

Exhibit 7

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

EARTHLINK, LLC,

Plaintiff,

v.

CHARTER COMMUNICATIONS OPERATING,
LLC,

Defendant.

Index No. 654332/2020

**DEFENDANT'S RESPONSES AND
OBJECTIONS TO PLAINTIFF'S
FIRST SET OF DOCUMENT
REQUESTS TO DEFENDANT**

Defendant Charter Communications Operating, LLC ("Charter"), pursuant to Article 31 of the Civil Practice Law and Rules of the State of New York ("CPLR"), by and through its undersigned counsel, hereby serves the following objections and responses to Plaintiff EarthLink, LLC's First Set of Document Requests to Defendant ("Requests").

GENERAL OBJECTIONS

1. Charter objects to each of the Requests to the extent that they purport to impose obligations beyond those required by the CPLR and any other applicable rules and orders.

2. Charter objects to these Requests to the extent that they seek the production of documents not in Charter's possession, custody, or control. Charter will produce only responsive documents that are located by a reasonable search of items over which they have possession, custody, or control.

3. Charter objects to the Requests to the extent that they seek documents and information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege that makes such information non-discoverable. Charter claims these privileges and protections to the full extent implicated by each Request, and will

exclude privileged and protected information from their productions in response to the Requests. The fact that Charter does not specifically object to any individually numbered Request on the ground that it seeks privileged information or documents shall not be deemed a waiver of the protection afforded by the attorney-client privilege, the attorney work product doctrine, or any other applicable privilege, immunity, or exemption from discovery. Any documents or information disclosed in response to the Requests shall be disclosed without waiving any of these privileges.

4. Charter objects to the Requests to the extent that they seek documents or information in the possession, custody, or control of Plaintiff, or to the extent that the documents are obtainable from sources other than Charter in a manner that is more convenient, less burdensome, or less expensive.

5. Charter objects to the Requests to the extent that they are overbroad, unduly burdensome, and not proportional to the needs of the case. Charter will conduct a reasonable search of the locations reasonably likely to contain the requested documents and communications.

6. Charter objects to any Request that is unreasonably cumulative or duplicative of other discovery requests.

7. Charter objects to any Request that is vague, ambiguous, or confusing and therefore not susceptible to a clear and definitive response. To the extent a Request is vague or ambiguous, Charter will respond to the best of its ability.

8. Charter objects to any Request that calls for a legal conclusion, or that purports to require Charter to form, read, set forth, or perform a legal analysis.

9. Charter objects to any Request to the extent that it seeks to require identification and/or organization of documents in any specific order or grouping. To the extent that Charter

produces documents in response to these Requests, responsive non-privileged documents will be produced as they are kept in the usual course of business.

10. Charter objects to any Request to the extent it requires the creation of documents that do not presently exist.

11. Neither these Requests nor Charter's responses to them shall be construed as admissions by Charter that any fact or circumstance alleged in any Request occurred or existed. Moreover, the responses provided are not intended to be, and shall not be construed to be, an agreement or concurrence by Charter that Plaintiff's characterization of any facts or circumstances is correct.

12. No response or objection made herein, or the lack thereof, is an admission by Respondents as to the existence or non-existence of any information or documents. A response that Respondents will produce documents should not be deemed an admission that such documents exist, but only that if the documents should exist, they will be produced by Respondents.

13. Charter reserves the right to amend or modify these responses at any time should it discover information that makes the present response incomplete or inaccurate. By reserving the right, Charter does not intend to assume a duty to modify or amend these responses, other than as required by the CPLR.

14. In providing these responses and asserting these objections, Charter does not intend to waive any objections as to relevancy, materiality or admissibility of evidence in this matter or any other matter or proceeding.

15. The General Objections asserted herein shall be deemed to be applicable to and continuing with respect to each of Charter's responses to the within Requests. The General

Objections asserted herein are incorporated into each and every response set forth herein. Such objections are not waived, nor in any way limited, by any response to any specific Request.

