

Kira M. Slawson (7081)
BLACKBURN & STOLL, L.C.
Attorneys for Utah Rural Telecom Association
257 East 200 South, Suite 800
Salt Lake City, Utah 84111
Telephone: (801) 521-7900
Fax: (801) 578-3579

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Utah Administrative Code) Docket No. 17-R360-01
R746-360 Universal Public)
Telecommunications Service Support Fund) JOINT RESPONSE OF
) CENTURYLINK AND UTAH RURAL
) TELECOM ASSOCIATION IN
) RESPONSE TO CTIA’S
) APPLICATION FOR REHEARING
) AND REQUEST FOR STAY
)

Utah Rural Telecom Association (“URTA”) on behalf of its members All West Communications, Inc., Bear Lake Communications, Inc., Beehive Telephone Company, Carbon/Emery Telcom, Inc., Central Utah Telephone, Inc., Direct Communications Cedar Valley, LLC, Emery Telephone, Gunnison Telephone Company, Manti Telephone Company, Skyline Telecom, South Central Utah Telephone Association, Inc., UBTA-UBET Communications Inc. (dba Strata Networks), and Union Telephone Company, together with Qwest Corporation d/b/a CenturyLink QC and CenturyLink Communications, LLC (“CenturyLink”) hereby file this Joint Response to CTIA’s Application for Rehearing and Request for Stay.

I. PROCEDURAL HISTORY

On May 15, 2017, the Utah Public Service Commission (“Commission”) issued a Notice of Proposed Rule Amendment for R746-360-4. After taking Comments on the proposed rule, including Comments filed by URTA and CenturyLink, among others, the Commission, on August 14, 2017, issued a Notice of Change to Proposed Rule and Response to Reply Comments (the “August 14 Notice”). In the August 14 Notice, the Commission proposed several changes to its initial rule, and issued a revised proposed rule R746-360-4 (“Proposed Rule”). In the Commission’s August 14 Notice, the Commission expressed some concern regarding application of the rule to prepaid wireless service, though the language of the Proposed Rule did not carve out or exempt prepaid wireless service. Comments on the Proposed Rule were due on October 2, 2017. URTA and CenturyLink both filed Comments related to the Proposed Rule on October 2, 2017, as did CTIA and AT&T. All of the Comments filed by all parties expressed concern that the Proposed Rule must apply to all access line and connection providers in order for the Proposed Rule to be compliant with the statutory mandate to be non-discriminatory.

Additionally, on September 5, 2017, in this same docket, the Commission issued a Request for Comments on three discrete issues regarding prepaid wireless service. URTA, CenturyLink, the Division of Public Utilities (the “Division”), and CTIA filed Comments on October 4, 2017 on prepaid wireless in response to the Commission’s September 5, 2017 Request for Comments.¹ The Commission requested Reply Comments and Draft Rule

¹ URTA, CenturyLink, and the Division specifically addressed the questions posed by the Commission’s September 5, 2017 Notice.

language on or before October 17, 2017 to address whether the UUSF assessment of prepaid wireless should be addressed further by administrative rule, and if so, the Commission requested draft language to effect UUSF assessment of any prepaid wireless service that is arguably excluded under the proposed per-access line funding rule. On October 11, 2017, after reviewing the Comments on the Proposed Rule, but prior to receiving the reply comments and draft language, the Commission issued a Notice that the Proposed Rule has been made effective (“October 11 Notice”). Thereafter, on October 24, 2017, after reviewing all the Comments filed by the interested parties, the Commission issued a Notice of Rule Filing in which the Commission indicated it intended to file one additional Notice of Proposed Rule to further amend R746-360-4 (“Proposed Rule”). The Notice of Proposed Rule was issued on October 25, 2017 (the “Notice”). On November 13, 2017, CITA filed its Application for Rehearing and Request for Stay (“Application”). On November 15, 2017 the revised proposed rule was published in the Utah State Bulletin.

II. URTA AND CENTURYLINK’S RESPONSE TO CTIA’S APPLICATION FOR REHEARING AND REQUEST FOR STAY

CTIA acknowledged in its Application that the Commission’s “work in this proceeding is ongoing,” and that the Commission had “released additional proposed changes to the same regulations.”² Nevertheless, CTIA filed its Application to challenge the previously published rule (the “Effective Rule”). CTIA challenged the Effective Rule on the basis that the Effective Rule was not equitable, non-discriminatory, or competitively neutral as required by law.³

² CTIA Application, p.1-2.

³ CTIA Application p. 3.

As indicated above, the Commission issued a Proposed Rule on October 24, 2017, which amended the Effective Rule and addressed many of the issues raised by CTIA in its Application. Additionally, to the extent CTIA believes that any of its particular issues were not addressed in the Proposed Rule, with the publication of the Proposed Rule in the Utah State Bulletin, CTIA, and the other stakeholders now have the opportunity to file comments on the Proposed Rule. Utah Code §63G-3-301(11) provides that interested parties may file comments within thirty (30) days of publication of the Proposed Rule. The Notice provides that comments on the Proposed Rule should be filed on or before December 15, 2017. Procedurally, it is inefficient to address the issues in CTIA's Application now that the Effective Rule is subject to amendment by the Proposed Rule. As a result, CTIA's Application to Rehear and Stay the Effective Rule should be denied, and the parties should focus on the Proposed Rule that was recently published.

III. CONCLUSION

URTA and CenturyLink urge the Commission to deny CTIA's Application for Rehearing and Request for Stay. In addition to the procedural problems with CTIA's request, their arguments are not well founded. First, the Commission has thoroughly reviewed the issues, and secondly, the issues presented by CTIA are addressed in the Proposed Rule. CTIA has the opportunity to address the Proposed Rule in Comments filed on or before December 15, 2017. It would be a waste of judicial resources to have a rehearing on the Effective Rule which is subject to amendment in the published Proposed Rule.

Dated this 22nd day of November, 2017.

BLACKBURN & STOLL, LC



Kira M. Slawson
Attorneys for Utah Rural Telecom
Association

Dated this 22nd day of November, 2017.

CENTURYLINK



Torry R. Somers
6700 Via Austi Pkwy.
Las Vegas, NV 89119
Ph: (702) 244-8100
Fax: (702) 244-7775

Attorneys for CenturyLink

CERTIFICATE OF SERVICE

I hereby certify that on the 22nd day of November, I served a true and correct copy of URTA and CenturyLink's Joint Response to CTIA's Application for Rehearing and Request for Stay in the Matter of the Utah Administrative Code R746-360 Universal Public Telecommunications Service Support Fund, Docket No. 17-R360-01 via e-mail transmission to following persons at the e-mail addresses listed below:

Division of Public Utilities

Bill Duncan
Chris Parker
Erika Tedder
wduncan@utah.gov
chrisparker@utah.gov
etedder@utah.gov

James Farr
James.Farr@centurylink.com

The AT&T Companies
Gary Dodge
gdodge@hjdllaw.com

Office of Consumer Services

Michelle Beck
mbeck@utah.gov

CTIA
Benjamin Aron
baron@ctia.org

Assistant Utah Attorneys Generals

Justin Jetter
Robert Moore
jjetter@utah.gov
rmoore@utah.gov

Matthew DeTura
mdetura@ctia.org

Comcast
Sharon Bertelsen
bertelsens@ballardspahr.com

CenturyLink

Torry Somers
Torry.R.Somers@centurylink.com

Jerry Oldroyd
oldroydj@ballardspahr.com



Kira M. Slawson