-grade access to the Public Switched Telephone Network ("PSTN") through its provision of interconnected VoIP service.

Delta Fiber is in full compliance with all applicable Commission orders, rules, and regulations, and therefore is in good standing with the Commission.⁶

III. THE COMMISSION HAS JURISDICTION AND AUTHORITY TO DESIGNATE ELIGIBLE TELECOMMUNICATIONS CARRIERS.

Section 254(e) of the Act provides that "only an eligible telecommunications carrier designated under section 214(e)(2) shall be eligible to receive specific federal universal service support."⁷ Section 214(e)(2) of the Act provides that state commissions "shall designate" common carriers that meet the statutory requirements as ETCs. The FCC has ruled that Section 214(e)(2) of the Act "provides state commissions with the *primary* responsibility for designating ETCs."⁸

Moreover, the Commission has stated that the FCC has "charge[d] states with the authority and obligation to certify that all federal high-cost and CAF [Connect America Fund] support is being used by carriers in a manner for which the support is intended[.]"⁹ and that "Section 77-3-

⁶ ETC Checklist, § I.A.1.b.v.

⁷ 47 U.S.C. § 254(e).

⁸ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 20 FCC Rcd 6371, 6372 (¶ 1, n.2) (2005) (emphasis added) (interpreting 47 U.S.C. § 254(e)(2)).

⁹ *November 2012 Order* at 3 (¶ 8).

35 explicitly authorizes the Commission to regulate and further the provision of universal service
....¹⁰

Therefore, the Commission has the authority and the primary responsibility under federal law to designate Delta Fiber as an ETC for federal universal service support purposes. The *November 2012 Order* and Section I of the ETC Checklist establish the requirements that an applicant must meet in order to be designated as an ETC.

IV. DELTA FIBER MEETS ALL FEDERAL AND STATE STATUTORY AND REGULATORY REQUIREMENTS TO BE DESIGNATED AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER.

As demonstrated in the following sections, Delta Fiber satisfies each of the statutory and regulatory requirements for designation as an ETC, as set forth in the Act, in the FCC's rules, and in the rules and orders of the Commission.

A. Delta Fiber Will Provide Service as a Common Carrier.

To be designated as an ETC, an applicant must be a common carrier.¹¹ For the customers and locations where RDOF Phase I support has been allocated, Delta Fiber will provide its services on a common carrier basis. Delta Fiber is a common carrier for purposes of Section 214(e) of the Act.¹²

B. Delta Fiber Will Offer the Services Supported by the Federal Universal Service Support Mechanisms.

¹⁰ *Id.* at ¶ 11 (citing M.C.A. §77-35).

¹¹ 47 U.S.C. § 214(e)(1) (providing that a "common carrier" must be designated as an ETC to receive universal service support). The Act defines a "common carrier" as "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" 47 U.S.C. § 153(11).

¹² 47 U.S.C. § 214(e).

To be designated as an ETC, an applicant must offer throughout its proposed service areas the services set forth in Section 54.101(a) of the FCC's rules,¹³ either by using its own facilities or a combination of its own facilities and the resale of another carrier's services.

Delta Fiber commits to offer all of the services designated for support by the FCC.¹⁴ As discussed in the following sections, the Company will offer, upon designation as an ETC, all of the supported services throughout the areas in which the Company is requesting designation as an ETC. The Company commits to provide these services consistent with applicable FCC rules relating to high-cost universal service support.¹⁵

1. Voice Grade Access to the Public Switched Telephone Network.

Section 54.101(b) of the FCC's rules states that an ETC must provide "voice telephony service" in order to receive federal universal support.¹⁶ Section 54.101(a)(1) provides that:

Eligible voice telephony services must provide voice grade access to the public switched network or its functional equivalent; minutes of use for local service provided at no additional charge to end users; access to the emergency services provided by local government or other public safety organizations, such as 911 and enhanced 911, to the extent the local government in an eligible carrier's service area has implemented 911 or enhanced 911 systems; and toll limitation services to qualifying low-income consumers¹⁷

Delta Fiber will meet this requirement through the provision of VoIP-based voice communications service that is interconnected to the PSTN. The Company will be legally responsible for

¹³ 47 CFR § 54.101(a).

