### BASS BERRY + SIMS...

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17-00111

September 27, 2017

Hand-Delivery

The Honorable Earl Taylor Executive Director Tennessee Public Utilities Commission c/o Sharla Dillon 502 Deaderick Street, Fourth Floor Nashville, Tennessee 37243

In re: Petition of United Telephone Company, Inc., UTC Long Distance, LLC, and United Communications, Inc. for Approval of Financing Arrangements and Transfer of Control

Dear Mr. Taylor:

Enclosed please find an original and five (5) copies of United Telephone Company, Inc., UTC Long Distance, LLC and United Communications, Inc.'s Petition for Approval of Financing Arrangements and Transfer of Control. Filed along with this material are four copies of Exhibits A, B and C which are submitted under seal in a separate envelope. Also enclosed is a check in the amount of \$50.00 to cover the filing fee. This Petition without Exhibits A, B and C is being filed electronically with the Commission's Docket Manager, Sharla Dillon.

With kindest regards, I remain

Very truly yours,
12. Manuals

R. Dale Grimes

Enclosures

23599091.1

Petition of	)	
	)	
United Telephone Company, Inc.,	)	
UTC Long Distance, LLC, and	)	10 1111
United Communications Inc.	)	Docket No. 17-DDII
	)	
Application For Approval to Participate in Certain	)	
Financing Arrangements and Change of Control	)	

# APPLICATION OF UNITED TELEPHONE COMPANY, INC., UTC LONG DISTANCE, LLC AND UNITED COMMUNICATIONS, INC. REGARDING APPROVAL OF FINANCING ARRANGEMENTS AND TRANSFER OF CONTROL

United Telephone Company, Inc. ("United Telephone"), UTC Long Distance, LLC ("UTC"), and United Communications, Inc. ("UCI") (collectively, "Petitioners"), by their undersigned counsel and pursuant to Tenn. Code Ann. § 65-4-109, and any regulations deemed applicable, request approval, to the extent necessary, from the Tennessee Public Utility Commission ("Commission") to participate in certain financing arrangements whereby the Petitioners will incur long-term debt obligations and buy-out the remaining ownership of the majority owner of United Communications Holdings, LLC ("United Communications"), the parent company to United Telephone and UTC (the "Transaction"). The Petitioners further respectfully request that the Commission, pursuant to Tenn. Code Ann. §§ 65-4-112 and 65-4-113, approve the resulting transfer of control of United Communications from the current majority owner, MSouth Equity Partners, LP, to the two remaining co-owners, William H. Bradford and Eugene B. Johnson (the "Resulting Co-Owners"), who as a result of the Transaction, will each hold fifty percent (50%) ownership of United Communication.

In addition to borrowing under these facilities, the Petitioners intend to grant a first priority lien in all of their personal assets and material owned real property, along with a security interest in Petitioners' equity interests, to secure the financing arrangements subject to certain exceptions to be determined, as subsequently described. The Petitioners seek approval of any other related transactions or other such relief as may be necessary or appropriate to fully consummate the Transaction.

### I. Introduction

- 1. United Telephone is a corporation organized and existing under the laws of the State of Tennessee, with its principal office located at 120 Taylor Street, Chapel Hill, Tennessee 37034-3123. United Telephone is a public utility, as defined by Tenn. Code Ann. § 65-4-101, and holds a certificate of convenience and necessity issued by this Commission or its predecessor agencies. It offers communications services to residential and business customers, including local telephone service and internet services. United Telephone has incumbent local exchange carrier ("ILEC") operations in Bedford, Coffee, Davidson, Franklin, Marshall, Maury, Rutherford and Williamson counties in Tennessee, with over 11,000 access lines. United Telephone serves eight exchanges, all served by digital switches and inter-connected by over 400 miles of fiber optic cables.
- 2. UTC is a limited liability company organized and existing under the laws of the State of Tennessee, with its principal office located at 120 Taylor Street, Chapel Hill, Tennessee 37034-3123. UTC provides long-distance service as an interexchange provider.
- 3. UCI is a wholly-owned subsidiary of United Telephone. In 2012, UTC Video Concepts, LLC underwent a conversion to become UCI. UCI currently has a statewide video franchise and CLEC and broadband operations. The certificate of franchise authority and the certificate of public convenience and necessity UCI currently holds were issued by the Commission (the TRA at the time) in 2012 (Docket No. 11-00208) and March 2017 (Docket No. 17-00007), respectively.

