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BEFORE THE UTAH PUBLIC SERVICE COMMISSION

_____)
In Re: Rule Making for Statewide)
Extended Area of Service (EAS).)
)
) Docket No. _____
)
)
_____)

**PETITION FOR EAS RESTRUCTURE INCORPORATING STATEWIDE
COVERAGE**

Comes now Beehive Telephone Company, Inc. ("Beehive"), through counsel, and per Public Service Commission Rules R746-347-7¹ and R746-347-8², requesting that the Utah Public Service Commission ("the Utah Commission") open a docket and investigation concerning the feasibility of reasonably equitable Utah Statewide Extended Area Service (EAS). We request that technical conferences be scheduled and held to ascertain the rate impacts that Statewide EAS might bring into being. We also request that a hearing be held to review these rate impacts with the goal of Statewide EAS.

¹ Commission Rules indicate that each incumbent telephone corporation providing EAS pursuant to tariff may petition the Commission for approval of a restructuring of EAS to simplify EAS prices or to reduce the number of EAS areas.

² Commission Rules allow the Division of Public Utilities to obtain conduct discovery or otherwise obtain information from telecommunication service providers and resellers reasonably related to the consideration of an EAS petition, including, but not limited to traffic between petitioning and non-petitioning exchanges or area carried by the telecommunications service providers or resellers.

RATIONALE

Unlike many other states that contain a multitude of Local Access and Transport Areas³ (LATA/LATAs), the State of Utah enjoys the unique position of being a single LATA. The Utah Commission on its own authority can implement LATA-wide local calling areas.

Long distance tolls will disappear to be replaced with flat rate calling plans regardless of what regulators do because of the cellular industry and the new wave of voice over internet protocol (VoIP) providers,⁴ which will drive intercarrier compensation to zero. Dial up internet over EAS is not allowed in that internet by its very nature has been deemed to be interstate by the FCC, and as such cannot be routed over EAS. By implementing a statewide EAS program, the present inequities of landline cost per minute intrastate toll and free toll provided by cellular or internet protocol type services will disappear. By allowing statewide EAS, our rural local exchange carriers will have a better chance of not only recovering their reasonable costs, but also a chance at keeping their present customer base by providing intra-state calls at a rate more competitive with services provided by VoIP companies.

Statewide EAS may also allow Utah rural carriers to avoid a direct confrontation with the Enforcement Bureau of the Federal Communications Commission (FCC) as

³ Local Access and Transport Area (LATA)

Defines that area, in a state served by a Bell telephone company, in which, under current federal Telecommunications Act rules, the company can provide service. Each Service Area may include one or more area codes or share a common area code. A connection between two local exchanges within the LATA is referred to as intraLATA. A connection between a carrier in one LATA to a carrier in another LATA is referred to as interLATA or "long-distance" service. <http://www.ldtelecom.com/Glossary.html>

⁴ *Further Notice of Proposed Rulemaking: Developing a Unified Intercarrier Compensation Regime*, FCC 05-33, CC Docket 01-92, adopted February 10, 2005, issued March 3, 2005.

seen recently in North Carolina when a small carrier, Madison River Communications, LLC (Madison) identified phantom traffic to be the traffic of a VoIP provider, and attempted to be paid for that traffic by threatening to block such traffic; and then, when no payment was made, Madison actually did block ports used for VoIP applications. When the VoIP provider filed a request for investigation with the FCC, the Enforcement Bureau stepped in regarding Madison's compliance with section 201(b) of the Communications Act of 1934, as amended,⁵ concerning how such blocking of ports affected the use of VoIP. In this instance, the VoIP provider is a much bigger company than Madison; and, upon being faced with such worthy adversaries as the FCC and the large VoIP company, Madison signed a consent decree agreeing not to further block such VoIP traffic, and agreed to voluntarily pay a \$15,000 penalty "to avoid the expenditure of additional resources that would be required to further litigate the issues raised in the Investigation, and in consideration for the termination of the Investigation."⁶ Obviously, Madison's stance is that it has a right to attempt to collect payment for traffic it is carrying and for which it is not being paid. However, Madison is reluctant to combat Federal regulators and a VoIP company that has more resources for sustaining lengthy litigation.⁷ As long as VoIP companies are not made to pay for the use of facilities based exchange carrier networks, VoIP companies will continue to have a free ride at the expense of those least able to afford it. Madison found this out the hard way. Statewide EAS would at least give rural telecom companies a fighting chance against such activities until the FCC decides the regulatory and jurisdictional issues concerning VoIP.

⁵ 47 USC§201(b).

⁶ *In the Matter of Madison River Communications, LLC and affiliated Companies, FCC Order and Consent Decree*, DA 05-543, File No. EB-05-IH-0110, Acct. No. 200532080126, FRN 0004334082, adopted March 3, 2005, released March 3, 2005.

⁷ *Ibid.*

Presently, the Utah Rural telecom Association has taken upon itself to begin the economic feasibility studies concerning the loss of access charges and the possible cost to the individual subscriber for Statewide EAS. These studies will be available shortly and will be available for discussion in any technical conference concerning this matter that the Commission sees fit to schedule.

SUMMARY

Because of the escalating hemorrhage of access charges caused by the public's on-going migration to VoIP⁸ (see footnote 5) and cellular services, and lack of control or decision making process at the Federal level concerning the regulation of such technologies, we petition this honored Commission to open this docket and allow the investigation and feasibility of Statewide EAS for the State of Utah.

Dated this 17th day of March, 2005.

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⁸ Jeffrey Citron, Business Week Online, "Vonage Puts Its Money on the Line", March 11, 2005. Vonage's CEO states that over the last nine quarters Vonage has added more users to their network than any other provider, with Cablevision as the second player. Vonage ended the year with 390,000 users, crossing the 400,000 mark the first week of January, having added 115,000 customers in the fourth quarter of 2004, or the equivalent of 9,500 customers per week.
<http://www.businessweek.com/print/technology/content/mar2005/tc20050311>

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing petition, "Petition for EAS Restructure Incorporating Statewide Coverage" was served this 17th day of March, 2005, by mailing a copy of the same, first class mail, postage prepaid, addressed to Michael Ginsberg, Counsel for the Utah Division of Public Utilities, and Reed Warnick, Counsel for the Committee of Consumer Services, 160 East 300 South, 5th Floor, Heber Wells Building, Salt Lake City, Utah, 84114.

Judith O. Hooper

cc: Nancy Gibbs, URTA

Jerry Fenn- Qwest

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