

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

IN THE MATTER OF THE )  
INCREASE IN USF ) Docket No.: 09-2302-01  
ELIGIBILITY FOR )  
CARBON/EMERY TELCOM, INC. ) **TRANSCRIPT OF HEARING**

\* \* \*

June 1, 2010  
9:02 a.m. to 9:28 a.m.

Location of:  
Public Service Commission  
160 East 300 South, Room 451  
Salt Lake City, Utah

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Rossann J. Morgan  
- Certified Shorthand Reporter -  
- Registered Professional Reporter -

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A P P E A R A N C E S

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1 June 1, 2010

9:02 a.m.

2 P R O C E E D I N G S

3 JUDGE ARREDONDO: Good morning.

4 MR. GINSBERG: Good morning.

5 MR. HICKEN: Good morning.

6 JUDGE ARREDONDO: Okay. We are here In The  
7 Matter of the Increase of USF Eligibility for  
8 Carbon/Emery Telcom; Docket No. 09-2302-01. And I'm  
9 Ruben Arredondo, the ALJ assigned by the Commission to  
10 hear this matter. And we do have a copy of the  
11 stipulation filed by the Division and Carbon/Emery. And  
12 let's take appearances first beginning with Ms. Slawson.

13 MS. SLAWSON: Kira Slawson from Blackburn &  
14 Stoll on behalf of Carbon/Emery Telcom, Inc.

15 MR. GINSBERG: Michael Ginsberg for the  
16 Division of Public Utilities.

17 JUDGE ARREDONDO: And Ms. Slawson, with you?

18 MS. SLAWSON: I've got Darren Woolsey, CFO  
19 from Carbon/Emery and I've got Brock Johansen, the CEO  
20 for Carbon/Emery.

21 MR. GINSBERG: And the Division has Paul  
22 Hicken who will be the Division's witness.

23 JUDGE ARREDONDO: All right. Thank you.  
24 Then how did you want to proceed today? Are we going to  
25 have testimony put on first by the Company?

1 MS. SLAWSON: We were thinking that the  
2 Division would give a statement and if needed we could  
3 provide testimony.

4 JUDGE ARREDONDO: Okay. I do have some  
5 questions from the Commission as well and I might take a  
6 recess in between and come back following if we have any  
7 additional questions.

8 MS. SLAWSON: Okay.

9 JUDGE ARREDONDO: So let's begin with the  
10 Division. Mr. Hicken if you could raise your right hand  
11 for me.

12 MR. HICKEN: Do you want me to stand?

13 JUDGE ARREDONDO: You can sit.

14 (Whereupon, Mr. Hicken was duly sworn.)

15 JUDGE ARREDONDO: Thank you.

16 EXAMINATION

17 BY MR. GINSBERG:

18 Q. Would you state your name for the record?

19 A. Paul Hicken.

20 Q. There's a mike right there.

21 A. Sorry, Paul Hicken.

22 Q. And your position with the Division?

23 A. I'm a utility analyst with the telcom  
24 section.

25 Q. And can you briefly go over what your role

1 was in the Carbon/Emery USF proceeding?

2 A. My role was to analyze the records, the  
3 accounting records, and operations and review expenses  
4 and revenues for determining eligibility for USF  
5 increase.

6 Q. And did you participate in developing the  
7 stipulation that was entered into between the Division  
8 and Carbon/Emery and filed with the Commission?

9 A. Yes.

10 Q. Can you go ahead and provide your testimony  
11 in support of the stipulation?

12 A. Yes. From October of 2009 through February  
13 2010, the Division of Public Utilities conducted an audit  
14 of the books, records and operations of Carbon/Emery  
15 Telcom, Inc. pertaining to its interstate and intrastate  
16 operations. The audit was conducted pursuant to an  
17 application by the Company on September 22nd, 2009 for an  
18 increase of rates and charges and USF eligibility.