4. United Telephone, UTC and UCI are affiliated companies. United Telephone and UTC are 100% owned by United Communications Holdings, LLC, a Delaware limited liability corporation. UCI is 100% owned by United Telephone. The corporate organizational structure is shown in **Exhibit**  $A^1$ .

5. For the purposes of this Petition, questions or any correspondence, orders, or other materials should be directed to the following contacts:

R. Dale Grimes Bass, Berry & Sims PLC 150 Third Avenue South Nashville, TN 37201

Tel:

(615) 742-6244

Fax:

(615) 742-2744

Email: dgrimes@bassberry.com

II. Request for Approval to Participate in Certain Financing Arrangements Pursuant to Tenn. Code Ann. § 65-4-109

a. The Proposed Financing Arrangements

6. The proposed financing arrangements are expected to consist of a \$3,000,000 senior secured six-year Revolving Credit Facility (the "Revolver"), and \$33,000,000 senior secured six-year Term Loan Credit Facility (the "Term Loan"), collectively referred to as the "Credit Facilities". The proceeds from the Term Loan along with cash on hand will be used to refinance outstanding principal and interest balances due to CoBank pursuant to the \$31,500,000 term loan approved in Docket No. 15-00078 to redeem the outstanding ownership interests in United Communications Holdings, LLC owned by MSouth Equity Partners, and other purposes as described in the Commitment Letter. The Proceeds from the Revolver may be used for letters of credit, for capital expenditures, and general corporate purposes. The balance of the amount owed to senior creditors as of June 30, 2017, was \$28,300,000. The new Credit Facilities are

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<sup>&</sup>lt;sup>1</sup> Exhibit A is filed under seal.

approximately the same overall size as the original credit facilities borrowed in early 2016, but the new Credit Facilities will contain a larger, \$3,000,000 Revolver and have an 8 year term instead of a 6 year term, providing a longer term financing solution to Petitioners. Both Credit Facilities are expected to mature within eight (8) years after the closing date. The Commitment Letter which contains the details about the proposed financing is attached hereto as **Exhibit B**.<sup>2</sup>

- 7. All obligations under the Credit Facilities are expected to be incurred directly by the Petitioners (as borrowers) or guaranteed by the Petitioners, subject to certain exceptions to be determined. The Credit Facilities will also be secured by a first priority lien in all of Petitioners' personal assets and material owned real property, subject to certain exceptions to be determined. The Petitioners also intend to grant a security interest in all of their equity interests, subject to certain exceptions to be determined.
- 8. The Petitioners' participation in these financing arrangements will not result in a change in the Petitioners' management or in their day-to-day operations; nor will it adversely affect the Petitioners' current or expected operations in Tennessee. Accordingly, Petitioners request that the Commission approve the participation of the Petitioners in the financial arrangements described herein.
- 9. Under Tenn. Code. Ann. § 65-4-109, the Commission shall approve the proposed assumption of debt obligations if it finds that it will be made in accordance with the law and that the Commission approves the purpose of the assumption of debt obligations.

# b. The Proposed Financing Arrangements will Benefit the Public

10. The financing arrangements described herein are consistent with the public interest and will not impair the ability of the Petitioners to perform services to the public. The financing arrangements will enable the Petitioners to refinance existing obligations, will provide

<sup>&</sup>lt;sup>2</sup> Exhibit B is filed under seal.

additional capital for capital expenditures and other corporate purposes, will be entirely transparent to Tennessee consumers, and will not alter the rates, terms, and conditions under which the Petitioners provide service in Tennessee.

11. The financing arrangements described herein serve the public interest in promoting competition among telecommunications carriers by providing the Petitioners with the opportunity to strengthen their financial position. As a result, the financing arrangements are expected to continue to yield financial benefits that ultimately inure to the benefit of the Petitioners' customers.

