

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the) Docket No. 16-R360-01
Utah Affordable Base Rate for)
Telecommunications Services.) HEARING

May 31, 2016
9:00 a.m.

Location: Utah Public Service Commission
160 East 300 South Fourth Floor
Salt Lake City, Utah 84111

Job No: 308613
Reporter: Susan S. Sprouse

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A P P E A R A N C E S

For the Division of Public Utilities: Justin Jetter
For Utah Rural Telecom Association: Kira M. Slawson
For Gunnison Telephone Company: Natalie Gleave

1 May 31, 2016

2 P R O C E E D I N G S

3 * * *

4 ADMINISTRATIVE LAW JUDGE: Let's go ahead and
5 get started.

6 For the record, today is Tuesday, May 31st,
7 2016. It's 9 o'clock in the morning. This is the date
8 and time set for a rule hearing as to amendments that are
9 proposed to Utah Administrative Code R746-360-6.

10 The title of this rule is Universal Public
11 Telecommunications Service Support Fund Eligibility for
12 Funds Distribution. And in brief, the amendment just sets
13 the affordable base rate by rule rather than doing it case
14 by case for each telecom that comes in for either a rate
15 case or a subsidy case.

16 It appears that there's been some communication
17 due to the Commission's failure to specify that the
18 affordable base rate is permitted to include certain fees
19 and charges. By definition that is the case. So the
20 Commission has tried to clarify that through a
21 supplemental notice that was sent out last week.

22 This is a public comment hearing, and so we are
23 here today to take public comments. The commissioners, I
24 believe, are in another hearing today, but they are --
25 they have been fully involved in this rule filing and are

1 aware of the comments and are interested in hearing what
2 you all have to say today.

3 We have one caller on the line, Natalie Gleave,
4 from Gunnison Telephone.

5 Ms. Gleave, I'm going to let you go ahead and
6 make the first comment since you are on the line.

7 MS. GLEAVE: Oh, no. I just wanted to call in
8 and listen. I don't have any comment.

9 ADMINISTRATIVE LAW JUDGE: All right, then.

10 MS. GLEAVE: Thank you, though. I appreciate
11 that.

12 ADMINISTRATIVE LAW JUDGE: You're welcome.

13 All right then. We'll just sort of go in I
14 don't know what sort of order. We'll see what happens.

15 Who's here to make a comment today?

16 MS. SLAWSON: I am. This is Kira Slawson from
17 Blackburn and Stoll on behalf of URTA, the Utah Rural
18 Telecom Association and its members.

19 URTA has filed comments, two sets of comments in
20 this docket, and we appreciate the Public Service
21 Commission taking action on this issue.

22 We did have some questions and some concerns
23 about the rule as proposed. I think some of those may
24 have been clarified by some supplemental statements from
25 the Public Service Commission last week, but even more

1 effectively by some tariff approval letters that companies
2 who had sought to increase their rates may have received.

3 I -- I don't want to restate all of my comments,
4 but on behalf of the Utah Rural Telecom Association, our
5 primary concern with the rule as the way it's drafted is
6 that it appears to be an eligibility standard as opposed
7 to an imputation or rate standard, in that if companies
8 are not charging the base affordable rate as set by the
9 Commission, the way the rule is drafted now, it would
10 appear that they would not be eligible to receive State
11 USF.

12 The way --

13 ADMINISTRATIVE LAW JUDGE: Let me just say, it
14 says that they either have to charge the affordable base
15 rate or petition to deviate. But either circumstance
16 falls under the eligibility requirement.

17 MS. SLAWSON: But if they're -- if they're
18 required -- if they are required to petition to deviate,
19 then that would be heard in a formal proceeding.

20 ADMINISTRATIVE LAW JUDGE: Correct.

21 MS. SLAWSON: And so they would be -- it would
22 be impossible for them to have it. Do they -- it would be
23 impossible for that to be determined in time. So you are
24 saying as long as they filed it by July 1st?

