

BEFORE THE PUBLIC SERVICE COMMISSION
OF
THE STATE OF MISSISSIPPI

4-COUNTY FIBER, LLC

DOCKET NO. 2021-UA-06

RE: PETITION FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS
CARRIER PURSUANT TO SECTION 214(e)(2) OF THE ACT

ORDER

On January 4, 2021, 4-County Fiber, LLC d/b/a 4CFASTnet (“4CFASTnet” 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 4CFASTnet 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 4CFASTnet for designation as an ETC.

4CFASTnet is a wholly-owned direct subsidiary of 4-County Electric Power Association (“4-County”), a member-owned not-for-profit corporation formed and operating under Mississippi’s Electric Power Association Law, Miss. Code Ann. §77-5-201, *et seq.* 4-County has

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).

approximately 37,000 members and provides electric service in nine Mississippi counties (Chickasaw, Choctaw, Clay, Lowndes, Monroe, Noxubee, Oktibbeha, Webster, and Winston). 4-County has been providing electric service to its members in Mississippi since 1939.

4CFASTnet will be a facilities-based provider that focuses on serving specific rural areas in Mississippi. 4-County will own the main line fiber optic network infrastructure, while 4CFASTnet will own and manage the service drop and internet service/equipment to the home. 4-County will lease excess capacity on its backbone network to 4CFASTnet, with 4CFASTnet responsible for deploying fiber connections from the poles to individual premises to provide voice and high-speed broadband Internet access services to 4-County's cooperative members throughout 4-County's electric service territory. Exhibit A of the Company's Petition is a list of the census blocks in Mississippi for which 4CFASTnet seeks high-cost ETC designation from the Commission in order to receive RDOF support.

4CFASTnet plans to offer several tiers of Internet service, including service that meets the RDOF requirement of providing at least 1 Gigabit downstream/500 Mbps upstream, and will provide its customers with voice grade access to the Public Switched Telephone Network ("PSTN") through its interconnected VoIP 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:

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.² The FCC allocated Auction 904 funding through a multi-round, reverse, descending clock auction favoring faster services with lower latency.

2. 4CFASTnet's parent, 4-County, participated in the RDOF Phase I auction as a member of the Prospero Broadband Consortium ("Prospero"), a group of electric cooperatives and their subsidiaries which ultimately was a winning bidder for more than \$100 million in RDOF Phase I support.³ Pursuant to the process established in the *RDOF Auction Closing Public Notice*, Prospero has now assigned certain winning bids in Mississippi to 4CFASTnet. Accordingly, 4CFASTnet will be the entity that files a long form application for \$35,584,890 in funding to build and operate a network to serve the 1,572 census blocks listed in Exhibit A of the Company's Petition with voice and gigabit broadband service.⁴

3. Staff issued its First Set of Data Requests to 4CFASTnet on January 29, 2021, and the Company submitted its Responses to Staff on February 23, 2021.

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

² *In the Matter of Rural Digital Opportunity Fund; Connect America Fund*, Report and Order, 35 FCC Red 686 (2020).

³ *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).

⁴ See <https://www.fcc.gov/file/20525/download>.

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 support.”⁵ 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.”⁶

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[,]”⁷ and that “Section 77-3-35 explicitly authorizes the Commission to regulate and further the provision of universal service”⁸ Therefore, the Commission has the authority and the primary responsibility under federal law to designate 4CFASTnet 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.⁹ For the customers and locations where RDOF Phase I support has been allocated, 4CFASTnet will provide its services on a common carrier basis. 4CFASTnet is a common carrier for purposes of Section 214(e) of the Act.¹⁰

⁵ 47 U.S.C. § 254(e).

⁶ *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)).

⁷ *November 2012 Order* at 3 (¶ 8).

⁸ *Id.* at ¶ 11 (citing M.C.A. § 77-35).

⁹ 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).

¹⁰ 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,¹¹ either by using its own facilities or a combination of its own facilities and the resale of another carrier's services. 4CFASTnet 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.¹²

9. 4CFASTnet 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, 4CFASTnet 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.¹³

10. 4CFASTnet'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.¹⁴ 4CFASTnet will

¹¹ 47 CFR § 54.101(a).

¹² This commitment also complies with Section I.A.1.a. of the ETC Checklist (required services).

¹³ *Id.*, §§ 54.400-54.423. 4CFASTnet'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). 4CFASTnet 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 4CFASTnet.