# III. Request for Approval of Transfer of Control Pursuant to Tenn. Code Ann. §§ 65-4-112 and 65-4-113

- 12. In connection with this Transaction, the Petitioners respectfully request that the Commission also approve the transfer of control of United Communications that will result from the Transaction and as described herein.
- 13. For the reasons set forth herein, the Transaction is in the public interest and is in full compliance with applicable law.
- 14. Tenn. Code Ann. §§ 65-4-112 and 65-4-113 grant the Commission the ability to approve mergers, consolidation of utility property or franchises, as well as transfers of control to provide utility services in Tennessee. In approving this Transaction, the Commission must consider whether Resulting Co-Owners are suitable and financially capable to oversee the utility services being transferred, and whether they will continue to provide such service in an efficient manner to the benefit of the consuming public. Petitioners respectfully submit that the Transaction and resulting transfer of control is in the public interest for the reasons set forth herein.
  - a. Petitioners have the Requisite Financial, Managerial and Technical Qualifications

- 15. The Resulting Co-Owners have the requisite financial, managerial, and technical qualifications, as evidenced by the Petitioners' prior approved applications with the Commission, including granting to UCI a certificate of public convenience and necessity to provide competing local telecommunications services in March of 2017 (Docket No. 17-00007) and granting a certificate of franchise authority in 2012 (Docket No. 11-00208). Petitioner United Telephone has been in business for over 70 years and operates a sophisticated network covering 520 square miles and provides dedicated local customer service to over 11,000 customers in the Middle Tennessee area.
- 16. Petitioners have the financial ability to render the telecommunications and broadband services which are the subject of this Petition. Petitioner United Telephone, holds a a certificate of public convenience and necessity, and UCI holds a video franchise granted in 2012 and a certificate of convenience and necessity to provide competing local exchange carrier services issued by the Commission in 2017, which demonstrate in part Petitioners' financial, managerial, and technical qualifications. Petitioner United Telephone has a significant amount of cash working capital on its balance sheet and a history of access to debt financing, proving it has access to the necessary working capital to fund its operations. Thus, Petitioners assert that they have the financial resources necessary to ensure a seamless transition in the provision of telecommunications services.
- 17. Furthermore, as noted above, the Transaction will not result in any change in the management of the company. The same people who have managed United Communications will remain the managers after the Transaction. The Transaction is merely the redemption of the ownership interest of MSouth Equity Partners, LP, the current majority owner, which will result in the shares returning to United Communications. As a result, the other two current owners will

automatically become the equal 50% owners of United Communications. The Current and Projected Capitalization Table which reflects the ownership of United Communications before and after the Transaction is attached as  $\mathbf{Exhibit} \, \mathbf{C}^3$ .

- 18. Petitioners also have the managerial expertise to successfully operate a telecommunications enterprise in Tennessee. The management team is led by William Bradford who has worked in the industry for over 17 years and has a history of leading service providers dedicated to serving rural areas. Additionally, the management team has led the successful efforts of United Telephone and its affiliates and provides decades of experience in the telecommunications industry and Tennessee. These individuals have extensive experience in providing local customer service and marketing, network engineering and construction, switching, and financial leadership. The names and addresses of the directors and principal corporate officers are in **Exhibit D**. The biographies of the principal officers and any other key technical staff are in **Exhibit D**.
- 19. Petitioners are certainly technically qualified to provide broadband services in Tennessee based on its over 70 year history of operating fiber and copper-based networks. Petitioners' management team are experienced in the technical operations of telecommunications companies and have been building and operating fiber-based telecommunications networks in the State for many years. Petitioner United Telephone currently operates a sophisticated, fiber-rich, network covering 520 square miles of Middle Tennessee. United Telephone currently serves 11,000 telephone customers and has extended its fiber network to reach over 6,000 homes and businesses.

<sup>&</sup>lt;sup>3</sup> Exhibit C is filed under seal.

20. For all the reasons stated herein, Petitioners have the requisite financial, managerial and technical capabilities to ensure a seamless transition in the provision of broadband services.