25 ADMINISTRATIVE LAW JUDGE: That's what the

1 notice said, right?

2 MS. SLAWSON: The notice talked about --

3 ADMINISTRATIVE LAW JUDGE: It says you risk
4 losing it unless you file to increase your rates or file a
5 petition to deviate by the rule effective date.

6 MS. SLAWSON: And the way that it's been handled
7 previously is that if they -- if companies haven't filed
8 or haven't been charging the affordable base rate, that
9 amount is imputed and no USF is received for that imputed
10 income.

11 ADMINISTRATIVE LAW JUDGE: Right.

12 MS. SLAWSON: Is that how the Commission would
13 intend to continue?

14 ADMINISTRATIVE LAW JUDGE: Well, the Commission
15 would intend to take evidence on the reasons for the
16 companies wishing not to charge the affordable base rate,
17 and then decide whether to impute or not to impute, but
18 the Commission would retain that discretion.

19 What you've suggested is that the Commission
20 would be required to impute and would not be able to allow
21 a company to charge less without an imputation. And the
22 Commission is interested in retaining that discretion.

23 All right. Who else is here to make a comment
24 today?

25 MS. SLAWSON: Sorry. I've got a few more -- a

1 few more questions.

2 You indicated -- the Commission indicated that
3 the affordable base rate can include the EAS and USF fees,
4 but under 36 -- R746-360-2, it's the rule -- as it
5 currently states, says the affordable base rate does not
6 include the applicable USF retail surcharge. I didn't
7 know if that meant State USF or Federal USF or even if you
8 intended to modify that rule as well.

9 ADMINISTRATIVE LAW JUDGE: Okay. Give me that
10 rule citation again, would you?

11 MS. SLAWSON: R746-360-2.

12 ADMINISTRATIVE LAW JUDGE: Okay. I don't think
13 that we've looked at that one yet. We are looking to work
14 over the USF rules. They've been in place for a long
15 time, and some of them are difficult to read and could
16 maybe use an update. So we'll definitely take a look at
17 that one.

18 What I think the Commission would like to see is
19 just anybody who files for a rate increase would detail
20 what fees and charges are included in that total, total
21 rate.

22 MS. SLAWSON: Okay.

23 ADMINISTRATIVE LAW JUDGE: And then the
24 Commission would just review that.

25 MS. SLAWSON: Okay. And then one other thing is

1 there -- will there be guidance given to the companies on
2 what standards the Commission will look at as to whether
3 they will impute the -- the USF -- or the affordable base
4 rate as opposed to deny eligibility for any USF? Is the
5 Commission going to look at standards or promulgate
6 standards for what that will look like?

7 ADMINISTRATIVE LAW JUDGE: I don't believe it
8 has plans now. That's certainly something that we would
9 be willing to look at if the industry feels a need for
10 that. I believe the Commission's intent is to look at
11 each case and whatever evidence the companies might bring.

12 In the past, most of those have been resolved by
13 stipulation. And if they are, I think the Commission
14 would continue to have the tendency to accept and approve
15 stipulations.

16 But if it went to hearing, then the Commission
17 would certainly look at the evidence. But I'm not sure
18 how the Commission would pre-decide anything by rule as to
19 whether it would impute or whether it would not.

20 MS. SLAWSON: Well, and I guess that's where the
21 companies get concerned, is that it's difficult to make
22 that determination. It's difficult for the companies to
23 make that determination as to whether when they're a long
24 process for -- a formal process for deviating the
25 affordable base rule is going to be successful versus just

1 raising their rates to the affordable base rate. And if
2 there's no standards for them to look at as to how that
3 might be judged, it's difficult for them to make that
4 determination.

5 ADMINISTRATIVE LAW JUDGE: Okay. Thank you.

6 MS. SLAWSON: And then my -- one of my final
7 comments would be with regard to the -- so as -- just as a
8 point of clarification, if you can possibly answer this
9 question, it looked to me from the tariff approval letters
10 that certain companies have received, that the companies
11 can either go to an \$18 affordable base rate exclusive of
12 EAS and USF, or they could choose to include those; is
13 that correct?

