

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners:

Brian J. Moline, chair
Robert E. Krehbiel
Michael C. Moffet

STATE CORPORATION COMMISSION

AUG 10 2006

 Docket Room

In the Matter of he Joint Application of)
United Telephone Company of Kansas, Inc.)
United Telephone of Eastern Kansas, Inc.)
(United) and Rural Telephone Service)
Company, Inc. (RuralTel) for Permission of)
United to Cease Operating as a Telephone)
Public Utility in Twelve of its Kansas)
Exchanges, to Grant RuralTel a Certificate)
of Public Convenience for the Same Twelve)
Exchanges, and for Authority to Transfer)
Property, Plant and Equipment of United)
Located in the Twelve Exchanges to)
RuralTel and Complete All Matters Incident)
to the Transfer)

Docket No. 06-RRLT-963-COC

**MOTION OF CUNNINGHAM COMMUNICATIONS, INC. FOR LEAVE TO
INTERVENE AND PETITION FOR RECONSIDERATION**

MOTION FOR LEAVE TO INTERVENE

COMES NOW Cunningham Communications, Inc. ("CCI") and moves that it be granted leave to intervene herein. In support thereof, CCI states as follows:

1. CCI is a Kansas corporation holding a certificate of convenience and authority issued by this Commission in its Docket No. 06-CGHT-214-COC to engage in the business of a competitive local exchange carrier ("CLEC") in areas of the state where Sprint Corporation and/or its United Telephone Company affiliates ("Sprint/United") served as the incumbent local exchange carrier at the time such certification was issued. Subsequently the Commission has approved an organizational change under which the

United Telephone Company entities continue their local exchange service under the name of their affiliate Embarq.

2. One of the exchanges in which CCI was authorized to serve pursuant to the aforesaid Certificate was the Downs, Kansas exchange. CCI has facilities capable of providing local exchange telecommunications services in the Downs exchange and desires to provide such service.

3. In furtherance of its intent to offer service in the Downs exchange CCI has negotiated an interconnection agreement effective May 31, 2006 with United Telephone Company of Kansas d/b/a Embarq, the Downs incumbent local exchange carrier; such agreement has been filed with the Commission.

4. CCI's interests, including its ability to provide service as it intends in the Downs exchange, is or will be affected by the Order of the Commission herein approving transfer of assets and operational authority in that exchange to RuralTel.

5. No other party is capable of protecting CCI's interests in the instant proceeding; further, it is in the public interest that CCI's ability to offer telecommunications service to the public be considered herein.

PETITION FOR RECONSIDERATION

CONTINGENT UPON leave to intervene, CCI requests that the Commission reconsider in part its order of July 27, 2006 herein. Specifically, CCI requests that Commission approval of any S&A herein be conditioned on RuralTel's agreement to honor the CCI/Embarq interconnection agreement discussed above. This may be accomplished merely by modification of the existing S&A including CCI among those CLECs with which RuralTel is obliged to interconnect pursuant to agreements

negotiated or being negotiated with Sprint, United, Embarq or any affiliate thereof or successor thereto as to any of the subject exchanges. In support thereof, CCI further states as follows:

6. The Stipulation and Agreement (“S&A”) achieved by and submitted herein on behalf of RuralTel, Commission Staff (“Staff”) and the Citizens Utility Ratepayer Board (“CURB”) recites at ¶ 11 the existence of a number of CLECs operating in one or more of the exchanges subject to the proposed transfer from Sprint/United or United/Embarq to RuralTel.

7. In order to maintain the existence of competitive service options for customers in these exchanges the parties to the S&A agreed specifically, at ¶ 12, that RuralTel would continue to honor interconnection agreements with those carriers presently serving customers in any of the subject exchanges. There was no indication of a desire by any other authorized CLEC actually to serve customers in the twelve subject exchanges.

8. In the case of some of the companies identified in the S&A Rural agreed to honor for a specified period certain interconnection agreements then being negotiated with United.

9. At the time of approval of the S&A CCI had negotiated an interconnection agreement with United Telephone Company of Kansas d/b/a Embarq for local service in the Downs exchange, and CCI had done everything within its ability to advance plans to offer local exchange and exchange access service as a CLEC in that exchange using its own facilities.

10. The public interest in requiring RuralTel to honor existing interconnection agreements, as recited in the original S&A as approved, is equally applicable to CCI and its intent to offer CLEC service in the Downs exchange.

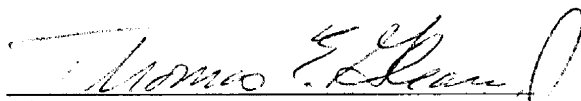
11. Addition of CCI to ¶ 11 of the S&A, and to the Commission's approval thereof, will minimize administrative expense, promote competitive neutrality among CLECs and expand facilities-based service options to customers in the Downs exchange, all consistent with the public interest.

12. Prompt approval of this petition need not impose delay on the transfer of incumbent provider responsibilities otherwise authorized herein, or on the benefit to customers therefrom.

13. CCI has discussed the proposed reconsideration and revision of the S&A with RuralTel. RuralTel does not oppose the relief requested herein, and CCI believes such an amended Stipulation and agreement is acceptable to the parties.

WHEREFORE CCI respectfully requests that it be granted leave to intervene herein, and that thereupon the Commission reconsider its approval of the S&A filed herein, specifically by approving a Stipulation and Agreement amended as recommended, committing RuralTel to honor the terms of the interconnection agreement negotiated by CCI for service in the Downs exchange to the same extent as RuralTel is required to honor other interconnection agreements identified in the S&A.

Respectfully Submitted,

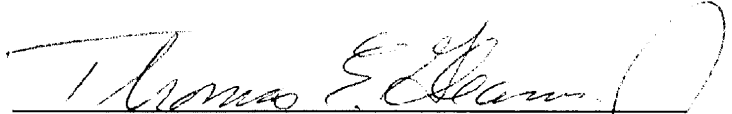


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VERIFICATION

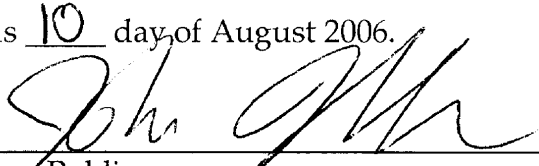
STATE OF KANSAS, DOUGLAS COUNTY, ss:

Thomas E. Gleason, Jr., of lawful age, being first duly sworn, on oath states: he is the attorney for Cunningham Communications, Inc.; that he has read the above and foregoing Motion and Petition, that the statements, allegations and matters contained therein are true and correct.



Thomas E. Gleason, Jr.

Subscribed and sworn to before me this 10 day of August 2006.



Notary Public

My Appointment Expires: 9/22/09



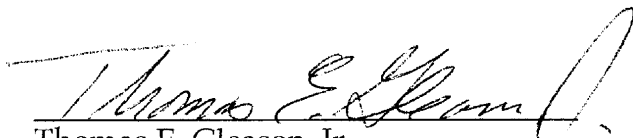
CERTIFICATE OF MAILING

Thomas E. Gleason, Jr. hereby certifies that a true and correct copy of the above and foregoing Motion and Petition was delivered to the following on this 10 day of August, 2006.

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