¹⁴ See *Designation of Fort Mojave Telecommunications, Inc., et al., as Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, AAD/USB File No. 98-28, Memorandum Opinion and Order, 13 FCC Rcd 4547, 4552 (¶ 11) (CCB, OMD 1998) ("*Fort Mojave*"). In *Fort Mojave*, the Common Carrier Bureau and the Office of the Managing Director indicated that the FCC will designate carriers as ETCs, pursuant to Section 214(e)(6) of the Act, upon finding that they "offer or will be able to offer" the supported services throughout the service area.

¹⁵ This commitment also complies with Section I.A.1.a. of the ETC Checklist (required services).

¹⁶ 47 CFR § 54.101(b).

¹⁷ *Id.*, § 54.101(a)(1).

dealing with customer problems, providing quality of service guarantees, and meeting universal service-related requirements.

Delta Fiber will offer stand-alone voice telephony service throughout its proposed ETC designation area and will offer such service at rates that are reasonably comparable to urban rates. This service will include minutes of use for local service provided at no charge to end users and access to emergency service via E-911, wherever available from local government or public safety organizations. The Company also commits to provide toll limitation services to qualifying low-income consumers as provided in Sections 54.400-54.423 of the FCC's rules.¹⁸

2. Broadband Internet Access Services.

Delta Fiber's broadband Internet offering will provide the capability to transmit data to, and receive data from, all or substantially all Internet endpoints, including any capabilities that are incidental to, and enable the operation of, communications services.¹⁹ Applicant will (1) offer low-latency Internet service at actual speeds of at least 1 Gbps downstream and 500 Mbps upstream; (2) offer at least 2 terabytes of monthly usage to customers within its proposed ETC designation area; and (3) offer such service at rates that are reasonably comparable to urban rates.

3. Lifeline Service.

As required by Section 54.405(a) of the FCC's rules,²⁰ Delta Fiber will offer subsidized Lifeline voice and broadband services, including a standalone voice service offering, to qualifying

¹⁸ *Id.*, §§ 54.400-54.423. Delta Fiber's compliance and commitments with respect to the applicable federal rules also constitute compliance with Section I.A.4. of the ETC Checklist (voice telephony service).

¹⁹ See 47 CFR § 54.101(a)(2) (stating that "[e]ligible broadband Internet access services must provide the capability to transmit data to and receive data by wire or radio from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up service").

²⁰ *Id.*, § 54.405(a).

low-income consumers within its proposed ETC designation area in accordance with the FCC's rules.²¹

C. Delta Fiber Will Comply with Applicable Service and Performance Quality Requirements Adopted by the FCC.

Delta Fiber will comply with the RDOF service requirements applicable to the federal universal service support that it receives,²² including the requirements for receipt of RDOF Phase I support.

Specifically, Delta Fiber, as a "long-form" applicant for RDOF Phase I support,²³ must:

(1) certify in its long-form application filed with the FCC that it complies with all statutory and regulatory requirements for receiving the universal service support that it seeks as of the long-form application filing deadline;²⁴

(2) certify to the FCC that it is financially and technically capable of meeting the relevant public interest obligations for each performance tier and latency combination in the geographic areas in which it seeks support;²⁵

(3) certify to the FCC that it will meet the relevant public interest obligations for each performance tier and latency combination for which it was deemed a winning bidder,

²¹ *Id.*, §§ 54.400-54.423.

²² See ETC Checklist, § I.A.1.b.vi.

²³ Each Auction 904 winning bidder "is required to file an application for Rural Digital Opportunity Fund support, referred to as a long-form application" *Rural Digital Opportunity Fund Phase I Auction Scheduled for October 29, 2020, Notice and Filing Requirements and Other Procedures for Auction 904*, AU Docket No. 20-34, *et al.*, Public Notice, 35 FCC Rcd 6077, 6163 (¶ 286) (2020) ("Auction 904 Public Notice").

²⁴ *Id.* at 6165 (¶ 296) (citing 47 CFR § 54.804(b)(2)(v)).