14 ADMINISTRATIVE LAW JUDGE: I think that's
15 correct.

16 MS. SLAWSON: Okay.

17 ADMINISTRATIVE LAW JUDGE: All right. Who else
18 is here to make a comment today?

19 JUSTIN JETTER: This is Justin Jetter. I
20 represent the Utah Division of Public Utilities. And
21 we're here today to, I suppose, answer any questions that
22 anyone might have of us simply because we're pretty
23 heavily involved in the USF as the fund administrator.
24 But we don't have a strong preference on any of the
25 proposed changes really. So we --

1 ADMINISTRATIVE LAW JUDGE: Is there -- are there
2 any questions that have been raised by URTA at this point
3 that the Division would like to respond to or speak to?

4 JUSTIN JETTER: I don't think we -- I guess the
5 only thing that I think it's already been fairly well
6 clarified, but we were fairly neutral. We were okay with
7 imputing the difference if the companies wish to charge
8 below the affordable base rate amount.

9 ADMINISTRATIVE LAW JUDGE: All right.

10 JUSTIN JETTER: It's mainly because of their
11 vested interest. We don't have one, a strong preference
12 for forcing them up to the full amount if they think it's
13 better to impute.

14 ADMINISTRATIVE LAW JUDGE: Right.

15 JUSTIN JETTER: I suppose I would agree to some
16 extent with URTA's counsel that it would be useful for us
17 also in evaluating our responses to the applications to
18 deviate if we had a little bit of guidance from the
19 Commission on --

20 ADMINISTRATIVE LAW JUDGE: On when to impute?

21 JUSTIN JETTER: When to impute or when the
22 Commission, at least, would, I guess, allow imputation.

23 ADMINISTRATIVE LAW JUDGE: You'll have to
24 correct me if I am wrong, because I haven't been with the
25 Commission as long as many of you have, but I don't think

1 there's any history of the Commission disallowing
2 imputation, is there?

3 JUSTIN JETTER: Yet. Um, not that, I guess,
4 we're aware of at the Division. I think companies allowed
5 it. And I don't know that we need, at least from our
6 perspective, a specific formula or something, just an idea
7 of what kind of the goals are and what kind of factors the
8 Commission is going to look at, or what evidence they'd
9 like to see that --

10 ADMINISTRATIVE LAW JUDGE: Okay.

11 JUSTIN JETTER: -- would support that.

12 ADMINISTRATIVE LAW JUDGE: Thank you.

13 Go ahead.

14 MS. SLAWSON: Kira Slawson for the URTA, a
15 couple of other comments.

16 With regards to -- I know some of this was
17 precipitated likely by the changes to the federal local
18 floor benchmark. And the federal local floor benchmark
19 speaks in terms of only a rate for residential, the \$18
20 currently moving up to 20 next year, and then. And so the
21 Public Service Commission has identified those rates as --
22 the Public Service Commission has also identified a
23 business rate, and UTRA has suggested in its comments that
24 perhaps that, that rate was not necessary. And so we
25 would like to see that business rate removed and just have

1 the 18.50, allowing the companies to determine the
2 appropriate business rate -- I mean the \$18. That's one
3 comment.

4 And then the additional comment is the rule
5 speaks -- the proposed rule speaks in terms of as of July
6 1st, 2017, the rate will be \$20 per residential line and
7 29.50 for a business line. And I'm just wondering if
8 that's then where it would end, or does the Commission
9 anticipate having additional proceedings to change the
10 rules if the federal local floor goes up?

11 ADMINISTRATIVE LAW JUDGE: I don't know. And
12 your reason for objecting to the business rate is that's
13 simply because the FCC doesn't address it?

14 MS. SLAWSON: Right.

15 ADMINISTRATIVE LAW JUDGE: So are you making an
16 argument that the Commission doesn't have the authority to
17 set that?

