

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of: The) Docket No: 08-046-01
Application For the Increase)
of Rates and Charges By) Administrative
Manti Telephone Company) Law Judge:
) Ruben Arredondo

TRANSCRIPT OF HEARING PROCEEDINGS

TAKEN AT: Public Service Commission
160 East 300 South
Salt Lake City, Utah

DATE: March 21, 2011

TIME: 1:59 p.m.

REPORTED BY: Kelly L. Wilburn, CSR, RPR

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APPEARANCES

For Manti Telephone Company:

KIRA M. SLAWSON, ESQ.
BLACKBURN & STOLL, LC
257 East 200 South, Suite 800
Salt Lake City, Utah 84111-2048
(801) 521-7900
(801) 521-7965 (fax)

For the Division of Public Utilities:

PATRICIA E. SCHMID, ESQ.
UTAH ATTORNEY GENERAL'S OFFICE
160 East 300 South, Fifth Floor
Salt Lake City, Utah 84111
(801) 366-0380
(801) 366-0352 (fax)

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WITNESSES

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1 MARCH 21, 2011 1:59 P.M.

2 P R O C E E D I N G S

3 THE COURT: We are here In the Matter of:
4 The Increase of Rates and Charges, and Increase of USF
5 Eligibility For Manti Telephone Company,
6 Docket No. 08-046-01. And this is the hearing set on
7 the settlement stipulation.

8 Before we start, is there any part of this
9 that needs to be confidential? I know on the notice
10 that we sent out on that No. 2, that was redacted. We
11 didn't?

12 MS. SCHMID: Yes, I erroneously thought that
13 sort of information was confidential, and I was wrong.

14 THE COURT: Okay. So nothing needs to be
15 closed on the transcript or redacted, anything like
16 that?

17 MS. SCHMID: Unless we go into specific
18 numbers --

19 MS. SLAWSON: Right.

20 MS. SCHMID: -- and I think we most likely
21 can avoid those.

22 MS. SLAWSON: Right.

23 THE COURT: Okay. All right. If there is
24 something that we need to treat as confidential, just
25 let me know. And then we'll take a quick recess and

1 then we'll close the door and make sure everybody that
2 doesn't need to be here isn't here.

3 Okay. Then with that let's take appearances,
4 then, beginning with the Company.

5 MS. SLAWSON: Kira Slawson and Ray Hendershot
6 on behalf of Manti Telephone Company.

7 THE COURT: Thank you.

8 MS. SCHMID: Patricia E. Schmid, with the
9 Attorney General's Office, for the Division of Public
10 Utilities. And with me is William Duncan.

11 THE COURT: Thank you.

12 MS. SCHMID: Of the Division.

13 THE COURT: Okay. On the revised, let me
14 just make sure I'm understanding. Do you know, is
15 Mr. Duncan gonna talk to the differences between the
16 confidential settlement and the revised confidential
17 settlement?

18 MR. DUNCAN: I was not, but I don't think the
19 differences are very many. I think I can probably do
20 that --

21 THE COURT: Okay.

22 MR. DUNCAN: -- without --

23 THE COURT: Yeah. I just want to know -- I
24 reviewed it, I think I know what the differences are,
25 but I just want to make sure I'm not missing anything.

1 MR. DUNCAN: Okay.

2 THE COURT: So let's begin with the Company,
3 then.

4 MS. SLAWSON: Your Honor, if it would be all
5 right with the Court, we were thinking that Bill
6 Duncan would go first to explain the differences.

7 THE COURT: Okay.

8 MS. SLAWSON: And then also the Exhibit 5
9 that the Division has prepared.

10 (The court reporter asked counsel
11 to speak up.)

12 THE COURT: All right. Then let's start with
13 Mr. Duncan. If you could raise your right hand for
14 me?

15 (Mr. Duncan was sworn.)

16 THE COURT: Thank you.

17 Go ahead, Ms. Schmid.

18 MS. SCHMID: Thank you.

19 WILLIAM DUNCAN,

20 called as a witness, having been duly sworn,

21 was examined and testified as follows:

22 DIRECT EXAMINATION

23 BY MS. SCHMID:

24 Q. Good afternoon, Mr. Duncan.

25 A. Good afternoon.

1 Q. Could you please state your full name,
2 business address, and title for the record?

3 A. Yes, William Duncan. I'm manager of the
4 telecommunications section for the Utah Division of
5 Public Utilities. My address is 160 East 300 South,
6 84111 -- 84114, I believe.