¹⁴ 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").

offer service at rates that are reasonably comparable to rates in urban areas. To meet its RDOF public interest obligations, 4CFASTnet plans to offer 1 Gbps / 1 Gbps broadband service for \$80.00 per month. 4CFASTnet will offer standalone voice telephony for \$25.00 per month. It also expects to offer the following additional service tiers: 500 Mbps / 500Mbps broadband service for \$65.00 per month, and 200 Mbps / 200Mbps broadband service for \$55.00 per month.

11. As required by Section 54.405(a) of the FCC's rules,¹⁵ 4CFASTnet 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.¹⁶

12. 4CFASTnet will comply with the RDOF Phase I service requirements applicable to the federal universal service support that it receives,¹⁷ including the requirements for receipt of RDOF Phase I support. Specifically, 4CFASTnet, as an FCC Form 683 applicant for RDOF Phase I support,¹⁸ 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;¹⁹

¹⁵ *Id.*, § 54.405(a).

¹⁶ *Id.*, §§ 54.400-54.423.

¹⁷ See ETC Checklist, § I.A.1.b.vi.

¹⁸ 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").

¹⁹ *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;²⁰

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;²¹

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;²² 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.²³

13. 4CFASTnet'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.²⁴

²⁰ *Id.* at 6166 (¶ 298) (citing 47 CFR § 54.804(b)(2)(ii)).

²¹ *Id.* at 6166 (¶ 299) (citing 47 CFR § 54.804(b)(2)(iii)).

²² *Id.* at 6167 (¶ 301) (citing 47 CFR § 54.804(b)(2)(iv)).

²³ *Id.* at 6174 (¶ 312) (citing 47 CFR §§ 54.804(b)(2)(v), 54.804(b)(2)(vi)).

²⁴ *See November 2012 Order* at 5 (ordering clauses 3 and 4).

14. 4CFASTnet commits that its 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.²⁵

15. Under the FCC's regulations, an ETC applicant must "[d]emonstrate that it will satisfy applicable consumer protection and service quality standards."²⁶ 4CFASTnet commits to satisfying all FCC requirements related to consumer protection and service quality standards. In addition, with respect to Lifeline service, 4CFASTnet 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.²⁷

16. 4CFASTnet commits that it will offer the supported services specified in Section 214(e)(1)(A) of the Act²⁸ throughout its proposed ETC designation area.²⁹

17. 4CFASTnet commits to comply with: (1) all applicable provisions of the Commission's Rules and Regulations Governing Public Utility Service;³⁰ (2) "designated service quality standards applicable to each carrier,"³¹ and (3) the requirement to submit to the

²⁵ 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"). 4CFASTnet's commitment also satisfies the requirements of Section I.A.2.a. of the ETC Checklist (emergency operations).

²⁶ 47 CFR § 54.202(a)(3).

²⁷ *Id.*, § 54.422(b)(3).

²⁸ 47 U.S.C. § 214(e)(1)(A).

²⁹ ETC Checklist, § I.A.1.b.iv.

³⁰ *Id.*, § I.A.3.b.i.

³¹ *Id.*, § I.A.3.b.ii.

Commission the number of consumer complaints per 1,000 access lines, as required in annual ETC filings.³²

18. 4CFASTnet 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,³³ and that it will include Lifeline services in its advertising materials.³⁴ 4CFASTnet will communicate its fiber availability and construction progress to its potential customers³⁵ 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. 4CFASTnet will offer Lifeline service in compliance with FCC rules. The Commission's ETC Checklist requires information concerning Lifeline plans that an applicant for

³² *Id.*, § I.A.3.b.iii.

³³ *Id.*, § I.A.1.b.i. *See* 47 CFR § 54.201(d)(2).

³⁴ ETC Checklist, § I.A.1.b.i.

³⁵ Nothing herein shall be interpreted to require the disclosure of any competitive data or information by 4CFASTnet. 4CFASTnet may in its business judgment determine the timing of such communications. 4CFASTnet 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, 4CFASTnet shall also provide its best estimate as to service availability in response to customer inquiries.

ETC designation intends to offer.³⁶ 4CFASTnet commits to implement its Lifeline plans in accordance with the current rules and policies adopted by the FCC.

20. 4CFASTnet 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. 4CFASTnet'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. 4CFASTnet 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.³⁷

22. As a prerequisite to receiving RDOF support, 4CFASTnet 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."³⁸ With respect to financial resources, 4CFASTnet will be able to rely on 4-County for loan funds at market rates, advances of capital and loaned or leased employee support by 4CFASTnet, if necessary, in addition to the RDOF Phase I support being made available to the Applicant. In addition, 4CFASTnet must obtain an irrevocable standby letter of credit from a bank acceptable to the FCC.³⁹ Therefore, 4CFASTnet is financially capable of providing supported services in accordance with FCC and Commission rules.