18 MS. SLAWSON: No, certainly we're not making
19 that. What we're suggesting is that for ease of
20 compliance, that the state rate mirror the federal rate
21 and include -- just mirror the federal rate so that as
22 the -- as the local rate floor increases on the federal
23 side, the states aren't -- the state isn't lock-stepped
24 and the rates that the companies charged would also be
25 lock-stepped.

1 ADMINISTRATIVE LAW JUDGE: Thank you.

2 All right. Is anyone else here to make a
3 comment here today? It appears not.

4 So thank you all very much. I will be
5 discussing the comments with the Commission. And, of
6 course, this hearing has been -- we have a court reporter
7 here so it can be transcribed, if needed.

8 For the record, today is the last day for public
9 comment. The public comment does go through 5 o'clock
10 p.m. So there is still some time to submit a comment for
11 anybody who wants to.

12 The first possible effective date is June 7 of
13 2016. Thank you.

14 MS. SLAWSON: Thank you.

15 (Proceedings were concluded at 9:12 a.m.)

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C E R T I F I C A T E

STATE OF UTAH)
) SS.
COUNTY OF SALT LAKE)

I, Susan S. Sprouse, a Registered Professional Reporter, Certified Court Reporter, and Notary Public in and for the State of Utah, do hereby certify:

That the foregoing hearing was taken on May 31, 2016.

That the proceedings were reported by me in stenotype and thereafter transcribed by computer, and that a full, true, and correct transcription of said testimony so taken is set forth in the foregoing pages;

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action, and that I am not interested in the event thereof.

WITNESS MY HAND and official seal at Salt Lake City, Utah, this 7th day of June, 2016.