7 Q. Have you participated on behalf of the
8 Division in this docket?

9 A. Yes, I have.

10 Q. Have you -- did you participate in the
11 preparation of the memorandum filed November 4, 2010?

12 A. Yes.

13 Q. Did you participate in the preparation of the
14 settlement stipulation that included some confidential
15 things that was filed on January 25th, and then the
16 later preparation eliminating most of the redaction --

17 A. Yes, I did.

18 Q. -- from the settle -- thank you.

19 MS. SCHMID: I don't think I need to move
20 that these be entered into evidence, because they have
21 been filed; is that correct?

22 THE COURT: Right.

23 MS. SCHMID: Okay.

24 Q. (By Ms. Schmid) Mr. Duncan, would you like
25 to explain the differences between the two

1 stipulations?

2 A. Yes. To the best of my knowledge, the
3 original stipulation had some redacted information
4 marked "Confidential" that in normal Commission
5 practice had not been confidential. And so the
6 parties changed that and made that information as
7 non-confidential.

8 We also -- there was one attachment,
9 Attachment 4, which had been inadvertently left off of
10 the original filing. And we've filed that.

11 And then we added a new attachment, which was
12 Attachment 5, which was a worksheet which basically
13 showed the -- how we'd come up with the new interim
14 USF amounts. I believe that's all the changes.

15 Q. Do you have a summary that you would like to
16 provide?

17 A. Yes, I do.

18 Q. Please proceed.

19 A. The Division of Public Utilities presents
20 this stipulation to the Commission and represents that
21 it provides a reasonable solution for the issues
22 identified during the DPU investigation of Manti
23 Telephone Company in its request for additional Utah
24 Universal Service Fund support in Docket 08-046-01.
25 The Division requests that the Commission approve the

1 stipulation as filed.

2 In the Commission scheduling order of
3 September 30, 2010, the Commission ordered the
4 Division to file a motion to dismiss, a motion for
5 order to show cause, or any other further appropriate
6 recommendation.

7 This stipulation presented today is in the
8 public interest, and provides revenue that is just,
9 reasonable, and adequate, and consistent with the
10 DPU's statutory objectives outlined in Utah Code
11 Section 54-4a-6, and is the most appropriate
12 recommendation at this time for these reasons:

13 Number 1: It provides adequate funds for
14 Manti to continue providing reliable telephone service
15 to the customers and the communities of Manti,
16 Ephraim, Sterling.

17 Number 2: It provides adequate funds to
18 ensure the financial integrity of Manti and allow it
19 to meet its loan covenants to lending institutions.

20 Number 3: It utilizes the imputation of
21 revenues the Company would receive if it chose to
22 raise rates to the affordable base rate in developing
23 USF eligibility, thereby protecting the USF from
24 funding service priced below the affordable base rate.

25 Number 4: It provides incentives for Manti

1 to rectify the issues identified by the DPU in an
2 expeditious manner through the establishment of a
3 balancing account.

4 Number 5: It provides funds for the Company
5 to hire accounting expertise to help in correcting the
6 accounting issues identified by the DPU.

7 Number 6: It reduces the total interim USF
8 amount by approximately 35 percent from the amount
9 awarded in the 2008 stipulation, providing additional
10 incentive for correction of issues.

11 Number 7: It provides a mechanism for
12 correction of issues by Manti and an expeditious
13 review by the DPU.

14 Number 8: It advances the case by
15 establishing a rate base for 2009 that the Division
16 believes is reasonable.

17 Number 9: It provides for protection to
18 ratepayers who contribute to the USF funds through the
19 establishment of a balancing account. The Division
20 believes that this account, in addition to the
21 repayment provision in the 2008 stipulation, provide
22 substantial protection if the final USF amount is less
23 than the interim amount.

24 Based on the above, the Division of Public
25 Utilities believes that the stipulation, as presented,

1 provides for the needs of Manti Telephone, protects
2 the customers of Manti Telephone and the ratepayers of
3 the State of Utah, is just and reasonable, and in the
4 public interest.