19 The Company proposed an increase in its state  
20 USF of \$991,696 based on intrastate operations. The  
21 Division used total company results to calculate the USF  
22 eligibility. The Company proposed not to increase the  
23 rates and charges to its customers, but instead collect  
24 its needed additional revenue requirement from the state  
25 USF fund.

1           During the audit, more than ten sets of data  
2 requests were made by the Division and the Company was  
3 cooperative and helpful with providing information and  
4 records. In addition, two site visits were conducted to  
5 review accounting records and discuss operations. The  
6 Company's records were in very good condition and records  
7 were readily available to the Division. A system review  
8 by the Division engineers found the equipment and  
9 engineering to be modern, efficient and functioning  
10 optimally.

11           Following the audit, the Division, the  
12 Company and the Office of Consumer Services participated  
13 in a settlement conference on February 23rd and  
14 March 9th, 2010. That concluded in the stipulation that  
15 has been submitted.

16           The Division agrees with the stipulation for  
17 an increase in the annual total revenue requirement for  
18 the Company of \$881,024. For the purpose of this  
19 stipulation, the parties agree to impute \$93,024 of this  
20 amount as revenue that could have been realized with a  
21 rate increase to the affordable base rate. The balance  
22 of the revenue requirement, minus the imputed revenue, is  
23 calculated to be \$788,000 which should be funded by the  
24 state USF fund. The company is currently receiving  
25 annual state USF support of \$250,714. This amount added

1 with the recommendation for \$788,000 additional support,  
2 brings the total to \$1,038,714 annual -- of annual state  
3 USF support.

4           The Company's basic rates for residential and  
5 business service are currently \$15.49 and \$25.49 per  
6 month respectfully. The base affordable rates used by  
7 the Division in previous rate cases are set at \$16.50 and  
8 \$26.00 for the same services. Because the Company chose  
9 not to increase their basic rates to the established  
10 affordable rate at this time, the revenue that could have  
11 been realized in the amount of \$93,024 was imputed  
12 against the total amount of USF support. The Company has  
13 the option of raising the rates at anytime within six  
14 months following the approval of this stipulation upon  
15 the filing of new tariff sheets and the notice  
16 requirement in Section 54-7-12(8).

17           The Division agrees that the increase in the  
18 revenue requirement and the base affordable rate increase  
19 or imputation are just and reasonable and are in the best  
20 interest of the Company, the public and should be  
21 approved by the Commission.

22           For the purposes of this stipulation and rate  
23 case only, the parties have agreed that the revenue  
24 requirement and state USF distribution be based on a rate  
25 of return on equity of 12.24 percent using the Company

1 actual capital structure. The rate of return on equity  
2 is consistent with the rate of return on equity utilized  
3 by the Division and other recent state USF requirement  
4 cases. The use of the actual capital structure is  
5 consistent with the Division's capital structure policy  
6 used with other ILECs.

7           The Company has proposed the use of a 2000 --  
8 or the company proposed the use of a 2008 test year to  
9 establish it's USF distribution. During the course of  
10 the audit, the Division identified that 2009 expenses  
11 were significantly below those of the 2008 proposed test  
12 year. This brought into question the use of 2008 as an  
13 appropriate test year. The Company contended that 2008  
14 was a representative test year and any changes in 2009  
15 were due to the acquisition of Precis, a non-regulated  
16 company.

17           After a review of the expenses associated  
18 with the acquisition of Precis, the Division accepted  
19 2008 as a representative test year with some adjustments  
20 for the Precis acquisition. It is the Division's opinion  
21 that the end result, an increase in state USF in the  
22 amount of \$788,000 is just and reasonable in and the  
23 public interest.

24           In paragraph 9 of the stipulation, the  
25 Division agreed to take under consideration verifiable



1 reduced expenses for the regulated company during the  
2 first quarter of 2010 due to the acquisition of Precis  
3 and make adjustments to annualize those expenses based on  
4 the next three quarters of operation if the Division  
5 chose to review the earnings of the company for 2010.  
6 The Company also agreed not to file for an increase in  
7 USF eligibility based on 2010 operations unless  
8 extraordinary circumstances occur that affect the  
9 company's financial health.

