

August 24, 2018

Via Electronic Filing Only

Gary Widerburg
PSC Secretary
Utah Public Service Commission
Heber M. Wells Building, 4th Floor
160 East 300 South
Salt Lake City, UT 84111

psc@utah.gov

Re: Docket No. 18-053-01

Dear Mr. Widerburg:

Attached for filing please find STRATA Networks' Response and Motion to Dismiss along with a Certificate of Service.

If you have any question, please call me.

Respectfully,

A handwritten signature in black ink that reads "Beau D. Hancock". The signature is written in a cursive style with a large, stylized initial 'B'.

Beau D. Hancock
STRATA Networks
Legal and Regulatory Affairs

Beau D. Hancock (#13227)
STRATA Networks
Legal and Regulatory Affairs
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Attorney for UBTA-UBET Communications, Inc. d/b/a STRATA Networks

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

In the Matter of the Formal Complaint of
Clifford Murray against UBTA-UBET
Communications, Inc. d/b/a STRATA
Networks

DOCKET NO. 18-053-01
**STRATA NETWORK'S RESPONSE
AND MOTION TO DISMISS**

On July 26, 2018, Clifford Murray filed a formal complaint¹ against UBTA-UBET Communications, Inc. d/b/a Strata Networks ("Strata"). STRATA respectfully provides its Response and Motion to Dismiss this complaint. The Commission should dismiss this complaint based upon the following:

- Clifford Murray has failed to state a claim upon which the Commission can grant relief.²
- STRATA in its collection practices of transferring delinquent account balances from similar classes of service, such as residential to residential, has not violated any statute or Commission rule.

Cathy Murray has had a telecommunications service account with Strata since 2001 when Strata acquired several exchanges from Qwest. On or about August 2011, Cathy Murray established a joint account adding Clifford Murray to her existing account. ("Account 1"). On or

¹ PSC website link for Docket No. 18-053-01: <https://psc.utah.gov/2018/07/26/docket-no-18-053-01/>

² Utah Code Ann. 54-7-20, Reparations – Courts to enforce commission's order – Limitations of action.

about May 2006, Cathy Murray established an additional account for telecommunication services (“Account 2”). Accounts 1 and 2 are both residential and non-commercial accounts.

On November 29, 2017, Cathy Murray ceased making payments on Account 2. STRATA made numerous attempts to arrange a payment schedule before disconnecting telecommunication services to Account 2. On January 17, 2018, STRATA terminated all telecommunication services associated with Account 2, and Account 2 was left with an unpaid account balance. On March 28, 2018, STRATA applied the unpaid balance for Account 2 to Account 1³.

Mr. Murray complains that it is illegal for STRATA to transfer the unpaid balance from Account 2 to Account 1 and that he is not responsible for services not ordered or agreed to by him.⁴ STRATA has informed Mr. Murray that customers are responsible to pay for telecommunication services provided in their name, including services provided on a joint account. STRATA has provided telecommunication services for Cathy Murray on Accounts 1 and 2. She is considered an account holder for each account and is responsible for paying for services on each account.

STRATA believes the practice of transferring outstanding debts from one account to another account for a similar class of service (such as residential to residential) is a legal and common practice for utility entities operating under the jurisdiction of the Utah Public Service Commission⁵. Additionally, a “[t]elecommunications service is to be conditioned upon payment

³ The disputed unpaid balance of Account 2 has been removed from Account 1 pending the outcome of this dispute.

⁴ Clifford Murray Formal Complaint Form, response to question 3. *What did the utility do which you (the Complainant) think is illegal, unjust, or improper? Include exact dates, times, locations and persons involved, as closely as you can.* He stated; “By invoice number 3287572 dated 3/28/2018 Strata billed Cathy and Clifford Murray, jointly, for an amount which is apparently owed solely by Cathy Murray.” Response to question 4. *Why do you (the Complainant) think these activities are illegal, unjust or improper?* He stated; “I, Clifford Murray, am being billed for services not ordered or agreed to by myself.”