SUSAN S. SPROUSE
License No. 5965543-7801

<p>\$</p> <hr/> <p>\$18 9:11 11:19 12:2</p> <p>\$20 12:6</p> <hr/> <p>1</p> <hr/> <p>18.50 12:1</p> <p>1st 5:24 12:6</p> <hr/> <p>2</p> <hr/> <p>20 11:20</p> <p>2016 3:1,7 13:13</p> <p>2017 12:6</p> <p>29.50 12:7</p> <hr/> <p>3</p> <hr/> <p>31 3:1</p> <p>31st 3:6</p> <p>36 7:4</p> <hr/> <p>5</p> <hr/> <p>5 13:9</p> <hr/> <p>7</p> <hr/> <p>7 13:12</p> <hr/> <p>9</p> <hr/> <p>9 3:7</p> <p>9:12 13:15</p> <hr/> <p>A</p> <hr/> <p>a.m. 13:15</p> <p>able 6:20</p> <p>accept 8:14</p> <p>action 4:21</p> <p>additional 12:4,9</p> <p>address 12:13</p>	<p>Administrative 3:4,9 4:9,12 5:13,20,25 6:3, 11,14 7:9,12, 23 8:7 9:5,14, 17 10:1,9,14, 20,23 11:10,12 12:11,15 13:1</p> <p>administrator 9:23</p> <p>affordable 3:13,18 5:8,14 6:8,16 7:3,5 8:3,25 9:1,11 10:8</p> <p>again 7:10</p> <p>agree 10:15</p> <p>ahead 3:4 4:5 11:13</p> <p>all 4:2,9,13 5:3 6:23 9:17 10:9 13:2,4</p> <p>allow 6:20 10:22</p> <p>allowed 11:4</p> <p>allowing 12:1</p> <p>already 10:5</p> <p>also 10:17 11:22 12:24</p> <p>amendment 3:12</p> <p>amendments 3:8</p> <p>amount 6:9 10:8,12</p> <p>another 3:24</p> <p>anticipate 12:9</p> <p>anybody 7:19 13:11</p> <p>anyone 9:22 13:2</p> <p>anything 8:18</p> <p>appear 5:10</p> <p>appears 3:16 5:6 13:3</p>	<p>applicable 7:6</p> <p>applications 10:17</p> <p>appreciate 4:10,20</p> <p>appropriate 12:2</p> <p>approval 5:1 9:9</p> <p>approve 8:14</p> <p>argument 12:16</p> <p>Association 4:18 5:4</p> <p>authority 12:16</p> <p>aware 4:1 11:4</p> <hr/> <p>B</p> <hr/> <p>base 3:13,18 5:8,14 6:8,16 7:3,5 8:3,25 9:1,11 10:8</p> <p>behalf 4:17 5:4</p> <p>believe 3:24 8:7,10</p> <p>below 10:8</p> <p>benchmark 11:18</p> <p>better 10:13</p> <p>bit 10:18</p> <p>Blackburn 4:17</p> <p>brief 3:12</p> <p>bring 8:11</p> <p>business 11:23,25 12:2, 7,12</p> <hr/> <p>C</p> <hr/> <p>call 4:7</p> <p>caller 4:3</p> <p>case 3:13,14, 15,19 8:11</p>	<p>certain 3:18 9:10</p> <p>certainly 8:8, 17 12:18</p> <p>change 12:9</p> <p>changes 9:25 11:17</p> <p>charge 5:14 6:16,21 10:7</p> <p>charged 12:24</p> <p>charges 3:19 7:20</p> <p>charging 5:8 6:8</p> <p>choose 9:12</p> <p>circumstance 5:15</p> <p>citation 7:10</p> <p>clarification 9:8</p> <p>clarified 4:24 10:6</p> <p>clarify 3:20</p> <p>Code 3:9</p> <p>comes 3:14</p> <p>comment 3:22 4:6,8,15 6:23 9:18 12:3,4 13:3,9,10</p> <p>comments 3:23 4:1,19 5:3 9:7 11:15,23 13:5</p> <p>Commission 3:20 4:21,25 5:9 6:12,14,18, 19,22 7:2,18, 24 8:2,5,13,16, 18 10:19,22,25 11:1,8,21,22 12:8,16 13:5</p> <p>Commission's 3:17 8:10</p> <p>commissioners 3:23</p>	<p>communicatio n 3:16</p> <p>companies 5:1,7 6:7,16 8:1,11,21,22 9:10 10:7 11:4 12:1,24</p> <p>company 6:21</p> <p>compliance 12:20</p> <p>concern 5:5</p> <p>concerned 8:21</p> <p>concerns 4:22</p> <p>concluded 13:15</p> <p>continue 6:13 8:14</p> <p>correct 5:20 9:13,15 10:24</p> <p>counsel 10:16</p> <p>couple 11:15</p> <p>course 13:6</p> <p>court 13:6</p> <p>currently 7:5 11:20</p> <hr/> <p>D</p> <hr/> <p>date 3:7 6:5 13:12</p> <p>day 13:8</p> <p>decide 6:17</p> <p>definitely 7:16</p> <p>definition 3:19</p> <p>deny 8:4</p> <p>detail 7:19</p> <p>determination 8:22,23 9:4</p> <p>determine 12:1</p> <p>determined 5:23</p> <p>deviate 5:15,18 6:5 10:18</p>