# b. The Proposed Transaction will Benefit the Public and Ensure that the Utility Services Being Transferred are Provided Efficiently

- 21. The proposed Transaction and subsequent transfer of control are in the public interest. Petitioners have an extensive history of providing excellent services in Middle Tennessee. Petitioners' management have considerable expertise in provisioning high-quality, advanced telecommunications service, and plan to further increase product choice and customer service satisfaction.
- 22. As noted above, the Transaction described herein is consistent with the public interest and will not impair the ability of the Petitioners to perform services to the public. The Transaction will enable the Petitioners to refinance existing obligations, will provide additional capital for capital expenditures and other corporate purposes, will be entirely transparent to Tennessee consumers, and will not alter the rates, terms, and conditions under which the Petitioners provide service in Tennessee.
- 23. The Transaction will serve the public interest in promoting competition among telecommunications carriers by providing the Petitioners with the opportunity to strengthen their financial position. As a result, the Transaction is expected to continue to yield financial benefits that ultimately inure to the benefit of the Petitioners' customers.

### IV. Conclusion

24. For the reasons stated above, the Petitioners respectfully request pursuant to Tenn. Code Ann. §§ 65-4-109, 65-4-112 and -113, and any other applicable statutes, that the Commission: (1) approve the proposed Transaction and corresponding financing arrangements;

(2) approve the transfer of control of United Communications as described herein; (3) grant other such relief as may be necessary, reasonable and consistent with the foregoing; and (4) grant any approval found to be necessary in an expedited manner.

Respectfully submitted,

R. Dale Grimes

Bass, Berry & Sims PLC 150 Third Avenue South

Nashville, TN 37201

Tel: (615) 742-6244 Fax: (615) 742-2744

Counsel for United Telephone and UTC

Date: 27 September 2017

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COUNTY OF MARSHALL )	
1 30 0 20 16 1	
William H. Bredford, being	
1. I am the Presided + CE	O of United Telephone Company, and am
authorized to make this Verification on behalf o	f United Telephone Company.
2. I have read the contents of the	e foregoing Petition for Approval of Financing
Arrangements and Transfer of Control, and her	reby verify that the statements therein contained,
insofar as they relate to United Telephone Co	mpany, are true and accurate to the best of my
knowledge, information and belief.	
Un	ited Telephone Company
Ву	: Wik H. Boll
	President & CEO
Sworn to and subscribed before me this STATE OF TENNESSEE NOTARY PUBLIC	27 day of September, 2017.
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VERIFICATION	I
STATE OF TENNESSEE ) COUNTY OF MARSHALL )	
William H. Bradfird, being duly sworn	n, deposes and says:
1. I am the Presided & CEO o	f UTC Long Distance, LLC, and am
authorized to make this Verification on behalf of UTC Lo	ng Distance, LLC.
2. I have read the contents of the foregoin	g Petition for Approval of Financing
Arrangements and Transfer of Control, and hereby verify	y that the statements therein contained,
insofar as they relate to UTC Long Distance, LLC, are	e true and accurate to the best of my
knowledge, information and belief.	
	Distance, LLC  L. D.
	ry Public ommission expires: (1/27)/7

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Application For Approval to Participate in Certain Financing Arrangements and Change of Control	) )
VERIFICA	ATION
STATE OF TENNESSEE ) COUNTY OF MARSHALL )	
William H. Bradford, being duly	y sworn, deposes and says:
1. I am the President o CEO	of United Communications Inc., and am
authorized to make this Verification on behalf of U	nited Communications Inc.
2. I have read the contents of the fo	oregoing Petition for Approval of Financing
Arrangements and Transfer of Control, and hereby	y verify that the statements therein contained,
insofar as they relate to United Communications	Inc., are true and accurate to the best of my
knowledge, information and belief.	
By: Its:	President +CEO
Sworn to and subscribed before me this 27	day of September, 2017.
Sworn to and subscribed before me this 27  STATE OF TENNESSEE NOTARY PUBLIC	Notary Public  My commission expires: //27/17

