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- 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 Petition to Intervene of the Utah Rural Telecom Association
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The Utah Rural Telecom Association (“URTA”), on behalf of itself and URTA members All West Communications, Bear Lake Communications, Carbon/Emery Telcom, Central Utah Telephone, Direct Communications Cedar Valley, Emery Telcom, Gunnison Telephone, Hanksville Telcom, Manti Telephone, Skyline Telcom, South Central Utah Telephone Association, UBTA-UBET Communications, and Union Telephone (“URTA members”) petitions the Public Service Commission (“Commission”) to intervene in the above-entitled matter pursuant to Utah Code Ann. § 63G-4-207 and Utah Admin. Code § R746-100-7.

The grounds for this petition are as follows:

1. URTA members are local exchange carriers providing public telecommunications services in Utah pursuant to certificates of public convenience and necessity issued by this Commission.
2. URTA intervened and participated in Docket No. 06-2469-01 in which the Commission issued All American Telephone Co., Inc. (“All American”) a certificate of public convenience and necessity to provide telecommunications services in Qwest’s service territory. Initially in that docket, All American sought a certificate to provide

service in all of URTA members' service territories, but when All American agreed to limit its request to serve only in Qwest's territory, URTA withdrew its objection to All American's certificate.

3. In this docket, All American is seeking to expand its service territory to include Beehive Telephone's territory effective March 7, 2007 when the Commission issued All American's certificate. That is contrary to the terms and conditions URTA accepted in Docket No. 06-2469-01 and presents some of the same issues for which URTA sought intervention and participated in that proceeding.

4. This docket is a formal adjudicative proceeding in which intervention is permitted under Utah Code Ann. § 63G-4-207 and Utah Admin. Code § R746-100-7. URTA's brief in support of this petition to intervene is attached hereto and made a part hereof.

5. To the extent this docket establishes precedent for applicants entering rural areas in Utah to provide telecommunications services, URTA and URTA members have a significant legal interest that may be substantially affected by the outcome.

6. URTA and URTA members' intervention and participation in this matter will not materially impair the prompt and orderly conduct of these proceedings. URTA requests that copies of all notices and filings in this docket be served on:

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NOW THEREFORE, URTA respectfully requests that the Commission enter an Order granting URTA's petition to intervene in this docket allowing URTA and URTA members to participate to the full extent allowed by law.

Dated this 23rd day of December, 2008.

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Pursuant to the schedule established in the Interim Order issued December 2, 2008 in this docket, the Utah Rural Telecom Association (“URTA”) respectfully submits this Brief in Support of its Petition to Intervene:

I. Introduction

On April 23, 2008, All American Telephone Co., Inc. (“All American”), with Beehive Telephone’s (“Beehive”) consent, petitioned the Commission to amend All American’s certificate of public convenience and necessity effective March 7, 2007 when the Commission initially issued the certificate in Docket No. 06-2469-01 to allow All American to provide telecommunications services in Beehive’s service territory. Apparently, All American had already begun providing service in Beehive’s territory because on June 7, 2007, All American had submitted an interconnection agreement with Beehive to the Commission for approval. The interconnection agreement was deemed approved September 10, 2007 by operation of law and All American inferred from that tacit Commission approval for the expansion of All American’s certificate.

During its investigation of All American's petition, the Division of Public Utilities ("Division") served data requests on All American in June 2008 to which All American responded August 12, 2008. All American did not answer a second set of data requests from the Division, arguing that this proceeding is an informal adjudication in which neither discovery nor intervention is allowed. In response, the Division filed a Request for Dismissal or in the Alternative, Request for Formal Adjudication and Request to Compel Answers to Discovery Requests.

On November 18, 2008, pursuant to a request from All American, the Commission gave notice of a scheduling conference in this proceeding for December 2, 2008 to establish a schedule for negotiations and a schedule to brief issues. URTA first became aware of this proceeding when the Commission issued this notice and attended the December 2, 2008 scheduling conference. The Commission requested that All American and other interested parties respond to the Division's motions by December 23, 2008 and allowed the Division and other interested parties to respond to All American by January 7, 2009.

II. Argument

1. Docket 08-2469-01, Like Docket No. 06-2469-01, is a Formal Proceeding in Which URTA May Intervene

On April 19, 2006 in Docket No. 06-2469-01, All American applied for a certificate of public convenience and necessity to provide telecommunications service throughout the state, including in all of URTA members' service territories. As a certification proceeding, Docket No. 06-2469-01 was a formal proceeding in which affected parties could intervene. URTA petitioned to intervene and participate in that proceeding because the docket would have required that the Commission determine whether and under what conditions entry into these areas was in the public interest. The Commission granted URTA's petition. When All American agreed to

limit its request to just Qwest's service territory and amended its application August 28, 2006, URTA withdrew its objection to the certificate. The Commission issued a certificate to All American on March 7, 2007 allowing All American to provide service in Qwest's territory. Had All American pursued its original request, URTA would not have withdrawn.

Utah Admin. Code § R746-100-2 H. defines "Formal proceeding" as "...a proceeding before the Commission not designated informal by rule, pursuant to Section 63-46b-4." (Section 63-46b-4 is now Utah Code Ann. § 63G-4-202.) Utah Code Ann. § 63G-4-202 (2) states: "...all agency adjudicative proceedings not specifically designated as informal proceedings by the agency's rules shall be conducted formally in accordance with the requirements of this chapter." The Commission has not designated certification expansion proceedings to be informal and the chapter to which this section of the Utah Code refers permits intervention in formal proceedings. URTA continues to have a significant legal interest that may be substantially affected by this proceeding and should be allowed to intervene. Any other result would be unjust, unreasonable, and contrary to law.

URTA participated fully as an intervenor in Docket No. 06-2469-01. Now to prevent URTA from intervening in a matter not designated by the Commission in rule as informal in which some of the same issues will be presented cannot be sustained. For this reason, URTA petitions to intervene.

III. Conclusion

URTA petitions to intervene in this matter because it presents some of the same issues that Docket No. 06-2469-01 presented that could substantially affect URTA members' legal interests. This proceeding is a formal adjudicative proceeding by Commission rule and by statute into which intervention is allowed.

Respectfully submitted this 23rd day of December, 2008.

CALLISTER NEBEKER & MCCULLOUGH

Stephen F. Mecham

Certificate of Service

I hereby certify that on this 23rd day of December, 2008 I caused to be emailed a true and correct copy of the Petition to Intervene of URTA and URTA members and the Brief in Support of the Petition to Intervene of the Utah Rural Telecom Association in Docket No. 08-2469-01 to the following:

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