SPECIFIC RESPONSES AND OBJECTIONS

Subject to and without waiving any of the foregoing objections, Charter responds to Plaintiff's Requests as follows:

Request No. 1

All documents and communications concerning your policies and procedures relating to the Agreement with EarthLink and/or Service Subscribers, and/or communications with the Service Subscribers.

Response to Request No. 1

Charter incorporates by reference the General Objections set forth above. Charter further objects to this Request as vague, ambiguous, and indefinite insofar as "policies and procedures" are not defined and may be subject to different interpretations. Charter further objects to the phrase "policies and procedures relating to the Agreement with EarthLink and/or Service Subscribers" as vague, ambiguous, and indefinite insofar as it is unclear to which Agreement with Service Subscribers the Request is referring. Charter further objects to the Request on the grounds that it is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence, and disproportionate to the needs of the case, insofar as it requests all "communications with the Service Subscribers," regardless of whether or not such communications bear any relevance to the issues in this litigation.

Subject to the foregoing General and Specific Objections, Charter will produce copies of responsive and non-privileged documents and communications, if any exist, of documents and communications concerning policies and procedures related to the Agreement with EarthLink. Charter will not produce documents and communications responsive to the request for all "communications with the Service Subscribers."

Request No. 2

All documents and communications concerning any efforts by you to market Charter and/or Spectrum Internet service to the Service Subscribers.

Response to Request No. 2:

Charter incorporates by reference the General Objections set forth above. Charter further objects to this Request as vague and ambiguous insofar as the terms “efforts” and “Spectrum Internet” are not defined.

Subject to the foregoing General and Specific Objections, Charter will produce copies of responsive and non-privileged documents and communications, if any exist, responsive to this Request.

Request No. 3

All documents and communications relating to your decision to no longer provide EarthLink with customer level reporting, as referenced in Paragraph 55 of the Amended Complaint.

Response to Request No. 3

Charter incorporates by reference the General Objections set forth above. Charter further objects to this Request as vague and ambiguous on the grounds that the term “decision” and the phrase “customer level reporting” are not defined.

Subject to the foregoing General and Specific Objections, Charter will produce copies of responsive and non-privileged documents and communications, if any exist, responsive to this Request.

Request No. 4

All documents and communications concerning Service Subscribers who terminated their EarthLink High-Speed Service, including Service Subscribers who switched to Charter and/or Spectrum Internet.

Response to Request No. 4

Charter incorporates by reference the General Objections set forth above. Charter further objects to this Request as overbroad, unduly burdensome, not reasonably calculated to lead to the discovery of admissible evidence, and disproportionate to the needs of the case, insofar as it seeks “[a]ll documents and communications concerning Service Subscribers who terminated their EarthLink High-Speed Service,” regardless of whether such Service Subscribers became Charter customers, and regardless of the nature and extent of their interactions with Charter.

Subject to the foregoing General and Specific Objections, Charter will produce copies of responsive and non-privileged documents and communications, if any exist, responsive to this Request, to the extent such documents and communications concern Service Subscribers who switched to Charter and/or Spectrum Internet.

Request No. 5

All documents and communications, including without limitation, emails, fliers, hard copy mail/letters, or drafts of any of these items, from Charter to the Service Subscribers referencing EarthLink’s contract with Charter, the contract’s expiration, the expiration of EarthLink High-Speed Service, a potential disruption in services or email, an exclusive or limited offer, and/or the potential effect of the expiration on the Service Subscriber’s ability to access EarthLink’s High Speed Service, an EarthLink email account, cable, email or internet access generally, and/or any of the other matters including those discussed at paragraphs 75 to 78 of the Amended Complaint.