10           The Division recommends that the Commission  
11 adopt the stipulation in its entirety and that increased  
12 intrastate USF support be approved as outlined above.  
13 The stipulation represents a reasonable resolution that  
14 is in the public interest with terms and conditions that  
15 are, when taken as a whole, fair, just and reasonable.

16           Q.     Does that conclude your comments?

17           A.     Yes, sorry, that concludes my comments.

18           JUDGE ARREDONDO: All right. Thank you,  
19 Mr. Hicken. Ms. Slawson, questions?

20           MS. SLAWSON: No, Your Honor. We do have a  
21 witness available to testify if you'd like to hear from  
22 us or if you have any questions of us. Otherwise, we  
23 agree with the statement of the Division.

24           JUDGE ARREDONDO: Yeah, I actually do have  
25 some questions. I don't know if they'll involve any

1 confidential answers that will involve confidential  
2 information. So let me give you the questions and you  
3 let me know if -- if you need to answer that that  
4 information's confidential.

5 MS. SLAWSON: Okay.

6 JUDGE ARREDONDO: First one is, what is the  
7 basis for the 12.24 percent return on equity?

8 How much of the -- second question. How much  
9 of the cooperatives equities derive from retained  
10 earnings?

11 Are retained earnings generally less, roughly  
12 equal to or greater than the amount of USF funds received  
13 in any given year --

14 MS. SLAWSON: One second.

15 JUDGE ARREDONDO: -- both on a current and  
16 past basis, not a going-forward projected basis. That  
17 related to that question.

18 And next question. Did Carbon/Emery pay any  
19 patronage refunds last year? If so, is there a need for  
20 an additional \$881,024 this year? If it did pay  
21 patronage, how was it able to pay patronage last year?  
22 If not, does Carbon/Emery plan to pay patronage refunds  
23 while receiving USF payments in the future?

24 Next question. Why the large increase this  
25 year? That might be related to some of the questions

1 previously given.

2           How has the company been able to operate  
3 given that they're, I guess you could say, short the  
4 amounts requested from USF funds? They initially asked  
5 for \$991,696 in their application.

6           Do you think any of those answers will  
7 involve confidential information?

8           MS. SLAWSON: One second. Can you tell me  
9 the third question again?

10           JUDGE ARREDONDO: Yeah. Actually, you know  
11 what? Let me do this. Let's take a quick recess, I'll  
12 make a quick copy --

13           MS. SLAWSON: Okay.

14           JUDGE ARREDONDO: -- of the questions I have  
15 and I'll bring them to you. That way your witnesses can  
16 take a look at them.

17           MS. SLAWSON: That would be great.

18           JUDGE ARREDONDO: Mr. Hicken as well. So  
19 let's take a recess.

20           MS. SLAWSON: Thank you.

21           (A brief recess was taken.)

22           MS. SLAWSON: We're ready when you are.

23           JUDGE ARREDONDO: All right. Will we need to  
24 discuss any confidential matters?

25           MS. SLAWSON: I don't think so.

1 JUDGE ARREDONDO: Okay. Then who will you  
2 have testify. Mr. Woolsey?

3 MS. SLAWSON: Mr. Woolsey, yes.

4 JUDGE ARREDONDO: Okay. If you could raise  
5 your right hand, Mr. Woolsey, please?

6 (Whereupon, Mr. Woolsey was duly sworn.)

7 JUDGE ARREDONDO: Thank you. Go ahead.  
8 Start with the first question.

9 MS. SLAWSON: You want me to read the  
10 question to him?

11 JUDGE ARREDONDO: Yeah, why don't you do  
12 that, please.

13 EXAMINATION

14 BY MS. SLAWSON:

15 Q. The first question is on the stipulation  
16 itself. When we came in this morning, you had noticed  
17 that there was a typographical error in paragraph 5, that  
18 that number should be \$93,024; is that correct?