5 The Division recommends that the Commission
6 approve the stipulation.

7 Q. Does the Division also request that the
8 Commission order the balancing account you referenced
9 to be established?

10 A. Yes, it does.

11 Q. Thank you.

12 MS. SCHMID: Mr. Duncan is --

13 THE WITNESS: I have more.

14 MS. SCHMID: Oh. Pardon me.

15 THE WITNESS: Now I'll address some of the
16 specific issues in the Commission's February 10, 2011,
17 notice of hearing.

18 On the designation of confidential
19 information, the Division reviewed several previous
20 stipulations and found that the normal practice was
21 not to designate USF distribution as confidential. To
22 rectify this departure from the normal practice the
23 parties have filed a revised stipulation.

24 Number 2: The affordable base rate revenue
25 imputation. In calculating the revenue requirement

1 the Division did impute the revenues that Manti would
2 receive if it were charging the Commission-authorized
3 affordable base rate of 16.50 per residence line and
4 \$26 per business line.

5 This imputation can be seen in Column B,
6 line 2 of Attachment 5, which was included in the
7 revised stipulation.

8 Compliance with previous Commission-approved
9 stipulations. December -- the December 8, 2008,
10 stipulation. The Division has presented its position
11 on the compliance of Manti with the Commission-
12 approved December 8, 2008, stipulation in a memo to
13 the Commission dated November 4, 2010. The Division
14 has not changed its opinion on this issue.

15 Specifically, the Division does not believe
16 that Manti complied with paragraphs 14 and 15 of that
17 stipulation which called for the correction of certain
18 accounting issues, including Part 32 compliance, at
19 least in its 2009 results of operation which would
20 make 2009 an acceptable test year.

21 Accounting changes were made mid-year 2009
22 rather than the beginning of 2009, rendering 2009 as
23 an unusable test year. Manti also submitted only
24 three quarterly reports detailing changes to their
25 accounting process, rather than continuing until ended

1 by Commission order.

2 Therefore, the primary nature of the
3 violation lies in the time frames in which Manti
4 implemented changes compared to when it agreed to make
5 changes. Although Manti reports it is making
6 corrections at the present time, the changes were slow
7 in coming and did not meet the time lines envisioned
8 by the Division in the December 8, 2008, stipulation.

9 However, the Division believes that this
10 stipulation addresses the concerns and provides
11 incentives for expedited compliance.

12 Docket No. 99-049-65, Purchase of the Ephraim
13 Exchange. In the Division's opinion, Manti did not
14 comply with paragraph 15 of the stipulation in
15 Docket 99-049-65, which required the premium paid to
16 U S West for the Ephraim exchange be excluded from
17 rate base.

18 At the time of the filing of this application
19 in April 2008 the majority of the acquisition premium
20 was still included in rate base accounts, however,
21 Manti did not earn on this amount. This issue has now
22 been essentially corrected.

23 This concludes my testimony.

24 MS. SCHMID: Mr. Duncan is now available for
25 questions from the judge or the other party.

1 THE COURT: All right. Ms. Slawson, any
2 cross?

3 MS. SLAWSON: I do -- I do have a couple of
4 questions.

5 CROSS EXAMINATION

6 BY MS. SLAWSON:

7 Q. Mr. Duncan, you indicated that primarily
8 the -- in the Division's -- the Division's position is
9 that Manti did not adequately address the accounting
10 changes in a timely manner, or I believe you said in
11 the time frames anticipated by the Division; is that
12 correct?

13 A. Yes, it is.

14 Q. Do you think, based on the number of changes
15 that were made and the timing of those issues, do you
16 think it would have been possible for them to correct
17 those all within the early part of 2009?

18 MS. SCHMID: I would object on the grounds
19 that Mr. Duncan is the manager of the Division section
20 on telecommunications and does not have intimate
21 knowledge of implementation of accounting changes or
22 those that would need to have been made.

23 THE COURT: Overruled.

24 THE WITNESS: I can say that the Division
25 envisioned that the changes would be made in early

1 2009. And I think we stated that in the memo to the
2 Commission on November 4th.

3 I cannot say -- I'm not an expert in
4 accounting or in the practice of setting up accounting
5 systems. It would be difficult for me to say how
6 quickly those changes could have or should have been
7 implemented.