Response to Request No. 5

Charter incorporates by reference the General Objections set forth above. Charter further objects to the Request as vague and ambiguous insofar as the following phrases are undefined: “EarthLink’s contract with Charter”; “a potential disruption in services or email”; and “other matters including those discussed at paragraphs 75 to 78 of the Amended Complaint.” Charter further objects to the Request on the grounds that it references a “potential effect of the expiration” without clarifying what expiration it is referencing. Charter further objects to this Request as overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of

admissible evidence, and disproportionate to the needs of the case. Charter further objects to this Request to the extent it is duplicative and cumulative of Request No. 2. Charter further objects to this Request to the extent the Documents requested are already in the possession of EarthLink.

Subject to the foregoing General and Specific Objections, Charter will produce copies of responsive and non-privileged documents and communications, if any exist, responsive to this Request.

Request No. 6

All documents and communications concerning training or guidance provided to the Call Center employees who communicated with Service Subscribers, including, without limitation, copies of any training materials.

Response to Request No. 6

Charter incorporates by reference the General Objections set forth above. Charter further objects to this Request as overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence, insofar as it requests “[a]ll documents and communications concerning training or guidance provided to the Call Center employees who communicated with Service Subscribers,” regardless of whether such documents or communications concern issues alleged in the Amended Complaint. Charter further objects to this Request as vague, ambiguous, and indefinite insofar as the phrases “training or guidance” and “training materials” are not defined.

Subject to the foregoing General and Specific Objections, Charter will produce copies of responsive and non-privileged documents and communications, if any exist, responsive to this Request.

Request No. 7

All documents pertaining to Call Center employee compensation or incentive plans and/or sales goals, including without limitation, incentives or goals related to attracting and/or retaining Service Subscribers to Charter.

Response to Request No. 7

Charter incorporates by reference the General Objections set forth above. Charter further objects to this Request on the grounds that it is vague and ambiguous, insofar as the phrase “Call Center employee compensation or incentive plans and/or sales goals” is not defined. Charter further objects to the Request to the extent that it seeks documents related to EarthLink’s claim that Charter “violated the terms of the HSSA by failing to make good faith efforts to ‘save’ Service Subscribers,” insofar as that claim was dismissed by the Court. Charter further objects to the Request on the grounds that it seeks discovery unrelated to the subject matter of this proceeding.

Subject to the foregoing General and Specific Objections, Charter will produce copies of responsive and non-privileged documents, if any exist, Responsive to this Request.

Request No. 8

All documents relating to communications between Call Center employees and Service Subscribers, including all recordings or transcriptions of those communications.

Response to Request No. 8:

Charter incorporates by reference the General Objections set forth above. Charter further objects to this Request on the grounds that it is overbroad, unduly burdensome and not reasonably tailored to lead to the discovery of admissible evidence, and disproportionate to the needs of the case insofar as it seeks “[a]ll documents relating to communications between Call Center employees and Service Subscribers,” regardless of whether such communications relate to any issues in this case. Charter further objects to the Request to the extent that it seeks transcriptions that have not been created and do not currently exist. Charter further objects to the Request on the grounds that it is duplicative of Requests Nos. 1, 2, 4 and 5.

For the foregoing reasons, Charter will not produce documents and communications responsive to this Request. Charter adds that during the period requested, from January 1, 2017 to

present, Charter's call centers received hundreds of millions of calls from subscribers, including both EarthLink and non-EarthLink subscribers.

Request No. 9

All documents and communications relating to any instructions or guidance provided to the Call Centers and their employees concerning communications with the Service Subscribers.

Response to Request No. 9

Charter incorporates by reference the General Objections set forth above. Charter further objects to this Request on the grounds that it is overbroad, unduly burdensome and not reasonably tailored to lead to the discovery of admissible evidence, and disproportionate to the needs of the case insofar as it seeks "[a]ll documents and communications relating to any instructions or guidance provided to the Call Centers and their employees concerning communications with the Service Subscribers," regardless of whether such documents or communications relate to any of the issues in this case. Charter further objects to the Request as vague and ambiguous on the grounds that the phrase "instructions or guidance provided to the Call Centers and their employees" is undefined. Charter further objects to this Request on the grounds that it is duplicative of Request Nos. 1, 6, and 7.