²⁵ *Id.* at 6166 (¶ 298) (citing 47 CFR § 54.804(b)(2)(ii)).

including the requirement that it will offer service at rates that are equal to or lower than the FCC's reasonable comparability benchmarks for fixed services offered in urban areas;²⁶

(4) demonstrate to the FCC that it has a design plan with supportable technologies to meet the relevant RDOF public interest obligations in the areas covered by the winning bids, by submitting technical information to support the operational assertions made in the short-form application;²⁷ and

(5) certify to the FCC that it will have available funds for all project costs that exceed the amount of RDOF support to be received for the first two years of its support term, and also describe how the required construction will be funded.²⁸

Delta Fiber's commitment to comply with the service requirements applicable to the federal universal service support that it receives satisfies the Commission's requirement that applicants for ETC designation must comply with these federal service requirements.²⁹

D. Ability to Remain Functional in Emergency Situations.

Delta Fiber commits that its fiber optic network will have the ability to remain functional in emergency situations, will have a reasonable amount of back-up power to ensure functionality without an external power source, will be able to reroute traffic around damaged facilities, and will be capable of managing traffic spikes resulting from emergency situations.³⁰

²⁶ *Id.* at 6166 (¶ 299) (citing 47 CFR § 54.804(b)(2)(iii)).

²⁷ *Id.* at 6167 (¶ 301) (citing 47 CFR § 54.804(b)(2)(iv)).

²⁸ *Id.* at 6174 (¶ 312) (citing 47 CFR §§ 54.804(b)(2)(v), 54.804(b)(2)(vi)).

²⁹ *See November 2012 Order* at 5 (ordering clauses 3 and 4).

³⁰ *See* 47 CFR § 54.202(a)(2) (providing that a common carrier seeking an ETC designation by the FCC must "[d]emonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of managing traffic spikes resulting from emergency situations"). Delta Fiber's commitment also satisfies the requirements of Section I.A.2.a. of the ETC Checklist (emergency operations).

E. Satisfaction of Applicable Consumer Protection and Service Quality Standards.

Under the FCC's regulations, an ETC applicant must "[d]emonstrate that it will satisfy applicable consumer protection and service quality standards."³¹ Delta Fiber commits to satisfying all FCC requirements related to consumer protection and service quality standards. In addition, with respect to Lifeline service, Applicant commits that it will annually certify compliance with consumer protection and service quality rules consistent with Section 54.422(b)(3) of the FCC's rules.³²

F. Delta Fiber Meets the Requirements Adopted by the Mississippi Public Service Commission To Be Designated as an Eligible Telecommunications Carrier.

Delta Fiber will meet each of the requirements applicable to ETCs adopted by the Commission, as described in the following sections.

1. Offering of Supported Services in Proposed ETC Designation Area.

Delta Fiber commits that it will offer the supported services specified in Section 214(e)(1)(A) of the Act³³ in its proposed ETC designation area.³⁴

2. Consumer Protection.

In addition to complying with federal requirements, as discussed in Section IV.E., *supra*, Delta Fiber commits to comply with (1) all applicable provisions of the Commission's Rules and Regulations Governing Public Utility Service;³⁵ (2) "designated service quality standards

³¹ 47 CFR § 54.202(a)(3).

³² *Id.*, § 54.422(b)(3).

³³ 47 U.S.C. § 214(e)(1)(A).

³⁴ ETC Checklist, § I.A.1.b.iv.

³⁵ *Id.*, § I.A.3.b.i.

applicable to each carrier,"³⁶ and (3) the requirement to submit to the Commission the number of consumer complaints per 1,000 access lines, as required in annual ETC filings.³⁷

3. Advertising.

Delta Fiber commits that it will advertise the availability of its broadband and interconnected VoIP-based voice services, and their associated charges, in media of general distribution,³⁸ and that it will include Lifeline services in its advertising materials.³⁹

4. Lifeline Plans.

As noted in Section IV.B.3., *supra*, Delta Fiber will offer Lifeline service in compliance with the FCC's rules. The ETC Checklist requires information concerning Lifeline plans that an applicant for ETC designation intends to offer.⁴⁰ Delta Fiber commits to implement its Lifeline plans in accordance with the current rules, policies, and requirements adopted by the FCC.

Delta Fiber will price its Lifeline voice and broadband services at discounted rates and pass through the monthly support amounts for voice and broadband services established by the FCC and in effect from time to time. Therefore, Delta Fiber's Lifeline service will represent a dollar-for-dollar reduction from its comparable non-Lifeline rates, and will represent a pass-through of the full amount of Lifeline support to the qualifying Lifeline consumer.

5. Contact Information for Consumer Inquiries.

³⁶ *Id.*, § I.A.3.b.ii.

³⁷ *Id.*, § I.A.3.b.iii.