8 I think the stipulation envisioned something
9 much faster than what we saw.

10 Q. (By Ms. Slawson) And would you agree that
11 those changes that Manti has made extraord -- Manti
12 has made efforts and continues to make efforts to
13 implement the changes requested by the Division?

14 A. In our last audit we didn't see -- we did see
15 some changes. And we have been -- had reported to us
16 that there are other changes that are being made at
17 the current time. But we have not had a chance to go
18 down and review anything on -- particularly on the
19 2010 financial records, so I can't say with certainty
20 what we've seen.

21 We did see some changes. They were trying to
22 implement a job system when we were last down there in
23 October, but in our opinion it wasn't adequate. And
24 we talked to them and reviewed what our expectation
25 was. And I -- we understand that they're making those

1 changes now, but we have not reviewed them.

2 Q. In the November 4th memorandum that the
3 Division filed I believe you indicated that the
4 Division indicated that they wanted Manti to comply
5 with part -- 47 U.S.C. Part 32.

6 Isn't it true that the Division -- in
7 addition to complying with Part 32 the Division has
8 also come up with additional requirements that Manti
9 is required to com -- that the Division would like to
10 see Manti comply with that are not contained in
11 Part 32?

12 A. I can't answer that question. I'm not, I'm
13 not knowledgeable enough about Part 32.

14 MS. SCHMID: I don't have any other questions
15 for Mr. Duncan.

16 THE COURT: All right, thank you.

17 Any redirect, Ms. Schmid?

18 MS. SCHMID: None.

19 THE COURT: Okay. All right, thank you.

20 Ms. Slawson -- Mr. Hendershot, if you could
21 raise your right hand for me?

22 (Mr. Hendershot was sworn.)

23 THE COURT: Thank you.

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RAYMOND HENDERSHOT,

called as a witness, having been duly sworn,
was examined and testified as follows:

DIRECT EXAMINATION

BY MS. SLAWSON:

Q. Mr. Hendershot, with regard to Exhibit 5, which was attached to the revised stipulation that Mr. Duncan has just gone over, do you have anything to add with regard to that settlement, or has Mr. Duncan fairly well stated the positions of the Company and the Division?

A. I think he's fairly represented what's in Schedule 5, or Attachment 5.

Q. Okay.

MS. SLAWSON: I guess at this point, your Honor, I'd like maybe just a little bit of direction how far back you want to go.

We had some testimony by Mr. Duncan about a stipulation that was entered into in 2000. And how Manti may or may not -- the Division's position is that Manti has violated that stipulation.

Do you want me to go in -- he did also testify that it didn't have any effect on the USF receipt. Do you want me to put Mr. Hendershot through a series of questions that would outline -- go back

1 almost 11 years on that?

2 THE COURT: Well, what I wanted to do is
3 this: If you can proffer what your witness would
4 say -- do you know what he would say in response to
5 what -- the concerns raised by Mr. Duncan?

6 MS. SLAWSON: I do, but it might -- he can
7 provide it in summary form also.

8 THE COURT: Okay. Let's do that maybe in
9 summary form, because I know it's a concern that we do
10 want to address.

11 THE WITNESS: Okay. One of the things that
12 needs to be clearly understood is that Manti, in
13 settlements or in its recovery of revenues, it's an
14 average schedule. Which is a process the FCC has
15 established to simplify for a small company.

16 There's only two companies in the State of
17 Utah that participate or use average-schedule
18 settlements. Everybody else, all their revenue
19 recovery is based on their actual cost and how things
20 are allocated between state and interstate.

21 In an average-schedule company, that's not at
22 all. They get theirs based on the number of customers
23 that they have in an access -- in an exchange, such as
24 they have the exchange of Manti and the exchange of
25 Ephraim.

1 And they also get it based on special access
2 circuits that they may have. The distance that they
3 provide that service, however it is, before they
4 connect with Qwest, or another independent, or
5 whatever. So it's not involved.

6 In the 2000 -- I should say when they
7 acquired the Qwest properties in the year 2000 they in
8 turn received some continuing property records or a
9 list of the assets from Qwest.

10 Then in 2000 -- when they closed in 2001 they
11 received another list of assets. And there was a
12 difference in the assets. There was a building, there
13 was a microwave tower, and I can't remember what the
14 other item was.

