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BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

IN THE MATTER OF THE APPLICATION OF CARBON/EMERY TELCOM FOR AN INCREASE IN UTAH UNIVERSAL SERVICE FUND SUPPORT	DOCKET NO. 15-2302-01 **DIVISION RESPONSE TO PETITION FOR REVIEW AND CLARIFICATION**

Pursuant to Utah Code Ann. § 54-4a-1 and Utah Admin. Code r746-100 the Utah Division of Public Utilities ("Division"), hereby submits this Response to Petition for Review and Clarification filed by Carbon/Emery Telcom ("Carbon"). The Public Service Commission of Utah ("Commission") may clarify its order to the extent that it may have made a typographical error in using "straight line" where it apparently intended to use "single asset." The Commission should not reconsider its denial of Carbon's Motion for Partial Summary Judgment. The Commission properly recognized that it has authority under Utah law as well as discretion under FCC rule if it finds Part 32 persuasive to consider the Division's depreciation adjustment based on single asset depreciation calculations.

INTRODUCTION

Carbon filed a Motion for Partial Summary Judgment on the question of whether the Commission was bound by law and/or administrative rule to use group plan depreciation as the only method for calculating the depreciation expense to be used for purposes of Utah universal service fund ("UUSF") distribution. The Division and Utah Office of Consumer Services ("Office") filed responses and Carbon filed reply brief. The Commission issued its Order denying partial summary judgment on October 15, 2015. Carbon subsequently filed a Petition for Review and Clarification on October 28, 2015. The Division opposes reconsideration of the Commission's denial of Carbon's motion and supports one clarification of an apparent clerical error.

ARGUMENT

Carbon's Petition seeks review and clarification on the following issues: 1. Carbon's process for removing fully depreciated assets from rate base, 2. Single asset vs. group asset depreciation, 3. Applicability of Rule 746-340-2.D. universally to matters outside of service quality, 4 Grouping of assets with different service lives, 5. Removal of fully depreciated assets from groups, and 6, abandonment of group plan accounting. Much of Carbon's argument is retreading the same ground that the parties briefed prior to this Order. Carbon's Petition does not provide any new basis for reversing the Commission's Order.

The Commission succinctly summarized the Division's position in its November 12, 2015 Order in Docket No. 15-053-01, which mirrors the Division position in this docket. "[T]he Division has not requested that [Carbon] be required to make any changes in its accounting. Rather the Division has requested that the Commission adjust [Carbon's] depreciation calculation, and the Division has used a single-asset depreciation methodology to calculate the

amount of the recommended adjustment. The Commission would be within its discretion to adopt the Division's recommendation without ordering [Carbon] to change any of its record-keeping practices going forward."

1. Removing Fully Depreciated Assets.

Carbon first addresses the process for removing fully depreciated assets. Carbon asserts that group asset depreciation does not require fully depreciated assets' removal from the group because it claims that a group being treated like a single asset so the group is either fully depreciated or not as a whole. The Division does not disagree in principle that groups are depreciated as a whole where some assets may have longer or shorter service lives than the group average. If group depreciation is properly implemented this does not result in unreasonable outcomes because the depreciation rate will match the service life and the groups will never have excessive depreciated assets in them.

The Division's disagreement with Carbon's method has two components. One is the use of fully depreciated assets. Carbon has asset groups that have been fully depreciated, which are then revived by adding new assets. These groups should not be revived and a new group should be created upon acquisition of new assets. Additionally the Division also disputes Carbon's method where assets that are significantly older than the useful life used for the depreciation rates remain in the group. Whether it's described as "allowing fully depreciated assets to remain in groups" or possibly more accurately failure to properly maintain groups by vintage or other reasonable method of categorization, the result is groups with exceedingly high gross cost relative to book value. The result is unreasonably accelerated depreciation.[1]

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[1] For example based on the Application filed by Carbon it is requesting that the Commission accept a depreciation calculation in sum that is roughly 20% of the Companies rate base. This would depreciate the entire current rate base in less than 5 years.

The Division agrees with the Commission that FCC Part 32 does provide the FCC discretion to require alternative depreciation methods if necessary. However the Division also continues its assertion that the Commission is not bound by Part 32 in its review of Carbon's UUSF request and that it has discretion to base UUSF distributions on single asset depreciation. This issue has been thoroughly briefed by the Division, Office, and Carbon. The Division relies again on its Response to Carbon's Motion for Partial Summary Judgment rather than repeating the same arguments here.[2] In short, the Commission is calculating a revenue requirement and may use any reasonable method to establish a dollar amount for depreciation expense that is representative of the depreciation expense needed to reimburse the company for the actual diminution in the value and useful life of its assets in the test year.

2. **Single Asset Depreciation versus Group Asset Depreciation.**

The Division agrees with Carbon that it appears the Commission may have made a typographical error on page 3 where it stated that "Carbon does argue that accelerating depreciation of its newer assets removes them from the rate base more quickly than would be the case if the newer assets were depreciated under the straight-line method…" It appears most likely that the Commission intended to compare the group method with single asset method.

