

Melanie Reif - RE: In the Matter of the Request for Agency Action filed by Carbon/Emery Telecom, Inc. against 8 x 8 Incorporated; Docket No. 12-2302-01

From: "Del Sesto, Ronald W., Jr." <r.delsesto@bingham.com>
To: "Melanie Reif" <mreif@utah.gov>
Date: 8/31/2012 12:08 PM
Subject: RE: In the Matter of the Request for Agency Action filed by Carbon/Emery Telecom, Inc. against 8 x 8 Incorporated; Docket No. 12-2302-01
CC: "Kira Slawson" <KiraM@blackburn-stoll.com>, "Paul Proctor" <PPROCTOR@uta...
Attachments: Vonage Order.pdf

Ms. Reif,

Thank you for your email. At this time, we believe it would be premature to schedule a technical conference as we cannot identify the customer about which Carbon/Emery Telecom, Inc. complains. Specifically, we have not been provided sufficient detail to locate the alleged customer located in Price, Carbon County, Utah. It may be the case that Carbon/Emery Telecom, Inc. has wrongly identified the customer as one of 8x8's. Without additional information from Carbon/Emery Telecom, Inc., we cannot provide meaningful input to a technical conference.

It is also important to note that 8x8 provides exclusively nomadic, interconnected VoIP services. The Federal Communication Commission has specifically preempted state regulation of such services in the *Vonage Order* attached to this email. Moreover, it appears that state law provides for a deregulatory scheme for all offerings of Internet protocol-enabled services. See Utah Code Ann. § 54-19-103. Specifically, the statute provides in relevant part "A state agency and political subdivision of the state may not, directly or indirectly, regulate Internet protocol-enabled service or voice over Internet protocol service. *Id.* at § 54-19-103(1).

The complainant did not address the serious jurisdictional questions raised by both the *Vonage Order* and relevant state law. At this point in time, we would recommend that Carbon/Emery Telecom, Inc. voluntary withdraw its complaint and re-file when it can: (1) identify the specific customer that forms the basis of their complaint so that 8x8 can determine whether in fact it is a customer of the company; and (2) explain how the Commission has jurisdiction and has the legal authority to require a provider of nomadic interconnected VoIP services to obtain a certificate when both federal and state law prohibit the imposition of market entry requirements.

Respectfully,

Ronald W. Del Sesto, Jr. counsel for 8x8, Inc.

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From: Melanie Reif [mailto:mreif@utah.gov]
Sent: Friday, August 31, 2012 11:01 AM
To: bmartin@8x8.com; Bryan Martin; Del Sesto, Ronald W., Jr.; Kira Slawson; Justin Jetter; Paul Proctor; Patricia Schmid
Cc: Cheryl Murray; Eric Orton; Michele Beck
Subject: RE: In the Matter of the Request for Agency Action filed by Carbon/Emery Telcom, Inc. against 8 x 8 Incorporated; Docket No. 12-2302-01

Counsel,

Please communicate amongst yourselves and propose alternative dates and times that will work for you.

Thank you.

Melanie A. Reif
Administrative Law Judge and Legal Counsel
Utah Public Service Commission

>>> Paul Proctor 8/31/2012 7:51 AM >>>
I am not available on September 13.
Paul H. Proctor
AAG

>>> Bryan Martin <bryan.martin@8x8.com> 8/30/2012 4:40 PM >>>

Thank you, Melanie. Also please include Ronald Del Sesto, 8x8's Regulatory Counsel (also included above), on future correspondence in this matter. Please note our new postal mailing address below. -Bryan

Bryan R. Martin
Chairman & Chief Executive Officer

8x8, Inc. (Nasdaq: EGHT)
T 408.654.0867 (8x8 Virtual Office)
F 408.980.0432
bmartin@8x8.com
2125 O'Nel Drive
San Jose, California 95131

1-866-TRY-VOIP

From: Melanie Reif [mailto:mreif@utah.gov]
Sent: Thursday, August 30, 2012 3:06 PM
To: bmartin@8x8.com; Kira Slawson; Justin Jetter; Paul Proctor; Patricia Schmid
Subject: RE: In the Matter of the Request for Agency Action filed by Carbon/Emery Telcom, Inc. against 8 x 8 Incorporated; Docket No. 12-2302-01

This message includes 8 x 8's CEO, Bryan Martin. Please be sure to include this additional email in your responses. Thank you.


>>> "Kira Slawson" <KiraM@blackburn-stoll.com> 8/30/2012 4:00 PM >>>

I am checking with my client about the 13th. I don't have an email address for 8x8. It is possible that the customer to whom 8x8 is providing service has an email address for 8x8. Please let me know if you would like the name of the customer in Price who is receiving services from 8x8.

I'll get back to you on the date shortly.

Kira M. Slawson
Blackburn & Stoll, LC
257 East 200 South, Suite 800
Salt Lake City, UT 84111-2048
Phone: (801) 578-3578
Fax: (801) 578-3579

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From: Melanie Reif [mailto:mreif@utah.gov]
Sent: Thursday, August 30, 2012 3:56 PM
To: Kira Slawson; Justin Jetter; Paul Proctor; Patricia Schmid
Subject: In the Matter of the Request for Agency Action filed by Carbon/Emery Telcom, Inc. against 8 x 8 Incorporated; Docket No. 12-2302-01

Counsel,

The Commission would like to schedule a technical conference in the above docket. How does Thursday, September 13, 2012, at 9:00 a.m. look for your schedules?

Does anyone have an email address for 8 x 8?

Thank you,

Melanie A. Reif
Administrative Law Judge and Legal Counsel
Utah Public Service Commission

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Subject: RE: In the Matter of the Request for Agency Action filed by Carbon/Emery Telcom, Inc.
against 8 x 8 Incorporated; Docket No. 12-2302-01
Created By: r.delsesto@bingham.com
Scheduled Date:
Creation Date: 8/31/2012 12:08 PM
From: "Del Sesto, Ronald W., Jr." <r.delsesto@bingham.com>

Recipient	Action	Date & Time	Comment
CC: Cheryl Murray (cmurray@utah.gov)			
CC: Eric Orton (eorton@utah.gov)			
CC: Justin Jetter (Jjetter@utah.gov)			
CC: Kira Slawson (KiraM@blackburn-stoll.com)			
To: Melanie Reif (MReif@utah.gov)			
CC: Michele Beck (mbeck@utah.gov)			
CC: Patricia Schmid (Pschmid@utah.gov)			
CC: Paul Proctor (PPROCTOR@utah.gov)			