

BEFORE PUBLIC SERVICE COMMISSION OF UTAH

<p>In the Matter of the Petition of All American Telephone Co., Inc. for a Nunc Pro Tunc Amendment of its Certificate of Authority to Operate as a Competitive Local Exchange Carrier Within the State of Utah</p>	<p>DOCKET NO. 08-2469-01</p>
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DIRECT TESTIMONY OF
DOUGLAS DUNCAN MEREDITH
ON BEHALF OF THE
UTAH RURAL TELECOM ASSOCIATION

1 **Q: PLEASE STATE YOUR FULL NAME, PLACE OF EMPLOYMENT AND**
2 **POSITION.**

3 A: My full name is Douglas Duncan Meredith. I am employed by John
4 Staurulakis, Inc. (“JSI”) as Director – Economics and Policy. JSI is a
5 telecommunications consulting firm headquartered in Greenbelt Maryland.
6 My office is located at 547 Oakview Lane, Bountiful, Utah 84010. JSI has
7 provided telecommunications consulting services to rural local exchange
8 carriers since 1963.

9 **Q: PLEASE DESCRIBE YOUR PROFESSIONAL EXPERIENCE AND**
10 **EDUCATIONAL BACKGROUND.**

11 A: As the Director of Economics and Policy at JSI, I assist clients with the
12 development of policy pertaining to economics, pricing and regulatory
13 affairs. I have been employed by JSI since 1995. Prior to my work at JSI, I
14 was an independent research economist in the District of Columbia and a
15 graduate student at the University of Maryland – College Park.
16 In my employment at JSI, I have participated in numerous proceedings for
17 rural and non-rural telephone companies. These activities include, but are not
18 limited to, the creation of forward-looking economic cost studies, the
19 development of policy related to the application of the rural safeguards for
20 qualified local exchange carriers, the determination of Eligible
21 Telecommunications Carriers, and the sustainability and application of
22 universal service policy for telecommunications carriers.
23 In addition to assisting telecommunications carrier clients, I have served as
24 the economic advisor for the Telecommunications Regulatory Board of
25 Puerto Rico since 1997. In this capacity, I provide economic and policy
26 advice to the Board Commissioners on all telecommunications issues that
27 have either a financial or economic impact. I have participated in a number of
28 Arbitration panels established by the Board to arbitrate interconnection issues
29 under Section 252 of the Telecommunications Act of 1996 (the “Act”).

30 I am participating or have participated in numerous national incumbent local
31 exchange carrier and telecommunications groups, including those headed by
32 NTCA, OPASTCO, USTA, and the Rural Policy Research Institute. My
33 participation in these groups focuses on the development of policy
34 recommendations for advancing universal service and telecommunications
35 capabilities in rural communities and other policy matters.

36 I have testified or filed pre-filed regulatory testimony in various states
37 including Utah, South Carolina, New Hampshire, New York, Michigan,
38 Wisconsin, North Dakota, South Dakota, Vermont, Texas, Kentucky, Maine
39 and Tennessee. I have also participated in regulatory proceedings in many
40 other states that did not require formal testimony, including Florida,
41 Louisiana, Mississippi, North Carolina, Puerto Rico and Virginia. In
42 addition to participation in state regulatory proceedings, I have participated in
43 federal regulatory proceedings through filing of formal comments in various
44 proceedings and submission of economic reports in an enforcement
45 proceeding.

46 I have a Bachelor of Arts degree in economics from the University of Utah,
47 and a Masters degree in economics from the University of Maryland –
48 College Park. While attending the University of Maryland – College Park, I
49 was also a Ph.D. candidate in Economics. This means that I completed all
50 coursework, comprehensive and field examinations for a Doctorate of
51 Economics without completing my dissertation.