⁵ Utah Administrative Code R746-200-4(G)(1) “A utility company may only transfer bills between similar classes of service, such as residential to residential, not commercial to residential.”

of deposits, when required, and of the outstanding debts for past telecommunications service which owed by the applicant to that telecommunications corporation.....”⁶ STRATA has communicated to Cathy Murray that the charges on her past due account would be applied/transferred to her other account.

Clifford Murray complains STRATA’s practice of transferring outstanding debts from one account to another account is unjust because he never “ordered or agreed to”⁷ the services rendered under Account 2. However, Clifford Murray and Cathy Murray are joint account holders and joint members under the Bylaws of STRATA.⁸ Under STRATA’s Bylaws, the company is entitled to rely on the representations of either spouse. Both spouses to the joint membership agree to indemnify and hold the Cooperative harmless from actions, conduct, or representations by either spouse and from actions taken by the Cooperative relying on representations of either spouse.⁹ Further, under Section 1.6 of the Bylaws, the member, including joint members, shall pay for the amounts owed for services rendered as and when the same shall become due and payable. The services on Account 2 were ordered by Cathy Murray, who is an account holder on Account 1 and Account 2. STRATA has no knowledge of whether Clifford Murray was aware of the actions of his wife, Cathy Murray, when she started telecommunication services on Account 2. However, it is important to note that it is not uncommon for a husband and wife to have a joint account and start another account under one of the party’s names.¹⁰ Additionally, pursuant to STRATA’s Bylaws, Cathy Murray and Clifford

⁶ Utah Administrative Code R746-240-3(B)(1).

⁷ Clifford Murray Formal Complaint Form, response to question 4. *Why do you (the Complainant) think these activities are illegal, unjust or improper?* He stated; “I, Clifford Murray, am being billed for services not ordered or agreed to by myself.”

⁸ UBTA-UBET Communications, Inc. Bylaws, Section 1.4(e) (“Bylaws”); <https://www.stratanetworks.com/pdf/AMDENED%20BY%20LAWS%204-25-13.pdf>.

⁹ Id. at Section 1.4(e)(9).

¹⁰ See Affidavit of Lana Berrett filed concurrently with this Response.

Murray are joint members who are responsible for paying for service rendered to them, and STRATA is entitled to rely on the representation and actions of either joint member.¹¹

Clifford Murray has not alleged any service problems or provided evidence that STRATA has incorrectly billed him and Cathy Murray for telecommunication services provided in their names. In summary, the following provides reasons why this formal complaint should be dismissed:

- Clifford Murray has failed to state any claim upon which the Commission can grant relief.
- STRATA in its offerings and collection practices has not violated any statute or Commission rule.

STRATA respectfully requests for the Commission dismiss Clifford Murray's formal complaint against STRATA in its entirety.

RESPECTFULLY SUBMITTED this 24th day of August 2018.

UBTA-UBET Communication, Inc. d/b/a
Strata Networks



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Strata Networks

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¹¹ Bylaws, Section 1.4 and 1.6; see <https://www.stratanetworks.com/pdf/AMDENDED%20BY%20LAWS%204-25-13.pdf>

CERTIFICATE OF SERVICE

Docket No. 18-053-01

I hereby certify that on the 24 day of August, 2018, I caused a true and correct copy of the foregoing STRATA NETWORK'S RESPONSE AND MOTION TO DISMISS to be served upon the following persons via electronic mail at the e-mail addresses shown below, and via U.S. Mail to Clifford Murray.

By Electronic-Mail:

Clifford Murray (4crystaludball@gmail.com)

Lana Berrett (lberrett@stratanetworks.com)
Beau Hancock (bhancock@stratanetworks.com)
Strata Networks

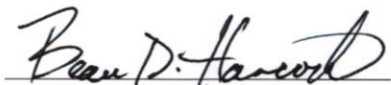
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Erika Tedder (etedder@utah.gov)
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By First Class Mail:

Office of Consumer Services
160 East 300 South, 2nd Floor
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Strata Networks



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Attorney for Strata Networks