The Division disagrees with the characterization of Carbon that "[t]he issue is whether Carbon should be required to use single asset rather than group asset method." The Division has not and does not argue that single asset depreciation is the only possible method that Carbon may use. Providing UUSF support that is just and reasonable necessitates predicting future periods in

[2] To briefly summarize; Rule 746-340-2.D cannot be universally applicable. To interpret it as such is inconsistent with state law and Commission precedent. Because it's not universally applicable, there is no basis for the claim that it must be applicable for UUSF distribution. This is particularly evident where by function of statute it does not and cannot limit the Commission in rate cases that are directly linked as a factor in the formula to calculate UUSF.

which the UUSF will be disbursed. The Division seeks to find a reasonable method of matching the actual loss in service life of assets to the periods in which those assets are used.[3] Single asset is not the only method that can reasonably and reliably be used. Group method with vintage groups such that each group has an effective depreciation rate similar to the group's service life would be one such alternative. Others may work too.

The Division therefore is not asking the Commission to require Carbon move to a single asset depreciation method. The Division is recommending that the Commission set a UUSF distribution amount that best matches Carbon's actual ongoing costs and revenues. Carbon's method of group depreciation does not do this. Single asset depreciation is one method of doing so and the Division believes it both accurately calculates the actual reduction in value of Carbons assets during the future periods in which the UUSF will be disbursed.

3. **Rule 746-340-2.D is Not Universally Applicable to Telecommunications and Cannot be Universally Applicable to Telecommunications Matters.**

This issue has been thoroughly briefed by the Division, Office, and Carbon. The Division relies again on its Response to Carbon's Motion for Partial Summary Judgment rather than repeating the same arguments here.

4. **Group Assets with Different Service Lives.**

Carbon asserts that the Commission erred in its conclusion that the FCC rule prohibits an asset group from including fully depreciated assets as those assets are no longer depreciable and should be removed from the group. The Commission's language accurately reflects the FCC's understanding of the proper function of group depreciation.

[3] This is commonly known as the "matching principle" of accrual accounting.

Part 32 requires that the depreciation "shall be such that the loss in service value of the property, except for losses excluded under the definition of depreciation, may be distributed under the straight-line method during the service life of the property."[4] In a recent publication the FCC defined the basic term, "[d]epreciation is the process by which the original cost of an asset is ratably allocated over the expected life of the asset so that the cost of the asset is matched to the period of time during which the asset is in service and generating revenues." [5] It further noted that "[t]he straight-line method assigns an equal charge for depreciation in each of the periods of the service life of the asset."[6]

The FCC rules reject placing assets with differing service values into the same groups to depreciate new assets at an accelerated rate. This would be plainly inconsistent with straight-line depreciation that should "assign an equal charge for depreciation in each of the periods of the service life of the asset." To the extent that either non-vintage or vintage grouping fails to do so it is not compliant with the FCC straight-line depreciation requirement. Vintage grouping is one method of reducing the opportunity for errors in depreciation rates to be compounded over time.

Finally whether the FCC Part 32 rule requires vintage grouping or not is immaterial. The Commission has broad discretion in how it will determine UUSF distribution amounts. It is within the Commission's authority to utilize a variety of depreciation methods. It certainly may base its calculation upon vintage groups and require vintage groups if it chooses to do so.

5. FCC Rules Inherently Disfavor Asset Groups From Including Fully Depreciated Assets.

Part 32 requires that the depreciation "shall be such that the loss in service value of the property, except for losses excluded under the definition of depreciation, may be distributed

[4] 47 CFR 32.2000(g)(1)(i) (emphasis added).
[5] *In the Matter of Comprehensive Review of the Part 32 Uniform System of Accounts*, 29 FCC Rcd. 10638, 10654, FN38.
[6] *Id.*at FN 39.

under the straight-line method during the service life of the property."[7] Retaining fully depreciated assets in a group accelerates the depreciation rates. Accelerated depreciation does not distribute the loss in service value of property in a straight line method during the service life of the property.[8] Therefore the plain language of the rule prohibits retaining fully depreciated assets in a group if those assets gross values are used as part of the group depreciation calculation.

6. **The Order Did Not Require Abandonment of Group Method.**

Carbon's argument on this issue is a restatement of the same argument set forth in its Motion for Partial Summary Judgment. The Division continues its assertion that FCC Part 32 is not universally applicable to all telecommunication matters. The Division is not making a claim that single asset is the only possible depreciation method that may be used. Nor is the Division claiming that group depreciation is inherently unreasonable. The Division has however argued that single asset depreciation is a reasonable method and one that may be considered by the Commission as an alternative to Carbon's group method. Carbon is certainly entitled to present its depreciation method. Also, as the Commission noted in its November 12 Strata order, the purpose of the Division's depreciation adjustment is not to compel Carbon's use of the method but to arrive at a reasonable depreciation expense to include in Carbon's revenue requirement.

CONCLUSION

The Commission may clarify its order to the extent that it may have made an error in using "straight line" where it apparently intended to use "single asset." The Commission should

[7] 47 CFR 32.2000(g)(1)(i) (emphasis added).

[8] This matching error is an additional one to the potential error all methods contain: that incorrectly set rates will result in accelerated or decelerated depreciation. Single asset straight-line method contains this potential error but not the other potential errors found in group methods. The Division believes applying a single asset straight-line method when distortion is seen is a wise and reasonable manner for arriving at the appropriate depreciation expense.

not reconsider its denial of Carbon's Motion for Partial Summary Judgment. The Commission properly recognized that it has authority under Utah law as well as discretion if it finds Part 32 persuasive to consider the Division's depreciation adjustment based on single asset depreciation calculations. The Commission should not reconsider its Order and should clarify to the extent that clerical error may have been made.

Submitted this 13th day of November, 2015.

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