Subject to the foregoing General and Specific Objections, Charter will produce copies of responsive and non-privileged documents, if any exist, responsive to this Request, that concern EarthLink or its Service Subscribers.

Request No. 10

All documents and communications relating to your monitoring of communications between the Call Centers and Service Subscribers.

Response to Request No. 10

Charter incorporates by reference the General Objections set forth above. Charter further objects to this Request on the grounds that it is overbroad, unduly burdensome and not reasonably

tailored to lead to the discovery of admissible evidence, and disproportionate to the needs of the case insofar as it seeks “[a]ll documents and communications relating to [Charter’s] monitoring of communications between the Call Centers and Service Subscribers,” regardless of whether such documents and communications relate to the issues in this case. Charter further objects to the Request as vague and ambiguous on the grounds that the phrase “monitoring of communications” is not defined. Charter further objects to the Request on the grounds that it is duplicative of Requests Nos. 1, 6, 8, and 9.

Subject to the foregoing General and Specific Objections, Charter will produce copies of responsive and non-privileged documents, if any exist, responsive to this Request.

Request No. 11

All documents and communications relating to any feedback provided by you to the Call Centers concerning communications between Call Center employees and the Service Subscribers.

Response to Request No. 11

Charter incorporates by reference the General Objections set forth above. Charter further objects to this Request on the grounds that it is overbroad, unduly burdensome and not reasonably tailored to lead to the discovery of admissible evidence, and disproportionate to the needs of the case, insofar as it seeks “[a]ll documents and communications relating to any feedback provided by [Charter] to the Call Centers concerning communications between Call Center employees and the Service Subscribers,” regardless of whether such documents and communications relate to the issues in this case. Charter further objects to this Request as vague and ambiguous insofar as the phrase “any feedback” is not defined. Charter further objects to this Request on the grounds that it is duplicative of Request Nos. 1, 6, 8, 9 and 10.

Subject to the foregoing General and Specific Objections, Charter will produce copies of responsive and non-privileged documents, if any exist, responsive to this Request, concerning the subject matter of the lawsuit.

Request No. 12

All documents and communications concerning your plans to market Charter and/or Spectrum Internet to the Service Subscribers after the Transition Period.

Response to Request No. 12

Charter incorporates by reference the General Objections set forth above. Charter further objects to the Request as vague and ambiguous insofar as the phrase “plans to market Charter and/or Spectrum Internet” is not defined. Charter further objects to the Request on the grounds that it is duplicative of Request Nos. 1, 2, 5, and 7.

Subject to the foregoing General and Specific Objections, Charter will produce copies of responsive and non-privileged documents, if any exist, responsive to this Request.

Request No. 13

All documents and communications concerning the value of and/or revenue generated from the Service Subscribers and/or EarthLink IP Addresses.

Response to Request No. 13

Charter incorporates by reference the General Objections set forth above. Charter further objects to this Request as vague and ambiguous insofar as the phrase “value of” is not defined.

Subject to the foregoing General and Specific Objections, Charter will produce copies of responsive and non-privileged documents, if any exist, responsive to this Request.

Request No. 14

All documents and communications concerning negotiations with EarthLink regarding the status of the Service Subscribers after the Transition Period.

Response to Request No. 14

Charter incorporates by reference the General Objections set forth above. Charter further objects to this Request as vague and ambiguous insofar as the phrase “status of the Service Subscribers after the Transition Period” is not defined.

Subject to the foregoing General and Specific Objections, Charter will produce copies of responsive and non-privileged documents, if any exist, responsive to this Request.

Request No. 15

All documents and communications concerning the July 22, 2020 meeting between representatives of Charter and EarthLink.

Response to Request No. 15

Charter incorporates by reference the General Objections set forth above.

Subject to the foregoing General and Specific Objections, Charter will produce copies of responsive and non-privileged documents, if any exist, responsive to this Request.