³⁶ *Id.*, § I.A.1.b.ii.

³⁷ *Id.*, § I.A.2.b.

³⁸ *Auction 904 Public Notice*, 35 FCC Rcd at 6166 (¶ 298) (footnote omitted).

³⁹ *Id.* at 6177 (¶ 319).

23. With respect to technical capabilities, 4CFASTnet 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.⁴⁰ Further, 4CFASTnet 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.”⁴¹ These various FCC requirements ensure that 4CFASTnet 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 4CFASTnet 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. 4CFASTnet 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 4CFASTnet’s ETC application will help to address the urgent need to deliver broadband to rural Mississippi, enabling consumers and

⁴⁰ *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.*

⁴¹ *Id.* at 6171 (¶ 307).

businesses in these regions of the state to have access to broadband services comparable to those in urban areas.

25. 4CFASTnet's service offerings will preserve and advance universal service⁴² 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 will provide enormous benefits that previously have been beyond the reach of consumers and businesses in many of Mississippi's rural areas. The 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 4CFASTnet as an ETC in Mississippi will also ensure the availability of quality services at just, reasonable, and affordable rates⁴³ by facilitating the provision of high-quality communications services to those living and working within its proposed ETC designation area.

27. 4CFASTnet 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

⁴² ETC Checklist, § I.B.1.

⁴³ ETC Checklist, § I.B.2.

authorization, and 20% each calendar year thereafter.”⁴⁴ 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.⁴⁵

28. 4CFASTnet 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.⁴⁶

IT IS, THEREFORE, ORDERED by the Commission that:

1. 4CFASTnet’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 4CFASTnet as an ETC in the State of Mississippi in the census blocks identified in Exhibit A of the Company’s Petition is in the public interest.

2. 4CFASTnet 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, 4CFASTnet shall provide an informational tariff for its ETC designated areas in Exhibit A that outlines its regulatory contact information, customer service contact, terms, and conditions as well

⁴⁴ *RDOF Order*, 35 FCC Rcd at 709 (¶ 45).

⁴⁵ *Id.* at 712 (¶ 56).

⁴⁶ ETC Checklist, § I.A.1.b.v.

as Lifeline Programs. 4CFASTnet will also post this same information on its website where rates, terms and conditions may be found.

4. 4CFASTnet 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, 4CFASTnet will provide Staff copies of marketing materials, including advertising specific to Lifeline.

6. 4CFASTnet 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.

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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	Aye <u>X</u>	Nay <u> </u>
Commissioner Brent Bailey	Aye <u>X</u>	Nay <u> </u>
Commissioner Brandon Presley	Aye <u>X</u>	Nay <u> </u>

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.

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A PROFESSIONAL ASSOCIATION

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January 4, 2021

FILED

JAN 05 2021

**MISS. PUBLIC SERVICE
COMMISSION**

VIA EMAIL efile.psc@psc.state.ms.us
And FEDERAL EXPRESS

Mississippi Public Service Commission
Katherine Collier, Executive Secretary
Woolfolk State Office Building
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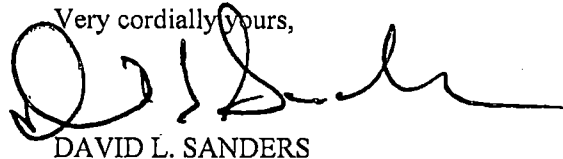
Re: **4-COUNTY FIBER, LLC, PETITION FOR ELIGIBLE TELECOMMUNICATIONS
CARRIER DESIGNATION; DOCKET NO. _____**

Dear Ms. Collier:

Enclosed please find an original and twelve (12) copies of *4-County Fiber, LLC's Petition for Eligible Telecommunications Carrier Designation* in the above-referenced matter.

