

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF  
THE STATE OF MISSISSIPPI**

FIRST LIGHT FIBER, LLC

DOCKET NO. 2021-UA-012

RE: APPLICATION OF FIRST LIGHT FIBER, LLC FOR DESIGNATION AS AN  
ELIGIBLE TELECOMMUNICATIONS CARRIER

**RECOMMENDED ORDER**

On January 6, 2021, First Light Fiber, LLC (dba "Ace Fiber") ("ACE 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,<sup>1</sup> seeking ETC designation in all areas where Tishomingo 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 application of ACE Fiber for designation as an ETC.

ACE Fiber is a Mississippi company headquartered at PO Box 1590 (1909 South Tate Street), Corinth, MS 38835-1590. ACE Fiber is a wholly-owned subsidiary of Alcorn County Electric Power Association ("ACE"). ACE is a non-profit electric distribution cooperative that has

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<sup>1</sup> *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).

been providing electric distribution services throughout north eastern Mississippi since 1934. Today, ACE serves approximately 19,000 meters and maintains nearly 1,392 miles of distribution lines primarily in rural Corinth and Alcorn County, Mississippi. ACE is dedicated to supporting its customers and economic development in the communities it serves. As such, ACE Fiber was created in 2020 for the purpose of providing high-speed affordable Internet service within ACE's service area.

With assistance from Mississippi's allocation of federal CARES Act funding, ACE began constructing a new state-of-the-art fiber optic network. ACE will continue to expand its fiber optic network throughout the RDOF Phase-I eligible census blocks identified in Exhibit A of the Company's Petition and the additional service areas identified in Exhibit B of the Company's Petition and ACE Fiber will offer high-speed broadband Internet access and VoIP services to customers who currently lack access to such services.

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

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

2. In a December 7, 2020 Public Notice, the FCC announced that the RDOF USA Consortium (“Consortium”) was a winning bidder in the RDOF Phase I auction.<sup>3</sup> ACE Fiber, a member of the Consortium, was assigned 387 of the census blocks in Mississippi awarded by the Consortium which includes a total of 3,428 eligible locations. As a result, ACE Fiber is slated to receive a total of \$5,510,502.00 of RDOF Phase I support over 10 years.<sup>4</sup>

3. On February 2, 2021, the Commission issued an Order referring Ace Fiber’s ETC application to Commissioner Brandon Presley, Northern District, for hearing, report and recommendation of an appropriate Order, or any other action necessary, pursuant to Miss. Code Ann. § 77-3-40(6).

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

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

6. 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.”<sup>5</sup> Section 214(e)(2) of the Act provides that state commissions “shall designate” common

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<sup>3</sup> *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidders Announced; FCC Form 683 Due January 29, 2021*, Public Notice, 35 FCC Rcd 13888 (2020).

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

<sup>5</sup> 47 U.S.C. § 254(e).

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.”<sup>6</sup>

7. 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[,]”<sup>7</sup> and that “Section 77-3-35 explicitly authorizes the Commission to regulate and further the provision of universal service ....”<sup>8</sup> Therefore, the Commission has the authority and the primary responsibility under federal law to designate ACE 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.

8. To be designated as an ETC, an applicant must be a common carrier.<sup>9</sup> For the customers and locations where RDOF Phase I support has been allocated, ACE Fiber will provide its services on a common carrier basis. ACE Fiber is a common carrier for purposes of Section 214(e) of the Act.<sup>10</sup>

9. 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,<sup>11</sup> either by using its own facilities or a combination of its own facilities and the resale of another carrier’s

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<sup>6</sup> *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)).

<sup>7</sup> *November 2012 Order* at 3 (¶ 8).

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

<sup>9</sup> 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).

<sup>10</sup> 47 U.S.C. § 214(e).

<sup>11</sup> 47 CFR § 54.101(a).

services. ACE 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.<sup>12</sup>

10. ACE 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, ACE 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.<sup>13</sup>

11. Tishomingo'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.<sup>14</sup> ACE's FTTH network will be the backbone of the high-speed services on which ACE Fiber's customers will rely. ACE Fiber will leverage ACE's FTTH network to provide customers with competitively superior broadband and voice services now and into the future. ACE Fiber plans to initially offer residential Internet service at the following bi-directional speeds and prices with no data caps, no

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

<sup>13</sup> *Id.*, §§ 54.400-54.423. ACE 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). ACE 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 ACE Fiber.

<sup>14</sup> 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").

contracts and free installation: 200 Mbps at \$59.00/mo., 1 Gbps at \$79.99/mo. and 2 Gbps at \$99.99/mo. Additionally, ACE Fiber plans to initially offer residential Internet service, bundled together with voice service, at the following bi-directional speeds and prices with no data caps, no contracts and free installation 200 Mbps at \$84.99/mo., 1Gbps at \$99.99/mo., and 2 Gbps at \$119.99/mo.

12. As required by Section 54.405(a) of the FCC's rules,<sup>15</sup> ACE 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.<sup>16</sup>

13. ACE Fiber will comply with the RDOF Phase I service requirements applicable to the federal universal service support that it receives,<sup>17</sup> including the requirements for receipt of RDOF Phase I support. Specifically, ACE Fiber, as an FCC Form 683 applicant for RDOF Phase I support,<sup>18</sup> 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;<sup>19</sup>

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<sup>15</sup> *Id.*, § 54.405(a).

<sup>16</sup> *Id.*, §§ 54.400-54.423.

<sup>17</sup> See ETC Checklist, § I.A.1.b.vi.

<sup>18</sup> 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").