19 A. That is correct.

20 Q. And then the next question from the  
21 Commission is, what was the basis for the 12.24 percent  
22 return on equity?

23 MR. GINSBERG: We're prepared to answer that.

24 JUDGE ARREDONDO: All right. Go ahead,  
25 Mr. Hicken.

1 MR. HICKEN: The 12.24 percent was calculated  
2 after a survey conducted several years ago on ten or 12  
3 companies of similar size. And the rate of return --  
4 12.24 percent is the rate of return that was averaged  
5 based on that survey.

6 JUDGE ARREDONDO: All right. Thank you.  
7 Second question.

8 FURTHER EXAMINATION

9 BY MS. SLAWSON:

10 Q. Second question. How is the cooperative  
11 equity derived from retained earnings?

12 A. Currently, there's no equity derived from  
13 retained earnings. We've sustained losses since our  
14 acquisition in 2001 of the Carbon/Emery Telcom serving  
15 area from Qwest -- from Qwest.

16 Q. And I have a follow-up question. And  
17 Carbon/Emery Telcom, Inc. is not a cooperative, is it?

18 A. It's a for-profit corporation.

19 Q. Okay. Next question. Are retained earnings  
20 generally less than, roughly equal to or greater than the  
21 amount of USF funds received in any given year both on  
22 current and past basis, not a going-forward projected  
23 basis?

24 A. Historically, the retained earnings have been  
25 less than the amount of USF funds received. And on an

1 go-forward basis, we anticipate that there still will be  
2 a shortfall in that amount -- or a difference between the  
3 amount of USF and the amount of returned -- retained  
4 earnings. And this is due to acquisition adjustment or  
5 goodwill basically. And also interest on our current  
6 debt, which is excluded from USF calculations. So based  
7 on those two items, I anticipate that retained earnings  
8 will still be less than that annual support.

9 Q. Did Carbon/Emery pay any patronage refunds  
10 last year?

11 A. No. The company is a for-profit corporation,  
12 so there is no patronage paid.

13 Q. And then I suspect as a result of your answer  
14 there that you don't plan on paying any patronage refunds  
15 at all in the future?

16 A. No.

17 Q. The next question from the Commission was,  
18 why the large increase in this year?

19 A. And it's a very good question. We -- since  
20 the acquisition in 2001, I mentioned we've had losses.  
21 In 2005, we -- we went into a rate case and received a  
22 settlement amount which is 200 -- roughly \$250,000 in USF  
23 annual funding. At the time of that settlement, the  
24 expense levels, we felt, supported a much larger amount.  
25 We've -- from that point to the current rate case, we've

1 operated at similar operating levels with the exception  
2 of 2009 which has been noted in Paul's testimony.

3           We feel that the level of operations with its  
4 consistency requires additional USF support and that was  
5 the reason for the rate case originally. And this kind  
6 of rolls into the next question here. How has the  
7 company been able to operate given that shortfall? And  
8 the way we've done that, I mentioned that our equity --  
9 or the equity from retained earnings is zero. So we  
10 funded those operations from equity contributions from  
11 our other affiliated companies and that's how we've been  
12 able to operate.

13           JUDGE ARREDONDO: All right. Thank you.  
14 Anything else the Division would like to add?  
15 Mr. Hicken?

16           MR. GINSBERG: Do you have any additional  
17 comments --

18           MR. HICKEN: No.

19           MR. GINSBERG: -- you want to make on the  
20 record?

21           MR. HICKEN: No, Your Honor.

22           JUDGE ARREDONDO: All right. Let me just  
23 take another quick recess and I'll be back in a couple  
24 minutes.

25           MS. SLAWSON: Okay.

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(A brief recess was taken.)

JUDGE ARREDONDO: All right. With that,  
we'll conclude our hearing, unless there's anything else  
from either party.

MS. SLAWSON: No, Your Honor.

JUDGE ARREDONDO: All right. Thank you very  
much.

(Whereupon, the matter concluded at 9:28 a.m.)