Request No. 16

All documents and communications concerning the proposed EarthLink Transition Services Agreement dated July 24, 2020.

Response to Request No. 16

Charter incorporates by reference the General Objections set forth above.

Subject to the foregoing General and Specific Objections, Charter will produce copies of responsive and non-privileged documents, if any exist, responsive to this Request.

Request No. 17

All documents and communications concerning the June 25 Email, including documents concerning any investigation or remedial action undertaken by you as a result.

Response to Request No. 17

Charter incorporates by reference the General Objections set forth above. Charter further objects to this Request as vague and ambiguous insofar as the phrase “remedial action” is not defined.

Subject to the foregoing General and Specific Objections, Charter will produce copies of responsive and non-privileged documents, if any exist, responsive to this Request.

Request No. 18

All documents and communications concerning Charter’s alleged “ownership” of the EarthLink IP Addresses, including without limitation any communications with Windstream Holdings, Inc. and Windstream Services, LLC, at any time, regarding the EarthLink IP Addresses.

Response to Request No. 18

Charter incorporates by reference the General Objections set forth above. Charter further objects to the Request on the grounds that it is overbroad, unduly burdensome, and not reasonably tailored to lead to the discovery of admissible evidence. Charter further objects to this Request as vague and ambiguous, insofar as the phrase “EarthLink IP Addresses” is not defined.

Subject to the foregoing General and Specific Objections, Charter will produce copies of responsive and non-privileged documents, if any exist, responsive to this Request.

Request No. 19

All documents and communications concerning any ARIN registration or efforts to register the EarthLink IP Addresses by Charter, at any time.

Response to Request No. 19

Charter incorporates by reference the General Objections set forth above. Charter further objects to the Request on the grounds that it is overbroad, unduly burdensome, and not reasonably tailored to lead to the discovery of admissible evidence, insofar as it seeks “[a]ll documents and communications concerning any ARIN registration,” regardless of whether such registration

relates to any issues in this case. Charter further objects to this Request as vague and ambiguous, insofar as the phrase “EarthLink IP Addresses” is not defined.

Subject to the foregoing General and Specific Objections, Charter will produce copies of responsive and non-privileged documents, if any exist, responsive to this Request.

Request No. 20

All documents and communications concerning any efforts by Charter to negotiate terms requiring or otherwise requesting transfer of ARIN registration of the EarthLink IP Addresses to Charter, at any time.

Response to Request No. 20

Charter incorporates by reference the General Objections set forth above. Charter further objects to this Request to the extent that it is duplicative of Request No. 19.

Subject to the foregoing General and Specific Objections, Charter will produce copies of responsive and non-privileged documents, if any exist, responsive to this Request.

Request No. 21

All documents and communications identifying which of the 1,000,000 EarthLink IP Addresses were used by Charter, the dates on which they were first and last used, and the purposes they were used for at any and all applicable times.

Response to Request No. 21

Charter incorporates by reference the General Objections set forth above. Charter objects to the Request as overbroad, unduly burdensome, and not reasonably tailored to lead to the discovery of admissible evidence. There is no dispute that Charter was entitled to use IP Addresses supplied to it by EarthLink under the Agreement (even if EarthLink disputes who owns the IP Addresses), and consequently, the Request seeks an overwhelming amount of information that has no bearing on the issues in this case. Charter further objects to this Request as vague and ambiguous, insofar as the phrase “EarthLink IP Addresses” is not defined.

For the foregoing reasons, Charter will not produce documents and communications responsive to Request No. 21.

Request No. 22

Charter's policies and procedures concerning ARIN registration and use of IP Addresses.

Response to Request No. 22

Charter incorporates by reference the General Objections set forth above. Charter further objects to this Request as vague and ambiguous insofar as the phrases "policies and procedures" and "use of IP Addresses" are not defined.

Subject to the foregoing General and Specific Objections, Charter will produce copies of responsive and non-privileged documents, if any exist, responsive to this Request.

