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UTAH DEPARTMENT OF COMMERCE

Division of Public Utilities

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Action Request Response

To: Public Service Commission of Utah

From: Utah Division of Public Utilities

Chris Parker, Director
Artie Powell, Manager
Brenda Salter, Utility Technical Consultant Supervisor
Doug Wheelwright, Utility Technical Consultant Supervisor
Gary Smith, Utility Technical Consultant

Date: September 1, 2022

Re: **Docket No. 22-2302-01**, Carbon Emery Telecom - 2022 Annual Review of calendar year 2021 determining UUSF eligibility.

Recommendation (Approve)

The Division of Public Utilities' (Division) recommends the Utah Public Service Commission (Commission) adjust the Utah Universal Service Fund (UUSF) payable to Carbon Emery Telecom (Company) to \$1,752,591 annually, or \$146,049.25 monthly, effective January 1, 2023. This recommended annual distribution amount includes a reduction of \$15,427 for the repayment to the UUSF of Excess Deferred Income Taxes (EDIT) resulting from the income tax rate reduction of The Tax Cuts and Jobs Act of 2017 (Tax Act).

Background

Pursuant to Commission Rule 746-8-401, the Division reviewed the Company's annual report submitted on April 18, 2022. The Division issued formal and informal data requests for missing and additional information. After a review of all information and responses from the Company, the Division has calculated the recommended amount of UUSF annual eligibility

Division of Public Utilities

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to be \$1,752,591 to be paid in 2023. This represents a decrease of (\$488,373) annually, or (\$40,697.78) monthly, to the amounts the Company received in 2022.

The Division included the following in its determination:

- 1) Rate of Return – The Division used the current FCC prescribed Rate of Return (“ROR”) of 9.75% according to Commission Rule 746-8-401(7)(b).
- 2) Allocation Adjustments – The Company adjusted its accounting of shared equipment, reclassifying materials and supplies between regulated and non-regulated companies and operations.
- 3) FCC Excluded Costs – The Company’s Annual Report included expenses disallowed from Federal USF and UUSF reimbursement under The Code of Federal Regulations Part 54.7 and Utah Code 54-8b-15(3). The following expenses were determined not to support the facilities and services for which the Universal Service Fund was intended and were removed by the Division:

Category	Excluded Amount
Digital Switching	\$ 79
Radio Systems	\$ 1
Subscriber Circuit Expense	\$ 659
Aerial Cable Exp	\$ 82
Buried Cable Exp	\$ 4,313
Provisioning Exp	\$ 119
Network Admin Exp	\$ 108
Engineering Exp	\$ 2,088
Marketing Exp	\$ 4,221
Product Management	\$ 774
Customer Services	\$ 1,547
Executive & Planning	\$ 18,405
Executive and Board of Dir	\$ 16,484
Accounting and Finance	\$ 9,512
External Relations	\$ 13,006
Human Resources	\$ 5,409
Excluded Expense Total	\$ 76,805

The Division's computations, including recommended adjustments as mentioned above, are found in the Revenue Requirement tab of the attached CONFIDENTIAL Exhibit 1 22-2302-01 Carbon Emery Telecom Annual Report - DPU Recommendation.

- 4) Excess Deferred Income Taxes (EDIT) repayment - The Company has utilized accelerated depreciation and has Accumulated Deferred Income Taxes (ADIT). Due to the decrease in the federal tax rate from The Tax Cuts and Jobs Act of 2017 (Tax Act), the Company calculated its Excess Deferred Income Taxes or EDIT using their ADIT balance as of December 31, 2017. EDIT is a Deferred Regulatory Liability which should be returned to the UUSF. The Tax Act which reduced federal taxes requires that a normalization method of accounting must be used to amortize EDIT over the original life of the underlying assets for public utility property. The primary normalization method provided in the Tax Act is the Average Rate Assumption Method (ARAM). The Tax Act advises that if EDIT is returned sooner than calculated utilizing ARAM, federal penalties would be assessed. Any penalties assessed in association with The Company's treatment of EDIT would be an excluded expense that could not be recaptured through UUSF. The Division recommends refunding the Company's calculated ARAM amortized EDIT amount of \$15,427 to the UUSF by reducing the Company's 2023 UUSF distribution by \$15,427.

Conclusion

The Division recommends an adjusted UUSF distribution for Carbon Emery Telecom of \$1,752,591 annually, or \$146,049.25 monthly, effective January 1, 2023.

cc: Brock Johansen – Carbon Emery Telecom
Darren Woolsey – Carbon Emery Telecom