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State of Utah
Department of Commerce
Division of Public Utilities

FRANCINE GIANI
Executive Director

THOMAS BRADY
Deputy Director

CHRIS PARKER
Director, Division of Public Utilities

October 7, 2013

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: Utah Docket No. 13-041-T05, TARIFF: Citizens Telecommunications Company of Utah d/b/a Frontier Communications of Utah (Citizens) notifying the Commission of a special promotional offering between October 18, 2013 and extending until December 31, 2013.

ISSUE:

On September 18, 2013 Citizens submitted a filing to notify the Commission of a Special Promotional offering beginning October 18, 2013, and extending until December 31, 2013 to new business broadband commercial customers who purchase the Simply Unlimited Bundle. These customers will be eligible to receive the first line of Simply Unlimited at \$28.99/month and any additional lines \$23.99/line per month up to the 12 lines maximum. This rate will apply for the duration of the one, two or three-year contracted term. All other Terms and Conditions of the bundle will remain in effect.

RECOMMENDATION: Do not approve Promotional Offering.

The Division of Public Utilities (DPU or Division) reviewed this filing and believes that such a promotion would violate Utah Code Sections 54-3-7 and 54-3-8 listed as follows:

54-3-7. Charges not to vary from schedules -- Refunds and rebates forbidden -- Exceptions.

Except as provided in this chapter or Chapter 8b, Public Telecommunications Law, no public utility shall charge, demand, collect or receive a greater or less or different compensation for any product or commodity furnished or to be furnished, or for any service rendered or to be rendered, than the rates, tolls, rentals and charges applicable to such products or commodity or service as specified in its schedules on file and in effect at the time; nor shall any such public utility refund or remit, directly or indirectly, in any manner or by any device, any portion of the rates, tolls, rentals and charges so specified; nor extend to any person any form of contract or agreement, or any rule or regulation, or any facility or privilege except such as are regularly and uniformly extended to all corporations and persons; provided, that the commission may, by rule or order, establish such exceptions from the operation of this prohibition as it may consider just and reasonable as to any public utility.

54-3-8. Preferences forbidden -- Power of commission to determine facts.

(1) Except as provided in Chapter 8b, Public Telecommunications Law, a public utility may not:

(a) as to rates, charges, service, facilities or in any other respect, make or grant any preference or advantage to any person, or subject any person to any prejudice or disadvantage; and

(b) establish or maintain any unreasonable difference as to rates, charges, service or facilities, or in any other respect, either as between localities or as between classes of service.

(2) The commission shall have power to determine any question of fact arising under this section.

The promotion contemplated in Citizens' filing would result in rates being charged that differ from the approved rates on file. It would also result in differing rates being charged to otherwise similar customers.

The DPU recognizes that Citizens wants to attract new customers and retain existing customers by providing competitive pricing on a short term basis that does not affect their basic rates. That option is available through an exemption by the Commission in Utah Code Section 54-8b-3 for which Citizens can apply.

54-8b-3. Exemptions from requirements.

(1) The commission, on its own initiative or in response to an application by a telecommunications corporation, a public agency, or a user of a public telecommunications service, may, *after public notice and a hearing*, issue an order exempting any telecommunications corporation or public telecommunications service from any requirement of this title,

including any requirement or limitation relating to a telecommunication corporation's earnings, rate base, or pricing of public telecommunications services. (Emphasis added)

The DPU believes that this letter does not constitute an appropriate application for an exemption from these requirements. It does not allow the Commission adequate time for public comment and a hearing. The application should be denied until Citizens files an appropriate application that can be fully examined through the required process.

CC: R. Kirk Lee, Manager, Government & External Affairs,
Citizens and Navajo Communications
Justin Jetter, Assistant Attorney General, Utah Attorney
General's Office
Marialie Martinez, Manager, Customer Service, Utah
Division of Public Utilities