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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

IN THE MATTER OF
CARBON/EMERY TELCOM, INC.'S
APPLICATION FOR RECOVERY OF
UUSF APPLICATION COSTS

REQUEST FOR AGENCY ACTION
APPLICATION FOR RECOVERY OF
UUSF APPLICATION COSTS

DOCKET NO. 18-2302-01

As the Commission is aware, in March of 2015, Carbon/Emery Telcom, Inc. ("Carbon/Emery") filed an Application for an Increase in Utah Universal Service Fund ("UUSF") Support with the Public Service Commission of Utah (the "Commission"). On Marcy 31, 2016, the Commission issued an Order in this docket on Carbon/Emery's Application ("Order"). As indicated in the Commission's Order, Footnote 14, the issue of Carbon/Emery's costs related to the UUSF Application was to be adjudicated separately. Immediately after the Commission issued its Order, Carbon/Emery filed a Request for Review and subsequently an appeal with the Utah Supreme Court.¹ Subsequently, the legislature addressed Utah's Universal Service Fund Statute in Senate Bill 130 and Carbon/Emery voluntarily withdrew its appeal.

However, this issue of Carbon/Emery's expenses incurred in prosecuting its UUSF Application was not previously adjudicated. Therefore, the purpose of this filing is to submit

¹ Carbon/Emery's Appeal was poured over to the Utah Court of Appeals.

Carbon/Emery's costs incurred in the prosecution of its Application to the Commission for recovery by Carbon/Emery.

As the Commission is aware, Utah Code Ann. § 54-8b-15² in effect at the time of Carbon/Emery's Application, provided that the UUSF shall be used to defray the costs, as determined by the Commission of any qualifying telecommunications corporation in providing public telecommunications services.³ The incumbent telephone corporations were entitled to recover the difference between the incumbents total embedded costs of providing public telecommunications services less the product of the incumbent telephone corporation's average revenue per line times the incumbent telephone corporations active lines. The opportunity to recover reasonable costs of providing service extends to a company's reasonable costs incurred in connection with rate cases and applications for UUSF. Historically, the reasonable costs of prosecuting an application for rate increase, or an application for UUSF distribution, have been included in the providers' embedded costs, and thus, recoverable by the provider. Previously, these costs have been amortized over a period of 2 to 3 years so that a provider would include a portion (1/2 to 1/3) of the actual expenses as an ongoing operational expense. However, in recent UUSF applications or rate cases, these expenses have been paid as a one-time lump sum payment from the UUSF, to more accurately reflect the costs associated therewith, and to avoid ongoing recovery of those expenses after the amortization period when providers do not seek an increase in rates or additional amounts from the UUSF.

² U.C.A. §54-8b-15(7).

³ U.C.A. §54-8b-15 has since been amended, but still provides that a rate of return regulated carrier of last resort is entitled to payment from the Universal Public Telecommunications Service Support Fund if its reasonable costs to provide public telecommunications service and wholesale broadband internet access service are greater than its revenues. *See* U.C.A §54-8b-15(4).

Carbon/Emery's rate case expenses reasonably incurred in the prosecution of its UUSF Application are \$159,169.48, which include attorneys' fees and costs in the amount of \$116,078.48; and financial consultant fees in the amount of \$43,091.00.⁴ A Summary of the UUSF Application expenses is attached hereto as Exhibit 1. A detailed description of the services provided and the fees incurred are included in the Affidavit of Attorney Fees filed concurrently herewith; and the Affidavit of Consultant fees filed concurrently herewith.

As indicated in Carbon/Emery's UUSF Application, Carbon/Emery hereby requests that the Commission, in accordance with Utah Code Ann. Section 54-8b-15 and R746-360 of the Commission's Rules of Practice and Procedure, a one-time lump-sum payment from the UUSF in the amount of \$159,169.48 payable to Carbon/Emery to cover its reasonable costs associated with the prosecution of its UUSF Application.

DATED this 23rd day of January, 2018.

BLACKBURN & STOLL, L.C.



Kira M. Slawson
Attorneys for Carbon/Emery Telcom, Inc.

⁴These totals do not include any fees associated with Carbon/Emery's appeal.

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the Carbon/Emery Telcom, Inc. Request for Agency Action, Docket No. 18-2302-01 was sent to the following individuals by mailing a copy thereof via first-class mail, postage prepaid, this 23rd day of January, 2017:

Justin Jetter
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Kira M. Slawson

Exhibit 1
Summary of Fees and Costs

Blackburn & Stoll, LC

Invoice Summary

Carbon/Emery Telcom, Inc. Petition for UUSF Increase

Date	Inv No	Amount
4.1.15	233273	\$2,935.50
5.1.15	233645	\$2,102.25
6.1.15	233949	\$980.25
7.1.15	234345	\$997.50
8.1.15	234905	\$2,800.87
9.1.15	235338	\$7,768.50
10.1.15	236072	\$23,765.75
11.1.15	236455	\$11,980.35
12.1.15	237577	\$1,866.00
1.1.16	238397	\$7,647.75
2.1.16	238826	\$28,533.50
3.1.16	239177	\$6,415.88
4.1.16	239791	\$5,136.00
5.1.16	240324	\$13,148.38
Total		\$116,078.48

JSI Invoice Summary

Carbon/Emery Telcom, Inc. Petition for Increase in UUSF

Invoice #	Date	Amount
59100	1-Jul-15	30-Sep-15 \$10,363.60
59745	1-Oct-15	31-Oct-15 \$4,955.50
60342	1-Nov-15	19-Dec-15 \$2,623.50
61073	20-Dec-15	31-Jan-16 \$22,670.65
62171	1-Feb-16	31-Mar-16 \$2,477.75
TOTAL		\$43,091.00

Total UUSF Case Fees/Costs: \$159,169.48