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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Consideration of the Rescission, Alteration or Amendment of the Certificate of Authority of All American Telephone Co., Inc. to Operate as a Competitive Local Exchange Carrier Within the State of Utah	Docket No. 08-2469-01 UTAH OFFICE OF CONSUMER SERVICES' RESPONSE TO MOTION IN LIMINE
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The Utah Office of Consumer Services requests that the Commission deny All American's motion to prohibit the Office and the Division of Public Utilities from opposing All American's petition.

In the scheduling and other conferences that the Commission held in this matter, to which All American refers, and in the orders that have denied summary relief, initially and on reconsideration, the Commission has defined the issues to be addressed, the format by which the evidence on the issues is to be presented, i.e. pre-filed written testimony, and the schedule for the parties to conduct

discovery, develop their position on the issues, and respond to other parties. The parties were not required to file “some sort of position statement.” Rather, the parties were expected to follow well-established procedures for discovery and pre-filed testimony, and to address the issues as the Commission outlined, with particularity, in the June 16 and August 24, 2009 orders. Other than the September 2009 data requests described in its motion, All American has done nothing but request that the Commission’s process be stayed.

The Commission’s rules for discovery, R746-100-8, pre-hearing conferences, R746-100-9, and hearing procedure, R746-100-10, plainly describe the process “allowing for the presentation of the most complete evidence before the Commission as it makes a decision in this matter.” *Order Shortening Time for Discovery Turn-Around*, February 18, 2010. These rules also provide generous opportunity for Commission intervention should a party believe that it is not receiving the information it believes is necessary to comply with the schedule.

All American was apparently satisfied with the Office’s outline of the its assertions in pleadings filed earlier in the case, and the comprehensive summary of the procedural and substantive flaws in All American’s 2008 petition, the legal basis of those assertions, and facts surrounding All American’s illegal entry into a rural incumbent’s territory, and the nature of its operations in that territory. All American did not indicate or even suggest that it believed the response to be

materially incomplete or incorrect. In its memo, All American ignores the requirement in Rule 37 that a motion to compel discovery include a certification that the moving party “has in good faith conferred or attempted to confer with the person or party failing to make the discovery in an effort to secure the information or material without court action.”

While All American was seemingly apathetic to the proceedings, the Office, the Division and Qwest asked detailed questions about All American’s Utah operations. AT&T was conducting discovery in other forums, and All American, and Beehive, were filing pleadings and declarations that directly addressed All American’s Utah operations. The parties’ discovery revealed to anyone who read it that the parties were examining All American’s business by reviewing records of the United States District Court for New York and Utah, the FCC, the state of Nevada and Utah. In the experience of the Office’s counsel, discovery is perhaps the greatest indicator of the issues, facts and circumstances, and the evidence that the party submitting the discovery believes to be most important and that will define the case one may expect to see in testimony and exhibits. Not participating in the administrative process by ignoring discovery submitted by others and conducting none of your own, cannot justify asking for an order prohibiting opposition to All American’s petition, let alone granting such a motion.

All American claims that the Division and Office were in the eleventh hour, “finally forced to submit their pre-filed testimony to the Commission,” which it claims is fundamentally unfair and substantially prejudicial. In fact, this is but one more attempt by All American to subvert the Commission’s plainly stated and statutorily authorized procedures. The motion must be denied.

Dated this 2nd day of March 2010.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing response was served upon the following by electronic mail sent March 2, 2010:

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