

1 **Q. Have you previously filed testimony in this docket?**

2 A. Yes. I filed direct testimony.

3 **PURPOSE AND SUMMARY OF TESTIMONY**

4 **Q. What is the purpose of your testimony?**

5 A. The purpose of my testimony is to respond to the direct testimony of the Utah  
6 Division of Public Utilities (“DPU”) and the Utah Office of Consumer Services  
7 (“Office”).

8 **Q. Please summarize your testimony.**

9 A. The DPU recommends approval of the Contract but raises three concerns. The  
10 Company has worked with the DPU and believes the clarifications made in this  
11 rebuttal testimony will resolve the concerns. The OCS states its analysis indicated  
12 that other ratepayers should not be harmed by the Facebook contract. The OCS  
13 recommends implementation of certain reporting requirements related to the  
14 Contract to assist in evaluation of future contracts, and also recommends [REDACTED]  
15 [REDACTED]. The  
16 Company has worked with the OCS on both matters and sets forth in this rebuttal  
17 testimony conditions that it believes will satisfy the OCS recommendations.

18 **COMPANY RESPONSE TO THE DPU TESTIMONY**

19 **Q. What is the DPU’s recommendation in this docket?**

20 A. The DPU believes that the Contract adequately complies with the proposed  
21 Schedule 34 tariff and the enabling statute, Utah Code Ann. § 54-17-806. The DPU

22 concludes that the Contract is just and reasonable and recommends that the  
23 Commission approve the Contract.<sup>1</sup>

24 **Q. Does the DPU identify any concerns with the Contract?**

25 A. The DPU raises three concerns with the contract, summarized below which were  
26 taken from pages 13 and 14 of DPU witness Charles E. Peterson’s direct testimony:

- 27 1. Section 15.3(b) could be construed as an attempt to limit or thwart the  
28 Division’s ability to review and audit the books and records of the  
29 Company as it pertains to this Contract.

30 [REDACTED]

31 [REDACTED]

32 [REDACTED]

33 [REDACTED]

34 [REDACTED]

35 [REDACTED]

36 [REDACTED]

37 [REDACTED]

38 [REDACTED]

39 **Q. Has the Company resolved these concerns through discussions with the DPU?**

40 A. Yes. As mentioned on page 14 of Mr. Peterson’s testimony, the Company and the  
41 DPU have discussed each of these concerns and the Company believes they are  
42 resolved to the DPU’s satisfaction with these clarifying comments:

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<sup>1</sup> Direct Testimony of Charles E. Peterson, lines 297-301.

43 1. Section 15.3(b) of the contract is intended to require the Company to  
44 provide notice to Facebook if confidential information is provided to a  
45 “governmental body or official authority having jurisdiction” so that  
46 Facebook can seek a protective order if needed. It also requires the  
47 Company to request confidential treatment of confidential information  
48 to the extent permitted by applicable law. It does not require the  
49 Company to seek a protective order or take other action prior to  
50 providing information to a “governmental body or official authority  
51 having jurisdiction”. The Company believes the DPU falls under this  
52 category. Therefore, this requirement in no way limits or thwarts the  
53 DPU’s ability to audit the books and records of the Company as it  
54 pertains to the contract.

55 [REDACTED]

56 [REDACTED]

57 [REDACTED]

58 [REDACTED]

59 [REDACTED]

60 [REDACTED]

61 [REDACTED]

62 [REDACTED]

63 [REDACTED]

64 [REDACTED]

65 [REDACTED]

66 [REDACTED]  
67 [REDACTED]  
68 [REDACTED]  
69 [REDACTED]  
70 [REDACTED]  
71 [REDACTED]  
72 [REDACTED]

73 **COMPANY RESPONSE TO THE OFFICE TESTIMONY**

74 **Q. What is the Office’s recommendation in this docket?**

75 A. The Office states its analysis indicated that other ratepayers should not be harmed  
76 by the Facebook contract.<sup>2</sup> The Office recommends that the Company should file  
77 certain information to assist with the analysis of future contracts entered into under  
78 Schedule 34.<sup>3</sup> [REDACTED]

79 [REDACTED]  
80 [REDACTED]  
81 [REDACTED]  
82 [REDACTED]

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<sup>2</sup> Direct Testimony of Philip Hayet, lines 291-292.

<sup>3</sup> Direct Testimony of Philip Hayet, lines 293-314. Contains Confidential Information

<sup>4</sup> Direct Testimony of Philip Hayet, lines 142-147. Contains Confidential Informaiton

83 **Q. What is the Company’s response to the Office’s recommendation related to**  
84 **reporting requirements?**

85 A. The Company has worked collaboratively with the Office to establish acceptable  
86 reporting requirements in response to the Office’s recommendation. The Company  
87 believes the following reporting requirements satisfy the recommendation.

88 The Company will provide its first report as soon as practicable following  
89 the second full year of collection of data after Facebook takes initial service under  
90 the contract. Reports will then be filed every other year, with one report occurring  
91 after the fourth year of service and one report occurring after the sixth year of  
92 service, for a total of three reports. Each report shall include data for the prior  
93 contract year.

94 The report will include the following information:

95 [REDACTED]

96 [REDACTED]

97 [REDACTED]

98 [REDACTED]

99 [REDACTED]

100 [REDACTED]

101 [REDACTED]

102 [REDACTED]

103 [REDACTED]

104 [REDACTED]

105 [REDACTED]

106 [REDACTED]

107 [REDACTED]

108 [REDACTED]

109 [REDACTED]

110 [REDACTED]

111 [REDACTED]

112 [REDACTED]

113 [REDACTED]

114 [REDACTED]

115 [REDACTED]

116 [REDACTED]

117 [REDACTED]

118 [REDACTED]

119 [REDACTED]

120 [REDACTED]

121 [REDACTED]

122 [REDACTED]

123 [REDACTED]

124 **Q. Will the reports impact the Facebook contract?**

125 A. No. The reports are solely intended to inform and assist in the evaluation of future  
126 contracts under Schedule 34 and in no way will alter the terms and conditions or  
127 regulatory treatment of the Contract.

128 [REDACTED]

129 [REDACTED]

130 [REDACTED]

131 [REDACTED]

132 [REDACTED]

133 [REDACTED]

134 [REDACTED]

135 [REDACTED]

136 [REDACTED]

137 [REDACTED]

138 [REDACTED]

139 [REDACTED]

140 **Q. After reviewing the testimony of the DPU and Office, what is your**  
141 **recommendation in this docket?**

142 A. I recommend that the Commission approve the Contract as filed with the minor  
143 change to Exhibit D explained in this rebuttal testimony. Furthermore, the  
144 Company agrees to the reporting and notice requirements described above.

145 **Q. Does this conclude your rebuttal testimony?**

146 A. Yes.