

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 Response of the Utah Rural Telecom Association to Motions to Dismiss
---	---

In accordance with the Second Interim Scheduling Order issued in this proceeding April 1, 2009, the Utah Rural Telecom Association (“URTA”) submits the following response to the motions to dismiss filed by the Division of Public Utilities and the Committee of Consumer Services:

URTA does not join the motions to dismiss but instead recommends that the Public Service Commission treat this proceeding as a formal petition by All American Telephone Co., Inc. (“All American”) to amend prospectively its certificate of public convenience and necessity to include Beehive Telephone’s (“Beehive”) service territory. All American’s contention that the Commission tacitly approved All American’s service territory expansion by operation of law by allowing the interconnection agreement between Beehive and All American to take effect is simply wrong. All American did not have the authority to enter into or file an interconnection agreement for approval under 47 USC § 252 to serve in Beehive’s territory because that exceeded the authority the Commission granted to All American in Docket No. 06-2469-01. The certificate the Commission issued All American only allowed All American to operate in

Qwest's service territory, and when All American agreed to limit its request to Qwest's territory, URTA withdrew its objection to All American's application in that docket.

If All American desires to enter an exchange with fewer than 5,000 access lines owned by an incumbent provider that has fewer than 30,000 access lines, the Commission must determine if that entry is in the public interest and, if so, establish criteria for entry. Before the Commission dilutes the rural exemption the criteria for entry must be clear. The proceeding should provide for full discovery to aid the Commission in making that determination. Changes in policy of this magnitude do not happen by operation of law, and these changes cannot occur where the carrier involved lacks the authority to trigger approval by operation of law provided under 47 USC § 252.

URTA believes that the Commission can address a proposed amendment to All American's certificate in this docket or in a new docket, not solely in Docket No. 06-2469-01, All American's certification docket. If necessary, the Commission can take administrative notice of any of the evidence in All American's certification docket. At the conclusion of the proceeding, if the Commission determines that All American's entry into Beehive's territory is in the public interest, URTA requests that the Commission establish criteria for entering exchanges with fewer than 5,000 access lines. The rural exemption continues to be critical to URTA.

Respectfully submitted this 7th day of April, 2009.

CALLISTER NEBEKER & MCCULLOUGH

Stephen F. Mecham

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing response of URTA was served upon the following by electronic mail sent April 7, 2009:

Michael Ginsberg
Patricia Schmid
ASSISTANT ATTORNEYS GENERAL
Division of Public Utilities
Heber M. Wells Building, 5th Floor
160 East 300 South
Salt Lake City, UT 84111
mginsberg@utah.gov
pschmid@utah.gov

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

Judith Hooper
Beehive Telephone
2000 E. Sunset Road
Lake Point, UT 84074
Hooper@Beehive.net

Paul Proctor
ASSISTANT ATTORNEY GENERAL
Heber M. Wells Building, 5th Floor
160 East 300 South
Salt Lake City, UT 84111
pproctor@utah.gov

George Baker Thomson
Qwest
1801 California St., 10th Floor
Denver, CO 80202
george.thomson@qwest.com

Roger Moffitt
AT&T Communications
PO Box 11010
Reno, NV
roger.moffitt@att.com

Alan L. Smith
Beehive Telephone
1492 East Kensington Ave.
Salt Lake City, UT
alanakaed@aol.com