15 When the Company filed in late 2002 and 2003,
16 because the agreement in the purchase --

17 Q. (By Ms. Slawson) When you say -- I'm sorry.
18 When you say "filed," filed their rate case?

19 A. Rate case. In the agreement or the
20 stipulation that was filed with the Commission when
21 purchasing the Qwest exchanges, the companies -- all
22 the companies had to agree to continue to use the
23 rates of the Qwest Company.

24 So you had a difference between the Qwest
25 properties that they acquired, the Ephraim exchange,

1 and the Manti. So in the 2003 rate case filing that
2 the Company did they wanted to simplify the rates so
3 they have one consistent rate for residents, business,
4 and all the other rates that they have, so they have
5 one set of rates. They don't have to have a different
6 set of rates for each exchange.

7 Also at that time when the DPU came down and
8 did their audit it was brought to their attention
9 that, that this microwave tower was not included in
10 the assets, so that was included there. Also, their
11 accounting at that time was not done in-house, it was
12 done outside by another party. And they had not
13 included the proper acquisition adjustment.

14 And -- but the Division personnel that was
15 down there was very competent. They in turn went
16 through and identified what that amount should be.
17 Added in the additional plant. And in turn an
18 adjustment was made in the rate case filing. So there
19 was nothing over-earning there at all.

20 And then the -- I was informed that the
21 person from the Division had spoken with the outside
22 party that maintained their accounting records and had
23 a discussion with them, but when we filed the 2008
24 rate case those adjustments had not been made.

25 And they have been corrected. And entries

1 were made and provided both to the Division for review
2 prior to being provided to the person that did the
3 accounting at that point in time.

4 Since then the Company has gone through a
5 transition. Has an employee that's taking care of the
6 accounting. They have a computer system now and
7 they're bringing it in the house. And this year,
8 2011, they in turn will be doing it themselves.

9 And they have gone through a great effort.
10 It wasn't something that you could easily convert from
11 short notice to take it in house and do all the
12 requirements they have, but they have made great
13 effort and they're doing it now.

14 And we're in constant communication with
15 representatives of the Division and keeping them
16 informed on the progress that the Company's made.
17 Probably haven't -- if we've been short, that they
18 haven't filed a letter. But verbally we've kept them
19 aware of all the progress that's being made.

20 THE COURT: All right.

21 MS. SLAWSON: Your Honor, would you like to
22 hear additional testimony on the accounting changes
23 that have been implemented? Or is Exhibit 4, which is
24 attached to the stipulation as the accounting changes
25 that are to be implemented, does that suffice?

1 THE COURT: I think that suffices.

2 Ms. Schmid, any questions you have?

3 MS. SCHMID: Yes. If I can have just one
4 moment.

5 THE COURT: Or actually, are you finished?
6 Do you want -- anything else you want to state,
7 Mr. Hendershot?

8 THE WITNESS: I just want to mention that in
9 that 2000 rate case we did establish a rate base, so
10 we all have a starting point. That wasn't achieved
11 till early 2010. It was signed off on and it was
12 filed with the Commission but was never asked to have
13 an order accepting it.

14 And so all the records went back to that
15 point in time for the rate base, so that we do have
16 those numbers going forward. And the Division was
17 heavily involved in that review and we all agreed to
18 those numbers.

19 Q. (By Ms. Slawson) I'm sorry, point of
20 clarification. Did you -- did the numbers from the
21 2003 rate base, did you tie those to the rate base for
22 the 2000 --

23 A. Yes.

24 Q. -- 8?

25 A. Yes, we did.

1 Q. Okay.

2 THE COURT: Okay.

3 Q. (By Ms. Slawson) And just to make it
4 perfectly clear. Was the discrepancy regarding the
5 Ephraim exchange booking, was there any over-earning
6 or any USF distribution that would have resulted from
7 that discrepancy?

