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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

IN THE MATTER OF
CARBON/EMERY TELCOM, INC.'S
APPLICATION FOR AN INCREASE
IN UTAH UNIVERSAL SERVICE
FUND SUPPORT

CARBON/EMERY TELCOM, INC.'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT

DOCKET NO. 15-2302-01

Pursuant to the Utah Public Service Commission's (the "Commission") administrative rules R746-100-1.c and R746-100-3.J and Rules 7 and 56 of the Utah Rules of Civil Procedure, Carbon/Emery Telcom, Inc. ("Carbon/Emery") hereby files this Motion for Partial Summary Judgment. In the Testimony of Bion C. Ostrander and David Brevitz filed by the Office of Consumer Services (the "Office") in this docket, the Office has asked the Commission to adjust and allocate fiber/internet related common costs from Carbon/Emery to its non-regulated affiliate for the affiliate's use of Carbon/Emery's plant to provide internet service to the affiliate's retail customers (See Testimony of Ostrander, lines 264-267). As described in Mr. Douglas Meredith's rebuttal testimony, this proposal effectively assigns more costs to the interstate wholesale service purchased by Carbon/Emery's non-regulated affiliate, and available to any third party.

As set forth in more detail in Carbon/Emery's supporting memorandum, filed concurrently herewith, Carbon/Emery hereby moves for an order from this Commission finding that the Commission is preempted, as a matter of law, by federal statutes and case law from assigning more costs than the FCC has already assigned to an interstate service offered to the public. Carbon/Emery has also moved for an expedited briefing schedule for this motion given the pending hearing date on September 29, 2015¹.

Dated this 11th day of September, 2015.

BLACKBURN & STOLL, LC

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¹ It is anticipated that the hearing date for Carbon/Emery Telcom, Inc. will be moved to begin on September 28, 2015, the date that was originally scheduled for Emery Telephone.

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the Carbon/Emery Telcom, Inc.'s Motion for Partial Summary Judgment, Docket No. 15-2302-01 was sent to the following individuals by email and/or mailing a copy thereof via first-class mail, postage prepaid (as indicated), this 11th day of September, 2015:

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