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<p>deviating 8:24 difference 10:7 difficult 7:15 8:21,22 9:3 disallowing 11:1 discretion 6:18,22 discussing 13:5 Distribution 3:12 Division 9:20 10:3 11:4 docket 4:20 drafted 5:5,9 due 3:17</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>each 3:14 8:11 EAS 7:3 9:12 ease 12:19 effective 6:5 13:12 effectively 5:1 either 3:14 5:14,15 9:11 eligibility 3:11 5:6,16 8:4 eligible 5:10 end 12:8 evaluating 10:17 even 4:25 7:7 evidence 6:15 8:11,17 11:8 exclusive 9:11 extent 10:16</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>factors 11:7 failure 3:17</p>	<p>fairly 10:5,6 falls 5:16 FCC 12:13 federal 7:7 11:17,18 12:10,20,21,22 feels 8:9 fees 3:18 7:3, 20 few 6:25 7:1 file 6:4 filed 4:19 5:24 6:7 files 7:19 filing 3:25 final 9:6 first 4:6 13:12 floor 11:18 12:10,22 forcing 10:12 formal 5:19 8:24 formula 11:6 full 10:12 fully 3:25 fund 3:11 9:23 Funds 3:12</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>Give 7:9 given 8:1 Gleave 4:3,5,7, 10 goals 11:7 goes 12:10 guess 8:20 10:4,22 11:3 guidance 8:1 10:18 Gunnison 4:4</p>	<hr/> <p style="text-align: center;">H</p> <hr/> <p>handled 6:6 happens 4:14 having 12:9 heard 5:19 hearing 3:8,22, 24 4:1 8:16 13:6 heavily 9:23 here 3:23 4:15 6:23 9:18,21 13:2,3,7 history 11:1</p> <hr/> <p style="text-align: center;">I</p> <hr/> <p>idea 11:6 identified 11:21,22 impossible 5:22,23 imputation 5:7 6:21 10:22 11:2 impute 6:17,20 8:3,19 10:13, 20,21 imputed 6:9 imputing 10:7 include 3:18 7:3,6 9:12 12:21 included 7:20 income 6:10 increase 5:2 6:4 7:19 increases 12:22 indicated 7:2 industry 8:9 intend 6:13,15 intended 7:8 intent 8:10</p>	<p>interest 10:11 interested 4:1 6:22 involved 3:25 9:23 issue 4:21</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>Jetter 9:19 10:4,10,15,21 11:3,11 JUDGE 3:4 4:9, 12 5:13,20,25 6:3,11,14 7:9, 12,23 8:7 9:5, 14,17 10:1,9, 14,20,23 11:10,12 12:11,15 13:1 judged 9:3 July 5:24 12:5 June 13:12 Justin 9:19 10:4,10,15,21 11:3,11</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>kind 11:7 Kira 4:16 11:14</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>last 3:21 4:25 13:8 LAW 3:4 4:9,12 5:13,20,25 6:3, 11,14 7:9,12, 23 8:7 9:5,14, 17 10:1,9,14, 20,23 11:10,12 12:11,15 13:1 least 10:22 11:5 less 6:21</p>	<p>let 4:5 5:13 letters 5:1 9:9 like 7:18 8:6 10:3 11:9,25 likely 11:17 line 4:3,6 12:6, 7 listen 4:8 little 10:18 local 11:17,18 12:10,22 lock-stepped 12:23,25 long 5:24 7:14 8:23 10:25 looked 7:13 9:9 looking 7:13 losing 6:4</p> <hr/> <p style="text-align: center;">M</p> <hr/> <p>mainly 10:10 make 4:6,15 6:23 8:21,23 9:3,18 13:2 making 12:15, 18 many 10:25 may 3:1,6 4:23 5:2 maybe 7:16 mean 12:2 meant 7:7 members 4:18 might 8:11 9:3, 22 mirror 12:20, 21 modify 7:8 more 4:25 6:25 7:1 morning 3:7 most 8:12</p>
