



State of Utah
Department of Commerce
Division of Public Utilities

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March 23, 2011

TO: PUBLIC SERVICE COMMISSION

FROM: DIVISION OF PUBLIC UTILITIES

Chris Parker, Director
Bill Duncan, Manager, Telecommunications and Water
Paul M. Anderson, Utility Technical Consultant

RE: Citizens Telecommunications Company of Utah d/b/a Frontier Communications of Utah filing to introduce a new condition addressing utility facility relocation requests. Docket No. 11-041-T01

ISSUE:

Citizens Telecommunications Company (Citizens) is filing this addition to its existing tariff, to address Relocation of Utility Facilities and is proposing to include the following paragraph in its tariff:

When an applicant, customer, association, government entity or political division or other third-party requests a change in the type, location or the relocation of aerial or underground of communications facilities used to provide telephone service, the requestor shall be required to pay the cost incurred by the Utility for such change or relocation of facilities. Payment for the cost of the change or relocation must be made prior to the change or relocation.

RECOMMENDATION: Reject Tariff Modification

The Division has reviewed this modification for any rate increase to base rates that would require a rate hearing and has found none. The Division, however, is concerned that the wording of "government entity or political division" indicates that a State, County or Municipality will be required to pay for requested changes or relocation of company communication facilities, especially in the event of highway improvement, street widening, etc. This wording appears to conflict with Utah law regarding cost of relocation in rights of way—interstate and state highways. See Utah Code Ann. 72-6-

116, 72-7-107, 72-7-108; see also 54-3-29. In operation, the language might also conflict with franchise agreements and/or ordinances, see Utah Code Ann. 54-3-29(8).

The Division recommends that the tariff only be approved if additional language is added that to the extent payment does not conflict with federal, state or local law, the requestor pays.

The Division therefore recommends that the Commission reject this modification in Citizens' Tariff as written

cc: Raymond Deede, Manager, Government & External Affairs, Citizens
Telecommunications of Utah
Patricia E. Schmid, Assistant Attorney General
Marialie Martinez, Manager, Customer Service, Utah Division of Public
Utilities