

Stephen F. Mecham (4089)
Callister Nebeker & McCullough
10 East South Temple, Suite 900
Salt Lake City, Utah 84133
Telephone: 801 530-7300
Fax: 801 364-9127
Email: sfmecham@cnmlaw.com
Attorneys for the Utah Rural Telecom Association

- BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH -

In the Matter of the Petition of All American Telephone Co., Inc., for a <i>nunc pro tunc</i> Amendment of its Certificate of Authority to Operate as a Competitive Local Exchange Carrier within the State of Utah	DOCKET NO. 08-2469-01 Initial Post-hearing Brief of the Utah Rural Telecom Association
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The Utah Rural Telecom Association (“URTA”), by the undersigned counsel, files this initial post-hearing brief in accordance with the Amended Scheduling Order issued March 4, 2010:

I. INTRODUCTION

On March 4, 2010, Administrative Law Judge Ruben Arredondo heard this matter and took it under advisement. On August 31, 2009, All American Telephone Co., Inc. (“All American”) filed an amended petition in this proceeding requesting that the Public Service Commission expand All American’s certificate of public convenience and necessity to include Beehive Telephone’s (“Beehive”) service territory. In Docket No. 06-2469-01, All American had agreed to the limits imposed by the Commission of only providing service in exchanges with more than 5,000 access lines and therefore All American was not authorized to serve in Beehive’s territory.

At the March 4, 2010 hearing, David W. Goodale testified on behalf of All American, Casey J. Coleman testified on behalf of the Division of Public Utilities, Michele Beck testified

on behalf of the Office of Consumer Services, Lisa Hensley Eckert testified on behalf of the Qwest Communications, Inc., and Douglas D. Meredith testified on behalf of URTA. AT&T presented the pre-filed written testimony of Jack Habiak which Judge Arredondo and the parties agreed to accept into the record without cross examination.¹

II. THIS CASE SHOULD NOT BE THE BASIS FOR DETERMINING CRITERIA FOR ENTRY INTO RURAL EXCHANGES WITH FEWER THAN 5,000 ACCESS LINES

In pre-filed written testimony, URTA took the position that the Commission should not establish the public interest criteria for entering a rural exchange with fewer than 5,000 access lines based on the facts of this case.² First, the service All American is providing may not be a public telecommunications service. Second, the service All American is providing is not offered to the public generally; the service is only available to one customer, Joy Enterprises, Inc.³ Third, All American did not adequately address the minimal public interest considerations URTA proposed in pre-filed testimony.⁴ As a result, there is no record in this case on which to base public interest criteria for entering small rural exchanges.

Beyond the question of public interest, this proceeding presents other difficult issues that the Commission must address that go to retention of the certificate itself such as a provider serving first without a certificate and serving in an area not authorized under the certificate the Commission ultimately granted. Establishing criteria for entering small rural exchanges with fewer than 5,000 access lines in this context would be a mistake.

¹ Transcript p. 245, lines 20-25; p. 246, lines 1-15.

² URTA Exhibit 1, lines 148-159.

³ Transcript p. 15, line 13.

⁴ URTA Exhibit 1, lines 140-147. Transcript p. 260, lines 10-25; p. 261, lines 1-3.

III. CONCLUSION

The record and the facts of this proceeding are inadequate to be used to establish public interest criteria for entry into small rural exchanges with fewer than 5,000 access lines. URTA therefore urges the Commission not to do so. URTA also alternatively recommended in pre-filed testimony that if the Commission amended All American's certificate to include Beehive's service territory that this case not be considered precedent.⁵ URTA acknowledges that testimony presented at hearing in this proceeding diminished the viability of this option.

Respectfully submitted this 24th day of March, 2010.

CALLISTER NEBEKER & MCCULLOUGH

Stephen F. Mecham

⁵ URTA Exhibit 1, lines 160-169.

CERTIFICATE OF SERVICE

I certify that on March 24, 2010, a true and correct copy of the foregoing Initial Post-hearing Brief of the Utah Rural Telecom Association was sent by electronic mail to the following :

Paul Proctor
Assistant Attorney General
160 East 300 South 5th Floor
Heber Wells Building
Salt Lake City, UT 84111
pproctor@utah.gov

Michael Ginsberg
Assistant Attorney General
160 East 300 South 5th Floor
Heber Wells Building
Salt Lake City, UT 84111
mginsberg@utah.gov

Janet I. Jenson
Gary R. Guelker
Jenson & Guelker LLC
747 East South Temple
Suite 130
Salt Lake City, UT 84102
janet@jandglegal.com
gary@jandglegal.com

Alan L. Smith
Attorney for Beehive Telephone
1492 East Kensington Avenue
Salt Lake City, UT 84105
Alanakaed@aol.com

George Baker Thomson, Jr.
Qwest Corporation
1801 California Street, 10th Floor
Denver, CO 80202
George.thomson@qwest.com

Roger Moffitt
645 East Plumb Lane, B132
P. O. Box 11010
Reno, NV 89502
roger.moffitt@att.com

William J. Evans
Parsons Behle & Latimer
One Utah Center
201 South Main Street, Suite 1800
Salt Lake City, UT 84111
wevans@pblutah.com

s/Stephen F. Mecham