<sup>19</sup> *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;<sup>20</sup>

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;<sup>21</sup>

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;<sup>22</sup> 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.<sup>23</sup>

14. ACE 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.<sup>24</sup>

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

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

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

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

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

15. ACE 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.<sup>25</sup>

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

17. ACE Fiber commits that it will offer the supported services specified in Section 214(e)(1)(A) of the Act<sup>28</sup> throughout its proposed ETC designation area.<sup>29</sup>

18. ACE Fiber commits to comply with: (1) all applicable provisions of the Commission's Rules and Regulations Governing Public Utility Service;<sup>30</sup> (2) "designated service quality standards applicable to each carrier;"<sup>31</sup> and (3) the requirement to submit to the

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<sup>25</sup> 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"). ACE Fiber's commitment also satisfies the requirements of Section I.A.2.a. of the ETC Checklist (emergency operations).

<sup>26</sup> 47 CFR § 54.202(a)(3).

<sup>27</sup> *Id.*, § 54.422(b)(3).

<sup>28</sup> 47 U.S.C. § 214(e)(1)(A).

<sup>29</sup> ETC Checklist, § I.A.1.b.iv.

<sup>30</sup> *Id.*, § I.A.3.b.i.

<sup>31</sup> *Id.*, § I.A.3.b.ii.



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

19. ACE 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,<sup>33</sup> and that it will include Lifeline services in its advertising materials.<sup>34</sup> ACE Fiber will communicate its fiber availability and construction progress to its potential customers<sup>35</sup> 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.

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

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<sup>32</sup> *Id.*, § I.A.3.b.iii.

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

<sup>34</sup> ETC Checklist, § I.A.1.b.i.

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

ETC designation intends to offer.<sup>36</sup> ACE Fiber commits to implement its Lifeline plans in accordance with the current rules and policies adopted by the FCC.

21. ACE 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. ACE 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.

22. ACE 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.<sup>37</sup>

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

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<sup>36</sup> *Id.*, § I.A.1.b.ii.

<sup>37</sup> *Id.*, § I.A.2.b.

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

<sup>39</sup> *Id.* at 6177 (¶ 319).

24. With respect to technical capabilities, ACE 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.<sup>40</sup> Further, ACE 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.”<sup>41</sup> These various FCC requirements ensure that ACE 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.

25. Designating ACE 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. ACE 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 ACE 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.

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<sup>40</sup> *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.*

<sup>41</sup> *Id.* at 6171 (¶ 307).

26. ACE Fiber's service offerings will preserve and advance universal service<sup>42</sup> 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.

27. Designation of ACE Fiber as an ETC in Mississippi will also ensure the availability of quality services at just, reasonable, and affordable rates<sup>43</sup> by facilitating the provision of high-quality communications services to those living and working within its proposed ETC designation area.

28. ACE 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."<sup>44</sup> In addition, the FCC requires support

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<sup>42</sup> ETC Checklist, § I.B.1.

<sup>43</sup> ETC Checklist, § I.B.2.

<sup>44</sup> *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.<sup>45</sup>

29. ACE 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.<sup>46</sup>

IT IS, THEREFORE, ORDERED that:

1. ACE Fiber'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 ACE Fiber as an ETC in the State of Mississippi in the census blocks identified in Exhibit A and Exhibit B of its ETC application is in the public interest.

2. ACE 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, ACE Fiber shall provide an informational tariff for its ETC designated areas in Exhibits A and Exhibit B that outlines its regulatory contact information, customer service contact, terms, and conditions as well as Lifeline Programs. ACE Fiber will also post this same information on its website where rates, terms and conditions may be found.

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<sup>45</sup> *Id.* at 712 (¶ 56).

<sup>46</sup> ETC Checklist, § I.A.1.b.v.

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

6. ACE 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.

7. Exceptions to this Recommended Order may be filed with the Commission within a period of fifteen (15) days from the date of issuance of this Order, in accordance with the provisions of Miss. Code Ann. § 77-3-40. If exceptions are not timely filed, this Recommended Order shall then become the Order of the Commission.

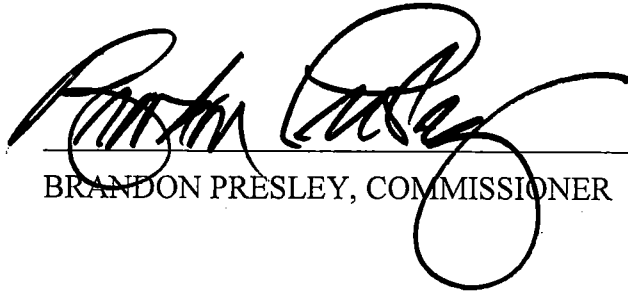
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This Order shall be deemed issued on the day it is served upon the parties herein by the Executive Secretary of this Commission who shall note the service date in the file of this Docket.

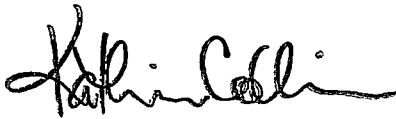
SO ORDERED and this the 17<sup>th</sup> day of April, 2021.



MISSISSIPPI PUBLIC SERVICE COMMISSION

  
BRANDON PRESLEY, COMMISSIONER

ATTEST: A true copy



Katherine Collier, Executive Secretary

Effective this the 5<sup>th</sup> day of April, 2021.



An Ace Power Network

January 6, 2021

FILED

JAN 06 2021

ACE Fiber  
P.O. Box 429  
Corinth, MS 38835  
Phone: (662) 331-8900

MISS. PUBLIC SERVICE  
COMMISSION

Katherine Collier, Executive Secretary  
Mississippi Public Service Commission  
501 North West Street 201-A Woolfolk State Office Building  
Jackson, MS 39201

Re: Application of First Light Fiber, LLC (dba "ACE Fiber") for Designation as an Eligible Telecommunications Carrier Pursuant to Section 214(e)(2) of the Communications Act of 1932, as amended

Dear Ms. Collier:

On behalf of First Light Fiber, LLC (dba "ACE Fiber") ("ACE Fiber"), please find the attached Application for Designation as an Eligible Telecommunications Carrier filed pursuant to Section 214(e)(2) of the Communications Act of 1934, as well as Exhibits A through H.