With all good wishes, I am

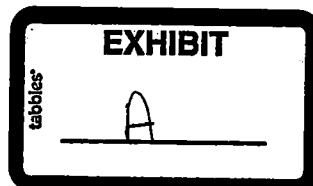
Very cordially yours,



DAVID L. SANDERS

DLS/mtb
Enclosures

cc: Carol E. Matthey, Matthey Consulting LLC; carol@mattheyconsult.com
Brian Clark, CEO/General Manager; clarkb@4county.org
Curtis Neyman; neymanc@4county.org



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Before The
Mississippi Public Service Commission

FILED

JAN 05 2021

MISS. PUBLIC SERVICE
COMMISSION

In the Matter of)
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4-County Fiber, LLC)
)
Petition for Designation as an)
Eligible Telecommunications Carrier)
Pursuant to Section 214(e)(2) of the Act)

Docket No. '21-UA-06

**PETITION FOR ELIGIBLE
TELECOMMUNICATIONS CARRIER DESIGNATION**

Pursuant to section 214(e)(2) of the Communications Act of 1934 ("Act") and the requirements of the Mississippi Public Service Commission ("Commission"), as set forth in the Commission's April 6, 2007 Order in Docket 05-AD-662, 4-County Fiber, LLC d/b/a 4CFASTnet ("4CFASTnet" or "Company") respectfully requests designation as a eligible telecommunications carrier ("ETC") in the State of Mississippi. In particular, 4CFASTnet seeks a high-cost ETC designation for a service area comprised of the funded census blocks in its winning bids in the recent Federal Communications Commission's ("FCC") Rural Digital Opportunity Fund ("RDOF") Phase I auction, and a Lifeline-only ETC designation for additional areas within the electric service territory of its parent, 4-County Electric Power Association ("4-County"), as more fully described below.

On December 7, 2020, the FCC announced the winning bidders for the RDOF Phase I auction.¹ As receipt of \$35,584,890 in additional FCC funding over a ten-year period (\$3,558,489 annually) is contingent upon the Company's designation as an ETC for the supported areas, 4CFASTnet respectfully requests that the Commission expeditiously review and approve this Application in order to accelerate the deployment of critical broadband and voice services in these rural areas. 4CFASTnet is obligated to submit to the FCC documentation of its ETC designation within 180 days of the *RDOF Auction Closing*

¹ *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes, Winning Bidders Announced*, Public Notice, DA No. 20-1422 (OEA/WCB rel. Dec. 7, 2020) (*RDOF Auction Closing Public Notice*).

Public Notice in order to be authorized to receive RDOF support,² and it therefore requests action on this Petition before June 7, 2021, in order to meet this FCC deadline.

I. BACKGROUND

A. The Company

4CFASTnet is a wholly-owned direct subsidiary of 4-County, a member-owned not-for-profit corporation formed and operating under Mississippi's Electric Power Association Law, Miss. Code Ann. §77-5-201, *et seq.* 4-County has approximately 37,000 members and provides electric service in nine Mississippi counties (Chickasaw, Choctaw, Clay, Lowndes, Monroe, Noxubee, Oktibbeha, Webster, and Winston). 4-County has been providing electric service to its members in Mississippi since 1939.

In 2019, Mississippi's Legislature passed the Mississippi Broadband Enabling Act to authorize electric cooperatives to provide broadband services to the public through an affiliate. Since passage of the Mississippi Broadband Enabling Act, 4-County has conducted exhaustive research, including three feasibility studies and the commissioning of an Engineering and Design Plan, to determine the viability of installing a fiber optic network to aid in the operation of its electric system and to potentially offer broadband internet service to its members through a subsidiary. When the Coronavirus pandemic hit in 2020, the need for access to broadband internet service for 4-County's rural areas became urgently apparent. With that, the Board and Management of 4-County, along with the blessing of its Membership, concluded the Association should move forward to offer broadband internet service to its members through the formation of a wholly-owned broadband subsidiary.

4CFASTnet was formed as an LLC in the State of Mississippi on September 17, 2020, with the intention of providing high-speed broadband Internet access and Voice over Internet Protocol ("VoIP") services to cooperative members. 4CFASTnet is in full compliance with all Commission orders and Commission rules and regulations. It is in good standing with this Commission.

² See 47 CFR § 54.315(b)(5).

4-County's initial focus has been to fast-track the construction and installation of a pilot project funded under the Mississippi Electric Cooperatives Broadband COVID-19 grant program. The plan is to expand service beyond the pilot project with assistance from the FCC's RDOF, constructing a broadband network in phases with the goal of ultimately bringing fast, reliable broadband to all households and businesses within 4-County's service territory. Upon completion of the FCC's application process and authorization of funding, 4CFASTnet will receive \$35,584,890 in RDOF Phase I support over a ten-year period in exchange for offering voice and broadband services to 12,343 homes and small businesses located in specific census blocks within the 4-County electric service territory and adjacent areas. Exhibit A is a list of the census blocks in Mississippi for which 4CFASTnet seeks high-cost ETC designation from the Commission in order to receive RDOF support.³

4CFASTnet will be a facilities-based provider that focuses on serving specific rural areas in Mississippi. 4-County will own the main line fiber optic network infrastructure, while 4CFASTnet will own and manage the service drop and internet service/equipment to the home. 4-County will lease excess capacity on its backbone network to 4CFASTnet, with 4CFASTnet responsible for deploying fiber connections from the poles to individual premises to provide voice and high-speed broadband Internet access services to 4-County's cooperative members throughout 4-County's electric service territory, including the census blocks for which 4CFASTnet is seeking ETC designation. In addition, 4CFASTnet will construct fiber optic plant to extend 4-County's fiber backbone network into adjacent non-electric service territory to serve additional customers.