³⁸ *Id.*, § I.A.1.b.i. See 47 CFR § 54.201(d)(2).

³⁹ ETC Checklist, § I.A.1.b.i.

⁴⁰ *Id.*, § I.A.1.b.ii.

The following contact information for Delta Fiber's designated representative is provided for the purpose of assisting in the resolution of any customer service, quality of service, or Lifeline inquiries:⁴¹

Delta Fiber Customer Service
Email: Info@DELIGHTSpeed.coop
Phone: (662) 477-1975

The designated representative shall be aware of the Commission's jurisdiction over consumer protection standards regarding ETCs and shall be familiar with the Commission's Rules Governing Public Utility Service and any subsequent orders of the Commission regarding customer service and quality of service obligations. The designated representative shall comply with any reporting requirements regarding any Commission action on customer service, quality of service or Lifeline inquiries or other Commission action on customer service, quality of service or Lifeline inquiries or other Commission action regarding ETC obligations. In the event that Delta Fiber replaces the designated representative, notice and contact information provided herein shall be filed with the Commission within seven days.

6. Outage Reporting.

Delta Fiber commits to adhering to any FCC reporting requirements relating to the reporting of service outages, and also commits to provide copies of any such reports to the Commission, upon request.⁴²

V. DELTA FIBER HAS SUFFICIENT FINANCIAL RESOURCES AND TECHNICAL CAPABILITIES TO PROVIDE THE SUPPORTED SERVICES.

As noted in Section IV.C., *supra*, as a prerequisite to receiving RDOF support, Delta Fiber is required to certify to the FCC "that it is financially and technically capable of meeting the

⁴¹ *Id.*, § I.A.1.b.iii.

⁴² *Id.*, § I.A.2.b.

relevant public interest obligations for each performance tier and latency combination in the geographic areas in which it seeks support.”⁴³ Delta Fiber will be able to rely upon the resources of Delta EPA, it will be able to obtain requisite amounts of lending pursuant to available lines of credit, and Delta Fiber and Delta EPA will be able to obtain additional financing, if necessary, in addition to the RDOF Phase I support being made available to Delta Fiber. In addition, Delta Fiber must obtain an irrevocable standby letter of credit from a bank acceptable to the FCC.⁴⁴

With respect to technical capabilities, Delta Fiber must “demonstrate that it has a design plan with supportable technologies to meet the relevant Rural Digital Opportunity Fund public interest obligations in the areas covered by the winning bids by submitting technical information to support the operational assertions made in the short-form application.”⁴⁵ In addition, the Company:

is required to submit a detailed technology and system design description that explains how the design and technologies chosen will meet the relevant performance requirements, including information regarding quality, coverage, voice service, network management and on-going operations. This submission must include a detailed network diagram. The network diagram must be certified by a professional engineer.⁴⁶

The Company also must “provide a project plan that describes a network build-out schedule that includes but is not restricted to plans for constructing last mile and middle mile facilities.”⁴⁷

⁴³ *Auction 904 Public Notice*, 35 FCC Rcd at 6166 (¶ 298) (footnote omitted).

⁴⁴ *Id.* at 6177 (¶ 319).

⁴⁵ *Id.* at 6166 (¶ 301).

⁴⁶ *Id.* (footnotes omitted). The FCC’s requirements include a certification from a professional engineer that the long-form applicant’s fiber optic network is capable of delivering voice and broadband service that meets the requisite performance requirements, and is capable of providing sufficient capacity to meet customer demand at or above the prescribed levels during peak usage periods. *Id.*

⁴⁷ *Id.* at 6171 (¶ 307).

These various FCC requirements ensure that Delta Fiber possesses the financial and technical capabilities to pay for all start-up expenses (*e.g.*, equipment, operations, *etc.*) to deploy a fiber optic network, and to begin the provision of interconnected VoIP-based voice service and broadband service throughout its proposed ETC designation area.

VI. DESIGNATION OF DELTA FIBER AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER WILL SERVE THE PUBLIC INTEREST.

The Commission's rules require it to undertake a public interest analysis of an application for ETC designation, which is carried out in a manner consistent with the Act and FCC rules,⁴⁸ and which considers whether an applicant for ETC designation has satisfied public interest criteria, considering general goals established by the Commission.⁴⁹

The grant of this Application, designating Delta Fiber as an ETC, will clearly serve the public interest by enabling the Company to utilize RDOF support⁵⁰ to provide low-latency, gigabit-speed broadband, and interconnected VoIP-based voice services, to consumers in its proposed ETC designation area, as well as to provide subsidized voice and broadband services to those households that seek and qualify for federal Lifeline benefits.