# EXHIBIT A (FILED UNDER SEAL)

# EXHIBIT B (FILED UNDER SEAL)

# EXHIBIT C (FILED UNDER SEAL)

# EXHIBIT D

# EXHIBIT D DIRECTORS & PRINCIPAL CORPORATE OFFICERS

# **DIRECTORS:**

Mark L. Feidler 3050 Peachtree Road NW Suite 550 Atlanta GA 30305

Michael D. Long 3050 Peachtree Road NW Suite 550 Atlanta GA 30305

Barry L. Boniface 3050 Peachtree Road NW Suite 550 Atlanta GA 30305

William H. Bradford 120 Taylor St Chapel Hill TN 37034

Eugene B. Johnson 120 Taylor St Chapel Hill TN 37034

OFFICERS	120 Taylor Street, Chapel Hill, TN 37034
NAME	OFFICE
Eugene B. Johnson	Chairman of the Board of Directors
William H. Bradford	President and Chief Executive Officer
Michael F. Jury	Chief Operating Officer
Tommy S. Welch	Vice President, Secretary, & Assistant
•	Treasurer

# EXHIBIT E



### BIOGRAPHIES OF PRINCIPAL OFFICERS & KEY MANAGEMENT EMPLOYEES

### William Bradford, President & Chief Executive Officer:

William Bradford is the President & CEO of United Communications, an entity he formed in partnership with Gene Johnson and MSouth Equity Partners, providing telecommunications services to over 10,000 residential and business customers in Middle Tennessee. William is a telecommunications management executive with broad operations, M&A, and corporate finance expertise, including direct industry experience acquiring cable television and telephone operations around the Country. Prior to founding United Communications, William was President of JB Capital Advisors, LLC, providing transaction, finance, and strategic advisory services to business executives and investors. William spent 7 years at FairPoint Communications, Inc., where he served as the Vice President of Corporate Development, responsible for strategic planning, mergers and acquisitions, and financial analysis. From 2006 to 2008, William was a member of the management team of American Broadband Communications, where he was responsible for acquisitions, corporate finance, and strategic initiatives. William has been an active participant in state and federal industry associations and is a frequent speaker on the state of M&A and the Industry. William serves as Vice Chairman of IRIS Networks, a leading provider of wholesale telecommunications services, specializing in tower backhaul solutions for wireless carriers and regional fiber transport for large carriers and enterprises. IRIS operates a state of the art fiber optic network, using leading edge IP/MPLS Ethernet technologies strategically deployed with over 5,000 route miles in the Southeast with 116 POP locations located in 6 states including super POP sites in Chicago and Atlanta. William currently serves as Vice Chairman of the Board of Directors of Adolfson & Peterson Construction, one of the hundred largest general contractors in the US. William graduated cum laude from Wake Forest University, with a degree in Mathematical Economics. William currently lives in Brentwood, TN with his wife and four young children.

# Mike Jury, Chief Operating Officer

Mr. Jury has been with United since 2016, bringing 30 years of executive experience in the telecommunications industry. Prior to United, Mr. Jury served as the CEO of the City of Salisbury's fiber operations, where he was brought in to turn around a failed municipal fiber overbuild. Mr. Jury was President of M&K Consulting which helped telecommunications companies across the US and Caribbean with operational and technical issues. Before turning around Salisbury Mr. Jury owned and operated rural cable TV companies in south GA and north FL deploying broadband and commercial services to underserved areas. Mr. Jury was the CEO of Mediastream, a regional cable operator in Georgia. From 1987 through 2008, Mr. Jury served in senior technical roles at some of the largest cable and fiber operators in the country, including RCN, WOW, Baja Broadband, and Broadstripe, where he was the Chief Technology Officer.

# Jaimy Cooper, Director of Network Engineering

Mr. Cooper has been with United since 2005 and is responsible for all core network operations, focused on building a consistent and reliable network capable of delivering faster internet speeds, digital IPTV, cloud-based phone services, and enterprise Ethernet services, enabling the company to achieve revenue growth targets and improve customer satisfaction. Previously, Mr. Cooper worked for Spirit Telecom in South Carolina, where he gained relevant experience as a network engineer supporting numerous independent telephone companies to achieve network optimization to support multiple services such as IPTV, Internet, and VoIP. Jaimy currently holds CICA, CICE, and BAIS certifications. Mr. Cooper served 8 years in the US Marine Corps, achieving the rank of Corporal and participating in Operation Desert Shield (Iraq) and Operation Restore Hope (Somalia).

