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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application of New Horizons Communications Corp. for a Certificate of Public Convenience and Necessity to Provide Telecommunications Services in the State of Utah

COMMENTS OF UTAH RURAL TELECOM ASSOCIATION AND PETITION TO INTERVENE

DOCKET NO. 14-2574-02

The Utah Rural Telecom Association (“URTA”), on behalf of itself and URTA members All West Communications, Inc., Bear Lake Communications, Inc., Beehive Telephone Company, Carbon/Emery Telcom, Inc., Central Utah Telephone, Inc., Direct Communications Cedar Valley, LLC, Emery Telephone, Hanksville Telcom, Inc., Manti Telephone Company, Skyline Telecom, South Central Utah Telephone Association, Inc. and Union Telephone Company (“Members” or “URTA Members”) hereby files Comments in the above-entitled matter, and Petitions the Utah Public Service Commission (“Commission”) for intervention.

COMMENTS OF URTA

AND REQUEST FOR INTERVENTION

1. The URTA Members are local exchange carriers providing public telecommunications services in Utah pursuant to certificates of public convenience and necessity (“CPCN”) issued by the Commission.
2. On October 22, 2014 New Horizons Communications Corp. (“New Horizons”)

filed an Application for Certificate of Public Convenience and Necessity to Telecommunications Services in the State of Utah (the “Application”).

3. In paragraph 7 of its Application, New Horizons states:

“7. R746-349-3(A)(4). *Services to be offered.*

(A) R746-349-3(A)(4)(a). *Classes of customers.* New Horizons proposes to offer local exchange telecommunications services to business customers in the state of Utah.

(B) R746-349-3(A)(4)(a). *Location of service.* New Horizons seeks authority to offer local exchange service statewide, with the exception of exchange areas with less than 5,000 access lines that are owned or controlled by an ILEC with fewer than 30,000 total access lines in accordance with Utah Code Ann. § 54-8b-2.1(3) and (4).

(C) R746-349-3(A)(4)(c). *Services offered.* New Horizons seeks authority to provide all types of resold- and facilities-based local exchange service to and from all points in Utah that are or become open to competition. New Horizons is specifically seeking authorization as a facilities- and reseller-based provider of local exchange services in the service area of Qwest. The Applicant seeks statewide authority so that it may expand to the service areas of other future or existing LECs when they become open to competition. New Horizons seeks authority to provide the following services:

A. *Local Exchange Services that will enable customers to originate and terminate local calls in the local calling area served by other LECs, including local dial tone and custom calling features.*

B. *Switched local exchange services, including basic service, trunks, carrier access, and any other switched local services that currently exist or will exist in the future.*

C. *Non-switched local services (e.g., private line) that currently exist or will exist in the future.*

D. *Centrex and/or Centrex-like services that currently exist or will exist in the future.*

E. *Digital subscriber line, ISDN, and other high capacity line services. (New Horizons’ Services”).*”

3. While Section 7(B) of the Application quoted above excepts exchange areas in Utah with fewer than 5,000 access lines that are owned or controlled by an ILEC with fewer than 30,000 total access lines in accordance with Utah Code Ann. § 54-8b-2.1 from its statewide authority, the language contained in Section 7(C) could be construed to contradict this—where New Horizons speaks in terms of “statewide authority” which would include all small rural exchanges within the State of Utah.

4. Subject to Utah Code Annotated Section 54-8b-2.1, competition within a local exchange with fewer than 5,000 access lines that is owned or controlled by an incumbent local exchange carrier serving fewer than 30,000 access lines, may be excluded if such exclusion is found to be in the public interest.

5. Further, pursuant to Utah Code Annotated Section 54-8b-2.1 (3)(b), “each telecommunications corporation holding a certificate to provide public telecommunications service within the geographic area where the application is seeking to provide telecommunications service shall be provided notice of the application and granted automatic status as an intervenor.”

6. URTA and its Members do not believe it is in the public interest to grant New Horizons a CPCN to provide service in exchanges with fewer than 5,000 access lines that are owned or controlled by an ILEC with fewer than 30,000 total access lines in the State of Utah.

7. URTA and its Members, as the incumbent local exchange providers in the rural areas of the State of Utah, have a substantial interest in this proceeding if New Horizons is, in fact, seeking authority to provide service within the small rural exchanges. The issues to be considered by the Commission impact URTA’s Members’ business interests, operations, as well as the interests of the subscribers, residential and commercial, that the URTA Members serve in the rural exchanges. Those issues may also impact the URTA Members’ continued ability to provide enhanced telecommunications services to the subscribers the rural Utah exchanges.

8. If New Horizons is, in fact, seeking statewide authorization including exchanges with fewer than 5,000 access lines that are owned or controlled by an ILEC with fewer than 30,000 total access lines, URTA and its Members are interested parties and should be granted intervenor status in this proceeding.

9. The interests of justice and the orderly conduct of these proceedings will not be impaired by allowing URTA and its Members' participation. New Horizons' Application was recently filed October 22, 2014, and the Comment period as set by the Commission runs through November 21, 2014. Therefore, URTA and its Members' Comments are prompt and timely, and their intervention and participation will not delay the proceedings in any way.

10. If New Horizons is **not** seeking authority to provide telecommunications services in exchanges with fewer than 5,000 access lines that are owned or controlled by an ILEC with fewer than 30,000 total access lines, its CPCN, if otherwise granted by the Commission, should include limiting language so that New Horizons is **not permitted** to provide services in exchanges with fewer than 5,000 access lines that are owned or controlled by an ILEC with fewer than 30,000 total access lines.

11. URTA and its Members request that copies of all notices and filings in this docket should be served on the following:

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NOW THEREFORE, URTA and its Members respectfully request that the Commission enter an Order granting this Petition to Intervene in this docket and to participate to the full extent as allowed by law. URTA and its Members further respectfully request that the Commission limit any CPCN that may be granted in this matter to exclude exchanges with fewer than 5,000 access lines that are owned or controlled by an ILEC with fewer than 30,000 total access lines.

DATED this 13th day of November, 2014.

BLACKBURN & STOLL, L.C.

Kira M. Slawson
Attorneys for Utah Rural Telecom Association and
Its Members

CERTIFICATE OF MAILING

I hereby certify that on this 13th day of November 2014, I caused to be mailed a true and correct copy of the foregoing COMMENTS AND PETITION TO INTERVENE OF UTAH RURAL TELECOM ASSOCIATION AND ITS MEMBERS by email to:

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