



Citizens Telecom Company of Utah d/b/a Frontier Communications of Utah (“Frontier”) responds to the Utah Office of Consumer Services’ (“OCS”) Motion to Compel Compliance with the Public Service Commission’s November 27, 2019 Order Granting in Part Motion to Compel (2<sup>nd</sup> Motion to Compel) in the above-styled dockets, and asks the Utah Public Service Commission (“PSC” or “Commission”) to deny OCS’s motion on jurisdictional and factual grounds. Frontier denies that its supplemental responses subsequent to the Order are incomplete, and denies that it violates in any way the only rule OCS cites (Utah Admin. Rule r. 746-340-5 B.1.) in support of their demands.

Frontier will respond to both of the OCS’s contentions regarding its production to OCS’s second set of DRs below.

#### BACKGROUND

(1) DR 2.1, 2.3 and 2.4. Simply put, Frontier has produced every set of responsive terms and conditions found in a Frontier system of records. The OCS has cited no Commission rule that requires a telecommunications carrier to keep historical records of particular terms and conditions, much less for an apparently arbitrarily selected period of 8 years. Nor does the ALJ’s Order require Frontier to produce records that do not exist in a Frontier system of records. Frontier has no documents to “separately identify”, in that no different set of Frontier Terms and Conditions applied to Castle Valley alone at any time since 2012. Frontier has produced, and OCS has received, the universe of applicable terms and conditions documents for the requested timeframe that exist in a Frontier system of records. As OCS admits in its pleading, Frontier has produced a number of additional records of residential and business terms and conditions in effect from January 2012 to the present time. Any OCS-perceived gaps are simply records not currently present in a Frontier system of records. Frontier affirmatively makes the claim that these are the only records of

applicable terms and conditions that currently exist in a Frontier system of records. OCS's contention that Frontier has not thoroughly searched its records is mistaken. OCS's additional assumption that Frontier must keep these documents is not supported by any cited rule or statute. OSC merely assumes Frontier must maintain eight years of records of terms and conditions for "purposes of contract litigation", without citing any Utah authority at all for that proposition. Frontier renews its objection to the scope of the OCS's discovery, in that Utah Code Title 78B, §309 extends only 6 years, which by extension would limit the OCS inquiry to 2014 and forward. Frontier also states that any set of terms and conditions that are styled "Business Terms and Conditions" apply to small business and/or any size business that subscribes to Frontier service, unless those businesses have signed a Frontier Service Agreement, much like the one Frontier produced to OCS earlier relating to Sorrel River Ranch, the original complainant in this proceeding.

(2) DR 2.8. OCS also fails to provide any citation to rule or law in support of its contention that Frontier has a responsibility to keep records of the specific route by which Frontier receives a trouble ticket outside of the 800 number. OCS cites Utah Admin. Code r. 746-340-5 B.1 to support its claim that Frontier has an obligation to track means by which complaints are made outside a designated 800 phone number. The pertinent part of the rule is copied below:

"B. Customer Trouble Reports --

1. Each telecommunications corporation shall provide for the receipt of customer trouble reports at all hours, and shall make a full and prompt investigation of and response to each complaint. The telecommunications corporation shall maintain a record of trouble reports made by its customers. This record shall include appropriate identification of the customer or service affected, the time, date and nature of the report, and the action taken to clear the trouble or satisfy the complaint"

No obligation exists in the cited rule to track the specific path by which a trouble report is

received, and OCS has not pointed to another rule or statute that requires Frontier to do so. Frontier's production identifies the customer, service affected, time, date and nature of the report, and the action taken to clear the trouble, just as the rule requires. OCS is flat wrong to argue that Frontier has any obligation to track the specific path of a trouble ticket based on the language above. Frontier previously responded to OCS that it accepts complaints and/or trouble reports from a variety of sources including (but not limited to) voice calls, via email, through live chat, social media channels, and by US Mail. Frontier has produced all Utah trouble report records from 2012 to the present responsive to this DR, a fact not in dispute in this OCS motion. Beyond that, Frontier has also provided a list of complaints to OCS through responses to discovery propounded by SRR. Frontier is not required to track the route a trouble ticket follows or provide non-required data in a manner desired by the OCS but not mentioned in the very rule they cite. Frontier is required to produce relevant and responsive documents held in its system of records, which it did by producing the trouble tickets. Frontier is not required to track origins of trouble tickets or manipulate existing records into forms not held by the Company in the ordinary course of business for the convenience of an opposing party in litigation. Such a demand is not appropriately proportional, is contrary to Utah law on discovery, and should be denied.

#### CONCLUSION

Frontier respectfully urges the Administrative Law Judge to deny OCS's motion to compel. OCS clearly overreaches in their contention that Frontier must provide responses in a specific format other than that in which they exist in a Frontier system of records, and provides no citation to law or rule support their position. The one cite they do provide does not require what they demand. OCS is not entitled to demand that Frontier produce data it is not required to keep. Nor is Frontier required to provide a special study or analysis in a

discovery response to a litigation opponent. OCS’s dissatisfaction with answers provided by Frontier does not provide a basis for OCS to move to compel the answer they would like, particularly in instances where OCS has failed to provide any shred of Utah authority. Finally, Frontier disputes that OCS has made its case regarding the proportionality of its discovery requests. Discovery and discovery requests are proportional only “if the discovery is reasonable, considering the needs of the case, the amount in controversy, the complexity of the case, the parties' resources, the importance of the issues, and the importance of the discovery in resolving the issues”<sup>1</sup>. Discovery focused on issues or matters outside the requirements of the Commission rules or establishing statutes is per se unreasonable, and is not designed to lead to the discovery of admissible evidence. Frontier prays that the motion to compel be denied for the reasons stated in this response, and in its specific arguments *supra*.

RESPECTFULLY SUBMITTED this 24th day of March, 2020.

Citizens Telecommunications Company  
of Utah d/b/a Frontier Communications of  
Utah

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Name of Party



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Signature on Behalf of Party

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DOCKET NOS. 19-041-01, 19-041-02, and 19-041-04

I CERTIFY that on March 24, 2020, a true and correct copy of the foregoing was served upon the following as indicated below:

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