4CFASTnet plans to offer several tiers of Internet service, including service that meets the RDOF requirement of providing at least 1 Gigabit downstream/500 Mbps upstream, and will provide its

³ See Exhibit A (List of Census Blocks in which 4-County Fiber, LLC Seeks Eligible Telecommunications Carrier Designation). These census blocks are within the areas shaded in blue on the map provided as Exhibit B. As described more fully below, 4CFASTnet also seeks Lifeline-only ETC designation in additional areas not receiving RDOF funding, as shown on the map provided in Exhibit B.

customers with voice grade access to the Public Switched Telephone Network ("PSTN") through its interconnected VoIP service.

4CFASTnet's goal is to provide service to all RDOF-funded locations within 5 years of authorization of RDOF support, before the FCC's final deployment milestone. 4-County has successfully provided electricity to its members for 81 years, and 4CFASTnet will provide the same member-focused service commitment in its provision of voice and broadband services in the RDOF-funded areas.

B. The Rural Digital Opportunity Fund

The FCC established the RDOF as a continuation of its efforts over nearly a decade to accelerate the deployment of high-speed fixed broadband service to all Americans. The program is being implemented in two phases, with the recently completed Phase I auction focused on areas that are wholly unserved under the FCC's current 25/3 Mbps standard for fixed broadband. The FCC will authorize RDOF support to companies that commit to deploy and maintain voice and broadband service meeting the FCC's requirements to a specified number of locations (homes and small businesses) in the identified high-cost areas.

In order to participate in RDOF, interested parties must complete a two-step application process, with competitive bidding to determine who will receive funding and the amount of funding to be provided for a particular geographic area. The FCC determined which applicants were qualified to bid in the auction by evaluating information submitted in the so-called "short-form" application. The RDOF Phase I auction began on October 29, 2020 and concluded on November 25, 2020. As noted above, on December 7, 2020, the FCC issued a Public Notice, officially announcing the results of the competitive bidding process. In order to receive funding, winning bidders must complete a "long-form" application review process to demonstrate their financial and technical qualifications to deliver the intended service and meet other requirements.

4CFASTnet's parent, 4-County, participated in the RDOF Phase I auction as a member of the Prospero Broadband Consortium ("Prospero"), a group of electric cooperatives and their subsidiaries

which ultimately was a winning bidder for more than \$100 million in RDOF Phase I support. Pursuant to the process established in the *RDOF Auction Closing Public Notice*, Prospero has now assigned certain winning bids in Mississippi to 4CFASTnet. Accordingly, 4CFASTnet will be the entity that files a long-form application for \$35,584,890 in funding to build and operate a network to serve the 1,572 census blocks listed in Exhibit A with voice and gigabit broadband service.

As discussed in more detail below, the Commission has the authority to grant 4CFASTnet's petition for ETC designation pursuant to section 214(e)(2) of the Act, and 4CFASTnet meets all of the statutory and regulatory requirements for ETC designation.

II. THE COMMISSION HAS AUTHORITY TO GRANT THE REQUESTED ETC DESIGNATION

The Commission has authority to designate 4CFASTnet as an ETC. Pursuant to section 214(e)(2) of the Act, a "State commission shall on its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission."⁴ Section 214(e)(1), in turn, states:

A common carrier designated as an eligible telecommunications carrier . . . shall be eligible to receive universal service support in accordance with section 254 and shall, throughout the service area for which the designation is received –

(A) offer the services that are supported by the Federal universal service support mechanism under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the service offered by another eligible telecommunications carrier); and

(B) advertise the availability of such services and the charges therefore using media of general distribution.

III. 4CFASTNET MEETS THE STATUTORY AND REGULATORY REQUIREMENTS TO BE DESIGNATED AS AN ETC

As demonstrated herein, 4CFASTnet satisfies each of the statutory and regulatory requirements set forth in the Act and the Commission's rules.