The Commission has been actively engaged in addressing the needs of consumers and businesses in rural Mississippi for access to advanced broadband services. In April of this year, for example, the Commission, in a letter to Mississippi's U.S. Senator Roger Wicker, urged that

⁴⁸ ETC Checklist, § I.B. (citing 47 U.S.C. §§ 214(e)(2), 254; 47 CFR §§ 54.201(c), 54.202(b)).

⁴⁹ *Id.*

⁵⁰ Focusing on the importance of the availability of federal funding for use in the deployment of broadband services in rural Mississippi, the Commission has been "monitor[ing] the progress of the RDOF [program] and roll out of the rules guiding the reverse auction format and the maps that the FCC will use to determine area eligibility." *Rural Broadband/Internet Issues, FCC Approves \$20.4 Billion Rural Broadband Fund*, From the Desk of Commissioner Brent Bailey, Central District Office (Mar. 16, 2020), accessed at https://www.psc.ms.gov/sites/default/files/2020-03/FromtheDeskOfBB_RURALBROADBAND_INTERNETISSUES.pdf.

the disbursement of RDOF Phase I funding should be expedited to help improve Internet access in rural communities throughout Mississippi.⁵¹ The Commission stressed that:

the severe lack of broadband Internet for all Mississippians has been brought to the forefront and cannot be overstated Teachers and students are conducting distance learning. Health care professionals are relying on telemedicine It is undeniable that the success of these efforts and functions rely on an essential service that simply does not exist.⁵²

In addition, the Commission earlier this year established the Connect Mississippi Committee “to identify broadband internet connectivity issues and establish comprehensive recommendations to address these challenges in Mississippi[,]”⁵³ and also took steps to implement the Broadband COVID-19 Grant Program (“Grant Program”), which was established by the Mississippi Electric Cooperatives Broadband COVID-19 Act.

The Grant Program addresses “an immediate increased need for reliable internet service in rural Mississippi, including expanded rural broadband capacity to facilitate and assist with distance learning, telemedicine, and telework, which are required for citizens to continue their education, receive necessary services, and work in a healthy and safe environment.”⁵⁴ Delta EPA is a recipient of Grant Program funding, receiving a primary grant award of \$4,431,896 from the Program.⁵⁵

⁵¹ Taylor Vance, “Mississippi Utility Commission Urges Broadband Investment,” NORTHEAST MISSISSIPPI DAILY JOURNAL (Apr. 30, 2020), *accessed at* <https://www.govtech.com/network/Mississippi-Utility-Commission-Urges-Broadband-Investment.html>.

⁵² *Id.* (internal quotation marks omitted).

⁵³ “PSC Creates Connect Mississippi Committee; Presley Appoints North Mississippians to Serve,” MONROE JOURNAL, (July 7, 2020), *accessed at* https://www.djournal.com/monroe/news/psc-creates-connect-mississippi-committee-presley-appoints-north-mississippians-to-serve/article_85035dbd-9852-52f0-acf0-34e085bd701f.html.

⁵⁴ Mississippi PSC Website, “Broadband COVID-19 Grant Program,” *accessed at* <https://www.psc.ms.gov/covid19grant>.

⁵⁵ See Delta EPA Website, *accessed at* https://deltaepa.com/PDFs/de_broadband_faqs.pdf. Delta EPA also received a secondary grant award of \$468,994. See Mississippi PSC Website, *accessed at* <https://www.mpus.ms.gov/covid19grant>.

Grant of this Application will further help to address the urgent need to deliver broadband to rural Mississippi, enabling consumers and businesses in these regions of the state to have access to broadband services comparable to those in urban areas.

A. Preserving and Advancing Universal Service.

Delta Fiber's service offerings will preserve and advance universal service⁵⁶ by providing unique advantages to consumers in its proposed ETC designation area. Most importantly, the Company's deployment of a new state-of-the-art, low-latency, FTTH network, providing high-speed broadband Internet access and interconnected VoIP services, will provide enormous benefits that previously have been beyond the reach of consumers and businesses in many of Mississippi's rural areas. The Company's FTTH network will ensure reliable access to gigabit tier broadband, thus enhancing educational programs, promoting business growth, generating jobs, and expanding opportunities for Mississippi residents.