8 A. No.

9 Q. On the interstate side or --

10 A. No.

11 Q. Okay. Or the state side?

12 A. No.

13 Q. Okay.

14 THE COURT: All right. Ms. Schmid?

15 MS. SCHMID: Just one.

16 CROSS EXAMINATION

17 BY MS. SCHMID:

18 Q. Do you know -- actually, never mind.

19 MS. SCHMID: Never mind.

20 THE COURT: Okay. Anything else that needs
21 to be added as part of the stipulation?

22 Either by the Division? Anything,

23 Ms. Schmid?

24 MS. SCHMID: The Division and the Company
25 have worked very hard to come up with a stipulation

1 that they think will allow the parties to move
2 forward, correct or implemented accounting changes
3 needed to make the auditing easier and the accounts
4 more precise. And it has been a great effort.

5 And we have worked hard with the Company, and
6 the Company has worked hard with us. And so we have a
7 stipulation we think is good.

8 THE COURT: Okay.

9 MS. SCHMID: Thank you.

10 THE COURT: Ms. Slawson?

11 MS. SLAWSON: I would just concur. I was
12 actually gonna say the same exact thing. That it has
13 been a very long process. The Company has made
14 tremendous efforts and I know the Division has made
15 tremendous efforts, too, to get us to the point where
16 we are.

17 I think we are at a point that both addresses
18 the Division's concerns, addresses the Company's --
19 most of the Company's concerns, and gets us to a point
20 where we can move forward expeditiously.

21 THE COURT: All right. Timelines, I was
22 looking quickly at timelines. Implementing some of
23 these changes, can you let me -- can you tell me if
24 there is a specific timeline? Or is that just gonna
25 be done going ahead, going forward?

1 MS. SLAWSON: We're gonna -- we're moving
2 forward. The Company plans to raise the rates --

3 THE COURT: Uh-huh.

4 MS. SLAWSON: -- pursuant to the stipulation
5 as soon as the order from -- if there's an order from
6 the Commission approving this.

7 THE COURT: Uh-huh.

8 MS. SLAWSON: With regard to the 2010
9 numbers, we're waiting for audited financial
10 statements. And once we get those we'll be able to
11 get that information to the Division.

12 And I think we will provide them with some --
13 in the short term, before the audited financial
14 statements, we've got work orders that have been
15 completed that we're gonna provide to the
16 Commission -- the Division for their review.

17 Make sure we've got that process going the
18 way they like it. The way they envisioned it. And
19 then we can move forward with the Division's audit of
20 the 2010 numbers.

21 THE COURT: Okay.

22 MS. SLAWSON: But specific time frame, no.
23 When do we expect the audited financial
24 statements?

25 (A private discussion was held off the

1 record.)

2 MS. SLAWSON: Our hope is that we will
3 provide the annual Public Service Commission report by
4 the end of --

5 MR. HENDERSHOT: March.

6 MS. SLAWSON: -- March, and that will have
7 the audited financial statement numbers in it.

8 THE COURT: All right, thank you.

9 Anything else from the Division?

10 MS. SCHMID: I'd just like to note that the
11 stipulation does impose some strict timelines on the
12 Division. For example, after Manti notifies --

13 THE COURT: Where are you looking?

14 MS. SCHMID: Fourteen. Paragraph 14.

15 THE COURT: Okay.

16 MS. SCHMID: After Manti notifies the
17 Division that it has completed changes, the Division
18 has 15 days to conduct an on-site verification. Then
19 we establish another time for notification of
20 deficiencies.

21 So the parties have attempted to ensure that
22 things are done in a timely manner, but at this point
23 it is difficult to know exactly how long it will take.

24 THE COURT: Okay. All right. Anything else
25 before we end?

1 No? Thank you very much. I'll take this
2 under consideration.

3 MS. SLAWSON: Thank you.

4 MS. SCHMID: Thank you.

5 (The hearing was concluded at 2:26 p.m.)

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C E R T I F I C A T E

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STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

This is to certify that the foregoing proceedings were taken before me, KELLY L. WILBURN, a Certified Shorthand Reporter and Registered Professional Reporter in and for the State of Utah.

That the proceedings were reported by me in stenotype and thereafter caused by me to be transcribed into typewriting. And that a full, true, and correct transcription of said proceedings so taken and transcribed is set forth in the foregoing pages, numbered 1 through 26, inclusive.

I further certify that I am not of kin or otherwise associated with any of the parties to said cause of action, and that I am not interested in the event thereof.

SIGNED ON THIS 30th DAY OF March, 2011.

Kelly L. Wilburn, CSR, RPR
Utah CSR No. 109582-7801

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