

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Application for Increase of Rates and USF Eligibility for Carbon/Emery Telecom, Inc.	Docket No. 05-2302-01 Exhibit No. <u>DPU 8.0</u> Prefiled Direct Testimony of PAUL A. HICKEN
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**FOR THE
DIVISION OF PUBLIC UTILITIES
DEPARTMENT OF COMMERCE
STATE OF UTAH**

PUBLIC VERSION

November 16, 2005

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I. INTRODUCTION

Q: Please state your name for the record.

A: My name is Paul Allen Hicken.

Q: By whom are you employed and what is your business address?

A: I am employed by the Utah Department of Commerce, Division of Public Utilities. My business address is 160 East 300 South, 4th Floor, Salt Lake City, Utah, 84114.

Q: What is your position with the Division?

A: I am employed as a Public Utility Analyst.

Q: Please summarize your educational and professional experience.

A: I earned a Masters of Business Administration from Utah State University In 1985. I am also a Certified Government Financial Manager. I was employed for nineteen years with the Utah Office of Legislative Auditor General as a Performance Auditor. I have attached a copy of my resume (Exhibit 8.1). I have been employed with the Division since June, 2005 and I recently completed the NARUC Annual Regulatory Studies Program in August, 2005.

II. PURPOSE AND SCOPE OF TESTIMONY

Q: What is the purpose of your testimony in these proceedings?

A: My testimony addresses expense adjustments for legal expense and external relations for Carbon/Emery during 2004, which is the test period for this case.

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III. ADJUSTMENTS

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26 LEGAL EXPENSE

27 **Q: Please explain why adjustments to legal expenses booked during 2004 are**
28 **appropriate.**

29 **A:** First, an adjustment is needed to remove legal expense incurred prior to the test
30 period and for non-regulated issues. A review of the Emery Telecom invoices which
31 were allocated to Carbon/Emery in 2004, showed legal billings totaling [REDACTED] for non-
32 regulated issues and [REDACTED] for out-of-period expense from December 2003. While these
33 costs are legitimate, it is not appropriate to include them in the test period. These costs
34 should have been removed from the total legal expense before the allocation to
35 Carbon/Emery was made.

36 Second, the amount of legal expense allocated to Carbon/Emery from the parent
37 company for the test period was [REDACTED]. This amount is significantly larger than in
38 previous years. For example, in 2002 the legal expense was [REDACTED] and in 2003 the
39 legal expense was [REDACTED]. A major reason for the increased cost was because of the
40 Attorney General's investigation into allegations of illegal activities. An adjustment is
41 needed to normalize the legal expense for revenue requirement purposes. The increased
42 legal costs incurred during the test period are not normal year operating expenses. The
43 total allowable legal expense for the test year should be adjusted so that it more closely
44 resembles the typical legal expense of a normal year. This is accomplished by amortizing

45 the amount in excess of normal, over a two year period.

46 **Q: Please describe how the adjustments were calculated.**

47 **A:** The allocated portion of legal expense first had to be adjusted to account for the
48 non-regulated issues and out-of-period expenses. Emery Telecom’s journal entry 40 (R)
49 was for [REDACTED] This entry included
50 [REDACTED] in billings for non-regulated issues and [REDACTED] for out-of-period billings. The
51 non-regulated and out-of-period billings totaled [REDACTED], which was subtracted from the
52 JE total of [REDACTED], leaving [REDACTED] to be allocated. The allocation to Carbon/Emery
53 was 50 percent of this amount, [REDACTED]. Therefore, the reported cost allocation of
54 [REDACTED] was overstated by [REDACTED] This adjustment was
55 then factored at 62.83 percent for the intrastate portion and the total expense adjustment
56 for non-regulated and out-of-period expense [REDACTED] (Confidential Exhibit 8.2 page 2).

57 The second adjustment I have recommended is to normalize the remaining legal
58 costs of [REDACTED] a portion of which was associated with the AG’s criminal investigation
59 because the amount is not reflective of a normal year’s legal expense. Assuming the legal
60 costs of [REDACTED] for 2002 were normal, the costs for 2004 were [REDACTED] in excess of
61 normal [REDACTED]. I recommend amortizing this excess amount over
62 two years in order to reduce the total legal expense of the test year and bring it closer to a
63 normal year’s expense [REDACTED] I then factored the adjustment for the
64 intrastate portion of 62.83 percent to come up with a total normalization adjustment of
65 [REDACTED] (Confidential Exhibit 8.2 page 1). The total of all legal expense adjustments I
66 have recommended equals [REDACTED].

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68 **EXTERNAL RELATIONS EXPENSE**

69 **Q: Please explain why an adjustment to external relations expense is appropriate.**

70 **A:** The amount of external relations expense allocated to Carbon/Emery for the test
71 period was [REDACTED]. This amount is larger than in prior years and the adjustment is
72 needed because several questionable costs were included, such as scholarship, sponsoring
73 community events, and one-time costs associated with obtaining a trademark. These
74 costs are legitimate but they are usually accounted for below the line and are not included
75 in regulated rates. The external relations expense for the period should be reduced by
76 [REDACTED]. Factoring in the intrastate cost adjustment of 62.83 percent, the total intrastate
77 expense adjustment for external relations is [REDACTED].

78 **Q: Please describe how the adjustment was calculated.**

79 **A:** The external relations account shows a total of [REDACTED] allocated to
80 Carbon/Emery for the test period. Upon review of the detailed expenditures of this
81 account and through discussions with accounting personnel at Emery Telecom, it was
82 determined that some of these expenses were for things that are generally not included in
83 rates. For example, [REDACTED] was used for scholarships, another [REDACTED] was for
84 contributions and donations in support of the community organizations, and [REDACTED] was
85 for trademark legal work. These expenses totaled [REDACTED] are they generally not included
86 in regulated rates. The allowed costs were subtracted from the costs in the company's
87 application to come up with the expense adjustment [REDACTED] The
88 expense adjustment was then factored to account for the intrastate cost adjustment of

89 62.83 percent for an intrastate adjustment total of [REDACTED] for external relations
90 (Confidential Exhibit 8.3).

91 **Q: What are your recommendations?**

92 **A:** I recommend that the Commission normalize legal expenses for the test period
93 and reduce revenue requirements by [REDACTED]. Additionally, I recommend that the
94 Commission exclude expenses related to scholarship [REDACTED] community contributions
95 [REDACTED] and one-time trademark legal expense [REDACTED] from the revenue requirements.

96 **Q: Does this conclude your testimony?**

97 **A:** Yes.