Please do not hesitate to contact me if you should have any questions regarding the enclosed ETC Application.

Respectfully Submitted,



Eddie L. Howard

CEO

First Light Fiber, LLC (dba "ACE Fiber")

PO Box 1590

1909 South Tate St.

Corinth, MS 38835-4402

662.287.4402

[ehoward@ace-power.com](mailto:ehoward@ace-power.com)

Exhibit A

Attachment

[www.ace-fiber.com](http://www.ace-fiber.com)



**FILED**

**BEFORE THE MISSISSIPPI  
PUBLIC SERVICE COMMISSION**

**JAN 06 2021**

In the Matter of )

**MISS. PUBLIC SERVICE  
COMMISSION**

Application of First Light Fiber, LLC )  
(dba "ACE Fiber") for Designation as an )  
Eligible Telecommunications Carrier to )  
Receive Rural Digital Opportunity Fund )  
Phase I Auction (Auction 904) Support and )  
Lifeline Support for Voice and Broadband )  
Services )

Docket No. **'21-UA-12**

**APPLICATION OF FIRST LIGHT FIBER, LLC (DBA "ACE FIBER") FOR  
DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER  
REQUEST FOR EXPEDITED CONSIDERATION**

First Light Fiber, LLC (dba "ACE Fiber") ("ACE Fiber" or the "Company"), pursuant to section 214(e)(2) of the Communications Act of 1934, as amended (the "Act"),<sup>1</sup> Sections 54.201 and 54.202<sup>2</sup> of the rules and regulations of the Federal Communications Commission ("FCC"), and in accordance with the Mississippi Public Service Commission's ("Commission") requirements as set forth in in the Commission's Order Establishing Requirements for Eligible Telecommunications Carriers in Docket No. 05-AD-662, dated April 6, 2007, respectfully requests designation as a High-Cost and Low Income Eligible Telecommunications Carrier ("ETC") in the State of Mississippi in all areas where ACE Fiber, through its participation in the RDOF USA Consortium, was selected as a winner in the FCC's Rural Digital Opportunity Fund ("RDOF") Phase I Auction ("Auction 904") (the "RDOF Auction"),<sup>3</sup> as well as Lifeline-only ETC designation status in certain additional areas throughout its Mississippi service territory.

<sup>1</sup> 47 U.S.C. § 214(e)(2).

<sup>2</sup> 47 C.F.R §§ 54.201 and 54.202.

<sup>3</sup> See *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes; Winning Bidder Announced*; FCC Form 683 Due January 29, 2021, AU Docket No. 20-34, WC Docket Nos. 19-126 and 10-90, Public Notice, DA 20-1422, (rel. Dec. 7, 2020) ("Auction 904 Results Notice").

ACE Fiber will deploy broadband and interconnected VoIP services throughout the RDOF Phase I-eligible census blocks identified in **Exhibit A** and seeks ETC designation from the Commission to participate in both High-Cost and Low-Income programs of the federal Universal Service Fund in order to serve these census blocks. In addition, ACE Fiber seeks Lifeline-only ETC designation status in the additional service areas identified in **Exhibit B**.

ACE Fiber's receipt of RDOF funding is conditioned upon it obtaining designation as an ETC in the eligible census blocks by June 7, 2021.<sup>4</sup> As a result, ACE Fiber requests expeditious action by the Commission so that it may meet this requirement. Section 214(e)(2) of the Act authorizes the Commission to designate a company that meets the requirements of Section 214(e)(1) of the Act, such as ACE Fiber, as an ETC. As demonstrated in this Application, ACE Fiber meets all state and federal requirements for ETC designation, and, as shown by the description herein of ACE Fiber's planned voice and broadband deployment projects, designating Company as an ETC in the proposed areas would advance the goals of universal service and is in the public interest.

In support of this Application, ACE Fiber states as follows:

**I. BACKGROUND**

ACE Fiber is a Mississippi company headquartered at PO Box 1590 (1909 South Tate Street), Corinth, MS 38835-1590.

ACE Fiber is a wholly-owned subsidiary of Alcorn County Electric Power Association ("ACE"). ACE is a non-profit electric distribution cooperative that has been providing electric distribution services throughout north eastern Mississippi since 1934. Today, ACE serves approximately 19,000 meters and maintains nearly 1,392 miles of distribution lines primarily in

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<sup>4</sup> *Auction 904 Results Public Notice*, para. 17 on p. 7.

rural Corinth and Alcorn County, Mississippi. ACE is dedicated to supporting its customers and economic development in the communities it serves. As such, ACE Fiber was created in 2020 for the purpose of providing high-speed affordable Internet service within ACE's service area.

With assistance from Mississippi's allocation of federal CARES Act funding, ACE began constructing a new state-of-the-art fiber optic network. ACE will continue to expand its fiber optic network throughout the RDOF Phase-I eligible census blocks identified in **Exhibit A** and the additional service areas identified in **Exhibit B** and ACE Fiber will offer high-speed broadband Internet access and VoIP services to customers who currently lack access to such services.