52 **Q: ON WHOSE BEHALF ARE YOU TESTIFYING?**

53 A: I am testifying in this docket on behalf of the Utah Rural Telecom
54 Association (“URTA”). URTA is comprised of fourteen independent
55 telephone companies serving customers throughout rural Utah. Beehive
56 Telephone is a member of URTA, but it is participating in this proceeding
57 separately.

58 **Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

59 A: My purpose in providing this testimony to the Public Service Commission of
60 Utah (“Commission”) is to state URTA’s position on All American’s petition
61 and highlight the public policy concerns involved in this proceeding. I make
62 specific public policy recommendations and urge the Commission to adopt
63 my recommendations in this proceeding.

64 **Q: BEFORE YOU BEGIN TO ADDRESS THE MERITS OF THE PETITION**
65 **AND URTA’S POSITION, CAN YOU DESCRIBE THE TERM “NUNC**
66 **PRO TUNC” WHICH IS PART OF THE REQUEST IN THIS**
67 **PROCEEDING?**

68 A: Yes. The Latin expression “*nunc pro tunc*” means “now for then.” It is used
69 to address the circumstance of issuing a ruling to apply retroactively in order
70 to correct or revise an earlier ruling. In its petition, All American seeks to
71 have the Commission issue an order *nunc pro tunc* to modify its certificate of
72 public convenience and necessity.

73 **Q: WHAT IS URTA’S POSITION ON ALL AMERICAN’S PETITION?**

74 A: URTA opposed All American’s original petition in this proceeding in which
75 All American asked the Commission for a *nunc pro tunc* amendment to its
76 certificate to include Beehive Telephone’s service territory as though
77 Beehive’s service territory had been part of All American’s certificate when
78 the Commission granted it March 7, 2007. URTA also opposes All
79 American’s August 31, 2009 amended petition insofar as All American is
80 still seeking *nunc pro tunc* ratification of the services All American has
81 provided in Beehive’s territory since the Commission issued All American’s
82 certificate.

83 URTA does not oppose the alternative relief All American is seeking to be
84 authorized to serve in Beehive’s territory prospectively if the Commission
85 establishes public interest criteria to enter Beehive’s territory or, without
86 setting criteria, makes it clear that this case only applies to Beehive and sets

87 no precedent or policy for entry into rural exchanges. The Commission
88 should also limit All American's authority to the conference service it is
89 providing currently in Beehive's territory.

90 **Q: WHY DID URTA OPPOSE ALL AMERICAN'S ORIGINAL PETITION IN**
91 **THIS PROCEEDING?**

92 A: All American claimed that it had authority to enter Beehive's territory by
93 operation of law when the Commission failed to act within ninety days on an
94 interconnection agreement between All American and Beehive. In its original
95 petition in this proceeding, All American sought an amendment to treat its
96 entry into Beehive's territory as though entry were valid from the day the
97 Commission issued All American's certificate. The fact is that All American
98 did not have the authority to interconnect with Beehive in Beehive's territory
99 to provide local service within Beehive's territory or to file an
100 interconnection agreement that would allow such service offering under the
101 certificate the Commission issued. URTA intervened in Docket No. 06-
102 2469-01, All American's certificate proceeding, and argued to limit All
103 American's certificate by excluding exchanges with fewer than 5,000 access
104 lines owned by telephone corporations with fewer than 30,000 access lines.
105 This has been the traditional exemption for rural exchanges in all certificates
106 the Commission has granted. When All American agreed to this limitation,
107 URTA withdrew its objection and the Commission issued All American's
108 limited certificate March 7, 2007. Granting All American's original petition
109 would nullify the Commission's actions in Docket No. 06-2469-01 and
110 would recognize authority All American did not have.

111 **Q: WHY DOES URTA OPPOSE ALL AMERICAN'S AMENDED PETITION?**

112 A: Because All American is seeking to amend its petition *nunc pro tunc* to make
113 the amendment effective beginning March 7, 2007 when the Commission
114 issued All American's certificate. That is no different than the original
115 petition and URTA therefore opposes it for the same reasons it opposed All

116 American's original petition. All American's certificate did not allow All
117 American to enter Beehive's service territory.