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<p>moving 11:20 much 13:4</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>Natalie 4:3 necessary 11:24 need 8:9 11:5 needed 13:7 neutral 10:6 next 11:20 notice 3:21 6:1,2</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>objecting 12:12 one 4:3 7:13, 17,25 9:6 10:11 12:2 only 10:5 11:19 opposed 5:6 8:4 order 4:14 over 7:14</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>p.m. 13:10 past 8:12 perhaps 11:24 permitted 3:18 perspective 11:6 petition 5:15, 18 6:5 place 7:14 plans 8:8 point 9:8 10:2 possible 13:12 possibly 9:8 pre-decide 8:18</p>	<p>precipitated 11:17 preference 9:24 10:11 pretty 9:22 previously 6:7 primary 5:5 proceeding 5:19 proceedings 12:9 13:15 process 8:24 promulgate 8:5 proposed 3:9 4:23 9:25 12:5 public 3:10,22, 23 4:20,25 9:20 11:21,22 13:8,9</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>question 9:9 questions 4:22 7:1 9:21 10:2</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>R746-360-2 7:4,11 R746-360-6 3:9 raised 10:2 raising 9:1 rate 3:13,14,18 5:7,8,15 6:8,16 7:3,5,19,21 8:4 9:1,11 10:8 11:19,23,24,25 12:2,6,12,20, 21,22 rates 5:2 6:4 9:1 11:21 12:24 rather 3:13</p>	<p>read 7:15 really 9:25 reason 12:12 reasons 6:15 receive 5:10 received 5:2 6:9 9:10 record 3:6 13:8 regard 9:7 regards 11:16 removed 11:25 reporter 13:6 represent 9:20 required 5:18 6:20 requirement 5:16 residential 11:19 12:6 resolved 8:12 respond 10:3 responses 10:17 restate 5:3 retail 7:6 retain 6:18 retaining 6:22 review 7:24 risk 6:3 rule 3:8,10,13, 25 4:23 5:5,9 6:5 7:4,8,10 8:18,25 12:4,5 rules 7:14 12:10 Rural 4:17 5:4</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>said 6:1 say 4:2 5:13 saying 5:24 says 5:14 6:3 7:5</p>	<p>sent 3:21 10:11 Service 3:11 4:20,25 11:21, 22 set 3:8 5:8 12:17 sets 3:12 4:19 side 12:23 simply 9:22 12:13 since 4:6 Slawson 4:16 5:17,21 6:2,6, 12,25 7:11,22, 25 8:20 9:6,16 11:14 12:14,18 13:14 something 8:8 11:6 Sorry 6:25 sort 4:13,14 sought 5:2 speak 10:3 speaks 11:19 12:5 specific 11:6 specify 3:17 standard 5:6,7 standards 8:2, 5,6 9:2 started 3:5 state 5:10 7:7 12:20,23 statements 4:24 states 7:5 12:23 still 13:10 stipulation 8:13 stipulations 8:15 Stoll 4:17 strong 9:24</p>	<p>submit 13:10 subsidy 3:15 successful 8:25 suggested 6:19 11:23 suggesting 12:19 supplemental 3:21 4:24 support 3:11 11:11 suppose 9:21 10:15 surcharge 7:6</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>take 3:23 6:15 7:16 taking 4:21 talked 6:2 tariff 5:1 9:9 telecom 3:14 4:18 5:4 Telecommunic ations 3:11 Telephone 4:4 tendency 8:14 terms 11:19 12:5 than 3:13 their 5:2 9:1 10:10 thing 7:25 10:5 through 3:20 13:9 time 3:8 5:23 7:15 13:10 title 3:10 today 3:6,23, 24 4:2,15 6:24 9:18,21 13:3,8</p>
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<p>total 7:20 transcribed 13:7 tried 3:20 Tuesday 3:6 two 4:19</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>under 5:16 7:4 Universal 3:10 unless 6:4 update 7:16 URTA 4:17,19 10:2 11:14 URTA'S 10:16 use 7:16 useful 10:16 USF 5:11 6:9 7:3,6,7,14 8:3, 4 9:12,23 Utah 3:9 4:17 5:4 9:20 Utilities 9:20 UTRA 11:23</p> <hr/> <p style="text-align: center;">V</p> <hr/> <p>versus 8:25 vested 10:11</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>want 5:3 wanted 4:7 wants 13:11 way 5:5,9,12 6:6 week 3:21 4:25 welcome 4:12 went 8:16 whatever 8:11 whether 6:17 8:2,19,23 will 8:1,2,3,6 12:6 13:4</p>	<p>willing 8:9 wish 10:7 wishing 6:16 without 6:21 wondering 12:7 work 7:13 wrong 10:24</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p>year 11:20 yet 7:13 11:3</p>	
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