## **II. COMMUNICATIONS AND CORRESPONDENCE**

Pleadings, orders, notices, or other correspondence and communications regarding this

Application should be provided to:

Eddie L. Howard  
CEO  
First Light Fiber, LLC (dba "ACE Fiber")  
PO Box 1590 (1909 South Tate Street), Corinth, MS 38835-1590  
(662)287-4402  
[ehoward@ace-power.com](mailto:ehoward@ace-power.com)

With a copy to:

Sean McGrath  
CFO  
First Light Fiber, LLC (dba "ACE Fiber")  
PO Box 1590 (1909 South Tate Street), Corinth, MS 38835-1590  
(662)287-4402  
[smcgrath@ace-power.com](mailto:smcgrath@ace-power.com)

## **III. ACE FIBER'S PARTICIPATION IN THE FCC'S RDOF AUCTION**

### **A. Background on the RDOF Auction**

On January 30, 2020, the FCC adopted the *Rural Digital Opportunity Fund Report and Order*,<sup>5</sup> establishing the framework for the RDOF including the use of reverse auctions in two

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<sup>5</sup> See generally *Rural Digital Opportunity Fund; Connect America Fund*, Order, 35 FCC Rcd 686 (2020) (*Rural Digital Opportunity Fund Order*).

phases. The RDOF was implemented to provide \$20.4 billion to connect millions of rural homes and businesses to high-speed broadband networks as part of the FCC's biggest step to close the digital divide.<sup>6</sup> On July 11, 2020, the FCC adopted final procedures for Phase I of the RDOF Auction, which utilized competitive bidding to allocate up to \$16 billion over ten years to service providers that commit to offer voice and broadband services to fixed locations in eligible unserved high-cost census blocks.<sup>7</sup>

#### B. ACE Fiber's Selection as a Winning Bidder

The RDOF Auction began on October 29, 2020 and completed on November 25, 2020. On December 7, 2020, the FCC issued a Public Notice, officially announcing the results of the competitive bidding.<sup>8</sup> The FCC provisionally selected RDOF USA Consortium as a winning bidder for a number of locations throughout Mississippi.<sup>9</sup> The RDOF USA Consortium was formed by ACE and other electric distribution cooperatives to participate in the RDOF Auction. Pursuant to the FCC bidding rules, the RDOF USA Consortium subsequently assigned a number of locations won in the Mississippi Cooperative Consortium to ACE Fiber.

As a recipient of RDOF support, ACE Fiber is required to offer at least one standalone voice plan and one service plan providing broadband at speeds of at least 1 Gbps with a latency at or below 100 ms. ACE Fiber is required to buildout to 40% of the requisite number of locations in Mississippi within three years of authorization.<sup>10</sup> This performance benchmark increases by 20% by the end of the fourth and fifth years of support.<sup>11</sup> By the end of year six, revised location totals

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<sup>6</sup> Id.

<sup>7</sup> See *Rural Digital Opportunity Fund Phase I Auction Scheduled for October 29, 2020; Notice and Filing Requirements and Other Procedures for Auction 904*, Public Notice, FCC 20-77, 35 FCC Rcd 686 (2020) ("*Auction 904 Procedures Public Notice*").

<sup>8</sup> *Auction 904 Results Public Notice*, Attachment A. at p. 22.

<sup>9</sup> Id.

<sup>10</sup> *Auction 904 Procedures Public Notice*, para. 17.

<sup>11</sup> Id.

will be announced.<sup>12</sup> If there are fewer locations than originally estimated by the cost model, ACE Fiber must serve the revised number of locations by the end of the sixth year of support.<sup>13</sup> If there are more locations than originally estimated by the cost model, ACE Fiber must serve the original number of locations estimated by the cost-model by the end of the sixth year of support and must serve the rest of the locations by the end of the eighth year of support.<sup>14</sup>

### C. Need for Expedited ETC Designation

The FCC's rules for the RDOF Auction did not require that participants be an ETC as of the initial short-form application filing deadline.<sup>15</sup> Instead, a winning bidder that is awarded support is expected to obtain an ETC designation (encompassing receipt of high-cost support) for the areas covered by its successful bids within 180 days after being announced as a winning bidder.<sup>16</sup> Winning bidders must submit appropriate documentation of such ETC status to the FCC.<sup>17</sup> As noted, ACE Fiber will receive RDOF support for select census block groups in Mississippi. Because the timeframe for ACE Fiber to obtain ETC designation is short and the consequences of failure to do so are severe, ACE Fiber respectfully requests that the Commission review this Application promptly and grant it ETC designation in the proposed ETC designation area on an expedited basis.

## IV. ACE FIBER AND ITS TECHNICAL QUALIFICATIONS

### A. ACE Fiber's Expertise and Experience

ACE Fiber is qualified to meet applicable RDOF obligations given ACE has already successfully built a portion of its fiber network, in compliance with requirements

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<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> *Auction 904 Procedures Public Notice*, para. 136.

<sup>16</sup> Id.

<sup>17</sup> Id.

under CARES Act funding. ACE Fiber will leverage ACE's technical and commercial success as a provider of electric distribution services in the proposed ETC designation area. ACE Fiber is proud to have at its disposal ACE's staff of experienced engineers that are familiar with the residents and businesses in the proposed ETC designation area and have established relationships with contractors and officials in the proposed ETC designation area. This expertise made it possible for ACE to participate in the RDOF Auction with the certainty that ACE Fiber will be able to fulfill its obligations. ACE has experience managing the technical and customer service-related issues associated with the provision of electric distribution services. ACE Fiber will apply the same level of customer service and network monitoring to its broadband and voice customers.

#### **B. ACE Fiber's Services and Network Architecture**

ACE Fiber was founded to jump-start high-speed Internet service in an area that has been mostly unserved or underserved. With CARES Act funding, ACE was able to begin construction on its new, state-of-the art, low-latency, fiber-to-the-home ("FTTH") network, over which ACE Fiber will provide affordable high-speed broadband and Voice over Internet Protocol ("VoIP") services throughout ACE's service area, which largely lacks access to such high-speed, broadband services. Through the expansion of ACE's FTTH network, ACE Fiber will offer broadband and voice services to customers in the proposed ETC designation area.