⁴ 47 U.S.C. § 214(e)(2).

A. 4CFASTnet Will Provide Service as a Common Carrier

For purposes of obtaining ETC designation, 4CFASTnet certifies that it will offer the supported service in its requested service area as a common carrier under sections 214(e)(1) and 214(e)(2) of the Act.⁵

B. 4CFASTnet Will Offer the Services Supported by the Federal Universal Service Support Mechanisms Throughout the Service Area for Which ETC Designation is Granted

For RDOF Phase I support recipients, the FCC defines the supported service as qualifying voice service and conditions grant of funding on the offering of qualifying broadband service.⁶ In the 2011 *USF/ICC Transformation Order*, the FCC modified the definition of a supported service to reflect a technologically neutral approach, enabling companies to provision voice service over any platform, including both the PSTN and Internet Protocol (“IP”) networks.⁷ Section 54.101 of the FCC’s rules was amended to specify that the functionalities of eligible voice telephony services include voice grade access to the PSTN *or its functional equivalent*.⁸

As described below, 4CFASTnet certifies that it will provide the following services that are supported by the federal universal service support mechanisms.⁹

1. Voice Telephony – 4CFASTnet will offer interconnected VoIP service on a stand-alone basis using a third-party vendor, Alianza.¹⁰ 4CFASTnet will be legally

⁵ See Exhibit C (Affidavit of Brian U. Clark, Chief Executive Officer, 4-County Fiber, LLC (“Clark Affidavit”).

⁶ 47 CFR § 54.101 (including both eligible voice telephony and eligible broadband internet access as services “supported by federal universal service support mechanisms,” and characterizing the provision of eligible broadband service as a high-cost public interest obligation); *see also Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing an Unified Intercarrier Compensation Regime; Federal State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17692-94, 17695, paras. 77-83, 86 (2011) (*USF/ICC Transformation Order*), *aff’d sub nom. In re: FCC 11-161*, 753 F.3d 1015 (10th Cir. 2014) (defining “voice telephony service” as the supported service and requiring high-cost support recipients to offer broadband as a condition of receiving support).

⁷ *See id.* at para. 78.

⁸ 47 C.F.R. § 54.101(a) (emphasis added).

⁹ See Exhibit C (Clark Affidavit).

¹⁰ See *WCB Reminds Connect America Fund Phase II Auction Applicants of the Process for Obtaining a Federal Designation as an Eligible Telecommunications Carrier*, Public Notice, WC Dockets No. 09-197, 10-90, DA 18-

responsible for dealing with customer problems and for providing service consistent with the FCC's universal service requirements.

This service will include minutes of use for local service provided at no charge to end users (specifically, 4CFASTnet's service plans will offer unlimited usage within the U.S.) and access to emergency services via 911 or E-911. 4CFASTnet will not distinguish between the pricing of toll and non-toll calls in the pricing of its voice service, and accordingly it is not obligated to provide toll limitation services to qualifying low-income consumers.¹¹

2. Broadband Internet Access Services – 4CFASTnet's broadband Internet offering will 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.

4CFASTnet will offer service at rates that are reasonably comparable to rates in urban areas. To meet its RDOF public interest obligations, 4CFASTnet plans to offer 1 Gbps/1 Gbps broadband service for \$80.00 per month. 4CFASTnet will offer standalone voice telephony for \$25.00 per month. It also expects to offer the following additional service tiers: 500 Mbps/500Mbps broadband service for \$65.00 per month, and 200 Mbps/200Mbps broadband service for \$55.00 per month.

4CFASTnet commits to provide service consistent with the FCC's high-cost universal service support rules applicable to it.¹² In addition, 4CFASTnet will offer Lifeline discounts to qualifying low-income consumers consistent with the FCC's Lifeline rules in the RDOF-funded census blocks and also in the additional areas where 4CFASTnet is seeking a Lifeline-only ETC designation.¹³

C. 4CFASTnet Will Provide Service Using Its Own Facilities

4CFASTnet will be a facilities-based broadband Internet access and VoIP service provider.

4CFASTnet's parent, 4-County, is in the process of constructing a fiber optic network for electric

714, at 5 (WCB rel. Jul. 10, 2018) (*ETC Process Public Notice*) ("a broadband provider may satisfy its voice obligation by offering voice through an affiliate or by offering a managed voice solution (including VoIP) through a third-party vendor").

¹¹ 47 CFR § 54.401(a)(2).

¹² See 47 CFR §§ 54.101(c), 54.805-54.806.

