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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of Rule 746-700, Complete Filings for General Rate Case and Major Plant Additions	**Comments of the Utah Rural Telecom Association** **Docket No. 09-R700-01** **DAR File No. 32866**

Introduction

The Utah Rural Telecom Association ("URTA") is an association of independent telephone companies in Utah. URTA members serve rural Utahns and cover the vast majority of the geography of the state. As public utilities that file general rate cases, URTA is interested in proposed rule R746-700 published in the Utah State Bulletin August 15, 2009 and makes the following

Comments:

The Draft Rule is Inconsistent with Utah Code Ann. § 54-7-12(8)

Generally, the complete filing requirement rule proposed by the Public Service Commission ("Commission") for telecommunications corporations is inconsistent with Utah Code Ann. § 54-7-12(8) ("Section 8"). The legislature amended Section 8 in 2001 to enable all telephone corporations with fewer than 30,000 access lines to effectuate rate increases immediately after 30 days notice to their customers and the Commission. Section 8(b) allows the

Commission to investigate proposed increases but does not require it. Section 8(c) makes clear that no hearing is even required unless 10% or more of the customers affected by the increases file a request for agency action requesting an investigation.

The intent of Section 8 is to streamline and reduce the costs of ratemaking for telecommunications corporations with fewer than 30,000 access lines. This proposed rule imposes the same processes and costs of ratemaking on telecommunications corporations as those imposed on the largest utilities. It also imposes significant costs of delay in pursuing rate cases. The Commission filing at the Division of Rules analyzing the impact of this rule on small businesses is therefore not correct.

Senate Bill 75 from the 2009 general session of the Legislature enabled the Commission to define what constitutes a complete filing for a general rate case, but the new law must be read and applied consistently with existing law. As drafted, the proposed rule violates the intent of Section 8 and renders it useless. URTA therefore recommends that the Commission revise the rule to conform to Section 8.

Recommendations

1. URTA recommends that the Commission modify the proposed rule to be consistent with Section 8 by amending Utah Admin. Code § R746-344, "Filing Requirements for Telephone Corporations With Less Than 5,000 Access Line Subscribers" to include all providers with fewer than 30,000 access lines. That change should have been made in 2001 when the Legislature amended Section 8 to increase the applicability of the section from providers with fewer than 5,000 access lines to providers with fewer than 30,000 access lines. URTA is prepared to work with the Commission to help develop the schedules the Commission needs to

support proposed rate changes under R746-344-2. This amendment to the rule could be effective immediately to meet the time requirements of Senate Bill 75.

2. Alternatively, if the Commission does not accept URTA's first recommendation, URTA recommends the following changes to the proposed rule:

a. R746-700-1 B – Strike the 30 day notice requirement to be filed in advance of a rate case application. Utah Code Ann. § 54-7-12(3) gives the Commission 240 days to complete a rate case. The 30 day requirement appears to extend that period and serves no substantive purpose.

b. R746-700-1 E – There are twelve "etc." in E 1 through 3 that should be explained or eliminated. When an application can be rejected for not being complete, twelve "etc." create a minefield for an applicant that could result in rejection of the application and unnecessary delay in obtaining rate relief.

c. R746-700-10 A 1 – The requirement to file a rate case on a total company basis should be deleted. The requirement is burdensome and appears to extend the Commission's jurisdiction beyond intrastate regulated operations.

d. R746-700-10 A 1 b – Utah Code Ann. § 54-4-4(3)(a) requires that the test period reflect the conditions a utility will encounter during the period when rates will be in effect. This is the reason an applicant selects a test period and it should not be required to give any additional information or explanation.

e. R746-700-40 – Generally, this entire section 40 for telecommunications corporations is unduly burdensome and contrary to the legislative intent of Utah Code Ann. § 54-7-12(8). URTA members are the only telecommunications corporations that continue to be rate regulated and are therefore the only telecommunications service providers affected by this

proposed rule. The information required is excessive and will impose unnecessary costs on providers with fewer than 30,000 access lines.

Specifically, in the prefatory paragraph the requirement to file a rate case application on a total company basis should be deleted for the same reasons stated in c. above. Additionally, this section requires that an applicant use Commission-approved allocation methods, but it is not clear what the "Commission approved allocation methods" are. Are they Parts 64 and 36 referenced in R746-700-40 A. 5. or something else? The approved allocation methods must be clarified or deleted. "Etc." should be deleted for the same reasons stated in b. above.

f. R746-700-40 A. 2. – In making the contemplated adjustments to reflect prior Utah regulatory decisions and policies made by the Commission affecting any item in the application, how will an applicant know of all of these decisions and policies? Is there one source to which an applicant can refer to ensure it has addressed every regulatory decision or policy that may be relevant? This requirement is far too broad and should be narrowed or deleted. In addition, it repeats R746-700-10 A. 1. a. which applies to all utilities and likewise should be narrowed or deleted. Is there a purpose for the same requirement being included separately in the telecommunications section?

g. R746-700-40 A. 6. – There is no productive purpose in requiring that an applicant provide all auditors' journal entries, including ones not accepted. This provision should be deleted.

h. R746-700-40 A. 10. – Requiring a detailed description of all corporate restructuring since the last rate case could be very burdensome if several years have elapsed since the last case. This provision should be limited to one year prior to the historical test period.

i. R746-700-40 A. 12 – The requirement to report changes in collection policies or write-off policies should be limited to one year prior to the historical test period.

j. R746-700-40 B. 3. – It is not clear from the text of this provision what "top sheet form" means. This needs to be clarified or deleted.

k. R746-700-40 B. 4. - The requirement to provide IRS correspondence since the last rate case should be limited to one year prior to the historical test period.

l. R746-700-40 B. 5. – It is not clear from the text of this provision what the meaning of "current tax sharing agreement" means. This needs to be clarified or deleted.

m. R746-700-40 B. 7. – This provision was mistakenly retained and should be deleted.

n. R746-700-40 C. 1. – This provision requires the utility to be prepared to provide work papers from the most recent independent audit and to provide a letter authorizing the utility's external auditor to meet with requesting parties and to allow parties to copy selected work papers. The utility does not possess or control the work papers and cannot ensure that they can be available. In addition, there is also no explanation of who bears the costs of these requirements for travel or copies. This provision should be deleted.

o. R746-700-40 C. 2. – The requirement to be prepared to provide IRS rulings, responses, and correspondence should be limited to one year before the historical test period.

Conclusion

URTA is very concerned about proposed rule R746-700 and the significant costs and other burdens it imposes on telecommunications corporations with fewer than 30,000 access lines. URTA therefore urges the Commission to amend the draft rule in accordance with

URTA's first recommendation. Alternatively, URTA requests that the Commission adopt the changes to the draft rule in URTA's second recommendation. As drafted, it violates the intent of Utah Code Ann. § 54-7-12(8).

Respectfully submitted this 15th day of September, 2009.

Callister Nebeker & McCullough

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Stephen F. Mecham