ACE's FTTH network will be the backbone of the high-speed services on which ACE Fiber's customers will rely. ACE Fiber will leverage ACE's FTTH network to provide customers with competitively superior broadband and voice services now and into the future. ACE Fiber plans to initially offer residential Internet service at the following bi-directional speeds and prices with no data caps, no contracts and free installation: 200 Mbps at \$59.00/mo.,

1 Gbps at \$79.99/mo. and 2 Gbps at \$99.99/mo. Additionally, ACE Fiber plans to initially offer residential Internet service, bundled together with voice service, at the following bi-directional speeds and prices with no data caps, no contracts and free installation 200 Mbps at \$84.99/mo., 1 Gbps at \$99.99/mo., and 2 Gbps at \$119.99/mo. ACE Fiber will also offer business Internet service. However, ACE Fiber is currently conducting market research to determine what mix of services potential customers would prefer and the terms upon which the services are offered. ACE Fiber will make services available based on demand. As a result, ACE Fiber has not yet determined specific details of its rates and services to be offered to business Internet customers.

ACE Fiber will provide voice services through its provision of VoIP. ACE Fiber will resell the VoIP services of LogicomUSA®, a wholesale VoIP provider, and repackage the service to offer VoIP over its own fiber-based facilities. ACE Fiber plans to initially offer customers voice grade access to the Public Switched Telephone Network (“PSTN”) through its VoIP services at the following rate: \$59.99/mo. for stand-alone voice service. ACE Fiber’s VoIP service will initially include the following features and capabilities: unlimited long distance, caller-ID, call waiting, E911, call return, robo call blocking, personalized user portal, call detail records via portal, call forwarding (with failover), caller ID blocking, simultaneous ring, three-way calling, voicemail, missed call alert via email and hunting/rollover calls. Accordingly, grant of this application is vital for consumers in rural Mississippi to be able to receive high speed broadband and access to high-quality voice services.

**V. COMMISSION HAS AUTHORITY TO DESIGNATE ACE FIBER AS AN ETC**

The Commission has the authority to designate ACE Fiber as an ETC, pursuant to Section 214(e)(2) of the Act, for the proposed ETC designation area. Pursuant to Section 214(e)(2) of the Act, a State commission shall, upon its own motion or upon request, designate a common carrier,

who meets the requirements of Section 214(e)(1), as an ETC for purposes of receiving universal service support in a service area designated by the State commission.<sup>18</sup> Sections 54.201(c) and (d) of the FCC's rules reflect the provisions of Section 214(e) of the Act and provide that, "upon request and consistent with the public interest, convenience, and necessity, the state commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the state commission, so long as each additional requesting carrier meets the requirements" of Section 54.201(d) of the FCC's rules.<sup>19</sup>

Further, the Commission has authority under the Commission's requirements as set forth in in the Commission's Order Establishing Requirements for Eligible Telecommunications Carriers in Docket No. 05-AD-662, dated April 6, 2007. Therefore, the Commission has jurisdiction over ACE Fiber's designation request and has the authority to designate ACE Fiber as an ETC for purposes of receiving universal service support in the proposed ETC designation area.

#### **VI. ACE FIBER MEETS THE STATE AND FEDERAL STATUTORY AND REGULATORY REQUIREMENTS FOR ETC DESIGNATION**

ACE Fiber meets all applicable federal and state requirements for designation as an ETC in Mississippi. As shown below, ACE Fiber meets the requirements outlined in Section 214(e)(1) of the Act<sup>20</sup> and Section 54.201(d) of the FCC's rules,<sup>21</sup> as well as the additional requirements for ETC designation under Section 54.202 of the FCC's rules.<sup>22</sup> ACE Fiber also meets the requirements outlined in the Commission's Order Establishing Requirements for Eligible Telecommunications Carriers in Docket No. 05-AD-662, dated April 6, 2007.

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<sup>18</sup> 47 U.S.C. §§ 214(e)(1)-(2).

<sup>19</sup> 47 C.F.R. §§ 54.201(c)-(d).

<sup>20</sup> 47 U.S.C. §§ 214(e)(1).

<sup>21</sup> 47 C.F.R. §§ 54.201(d).

<sup>22</sup> 47 C.F.R. §§ 54.201(c).



### **A. ACE Fiber Meets All Federal Requirements For ETC Designation**

ACE Fiber meets all criteria for designation as an ETC under federal law. Specifically:

- 1) For purposes of this designation, ACE Fiber will provide service on a common carrier basis.

ACE Fiber will be a common carrier by virtue of its provision of interconnected VoIP on a common carrier basis. As such, ACE Fiber is a common carrier (47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d));

- 2) ACE Fiber will provide voice and broadband services using a combination of its own facilities and resale of another carrier's services. Specifically, ACE Fiber will be a facilities-based broadband Internet access and VoIP services provider. ACE Fiber will leverage ACE's expanding fiber-optic network to deliver voice and broadband services between ACE Fiber's central office building and the customer premise. ACE Fiber has partnered with LogicomUSA to offer interconnected VoIP service over ACE Fiber's network. Therefore, ACE Fiber will offer the supported services using its own facilities or a combination of its own facilities and resale of another carrier's services (47 U.S.C. § 214(e)(1)(A); 47 C.F.R. § 54.201(d)(1)).