¹³ See *id.* § 54.101(d); *Lifeline Reform Order*, 31 FCC Rcd at 3974, 4074-75, paras. 35, 311-12 (requiring all high-cost recipients to meet Lifeline obligations in all areas where they deploy a network pursuant to a broadband service obligation and are commercially offering qualifying service).

purposes and will lease the excess capacity in those fiber facilities to 4CFASTnet.¹⁴ 4CFASTnet will deploy additional facilities, including fiber drops to the home, to initiate service for end user customers. As noted above, 4CFASTnet plans to offer interconnected VoIP service to its end user customers in the RDOF-funded areas pursuant to an agreement with a third-party vendor, Alianza.

D. 4CFASTnet Will Provide Supported Service Throughout Its Designated Service Area

4CFASTnet commits to providing the supported services throughout its ETC designated service area, consistent with all applicable requirements. 4CFASTnet's requested ETC designated service area for high-cost support – specifically, the Rural Digital Opportunity Fund – is limited to the census blocks identified in Exhibit A. In addition, 4CFASTnet seeks a Lifeline-only designation for additional areas not receiving RDOF support, generally encompassing its parent's electric service territory, as shown in the map provided in Exhibit B.

E. 4CFASTnet Will Advertise the Availability of Its Services and Charges Using Media of General Distribution

4CFASTnet will advertise the availability of, and charges for, its supported service offerings, including its Lifeline offerings, using media of general distribution in a manner that is designed to reach those likely to qualify for such service and plans to undertake outreach initiatives to increase consumer awareness of its service offerings, consistent with all applicable requirements. 4CFASTnet is eager to announce the availability of these new services to its members that have supported the decision of the cooperative to move forward on this major initiative to improve the community's quality of life.

4CFASTnet will advertise its supported services to all eligible customers using a mix of printed materials such as flyers, newsletters, and direct mail, supplemented with digital advertising and social

¹⁴ See *ETC Public Notice* at 3 ("Facilities are the ETC's 'own' if the ETC has exclusive right to use the facilities to provide the supported services or when service is provided by any affiliate within the holding company structure.").

media,¹⁵ with a goal of ensuring every potential customer knows the 4CFASTnet brand is available.

4CFASTnet also is considering marketing its service through radio, television, local newspapers, outdoor advertising, and in person events.

F. 4CFASTnet Will Comply with the FCC's Additional Requirements for Designation as an ETC

4CFASTnet certifies that it possesses the financial and technical capabilities to complete construction of its planned broadband network and to meet its ETC obligations by offering voice and broadband services throughout the proposed service area. 4CFASTnet expects to be able to obtain the requisite amount of lending under existing lines of credit, and additional financing as necessary, with the financial backing of its parent. As part of the FCC's long-form application process, 4CFASTnet will be providing an overview of how it will finance its planned network in the RDOF-funded areas and a certification from a professional engineer that the fiber optic network is capable of delivering voice and broadband service that meets the requisite RDOF performance requirements with sufficient capacity to meet customer demand at or above the prescribed levels during peak usage.

4CFASTnet will be subject to the FCC's mandated deployment obligations – specifically, to deploy service to 40% of the requisite number of locations by the end of the third year after funding authorization, 60% by the end of the fourth year, 80% by the end of the fifth year, and 100% by the end of the sixth year. Accordingly, it requests a waiver of the Commission's ETC Checklist requirement (section I.A.1.c) that ETCs submit a USF utilization plan when seeking ETC designation.

4CFASTnet certifies that it will satisfy all consumer protection and service quality standards required by the FCC,¹⁶ as well as all state-specific consumer protection and service quality standards

¹⁵ Communications channels have evolved considerably in recent years to include channels beyond traditional print and broadband media. The FCC has recognized this transition for advertising to Lifeline eligible customers as well. *See Lifeline Reform Order*, paras. 362-365; *Lifeline and Link-Up*, WC Docket No. 03-109, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 8302, para. 46 (2004) (including in its guidelines that carriers may post outreach material on the Internet).

¹⁶ *See* 47 CFR. § 54.202(a)(3).

applicable to wireline ETCs.¹⁷ In accordance with section I.A.1.b.iii of the Commission's ETC checklist, 4CFASTnet will have a designated representative with authority to resolve customer service, quality of service and/or Lifeline service inquiries.

4CFASTnet further certifies in accordance with FCC rules¹⁸ and section 1.A.2 of the Commission's ETC checklist that its fiber optic network will have the ability to remain functional in emergency situations, will provide 8 hours of battery 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. 4CFASTnet's fiber optic network will support telephone service using Session Initiation Protocol-based VoIP technology and will support all phone features, including 911 services.

