

AB Indiana LLC

17 Hunt Valley View Phoenix MD 21131 Ph# 410-667-1638

June 7, 2021

**VIA ELECTRONIC FILING**

Mr. Adam Teitzman  
Commission Clerk  
Florida Public Service Commission

2540 Shumard Oak Blvd. Tallahassee, FL 32399-6100

*Re: Docket No. 2020\_ \_ \_ \_*

*Application of AB Indiana LLC Designation as an Eligible Telecommunications Carrier for Broadband and Voice Over Internet Protocol Services in Connection with Funding Provided Pursuant to the FCC's Rural Digital Opportunity Fund Phase I Auction (Auction 904) or, In the Alternative, Petition for Expedited Declaratory Statement*

Dear Mr. Teitzman:

AB Indiana LLC hereby submits the enclosed Application for Designation as an Eligible Telecommunications Carrier.

Please do not hesitate to contact us should you have any questions regarding the enclosed or if you require anything further.

Sincerely,

*James F Connor*

Jim Connor  
CEO

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

Petition for AB Indiana LLC  
for Expedited Designation as an Eligible Telecommunications Carrier or,  
in the Alternative, Petition for an Expedited Declaratory Statement

Docket No. \_\_\_\_\_ June 7<sup>th</sup>, 2021

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**PETITION FOR EXPEDITED DESIGNATION AS AN ELIGIBLE  
TELECOMMUNICATIONS CARRIER  
OR, IN THE ALTERNATIVE,  
PETITION FOR EXPEDITED DECLARATORY STATEMENT**

AB Indiana LLC (“ABIndiana or “Petitioner”), hereby requests an expedited ETC Designation Order or, in the alternative, an Expedited Declaratory Statement<sup>1</sup> from the Florida Public Service Commission that AB Indiana, which will soon offer fixed broadband service through the deployment of its wireless network in Florida at speeds of up to 100 mbps, as well as interconnected Voice over Internet Protocol (“VoIP”)-based voice service, in the State of Florida is not subject to the jurisdiction of the Commission for purposes of seeking Eligible Telecommunications Carrier (“ETC”) designation.

AB Indiana, has recently been awarded federal subsidies through the Federal Communications Commission’s (“FCC”) Rural Digital Opportunity Fund (“RDOF”) Phase I

<sup>2</sup>  
AB Indiana seek and obtain ETC designation within 180 days of the FCC’s December 7, 2020 Public Notice announcing the winning bidders in the RDOF Phase I auction.

As a condition of receiving RDOF Phase I subsidies, the FCC requires that <sup>3</sup>

If the Commission declines to exercise jurisdiction over this ETC application, AB Indiana must file an ETC application with the FCC within 30 days of the release

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<sup>1</sup> Rule 28-105.001 (“A declaratory statement is a means for resolving a controversy or answering questions or doubt concerning the applicability of statutory provisions. . .”).

<sup>2</sup> See *Rural Digital Opportunity Fund Phase I Auction (Auction 904) Closes*, Public Notice, DA 20-1422 (December 7, 2020).

<sup>3</sup> 47 C.F.R. § 54.804(b)(5).

<sup>4</sup> See *Notice and Filing Requirements and Other Procedures for Auction 904 Public Notice*, FCC 20-77 at para. 317 (rel., June 11, 2020).

of the Auction 904 closing public notice.

In connection with the allocation of funds to RDOF Phase I winning bidders, the FCC has stated that:

Petitioners seeking an FCC ETC designation ... must submit “an affirmative statement from the state commission ... that the carrier is not subject to the state commission’s jurisdiction.” The statement may take the form of a “duly authorized letter, comment, or order from the relevant state regulatory commission ...indicating that the state lacks authority to designate the carrier.” *Carriers cannot rely on jurisdictional statements in past orders relating to different carriers ....* If a state law expressly articulates that it does not have jurisdiction over a relevant type of technology, [FCC] staff would consider such a statute

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As a result, AB Indiana is seeking an Order or, in the alternative, a Declaratory Statement, on an expedited basis, from the Commission that it declines to exercise jurisdiction over AB Indiana’s ETC petition.

In 2018, the Commission issued an Order in response to an ETC petition filed by

Viasat Carrier Services, Inc. (“Viasat”) stating that it would not assert jurisdiction over the

ETC application of Viasat, a satellite provider also planning to offer broadband and VoIP

services in Florida following the FCC’s Connect America Fund Phase II auction. However,

AB Indiana is likely not permitted by the FCC to rely upon the Commission’s prior

decision involving Viasat in which the Commission directed Viasat to seek ETC designation

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As detailed 47 U.S.C. § 214(e), states have primary authority to designate carriers as ETCs. However, in 2011 the Florida Legislature detailed several services exempted from

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AB Indiana plans to offer solely fixed broadband service and interconnected VoIP-based voice service and, as a result, it appears that AB Indiana should seek ETC designation from the FCC, as opposed to the Commission. AB Indiana seeks an Order or,

<sup>5</sup> See *Rural Digital Opportunity Fund Phase I Auction Scheduled for October 29, 2020*, 2020 WL 3166244, Public Notice (rel. June 11, 2020).

<sup>6</sup> *Application for limited designation as an eligible telecommunications carrier (ETC) to receive Connect America Fund Phase II Auction (Auction 903) support for voice and broadband services with request for expedited consideration by Viasat Carrier Services, Inc.*, Docket No. 20180180-TX, Order No. PSC-2018-0531-PAA-TX, Notice of Proposed Agency Action Order Dismissing Application for Designation as an Eligible Telecommunications Carrier, issued Nov. 13, 2018 (“*Viasat Order*”); see also Memorandum from the Office of General Counsel and the Office of Industry Development and Market Analysis to the Office of Commission Clerk, Docket No. 20180180-TX, written Oct. 18, 2018.

<sup>7</sup> 2011 FL HB 1231, adopted May 5, 2011; see also Chapter 364.011, F.S. 2

from the FCC.

relevant in its determination of [FCC] jurisdiction.

Commission jurisdiction, including broadband services and VoIP services.

in the alternative, a Declaratory Statement, on an expedited basis, from the Commission for direction on this issue so that it may begin pursuing ETC designation from the FCC, if necessary.

AB Indiana respectfully requests that the Commission issue an Expedited Order or, in the alternative, an Expedited Declaratory Statement that declines to exercise jurisdiction over AB Indiana’s ETC Petition, and that the Commission provide for such further relief as may be appropriate.

Respectfully submitted,

**AB Indiana LLC**

**Jim Connor - CEO**

E-mail: jim@bridgemaxx.com