- 3) As required by Section 54.101 of the FCC's rules,<sup>23</sup> ACE Fiber will offer the voice telephony and broadband services supported by federal universal service support mechanisms, including the following capabilities:

Voice Grade Access To The Public Switched Telephone Network – ACE Fiber will meet this requirement through its provision of VoIP service that includes minutes of use for local service provided at no charge to end users (*i.e.*, plans generally offer unlimited usage within the U.S.) and access to emergency services via 911 or E-911, wherever available from local government or public safety organizations. ACE Fiber certifies that its interconnected VoIP

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<sup>23</sup> 47 C.F.R. § 54.101.

service, in partnership with LogicomUSA, will satisfy the FCC's definition of voice telephony service. ACE Fiber will be legally responsible for dealing with customer problems, providing quality of service guarantees and meeting universal service-related requirements.

Local usage "means an amount of minutes of use of exchange services, prescribed by the FCC, provided free of charge to end users."<sup>24</sup> The FCC has not specified a minimum amount of local usage that an ETC must offer. ACE Fiber will meet the local usage requirement by including local usage in its rate plans. ACE Fiber will comply with any minimum local usage requirements adopted by the FCC or this Commission. ACE Fiber's VoIP service offering will provide customers with access to 911 and enhanced 911 to the extent local governments have implemented such services. ACE Fiber will also rely on its contractual arrangement with LogicomUSA to provide such emergency services to customers. Finally, with respect to toll limitation service, there is no requirement to provide toll limitation services if the Lifeline offering provides a set number of minutes that do not distinguish between toll and non-toll calls.<sup>25</sup> The VoIP service offering that will be provided by ACE Fiber does not distinguish between toll and non-toll calls. Accordingly, ACE Fiber is not required to provide toll limitation services and currently has no plans to offer this service. (47 C.F.R. § 54.101(a)(1)).

Broadband Internet Access Services – ACE Fiber's broadband Internet access service 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, but excluding dial-up service. ACE Fiber certifies that its provision of high-speed broadband Internet over its fiber-based facilities will satisfy the

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<sup>24</sup> 47 C.F.R. § 54.101(a)(2).

<sup>25</sup> 47 C.F.R. § 54.401(a)(2).

FCC's definition of broadband Internet access and it will therefore provide all services designated for support by the FCC. (47 C.F.R. § 54.101(a)(2)).

ACE Fiber commits to provide these services consistent with applicable high-cost universal service support rules (47 C.F.R. § 54.101(c)). ACE Fiber will also offer Lifeline service as required by the FCC's rules within its proposed ETC designation area (47 C.F.R. § 54.101(d); 47 C.F.R. § 54.400 *et. seq.*);

- 4) ACE Fiber will offer voice telephony as a standalone service and both voice telephony and broadband service at rates that are reasonably comparable to urban rates;<sup>26</sup>
- 5) ACE Fiber will advertise the availability of its universal service offerings and charges for such offerings using media of general distribution (47 U.S.C. § 214(e)(1)(B); 47 C.F.R. § 54.201(d)(2)), namely through a combination of digital and traditional media, such as the Internet, outbound Email, advertising via radio, newspapers, magazines or other print advertisements, outdoor advertising, or direct marketing, and will also publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service. ACE Fiber's advertising strategy will build on ACE's extensive advertising and public outreach experience in operating as a member-owned, non-profit electric cooperative since 1936. (47 C.F.R. § 54.405(b));
- 6) ACE Fiber will provide the supported services throughout the designated service area for which it seeks ETC designation, identified in **Exhibits A and B** (47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d));

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<sup>26</sup> *USF/ICC Transformation Order*, 26 FCC Rcd at 17693, paras. 80-81; *see also* 47 C.F.R. § 54.101(b).

- 7) ACE Fiber certifies that, in accordance with 47 U.S.C. § 254(e), it will use federal universal service support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.
- 8) ACE Fiber possesses the financial and technical capability to provide the supported services. With the financial backing of ACE, ACE Fiber will offer high-speed broadband Internet and voice services to both Lifeline and non-Lifeline customers in the proposed ETC designation area and has full financial capabilities to underwrite its share of construction and start-up expenses (e.g., construction, hardware, operations, etc.) to get its fiber optic network built and begin offering voice and broadband services. As stated, ACE has been operating as an electric distribution services provider in Mississippi since 1934. ACE Fiber does not, and will not, rely on universal service fund disbursements to operate. ACE Fiber and/or ACE will be able to obtain the requisite amount of lending under its existing lines of credit and ACE Fiber and/or ACE is able to obtain additional financing, if necessary, in addition to the RDOF Phase I support being made available to ACE Fiber. Finally, ACE Fiber has not been subject to any enforcement proceedings or ETC revocation proceedings. ACE Fiber will be able to leverage ACE's experience in maintaining and upgrading utility infrastructure. Accordingly, ACE Fiber is capable of managing, maintaining and repairing infrastructure for support of the proposed services. (47 C.F.R. § 54.202(a)(4));
- 9) ACE Fiber further certifies that it meets all of the applicable requirements for designation as an ETC<sup>27</sup> under 47 C.F.R. § 54.202 as follows:

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<sup>27</sup> Auction 904 Procedures Public Notice, para. 136; WCB Reminds Connect America Fund Phase II Applicants of the Process for Obtaining Federal Designation as an Eligible Telecommunications Carrier, Public Notice, 33 FCC Rcd 6696 (WCB 2018) (*Federal ETC Public Notice*)(waiving the FCC requirement for a winning bidder to file a five-year plan (47 C.F.R. § 54.202(a)(1)(ii)) and to demonstrate that it will satisfy applicable consumer protection and service quality standings (47 C.F.R. § 54.202(a)(3))).

