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May 21, 2015

PUBLIC DOCUMENT

Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
Suite 350
121 7th Place East
St. Paul, MN 55101-2130

RE: PUBLIC Supplemental Comments in the matter of a complaint filed by Zayo Group, LLC
Docket No. Docket No. P6854/M-15-138

Dear Mr. Wolf:

The following are the TRADE SECRET Supplemental Comments of the Department of Commerce In the Matter of Zayo Group, LLC's Request to Discontinue Telecommunications Service to Dunnell Telephone Company.

The Department is available to answer any questions the Commission may have.
Thank you.

/s/ Bruce L. Linscheid
Financial Analyst

/s/ DIANE DIETZ
Rate Analyst

BLL/DD/lt
Attachment

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION**PUBLIC SUPPLEMENTAL COMMENTS OF THE
MINNESOTA DEPARTMENT OF COMMERCE**

DOCKET NO. P6854/M-15-138

I. BACKGROUND

On February 5, 2015, Zayo Group, LLC (Zayo) filed a petition (the Petition) with the Minnesota Public Utilities Commission (the Commission) requesting approval to discontinue the provision of telecommunications service to its customer, Dunnell Telephone Company (Dunnell, and together with Zayo, the Parties). In its petition, Zayo alleges that Dunnell is seriously delinquent in its payment to Zayo for services rendered and that Dunnell has not responded to Zayo's multiple demands for payment due, other than allegedly rejecting Zayo's payment demands. Zayo further alleges that Dunnell can obtain telecommunications service from another carrier.

On April 1, 2015, the Department filed comments recommending that the Commission deny the Request, because, at that time, Zayo had failed to file documentation evidence to support its disconnection Request.

On April 7, 2015, Zayo filed reply comments reasserting its request for Commission review of the dispute with Dunnell and describing issues that are the subject of the dispute. Along with the reply comments, Zayo included a copy of a recent invoice sent to Dunnell, a service order, communications between Zayo and Dunnell, and a spreadsheet summarizing Dunnell's charges and payments dating back to July 2012.

On April 9, 2015, the Department filed a letter with the Commission requesting additional time for discovery.

II. RESULTS OF ADDITIONAL DISCOVERY**A. DUNNELL'S UNPAID BALANCE OWING TO ZAYO**

As part of the effort to resolve the current complaint, the Department requested that Zayo file supporting documentation representing invoices issued by Zayo and payments made by Dunnell. Zayo initially provided the Department with documents showing a past due balance of [TRADE SECRET DATA HAS BEEN EXCISED] as of June 1, 2013 and invoices issued by

Zayo and payments made by Dunnell resulting in an unpaid balance of [TRADE SECRET DATA HAS BEEN EXCISED] on March 1, 2015. (See Attachment 1). Zayo also provided the Department with documents showing invoices issued by Zayo in support of the June 1, 2013 past due balance and payments made by Dunnell resulting in an unpaid balance of [TRADE SECRET DATA HAS BEEN EXCISED] on April 30, 2015 (see Attachment 1). Zayo alleges that Dunnell has not made payments since [TRADE SECRET DATA HAS BEEN EXCISED]

The Parties are in dispute as to whether an April 12, 2005 Master Service Agreement with Onvoy, Inc. (Onvoy) or a May 22, 2012 service order in conjunction with a Wholesale Master Service Agreement with Zayo Bandwidth establishes the basis for the early termination liability (ETL) charges. The April 12, 2005 agreement was signed by both Onvoy and Dunnell and did not provide for ETL charges. The May 22, 2012 service order is signed by both Zayo Bandwidth and Dunnell and incorporates an unsigned Wholesale Master Service Agreement that provides for ETL charges.¹ Zayo stated in its April 7, 2015 comments that it is not asking the Commission to rule on the dispute for early termination charges resulting from Dunnell's request for disconnection of one T1 line prior to the end of the term. Thus, charges related to the ETL need not be addressed by the Commission.

Based on the documents reviewed thus far, the Department believes that Dunnell has an unpaid balance with Zayo of [TRADE SECRET DATA HAS BEEN EXCISED]. This excludes any ETL charges.

Representatives of Dunnell informed the Department that, on or around May 8, 2015, the carrier mailed a check to Zayo in the amount of [TRADE SECRET DATA HAS BEEN EXCISED]. The representative of Dunnell stated that, according to their records, this check cleared the bank on or around May 13, 2015. When the Department subsequently inquired about the status of this payment with representatives of Zayo, the Department was informed that no such check has been received or cashed by Zayo.

B. TALKS BETWEEN THE PARTIES HAVE NOT PRODUCED A RESOLUTION, AND THE CURRENT DISPUTE SHOULD BE BROUGHT TO A COMMISSION HEARING.

Zayo should be fairly compensated if it is to provide service to Dunnell. If service from Zayo is desired by Dunnell, as a common carrier, Zayo has an obligation to continue service if all undisputed charges are paid and if Dunnell abides by a determination of the Commission with respect to all disputed charges. The Department has attempted to work with the Parties to address the complaint and to establish what charges are disputed and what charges are undisputed. The Department has also attempted to learn what the consequence would be to Dunnell's end-use customers if Zayo were given approval to discontinue the provision of service. However, the Parties have been unable to engage in constructive discussions, including reaching agreement on what is in dispute and the impact on customers.

Since expense is being incurred by Zayo without any apparent compensation, given the lack of cooperation between the parties, this matter should come before the Commission as

¹ Zayo's Monthly Recurring Charges (MRCs) for Private Line/DS1 or T1 (T1) service to Dunnell were adjusted, by Zayo, to reflect the [TRADE SECRET DATA HAS BEEN EXCISED]

soon as feasible. Zayo has now provided sufficient documentation to support its claims on billings to Dunnell and payments received. The Commission should grant Zayo's petition to discontinue service to Dunnell unless:

- Dunnell pays the undisputed amount that is has been billed by Zayo, and agrees to abide by a determination of the Commission with respect to disputed charges; or
- Dunnell is able to demonstrate harm to end-use customers. If such a demonstration is made, in the absence of payment to Zayo, the Commission will need to develop a plan for the discontinuance of service in consideration of the customer impact.

III. COMMISSION ALTERNATIVES

1. Schedule a hearing at the Commission's earliest convenience wherein the Parties will have the opportunity to make oral arguments relating to the dispute between Zayo and Dunnell.
2. Deny Zayo's petition to disconnect T1 service to Dunnell.
3. Approve Zayo's petition to disconnect T1 service to Dunnell.
4. Take further action as the Commission deems appropriate.

IV. RECOMMENDATION

The Department recommends Alternative 1:

Schedule a hearing at the Commission's earliest convenience wherein the Parties will have the opportunity to make oral arguments relating to the dispute between Zayo and Dunnell.

/lt

CERTIFICATE OF SERVICE

I, Sharon Ferguson, hereby certify that I have this day, served copies of the following document on the attached list of persons by electronic filing, certified mail, e-mail, or by depositing a true and correct copy thereof properly enveloped with postage paid in the United States Mail at St. Paul, Minnesota.

**Minnesota Department of Commerce
Public Supplemental Comments**

Docket No. P6854/M-15-138

Dated this 21st day of May 2015

/s/Sharon Ferguson

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Charles	Forst	charles.forst@zayo.com	Zayo Group, LLC	400 Centennial Pkwy Ste 200 Louisville, CO 80027	Electronic Service	Yes	OFF_SL_15-138_M-15-138
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