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BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF UTAH

In the Matter of the Utah Rural Telecom Association's Petition to Initiate Rulemaking Proceedings to Amend Utah Admin. Code R746-360-8	Petition for Rule Change Docket No.
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Pursuant to Utah Code Ann. § 63G-3-601 and Utah Admin. Code R15-2-4, the Utah Rural Telecom Association (“URTA”), through undersigned counsel, hereby petitions the Public Service Commission (“Commission”) to engage in rulemaking to adopt the attached proposed rule amending Utah Admin. Code § R746-360-8. The subject of the proposed rule is within the Commission’s jurisdiction over utility rates, tariffs, and services under Utah Code Ann. Title 54 and is appropriate to the Commission’s powers.

All West Communications, Bear Lake Communications, Beehive Telephone Company, Carbon/Emery Telcom, Central Utah Telephone, Direct Communications Cedar Valley, Emery Telcom, Gunnison Telephone, Hanksville Telcom, Manti Telephone, Skyline Telecom, South Central Utah Telephone Association, Strata Networks, and Union Telephone are members of URТА. Each member of URТА is an incumbent telephone corporation regulated by the Commission on a rate-of-return basis and either receives or has received distributions from the state Universal Public Telecommunications Service Support Fund (“USF”) created by Utah Code Ann. § 54-8b-15.

The rule proposes to clarify the method for calculating distributions from the USF to ensure that incumbent telephone corporations regulated on a rate-of-return basis have the opportunity to earn their interstate rate of return authorized by the Federal Communications Commission (“FCC”). The public interest considerations for the proposed change are twofold: it maintains the separation between the state and federal jurisdictions so that one does not illegally interfere with the other, and it helps support the financial vitality of the regulated providers to allow them to provide modern, advanced services to their customers in high cost areas in Utah.

Utah Admin. Code §§ R746-360-2 B and R746-360-8 have been interpreted and applied in a way that prevents regulated incumbent telephone corporations from being able to earn their interstate rate-of-return authorized by the FCC. This occurs when the distribution from the USF is calculated using total company performance, intrastate and interstate, and applying the state return authorized by the Commission to both jurisdictions. Under these circumstances, an incumbent telephone corporation cannot earn its authorized interstate return. The proposed rule recognizes that the interstate rate-of-return is part of the total embedded cost of providing telephone service and the calculation under § R746-360-8 may not change the return. It provides that the actual interstate return for the period that includes the test year be used to determine the distribution so that the USF does not subsidize the federal jurisdiction. It also provides that the authorized interstate return be used if the test year is projected.

URTA believes the proposed rule is in the public interest and requests that the Commission initiate rulemaking proceedings as soon as practicable, but in no event more than 60 days from the date of this petition. URTA also requests that the Commission schedule a technical conference within the first two weeks of January 2010 to allow interested parties to discuss this proposal.

Respectfully submitted this 28th day of December, 2009.

Callister Nebeker & McCullough

Stephen F. Mecham

R746-360-8. Calculation of Fund Distributions in Rate-of-Return Incumbent Telephone Corporation Territories.

A. Determination of Support Amounts --

1. Incumbent telephone corporation - Monies from the fund will equal the numerical difference between the Incumbent telephone corporation's total embedded costs of providing public telecommunications services, for a designated support area, less the product of the Incumbent telephone corporation's Average Revenue Per Line, for the designated support area, times the Incumbent telephone corporation's active access lines in the designated support area. Total embedded costs of providing telecommunications services includes the Incumbent telephone corporation's actual interstate return reported by the National Exchange Carriers Association to the Federal Communications Commission for the earnings monitoring period for the test year or the year for which the distribution from the fund is calculated if that is different than the test year. For a projected test year, total embedded costs includes the interstate return authorized by the Federal Communications Commission. In no event may the calculation performed pursuant to this section change the actual or the authorized interstate return for the distribution.

Certificate of Service

I certify that on December 28, 2009 I emailed a true and correct copy of the foregoing Petition for Rule Change to the following:

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