Compliance With Applicable Service and Performance Quality Requirements. ACE Fiber certifies that it will comply with the service requirements applicable to the support that it receives,<sup>28</sup> including the requirements of the RDOF Auction. ACE Fiber's capabilities for providing the services in accordance with these requirements will be detailed in its FCC Form 683 long form application<sup>29</sup> and are incorporated by reference. Additionally, ACE Fiber certifies that it will comply with the ETC-specific commitments required by the FCC in its *2005 ETC Order*.<sup>30</sup> The FCC has waived the requirement for a winning bidder to file a five-year plan and demonstrate that it will satisfy applicable consumer protection and service quality standings, as part of the ETC designation process for RDOF Phase I-eligible census blocks.<sup>31</sup> Further, given that ACE Fiber seeks ETC designation for Lifeline support only in additional service areas, a five-year network improvement plan is not provided. ACE Fiber is currently subject to and complies with all state and federal consumer protection requirements and service quality standards applicable to its operations. ACE Fiber has not been the subject of any serious consumer complaints or investigations. ACE Fiber will prioritize complying with all applicable consumer protection and service quality standards to satisfy this requirement.

Ability to Remain Functional in Emergency Situations. ACE Fiber hereby certifies that it will be able to function in emergency situations as set forth in Section 54.202(a)(2) of the FCC's rules.<sup>32</sup> ACE Fiber will establish reasonable provisions to meet emergencies resulting from failures

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<sup>28</sup> 47 C.F.R. § 54.202(a)(1)(i).

<sup>29</sup> See ACE Fiber's Form 683 Long Form Application.

<sup>30</sup> *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and order, FCC 05-46 (rel. Mar. 17, 2005) ("2005 ETC Order").

<sup>31</sup> *Auction 904 Procedures Public Notice*, para. 136; *WCB Reminds Connect America Fund Phase II Applicants of the Process for Obtaining Federal Designation as an Eligible Telecommunications Carrier*, Public Notice, 33 FCC Rcd 6696 (WCB 2018) (*Federal ETC Public Notice*) (waiving the FCC requirement for a winning bidder to file a five-year plan (47 C.F.R. § 54.202(a)(1)(ii)) and to demonstrate that it will satisfy applicable consumer protection and service quality standings (47 C.F.R. § 54.202(a)(3))).

<sup>32</sup> Section 54.202(a)(2) requires ETCs that are designated by the Commission to "demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to

of power service, sudden and prolonged increases in traffic, illness of operators or other credible emergency situations. These plans will include provisions to supply a reasonable amount of emergency power and contain activation, required staffing, escalation, and communication procedures to deal with such emergencies. ACE Fiber's voice and broadband network is designed to remain functional in emergency situations without an external power source, reroute traffic around damaged facilities and manage traffic spikes resulting from emergency situations as required by Section 54.202(a)(2) of the FCC's rules.<sup>33</sup>

ACE Fiber's ground-based facilities will be equipped with independent power generators and sufficient fuel to operate for several days so as to mitigate power outages. More specifically, ACE Fiber's central office building and electric equipment will be supplied with standby generators and battery back-up to enable the central office to keep running until power is restored so long as fuel is available or until system changes are made to reroute traffic. ACE Fiber's generators and battery back-up will support both voice and broadband network equipment should an emergency situation occur.

ACE Fiber's network will be capable of managing traffic spikes resulting from emergency situations since it can change call routing translations as needed to reroute traffic around damaged facilities. The design of these facilities contains multiple levels of redundancy and autonomy that also mitigate the need for dedicated human interaction. Finally, ACE Fiber's contract arrangement with LogicomUSA also imposes certain obligations on LogicomUSA to ensure ACE Fiber's supported service offering remains functional during emergency situations. ACE Fiber plans to apply this successful model to proposed ETC designated area.

## VII. ACE FIBER MEETS THE FEDERAL STATUTORY AND

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ensure functionality without an external power source, is able to reroute traffic around damaged facilities, and is capable of maintaining traffic spikes resulting from emergency situations."

<sup>33</sup> 47 C.F.R. § 54.202(a)(2).

## **REGULATORY PREREQUISITES TO BE DESIGNATED AS A LIFELINE-ONLY ETC IN THE ADDITIONAL CENSUS BLOCKS.**

As demonstrated herein, ACE Fiber satisfies each of the federal statutory and regulatory requirements to be designated as a Lifeline-only ETC in the additional census blocks requested.

### **A. Service Plans**

ACE Fiber will offer voice and broadband Lifeline service consistent with the rules of the FCC, including the minimum service standards for Lifeline service set forth in Sections 54.408(b)(1) and (c) of the FCC's rules. ACE Fiber plans to offer the applicable monthly Lifeline discount on any of the voice and/or broadband plans that it offers to its non-Lifeline subscribers.

### **B. Verification Requirements**

ACE Fiber will provide Lifeline service only to customers whose eligibility is confirmed via the National Verifier. Customers wishing to apply for federal Lifeline benefits will be instructed to apply to the National Verifier either by submitting an application online or via U.S. Mail.

### **C. Lifeline Obligations**

1. ACE Fiber will publicize the availability of Lifeline service in a manner reasonably designed to reach those likely to qualify for the service.<sup>34</sup>

2. ACE Fiber will indicate on all materials describing the Lifeline service, using easily understood language, that it is a Lifeline service, that Lifeline is a government assistance program, the service is non-transferable, only eligible customers may enroll in the program, and the program is limited to one discount per household.<sup>35</sup>

3. ACE Fiber will disclose its name on all materials describing the service.<sup>36</sup>

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<sup>34</sup> 47 C.F.R. § 54.405(b).

<sup>35</sup> 47 C.F.R. § 54.405(c).

<sup>36</sup> 47 C.F.R. § 54.405(d).

