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November 25, 2008

Ted Boyer, Chair
Ric Campbell, Commissioner
Ron Allen, Commissioner
Public Service Commission
Heber M. Wells Bldg., 4th Floor
Salt Lake City, Utah 84111

Re: Reconsideration of the Commission's Denial of Petition for Rulemaking on definition of Basic Telecommunications Service, **Docket No. 08-R360-01**

Dear Commissioners:

On behalf of the Utah Rural Telecommunications Association, ("URTA") I am requesting that you reconsider your denial of URTA's Petition for Rulemaking to amend the definition of Basic Telecommunications Service in Utah Admin. Code R746-360-2 C to add CLASS features to the items supported by the state universal service fund. Part of the Commission's rationale for taking no action is because the Federal Communications Commission (FCC) was scheduled to address changes in the Federal Universal Service Fund and intercarrier compensation during its open meeting in early November. As the Commission is aware, the FCC decided not to implement the Federal State Joint Board Recommendations that might have touched on the availability and affordability of basic telecommunications service. Furthermore, the notice of proposed rulemaking adopted by the FCC on November 5th does not impact the proposed change in the definition of Basic Telecommunications Service in the Commission's rules.

URTA did not petition the Commission to change the definition of Basic Telecommunications Service as part of any action by or proceeding before the FCC; URTA petitioned for the change so its members could meet their customers' expectations for service, simplify their rates and tariffs, and preserve the resources of the universal service fund. All three of these objectives conform to traditional regulatory principles and are in the public interest.

Utah Code Ann. § 54-8b-15 empowers the Commission to make this requested change in the definition of "basic telephone service" to be local exchange service and "...other **functions and elements**, if any, **as the commission determines to be eligible for support by the fund.**" (*Emphasis Added.*) Basic telephone service is the term the legislature used to describe the services the state

universal service fund would support. In Utah Admin. Code R746-360-2 C, the Commission established the rules for universal service fund support and used “basic telecommunications service” as synonymous with basic telephone service.¹ The rule also contemplates that the Commission would add services to those currently supported by the universal service fund when, after enumerating what basic telecommunications service includes, the rule concludes: “...and other services as may be determined by the Commission.”

URTA requests that the Commission exercise its authority, reconsider its denial of URTA’s petition, and publish the proposed rule adding features to the list of supported services for comment. The rule allows URTA members to simplify their tariffs and rates by including features with local service. It may also result in URTA members retaining some customers who have come to expect that features be included in local service supported by the universal service fund. The alternative is to allow customers to abandon their service leaving stranded costs for the fund to support instead. Unfortunately, this reflects the status quo and it is not in the public interest. URTA urges the Commission to modernize its rule to reflect customer expectations by adding features to the definition of Basic Telecommunications Service and publishing it for comment. Thank you for your consideration.

Sincerely,

CALLISTER NEBEKER & MCCULLOUGH

Stephen F. Mecham

¹ Utah Code Ann. § 54-8b-2(2) defines “basic residential service” which appears to exclude features as part of the definition. The only place this term is used in the code is in Utah Code Ann. § 54-8b-2.3 for purposes of restricting pricing flexibility of basic residential service to protect residential customers; it does not affect the Commission’s authority to add features as functions or elements that can be supported by the state universal service fund under Utah Code Ann. § 54-8b-15.