B. Ensuring the Availability of Quality Services at Just, Reasonable, and Affordable Rates.

A principal goal of the Telecommunications Act of 1996 is to "promote competition and reduce regulation in order to secure lower prices and high-quality services for American telecommunications consumers and encourage the rapid deployment of new telecommunications technologies."⁵⁷ As a general matter, designation of competitive ETCs increases facilities and promotes development and deployment of advanced communications as carriers compete for consumers' business.

⁵⁶ ETC Checklist, § 1.B.1.

⁵⁷ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (preamble).

Designation of Delta Fiber as an ETC in Mississippi will ensure the availability of quality services at just, reasonable, and affordable rates⁵⁸ by facilitating the provision of high-quality communications services to those living and working within its proposed ETC designation area. Residents in many rural areas in Mississippi have long been unable to gain access to competitive voice service and advanced broadband services that are available to consumers living in urban areas in the State. In some rural areas, no meaningful choices for telephone and broadband services exist.

The Company's deployment of low-latency, high-speed broadband service and high-quality VoIP phone services will help to address these issues, will promote economic development in the rural areas the Company will serve, and, significantly, will help to ensure that consumers in its proposed ETC designation area will be able to subscribe to quality services at just, reasonable, and affordable rates.

C. Promoting the Deployment of Advanced Telecommunications Services and Information Services in Rural and High-Cost Areas.

In the *RDOF Order*, the FCC explains that “[b]ringing digital opportunity to Americans living on the wrong side of the digital divide continues to be the Federal Communication Commission’s top priority.... Without access to broadband, rural communities cannot connect to the digital economy and the opportunities for better education, employment, healthcare, and civic and social engagement it provides.”⁵⁹

There are compelling grounds for the Commission to conclude that granting Delta Fiber’s application for ETC designation is in the public interest because Applicant will utilize RDOF support to bring state-of-the-art low-latency, gigabit-speed broadband service to rural consumers, businesses, and communities in Mississippi. The Commission’s action in granting this Application

⁵⁸ ETC Checklist, § I.B.2.

⁵⁹ *RDOF Order*, 35 FCC Rcd at 687 (¶ 1).

will promote this deployment, for the benefit of rural areas in Mississippi that have long been on the wrong side of the digital divide.

VII. REQUEST FOR WAIVER OF REQUIREMENT TO SUBMIT A FIVE-YEAR UPGRADES OR IMPROVEMENTS PLAN.

The Commission's ETC Checklist requires that, to be eligible for an ETC designation, "[a]t the time of filing for designation, the ETC applicant shall be expected to submit a five year plan that describes with specificity the proposed improvements or upgrades to the applicant's network throughout its proposed service area"⁶⁰

Delta Fiber seeks a waiver of this ETC Checklist requirement for the submission of a five-year improvements and upgrades plan. Such a waiver is appropriate because deployment obligations and timetables imposed on RDOF Phase I support recipients by the FCC in the *RDOF Order* are sufficient to ensure timely deployment of voice and broadband services, consistent with the policies reflected in the Commission's five-year plan requirement.

Specifically, the FCC requires RDOF Phase I support recipients to commercially offer voice and broadband service to "40% of [a calculated] number of locations in a state by the end of the third full calendar year following funding authorization, and 20% each calendar year thereafter."⁶¹ In addition, the FCC requires support recipients to file annual reports containing location and technology data, and to certify when they have met their service milestones.⁶²

The FCC has previously decided that similar service milestones and reporting requirements applicable to Connect America Fund ("CAF") Phase II support recipients warranted waiver by the

⁶⁰ ETC Checklist, § I.A.1.c.

⁶¹ *RDOF Order*, 35 FCC Rcd at 709 (¶ 45).

⁶² *Id.* at 712 (¶ 56).

