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**BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH**

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In the Matter of the Application of Commnet Rural, LLC for a Certificate of Public Convenience and Necessity to Provide Resold and Facilities Based Telecommunications Services within the State of Utah

**COMMENTS OF UTAH RURAL TELECOM ASSOCIATION**

DOCKET NO. 19-2613-01

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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., UBTA-UBET Communications Inc. dba Strata Networks, and Union Telephone Company (“Members” or “URTA Members”) hereby files Comments in the above-entitled matter.

**COMMENTS OF URTA**

1. The URTA Members are local exchange carriers providing public telecommunications services in Utah pursuant to certificates of public convenience and necessity (“CPCNs”) issued by the Commission.

2. On June 17, 2019 Commnet Rural America, LLC (“Commnet”) filed an Application for CPCN to Provide Resold and Facilities Based Telecommunications Services

within the State of Utah (the “Application”). Specifically, Commnet “hereby applies for a certificate of public convenience and necessity authorizing the Applicant to operate as a provider of resold and facilities-based local exchange and interexchange telecommunications services in the State of Utah.”<sup>1</sup>

3. In support of its Application, in paragraph 4 of its Application, Commnet states:

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

*4.(a) R746-349-3(A)(4)(a). Classes of customers. Applicant proposes to offer its non-switched dedicated point to point private transport services to business customers and other telecommunications carriers.*

*4.(b) R746-349-3(A)(4)(b). Location of service. Applicant seeks authority for its services from all points in Utah where demand for its services arises.*

*4.(c) R746-349-3(A)(4)(c). Types of services to be offered. Application proposes to operate in Utah as a provider of non-switched dedicated point to point private transport service to other carriers and business customers.*

4. It would appear that Applicant seeks statewide authority to provide its services.

Statewide authority would include small rural exchanges within the State of Utah.

5. The Division of Public Utilities (“Division”) filed Comments in this docket on June 25, 2019 (“Comments”). In its Comments, the Division recommends approval of Commnet’s Application and suggests that “the public interest will be promoted by the Commission granting Commnet Rural America, LLC a Certificate of Public Convenience and Necessity as requested *under the same terms and conditions allowed in other CPCNs.*”<sup>2</sup> (emphasis added).

6. The Commission has historically issued CPCNs in the State of Utah to include limiting language prohibiting the provision of public telecommunications service within a local

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<sup>1</sup> See Commnet Application, Opening Paragraph, p. 1.

<sup>2</sup> See Division Comments, p. 1.

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. Specifically, the CPCNs most recently issued by the Commission have included the following language:

*“[Applicant] may not operate in any area with fewer than 5,000 access lines that is served by an incumbent local exchange carrier that has fewer than 30,000 total access lines.”*<sup>3</sup>

5. To the extent the CPCN sought by Commnet, and ultimately granted by the Commission, is consistent with the CPCNs previously issued by the Commission and includes the standard limitation identified in italics above, URTA does not oppose this Application. However, in the event the Applicant is seeking authority to provide public telecommunications services statewide, including rural exchanges with fewer than 5,000 access lines that are owned or controlled by an incumbent local exchange carrier serving fewer than 30,000 access lines, URTA and its members would oppose the Application and would request formal adjudication of this matter so that URTA could move for intervention as a matter of right under Utah Code Annotated Section 54-8b-2.1 (3)(b).<sup>4</sup>

6. URTA and its Members do not believe it is in the public interest to grant Commnet 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 Commnet’s CPCN does not specifically exclude authority to provide service within the small rural exchanges. The

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<sup>3</sup> URTA is unaware of any CPCN being granted by the Commission that does not have this limitation.

<sup>4</sup> U.C.A. Section 54-8b-2.1(3)(b) provides: “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.”

issues to be considered by the Commission impact URTA's Members' business interests. Those issues may also impact the URTA Members' continued ability to provide enhanced telecommunications services to the subscribers the rural Utah exchanges.

8. The interests of justice and the orderly conduct of these proceedings will not be impaired by allowing URTA and its Members' participation in this docket. Commnet's Application was recently filed June 17, 2019, and the Comment period as set by the Commission runs through August 1, 2019. Commnet has the opportunity to file Reply Comments on or before August 1, 2019 to clarify its position on this matter. If Commnet indicates, in Reply Comments that it is **not** seeking authority to provide public telecommunications service in rural exchanges of 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, URTA has no objection to the Commission adjudicating this Application informally.

9. 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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### **CONCLUSION**

URTA and its Members appreciate the opportunity to provide Comments in this docket and look forward to receiving clarification from Commnet in Reply Comments. If the Reply Comments of Commnet indicate they are **not** seeking authority to provide service in exchanges

of 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, URTA and its Members do not object to adjudicating this matter informally. If, however, the Reply Comments of Commnet indicate they are, in fact, seeking statewide authority, including small rural exchanges, URTA respectfully requests that the Commission adjudicate this matter formally and afford URTA the opportunity to intervene in this docket.

DATED this 17<sup>th</sup> day of July, 2019.

**BLACKBURN & STOLL, L.C.**



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

## CERTIFICATE OF MAILING

I hereby certify that on this 17<sup>th</sup> day of July, 2019, I caused to be mailed a true and correct copy of the foregoing COMMENTS OF UTAH RURAL TELECOM ASSOCIATION AND ITS MEMBERS by email to:

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*Commnet Rural America, LLC*

s/Kira M. Slawson  
Kira M. Slawson