118 **Q: AREN'T THESE ISSUES PENDING ON APPEAL AT THE UTAH**
119 **SUPREME COURT?**

120 A: Yes, so the Commission need not address them further in this proceeding.

121 **Q: WHY IS URTA CONCERNED ABOUT THE ALTERNATIVE RELIEF**
122 **ALL AMERICAN IS SEEKING IN ITS AMENDED PETITION TO SERVE**
123 **IN BEEHIVE'S TERRITORY PROSPECTIVELY?**

124 A: If the Commission grants All American's alternative relief, it will be the first
125 time a CLEC will be permitted to enter and serve in an exchange with fewer
126 than 5,000 access lines owned by a telephone corporation with fewer than
127 30,000 access lines. Consequently, without an explicit acknowledgement
128 that this proceeding does not establish Commission precedent, it is critical for
129 the Commission to address its public interest standard as this case will
130 become a case of first impression addressing the lifting of the rural limitation
131 to which all CLECs have agreed previously.

132 **Q: DOES URTA OPPOSE THE ALTERNATIVE RELIEF ALL AMERICAN**
133 **IS SEEKING?**

134 A: No, provided the Commission establishes public interest criteria for entering
135 rural exchanges with fewer than 5,000 access lines so that URTA members
136 know when entry will be permitted. In the alternative, if the Commission
137 does not set the criteria for entry but still wants to give All American relief, it
138 should make clear that this case only applies to Beehive and does not
139 establish policy or precedent for entry in a rural exchange.

140 **Q: WHAT PUBLIC INTEREST CRITERIA SHOULD THE COMMISSION**
141 **CONSIDER IF IT WERE TO ALLOW ENTRY?**

142 A: If the Commission decides to establish public interest criteria for entry in
143 small rural exchanges, at the very least it should consider the impact of entry
144 on the incumbent provider, the impact on the incumbent provider's ability to
145 continue to serve high cost areas, the impact on the state universal service
146 fund, and the impact on and benefits for customers in the affected service
147 area.

148 **Q: IN YOUR OPINION, IS THIS PROCEEDING THE APPROPRIATE**
149 **PROCEEDING IN WHICH TO ESTABLISH PUBLIC INTEREST**
150 **CRITERIA FOR ENTRY IN A RURAL EXCHANGE WITH FEWER**
151 **THAN 5,000 ACCESS LINES?**

152 A: No. This proceeding presents unusual facts which should not be the basis for
153 establishing a policy as important as the criteria for entering a small rural
154 exchange. All American does not propose to provide the full array of
155 telecommunications services in Beehive's service territory or take
156 distributions for the state universal service fund. In addition, there is a
157 separate legal issue associated with this case under which All American
158 believes it has had the authority to operate in Beehive's territory. That issue
159 is pending in the Utah Supreme Court.

160 **Q: WHAT DO YOU RECOMMEND THAT THE COMMISSION DO IN THIS**
161 **PROCEEDING?**

162 A: The Commission should not grant All American the *nunc pro tunc* relief it is
163 seeking. If the Commission decides to grant All American's alternative
164 relief, it should make clear that the result only applies to Beehive's territory
165 and sets no precedent for determining the public interest criteria for entering
166 a rural exchange with fewer than 5,000 access lines owned by a telephone
167 corporation with fewer than 30,000 access lines. The Commission should

168 also limit All American's authority to the conferencing service it is currently
169 providing in Beehive's territory.

170 **Q: DOES THIS CONCLUDE YOUR PRE-FILED DIRECT TESTIMONY?**

171 **A: Yes.**

Certificate of Service

I certify that on February 12, 2010 I emailed a true and correct copy of the foregoing direct testimony of Douglas Duncan Meredith in Docket No. 08-2469-01 to the following:

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