

EXHIBIT C

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

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| | | |
|-----------------------------------|---|-----------------------|
| EARTHLINK, LLC, | : | Index No. 654332/2020 |
| | : | |
| Plaintiff, | : | |
| | : | |
| v. | : | |
| CHARTER COMMUNICATIONS OPERATING, | : | |
| LLC, | : | |
| | : | |
| Defendant. | : | |

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**RESPONSES AND OBJECTIONS OF PLAINTIFF EARTHLINK, LLC TO
DEFENDANT CHARTER COMMUNICATIONS OPERATING, LLC'S FIRST SET OF
INTERROGATORIES**

Pursuant to CPLR 3133 et seq., and Commercial Division Rule 11-a, Plaintiff EarthLink, LLC ("EarthLink") hereby responds to Defendant's First set of Interrogatories (the "Interrogatories") as follows. As this case is still in its early stages of discovery and fact investigation is ongoing, Plaintiff reserves the right to supplement these Responses as additional facts or information become available. Plaintiff reserves all rights to object to the use or introduction of any portion of the Responses for any purpose including at trial or any non-discovery proceeding.

GENERAL OBJECTIONS

EarthLink's General Objections are incorporated into each Specific Response and Objection. The absence of any General Objection in any given Specific Response shall not be construed as a waiver of the General Objection.

1. EarthLink objects to the Interrogatories to the extent that they seek information that is not material or necessary to any party's claims or defenses and is disproportionate to the needs of the case.

2. EarthLink objects to the Interrogatories to the extent that they are vague, ambiguous, overbroad, unduly burdensome, or oppressive.

3. EarthLink objects to the Interrogatories to the extent that they contain words or phrases that are confusing or lacking in sufficient certainty such that responding to them is overbroad and/or unduly burdensome.

4. EarthLink objects to the Interrogatories to the extent that they seek information protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege or immunity from discovery. Inadvertent disclosure of any such information shall not constitute a waiver of privilege or any other such ground for objection to discovery with respect to such information, and shall not waive EarthLink's right to object to the use of any such information in this case or in any other proceeding.

5. EarthLink objects to the Interrogatories to the extent that they exceed the scope of discovery permitted by the New York Civil Practice Law and Rules ("CPLR"), the Commercial Division Rules (together, the "Rules") or any other applicable rules or law, particularly Commercial Division Rule 11-a, under which "interrogatories are limited to the following topics: name of witnesses with knowledge of information material and necessary to the subject matter of the action, computation of each category of damage alleged, and the existence, custodian, location and general description of material and necessary documents, including pertinent insurance agreements, and other physical evidence."

6. EarthLink objects to the Interrogatories to the extent they seek information that is not within EarthLink's possession, custody or control, is otherwise publicly available, and/or is in Defendant's possession, custody, or control, including because Defendant acquired possession, custody, and/or control of Time Warner Cable Inc.'s ("TWC") documents and information as a result of the merger between TWC and Charter Communications, Inc. on May 18, 2016 and TWC's subsequent assignment of the Agreement to Charter as alleged in paragraph 2 of Charter's Counterclaims. *See also* Charter 2016 Form 10-k, Explanatory Note at ii.¹

7. EarthLink objects to the Interrogatories to the extent they are duplicative of and/or more appropriately addressed through Defendant's First Set of Document Requests to Plaintiff on May 27, 2022 ("Charter Document Requests") served contemporaneously with the Interrogatories.

8. EarthLink objects to the Interrogatories to the extent that they purport to impose an obligation on EarthLink to conduct anything beyond a reasonably diligent and proportional search for information requested.

9. EarthLink objects to the Interrogatories to the extent they seek information that is confidential or proprietary in nature, or that otherwise constitute protected commercial, financial, competitively sensitive, and/or trade secret information, or that is subject to an agreement that such information not be disclosed. EarthLink will not produce any documents absent an appropriate confidentiality agreement.

10. EarthLink objects to each of the Interrogatories to the extent they are duplicative or cumulative of any other separately numbered Interrogatory, and/or seek information that can be obtained via other means that are more convenient, less burdensome, and less expensive.

¹ Available at: <https://www.sec.gov/Archives/edgar/data/1091667/000109166717000030/chtr123116-10k.htm>.

11. EarthLink objects to the Interrogatories to that extent that, through the inclusion of subparts, they exceed the 25 interrogatory limit in violation of Commercial Division Rule 11-a.

12. EarthLink reserves the right to amend these Responses and Objections consistent with CPLR 3101(h) at a later date.

OBJECTIONS TO DEFINITIONS

EarthLink's Objections to Definitions are incorporated into each Specific Response and Objection. The absence of any Objection to Definition in any given Specific Response and Objection shall not be construed as a waiver of the Objection to Definition.