4. ACE Fiber will de-enroll Lifeline subscribers when it has a reasonable basis to believe that the Lifeline subscriber no longer meets the criteria to be considered a qualifying low-income consumer in compliance with Section 54.409 of the FCC's Rules.<sup>37</sup>

**D. Minimum Service Standards**

ACE Fiber will meet the minimum service standards for Lifeline service, as set forth in Sections 54.408(b)(1) and (c) of the FCC's rules.

**E. Annual Certifications**

ACE Fiber will comply with the annual certification requirements set forth in Section 54.416 of the FCC's rules, including the requirement to provide, on an annual basis, the results of its re-certification efforts to the FCC.

**F. Recordkeeping Requirements**

ACE Fiber will comply with applicable recordkeeping requirements, as set forth in Section 54.417 of the FCC's Rules.

**G. Annual Reporting Requirements**

ACE Fiber will comply with applicable annual reporting requirements, as set forth in Section 54.422 of the FCC's Rules, including the requirement to file such reports with the FCC.

**VIII. DESIGNATION OF ACE FIBER AS AN ETC IS IN THE PUBLIC INTEREST**

Designation of ACE Fiber as an ETC serves the public interest by allowing ACE Fiber to bring high-speed broadband Internet and VoIP services to underserved locations in the designated census blocks, including to low-income households that qualify for Lifeline discounts. The grant of this Application will clearly serve the public interest by enabling ACE Fiber to provide low-

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<sup>37</sup> 47 C.F.R. § 54.405(e).



latency, gigabit-speed broadband and interconnected VoIP-based voice services to residents and businesses 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. ACE Fiber's participation will "encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans . . . ,"<sup>38</sup> and will aid the Commission's objective of ensuring that federal universal service support, including RDOF Phase I support, is used efficiently and effectively.

As a winning bidder in the RDOF Auction, ACE Fiber is eligible to receive funding support over the next ten years to bring high-quality, innovative voice and broadband services to consumers in locations in Mississippi for which it was identified as a winning bidder. As is evidenced herein and will be confirmed by ACE Fiber's Form 683 long form application, the voice and broadband services ACE Fiber proposes to deploy with the funds would advance the goal of the RDOF Auction and thereby advance the goals of universal service.<sup>39</sup>

Granting ACE Fiber's Application will serve the public interest through the deployment of broadband and voice services to unserved and underserved high-cost areas in Mississippi, support investment in facilities and equipment, and expand the number of competitive providers serving rural areas in Mississippi. ACE Fiber's deployments will also help to close the digital divide for residents of Mississippi and expand economic opportunity for communities that will benefit from increased connectivity. Designating ACE Fiber as an ETC will also help promote economic and job growth in Mississippi through the employment of ACE Fiber's network of independent installers and dealers. Because granting ACE Fiber's Application will allow it to use the RDOF support as intended to expand voice and broadband service in Mississippi, designating ACE Fiber

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<sup>38</sup> 47 U.S.C. § 1302(a).

<sup>39</sup> 47 U.S.C. § 254.

as an ETC is in the public interest.

Furthermore, the funds provisionally awarded to ACE Fiber through the RDOF Auction will come directly from the funds annually set aside by the FCC for RDOF support. Therefore, ACE Fiber's use of the Universal Service Fund for the provision of the services described herein will have no *per se* impact on the funds. The RDOF funding was awarded pursuant to a competitive bidding process that was designed to allocate this set-aside finding to the service providers that could demonstrate that they could efficiently and cost-effectively provide the desired level of services to the underserved areas. Additionally, any Lifeline support that ACE Fiber receives will have *de minimis* impact on the fund, which the FCC has determined would be outweighed by the benefit of increasing participation in the Lifeline program. Finally, all providers are required to contribute a portion of their interstate revenues to the Universal Service Fund. In accordance with federal regulations, ACE Fiber will contribute to the Universal Service Fund based upon the portion of its revenues determined to be interstate. Thus, approving ACE Fiber as an ETC will create contributions to the Universal Service Fund that were previously nonexistent.

#### IX. ANTI-DRUG ABUSE CERTIFICATION

ACE Fiber certifies that neither the petitioner nor any party to the petition is subject to a denial of federal benefits, including FCC benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.<sup>40</sup>

#### X. CONCLUSION

For the reasons stated herein, ACE Fiber respectfully requests (i) an expeditious Order designating it as a High-Cost and Low income ETC in Mississippi so that ACE Fiber will be eligible to receive the RDOF Phase 1 support it has been awarded in the FCC's Auction 904, as well as provide

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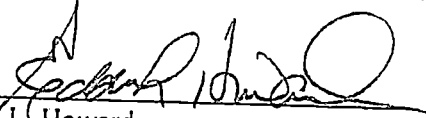
<sup>40</sup> [21 U.S.C. § 862], as implemented in Section 1.2002 of the Commission's rules [47 C.F.R. § 1.2002].

Lifeline subsidies to those within its proposed ETC designation area who are qualified to receive Lifeline benefits; and (ii) such other relief as this Commission deems to be just and equitable.

January 06, 2021

Respectfully submitted,

First Light Fiber, LLC (dba "ACE Fiber")

By:   
Eddie L. Howard  
CEO

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## **LIST OF EXHIBITS**

**Exhibit A** – List of Census Block Groups Where ACE Fiber was Awarded RDOF Auction Support and is Seeking ETC Designation for High-Cost and Lifeline Support

**Exhibit B** – List of Census Block Groups Where ACE Fiber Seeks ETC Designation for Lifeline Support Only

**Exhibit C** - Map of ACE Fiber's Service Area

**Exhibit D** - Certification

**Exhibit E** – Certificate of Good Standing

**Exhibit F** – Notice of Interested Parties

**Exhibit G** – Certificate of Service

**Exhibit H** – Sample Lifeline Advertisement