# Missy Michaels, Director of Marketing & Customer Engagement

Ms. Michaels has been with United since 2012 and is responsible for all marketing, sales, community relations, customer service, and related activities, focused on building brand equity and driving aggressive sales, revenue growth, and customer satisfaction. Missy has a background in advertising account management having worked with some of the most successful agencies in the Southeast, including BBDO in Atlanta where she was part of the team responsible for the launch of Cingular Wireless (AT&T Wireless) and later for Gish, Sherwood & Friends (GS&F) in Nashville. Missy graduated with a Communications Degree from the University of Georgia where she was a National Championship varsity swimmer.

# Scott Niehaus, Director of Engineering & Construction

Mr. Niehaus has been with United since 2012, where he is responsible for all engineering and construction operations in the field, focused on aggressively expanding United's FTTP network at an industry-leading cost per passing and safety record, enabling the company to pass as many new premises each year with its annual capital budget. Prior to joining United, Scott worked in the consulting engineering field for Osmose Communications (formerly TelPlexus, Inc.) for ten years, serving on over 45 engineering projects in the Southeast, assisting rural carriers deploy point-to-point transmission fiber, fiber-to-the-remote, and fiber-to-the-home networks. Prior to his telecommunications experience, Scott started his career in the civil engineering field, gaining practical experience working on civil site design, landfill design, wastewater treatment plant design, and erosion and sediment control measures.

# Tommy Welch, Director of Finance and Administration:

Mr. Welch has been with United since 1996 and is responsible for finance, accounting, tax, inventory, regulatory, and administration at United. Previously Mr. Welch worked for Paragould City Light, Water and Cable (PCLW), where he gained relevant experience as PCLW was one of the first utilities to enter the CATV market. AT PCLW, Mr. Welch was responsible for customer billing, record administration, and the integration of all software systems to support the launch of cable services. Mr. Welch holds his associates degree in Accounting and Electronic Data Processing from Jackson State Community College.

### BIOGRAPHIES OF KEY BOARD MEMBERS

### Gene Johnson, Chairman:

Mr. Johnson is the retired Chairman and Chief Executive Officer of FairPoint Communications, Inc., the parent company for 32 independent telephone companies and 5 cable television companies. Mr. Johnson co-founded FairPoint in 1990 and was chief executive officer from January 2002 until his retirement in June, 2009. Mr. Johnson previously owned a cable television construction company and later became head of the mergers & acquisitions group of Cable Investments, Inc., where he executed on a broad array of transaction in the cable television industry. A former captain in the U.S. Army, Mr. Johnson started his career as a certified public accountant. Mr. Johnson is a past chairman of the board of trustees for the University of North Carolina at Charlotte and currently serves as the chair of the foundation. Additionally, Mr. Johnson serves on the board of North Carolina Amateur Sports

# Mark Feidler, Board Member:

Mark is a Partner at MSouth and is a Director of United Communications Holdings, LLC. Mark joined MSouth in 2007 as a Partner and co-founder. Prior to MSouth, Mr. Feidler amassed 15 years of M&A / transactional experience, coupled with ten years in various roles in executive-level operating positions. Mr. Feidler served as President and COO of BellSouth Corporation until its merger with AT&T in December 2006. Previously, from 2000 to 2003, Mr. Feidler was the COO of Cingular Wireless, commencing upon the formation of Cingular when BellSouth and AT&T (formerly SBC) merged their domestic wireless operations to form Cingular. From 1991 to 2000, Mr. Feidler served as the head of corporate development for BellSouth and as President of various operating subsidiaries. From 1986 to 1990, Mr. Feidler worked in the investment banking department of The Robinson-Humphrey Company, Inc. From 1981 to 1986, Mr. Feidler was an associate in the corporate law section of King & Spalding. Mr. Feidler holds a B.A. (1978) in Economics from Duke University and a J.D. (1981) from Vanderbilt Law School.