FCC of its requirement, in Section 54.202(a)(1)(ii) of its rules,⁶³ that support recipients must file five-year improvement plans. The FCC found that its detailed buildout obligations for CAF Phase II support recipients provide a “more defined yardstick [than the five-year improvement plans] by which to measure [carriers’] progress towards the universal availability of voice and broadband service in their areas”⁶⁴

Significantly, the Commission also has waived its ETC Checklist five-year plan requirement in response to a request for waiver made by an applicant for ETC designation. Specifically, the Commission found that Aristotle Unified Communications, Inc. (“AUC”), was entitled to a waiver of the ETC Checklist requirement because of the build-out plan requirements the FCC had adopted for CAF Phase II support recipients.⁶⁵

Based on the FCC’s RDOF Phase I build-out and reporting requirements, and the Commission’s decision in the AUC proceeding, Delta Fiber requests that the Commission waive the requirement of ETC Checklist Section I.A.1.c., relating to the submission of a five-year improvements and upgrades plan. If the waiver is granted, then the Company will make available to the Commission all reports it is required to file with the FCC in connection with the funding awarded in the RDOF Phase I auction.

VIII. CONCLUSION.

⁶³ 47 CFR § 54.202(a)(1)(ii).

⁶⁴ *WCB Reminds Connect America Fund Phase II Auction Applicants of the Process for Obtaining a Federal Designation as an Eligible Telecommunications Carrier*, WC Docket No. 09-197, *et al.*, Public Notice, 33 FCC Red 6696, 6700 & n.34 (quotation marks and citation omitted).

⁶⁵ *Aristotle Unified Communications, Inc., Application for Designation as an Eligible Telecommunications Carrier for Purpose of Receiving Federal Universal Service Support for the Purpose of Receiving Support from the FCC Connect America Fund Phase II*, Docket No. 2018-UA-224, Order (Feb. 5, 2019), at 6 (¶ 17) (finding that, in light of the FCC’s build-out plan requirements, “AUC is entitled to a waiver”).

For all of the foregoing reasons, Delta Fiber LLC respectfully requests that the Commission designate Delta Fiber as both a high-cost and low-income Eligible Telecommunications Carrier, so that Delta Fiber will be eligible to receive the Rural Digital Opportunity Fund Phase I support it has been awarded in Auction 904, as well as federal Lifeline support, throughout its proposed ETC designation area.

Respectfully submitted,



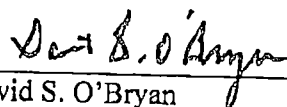
Sam Fonda, Esq.
Lott Franklin Fonda & Flanagan
P.O. Box 1176
Greenwood, MS 38935-1176
Phone: (662) 453-6576
Fax: (662) 453-2777
E-mail: samfonda@bellsouth.net
Counsel to Delta Fiber LLC

December 30, 2020

VERIFICATION

STATE OF MISSISSIPPI)
)
COUNTY OF LEFLORE)

I, David S. O'Bryan, state that I am the Chief Executive Officer of Delta Fiber LLC; that I have read the above and foregoing document; that the statements contained therein are true and correct to the best of my information, knowledge, and belief; and that I am authorized to make this statement on behalf of Delta Fiber LLC.



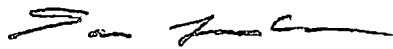
David S. O'Bryan
Chief Executive Officer
Delta Fiber LLC

CERTIFICATE OF SERVICE

I, Sam Fonda, an attorney for Delta Fiber LLC ("Applicant"), do hereby certify that I have filed the foregoing Application for Designation as an Eligible Telecommunications Carrier electronically with the Commission in accordance with the guidance letter sent to the Electric Cooperatives of Mississippi by Ms. Katherine Collier, Executive Director, Acting General Counsel, on December 21, 2020, and that, in filing the Application, I have complied with the service requirements of the Commission's Eligible Telecommunications Carrier Checklist ("ETC Checklist").

I, Sam Fonda, do also certify in accordance with Section I.C.1. of the ETC Checklist that I have, as an attorney for Applicant, caused to be served concurrently with the filing of this Application, by United States Mail, postage pre-paid, a Notice of the Application, in substantially the same form as included in Exhibit C of this Application, to eligible telecommunications carriers and incumbent local exchange carriers in the State of Mississippi, as listed in Exhibit C, in satisfaction of the Commission's requirements.

This, the 30th day of December 2020



Sam Fonda, Esq.
Lott Franklin Fonda & Flanagan
P.O. Box 1176
Greenwood, MS 38935-1176
Phone: (662) 453-6576
Fax: (662) 453-2777
E-mail: samfonda@bellsouth.net

Mississippi State Bar No. 5397