Request No. 23

All documents and communications concerning the October 7, 2020, email from EarthLink to the Service Subscribers, (referenced in Paragraphs 14 and 70 of the Amended Complaint) including without limitation, any internal communications concerning Charter's response.

Response to Request No. 23

Charter incorporates by reference the General Objections set forth above.

Subject to the foregoing General and Specific Objections, Charter will produce copies of responsive and non-privileged documents, if any exist, responsive to this Request.

Request No. 24

Copies of your document retention or destruction policies, including, but not limited to, the destruction of electronic mail, audio recordings, and computer hard drives and disks.

Response to Request No. 24

Charter incorporates by reference the General Objections set forth above.

Subject to the foregoing General and Specific Objections, Charter will produce copies of responsive and non-privileged documents, if any exist, responsive to this Request.

Request No. 25

Documents sufficient to identify any experts you have retained or with whom you have consulted in connection with this litigation that you intend to call to testify at any hearing or trial in this litigation.

Response to Request No. 25

Charter incorporates by reference the General Objections set forth above. Charter further objects to this Request as premature because it seeks documents regarding expert witnesses which Charter intends to call to testify in the future in the course of this litigation.

Subject to the foregoing General and Specific Objections, Charter will produce documents responsive to this Request pursuant to the CPLR and Rules of the Commercial Division, and within the schedule set by the Court.

Request No. 26

Documents sufficient to identify the qualifications and experience of any expert witness that you intend to call to testify at any hearing or trial in this litigation, including, without limitation, the most recent *curriculum vitae* and/or resumes for each person.

Response to Request No. 26

Charter incorporates by reference the General Objections set forth above. Charter further objects to this Request to the extent it is duplicative of Request No. 25. Charter further objects to this Request as premature because it seeks documents regarding expert witnesses which Charter intends to call to testify in the future in the course of this litigation.

Subject to the foregoing General and Specific Objections, Charter will produce documents responsive to this Request pursuant to the CPLR and Rules of the Commercial Division, and within the schedule set by the Court.

Request No. 27

All documents that you have provided to or received from any expert that you may call as a witness at trial of this action.

Response to Request No. 27

Charter incorporates by reference the General Objections set forth above. Charter further objects to this Request to the extent it is duplicative of Request Nos. 25 and 26. Charter further objects to this Request as premature because it seeks documents regarding expert witnesses which Charter “may call” as a witness in the future in the course of this litigation.

Subject to the foregoing General and Specific Objections, Charter will produce documents responsive to this Request pursuant to the CPLR and Rules of the Commercial Division, and within the schedule set by the Court.

Request No. 28

All documents that you intend to introduce or rely upon at any trial or any hearing in this litigation.

Response to Request No. 28

Charter incorporates by reference the General Objections set forth above. Charter further objects to this Request as premature because it seeks documents on which Charter intends to introduce in the future in the course of this litigation.

Subject to the foregoing General and Specific Objections, Charter will produce documents responsive to this Request pursuant to the CPLR and Rules of the Commercial Division, and within the schedule set by the Court.

Dated: June 24, 2022
New York, New York

PATTERSON BELKNAP WEBB & TYLER
LLP

/s/ Saul B. Shapiro

Saul B. Shapiro
H. Gregory Baker
Greg Margolis
Elisabeth Shane
1133 Avenue of the Americas
New York, NY 10036-6710
Telephone: (212) 336-2000
Fax: (212) 336-2222
sbshapiro@pbwt.com
hbaker@pbwt.com
gmargolis@pbwt.com
eshane@pbwt.com

*Attorneys for Defendant Charter
Communications Operating, LLC*

CERTIFICATE OF SERVICE

I hereby certify that on June 24, 2022, I caused the foregoing to be served via email on the following counsel of record:

KING & SPALDING LLP

Damien J. Marshall, Shaila R. Diwan
1185 Avenue of the Americas
New York, New York 10036

/s/ Saul B. Shapiro
Saul B. Shapiro