4CFASTnet plans to offer the same Lifeline service to all customers, both in RDOF-funded areas and those areas where it seeks a Lifeline-only ETC designation. The Lifeline offering will enable low-income households to apply the FCC's Lifeline discount to all service tiers that are generally available to all of 4CFASTnet's customers: the standard service tiers are 200 Mbps symmetrical for \$55 per month, 500 Mbps symmetrical for \$65 per month, and 1 Gbps symmetrical for \$80 per month, with no data caps or overage charges. As such, 4CFASTnet's Lifeline offerings will significantly exceed the FCC's current 25/3 Mbps minimum service standards for fixed broadband Lifeline service. 4CFASTnet will offer standalone voice telephony for \$25.00 per month, with unlimited calling within the United States. The Lifeline subsidy will be used to reduce the amount charged for each service offering.

IV. DESIGNATION OF 4CFASTNET AS AN ETC WILL BE IN THE PUBLIC INTEREST

Designation of 4CFASTnet as an ETC in Mississippi will serve the public interest by facilitating the FCC's goal of deploying voice and high-speed broadband networks in rural, high-cost areas lacking 25/3 Mbps broadband service. As a recipient of federal high-cost funding, the Company will deploy

¹⁷ See section I.A.3.b of the Commission's ETC Checklist.

¹⁸ See 47 CFR. § 54.202(a)(2).

advanced communications to unserved and underserved areas in Mississippi. Moreover, 4CFASTnet will be the *only* provider in its proposed service area that is authorized to receive federal RDOF support for the development and deployment of this essential communications infrastructure. 4CFASTnet will be obligated to bring new broadband service to 12,343 homes and small businesses in Mississippi. Consequently, designating the Company as an ETC will directly benefit more than 25,000 residents of the proposed service area in Mississippi by ensuring that they receive the benefits of this federal funding.

Expedited designation of 4CFASTnet will serve the public interest by ensuring that the Company is eligible to receive federal high-cost USF support and able to deploy critical communications facilities as soon as possible. Events of the last year have made it clear, more than ever, how essential broadband is to maintain critical connections with family, education, healthcare, jobs, and more. The pilot project funded with state grants, underway for only a few weeks, is already impacting the households it has touched by giving broadband access to students required to attend classes from home, employees needing to work from home, or the opportunity to have a virtual doctor's visit. 4CFASTnet will use RDOF funding to expand broadband to more residents of Mississippi, directly advancing the FCC's goal of deploying voice and high-speed broadband-capable networks in rural, high-cost areas, while ensuring that rural communities benefit from innovations in communications technology.

In addition, designating 4CFASTnet as a Lifeline-only ETC in the requested service area set forth in Exhibit B will serve the public interest by making available robust fixed broadband Lifeline offerings with unlimited usage for additional low-income households outside of the RDOF-funded areas. 4CFASTnet's Lifeline offerings will greatly benefit low-income consumers within the requested service area in Mississippi by expanding their choices for Lifeline service.

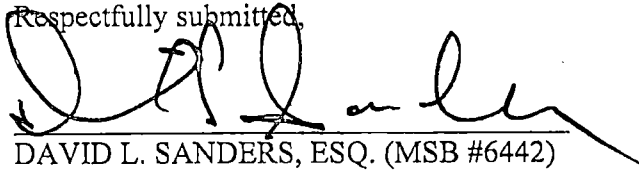
V. CONCLUSION

For all of the foregoing reasons, 4-County, LLC d/b/a 4CFASTnet respectfully requests that the Commission designate it as a high-cost ETC for the areas set forth in Exhibit A so that it may be

authorized to receive RDOF Phase I support on a timely basis, and designate it as a Lifeline-only ETC in additional areas, as shown in Exhibit B.

This the 4th day of January, 2021.

Respectfully submitted,



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January [4], 2021

EXHIBITS

EXHIBIT A:

**LIST OF CENSUS BLOCKS IN WHICH 4-COUNTY FIBER, LLC SEEKS
ELIGIBLE COMMUNICATIONS CARRIER DESIGNATION**

EXHIBIT B:

**MAP OF REQUESTED SERVICE AREA FOR ELIGIBLE
TELECOMMUNICATIONS CARRIER DESIGNATION**

EXHIBIT C:

**AFFIDAVIT OF BRIAN U. CLARK, CHIEF EXECUTIVE OFFICER, 4-COUNTY
FIBER, LLC**