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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 TO VACATE HEARING DATE

DOCKET NO. 15-2302-01

Carbon/Emery Telcom, Inc. (“Carbon”) requests that the Commission vacate the hearing date that is currently set for November 2, 2015. On October 15, 2015, the Commission issued an Order on Carbon’s Motion for Partial Summary Judgment. Contemporaneously herewith, pursuant to Utah Code Ann. §§54-7-15 and 63G-4-301 and Utah Administrative Code R746-100-11, Carbon has timely filed a Petition for Review and Clarification of the Commission’s October 15, 2015 Order. Carbon submits that the matters subject to the Motion for Partial Summary Judgment and the Petition for Review and Clarification should be resolved before the evidentiary hearing for the same reasons previously set forth in the Division of Public Utilities Motion to Vacate Hearing Date filed with the Commission on September 18, 2015. Specifically, “matters subject to the Partial Summary Judgment Motions should be resolved before the hearing commences. It is unreasonable and inefficient for witnesses to testify about, and for the Commission to hear, issues which may be resolved by the Partial Summary Judgment Motion.

It is inappropriate to subject a witness to cross-examination on a matter that may soon be resolved by a Motion for Summary Judgment.¹” Additionally, as previously set forth in the Office of Consumer Services Motion in Support of Motion to Vacate filed September 21, 2015, Carbon submits that proceeding to hearing before the issues on summary judgment are finally decided might result in wasted hearing time and needlessly exposing witnesses to cross-examination. Therefore, the Commission’s Order on Review and Clarification should be decided prior to hearing on this matter.

Under R746-100-11, petitions for review or rehearing shall be filed within thirty (30) days of the issuance date of the order, and opposing parties may file responsive memoranda or pleadings within 15 days. *R746-100-11.F*. Therefore, in order to give the Division and the Office of Consumer Services the requisite fifteen (15) days to file responsive memoranda, and to give the Commission adequate time to issue an Order reviewing and clarifying these issues, Carbon requests that the hearing date of November 2 (and 3rd), 2015 be vacated.

Carbon further requests the Commission set a Scheduling Conference after such time as the Commission has issued its Order of Review and Clarification to permit the Commission and the parties to reschedule the hearing in this matter for a time that is convenient for the Commission, the parties and the witnesses.

Where the Carbon, as the applicant, is moving for the vacation of the hearing; postponement of the hearing permits the parties the statutory time to file responsive pleadings; and where final Commission resolution of these issues may result in a more efficient hearing, delaying the evidentiary hearing until the issues raised on summary judgment are fully and

¹ Division of Public Utilities’ Motion to Vacate Hearing filed September 18, 2015, pp. 3-4. *See also* Office of Consumer Services Motion in Support of Motion to Vacate the Hearing filed September 21, 2015.

finally decided benefits all parties and these proceedings and will not result in unfair prejudice to any party.

Dated this 27th day of October, 2015.

BLACKBURN & STOLL, LC

Kira M. Slawson
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CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the Carbon/Emery Telcom, Inc.'s Motion to Vacate the Hearing, 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 27th day of October, 2015:

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