1. EarthLink objects to Definition No. 3 ("EarthLink") because its inclusion of the phrase "predecessors, successors, parents, subsidiaries, divisions, affiliates, or anyone acting or purporting to act on their behalf, including any of their respective directors, officers, managing agents, agents, employees, attorneys, accountants, or other representatives or committees thereof" renders the Interrogatories that incorporate this Definition ambiguous, overbroad and unduly burdensome. EarthLink will interpret the term "EarthLink" to mean EarthLink, LLC.

2. EarthLink objects to Definition No. 4 ("You" and "Your") because its inclusion of the phrase "all divisions, departments, area or regional offices, managing general agents, parents (whether whole or part owners), subsidiaries (whether wholly or partly owned), affiliates, predecessors, successors, each and every other person within their control, and each officer, employee, agent, director, representative, attorney, investigator, contractor, subcontractor, expert, and consultant of any of them" renders the Interrogatories that incorporate this Definition ambiguous, overbroad and unduly burdensome. Plaintiff further objects to the Definition No. 4 to the extent it includes persons not under Plaintiff's control and about whom Plaintiff has no knowledge. EarthLink will interpret the term "EarthLink" to mean EarthLink, LLC.

3. EarthLink objects to Definition No. 5 (“Charter IP Addresses”) to the extent it suggests, wrongly, that Defendant acquired any ownership rights over any IP addresses supplied by EarthLink pursuant to the Agreement. For the purpose of these Responses, EarthLink will refer to Internet Protocol addresses that were supplied to Charter pursuant to the Agreement as the “IP Addresses.”

OBJECTIONS TO INSTRUCTIONS

Plaintiff sets forth the following objections to Defendant’s Instructions, which are incorporated by reference into each of its Responses, as applicable, and as set forth below. Plaintiff objects to each Instruction to the extent it imposes obligations on EarthLink that are inconsistent with or greater than the obligations imposed by the Rules or any other applicable rules or laws. The absence of any Objection to an Instruction in any given Specific Response and Objection shall not construed as a waiver of the Objection.

1. EarthLink objects to Instruction No. 1 on the ground that EarthLink cannot “[r]estate each Request for Production” in its responses to the Interrogatories because the Interrogatories contain no Requests for Production.

2. EarthLink objects to Instruction No. 4 to the extent it is vague, ambiguous, and seeks to impose burdens different than or in addition to those imposed by the applicable Rules or any other applicable rules or laws. EarthLink will supplement its disclosures consistent with its obligations as set forth in the applicable Rules, including CPLR 3101(h).

3. EarthLink objects to Instructions No. 5 and 6 to the extent they seek to impose obligations on EarthLink that are inconsistent with or greater than the obligations imposed by the Rules or any other applicable rules or laws. To the extent there is any conflict between obligations

under the CPLR and the Commercial Division's Rules, EarthLink will respond to the Interrogatories in accordance with Commercial Division Rule 11-a.

SPECIFIC RESPONSES AND OBJECTIONS

INTERROGATORY NO. 1

Identify all Charter IP Addresses that You claim were transferred from EarthLink to Charter under the Agreement, and which you now claim were wrongfully converted by Charter.

RESPONSE TO INTERROGATORY NO. 1

EarthLink objects to the premise of Interrogatory No. 1 to the extent it refers to the "Charter IP Addresses" and incorporates by reference its objection to Definition No. 5. EarthLink also objects to Interrogatory No. 1 on the ground that it is vague and ambiguous because EarthLink did not "transfer" any IP addresses to Charter under the plain terms of the Agreement.

EarthLink further objects to this Interrogatory on the grounds that identification of the IP Addresses is not within the permissible scope of interrogatory topics under Commercial Division Rule 11-a, and because Interrogatory No. 1 is duplicative of and more appropriately addressed through Charter Document Request No. 3, subject to EarthLink's objections and responses thereto, seeking "[d]ocuments sufficient to identify all Charter IP Addresses that You claim were transferred from EarthLink to Charter under the Agreement, and which you now claim were wrongfully converted by Charter." EarthLink further objects to Interrogatory No. 1 to the extent that the identity of the IP Addresses supplied to Charter and/or converted by Charter are equally within the possession, custody, or control of Charter. EarthLink further objects to Interrogatory No. 1 to the extent that it purports to impose a duty upon EarthLink to identify all IP Addresses that Defendant converted, or is otherwise premature, as this information is within Defendant's particular knowledge.

Based on these and the General Objections, EarthLink states there are no IP Addresses “that [EarthLink] claim[s] were transferred from EarthLink to Charter under the Agreement.”

To the extent Charter alleges in its Counterclaims ¶ 16 that “EarthLink supplied approximately 1 million IP addresses to Charter [and] [t]he IP Addresses at issue in this dispute comprise approximately 250,000 of this larger pool conveyed to Charter under Section 1.5 of the HSSA,” Charter is engaging in an “unauthorized assumption and exercise of the right of ownership over another’s property.” April 7, 2022 Order on Motion to Dismiss at 17.

The IP Addresses that EarthLink has rights to are those that were transferred from Windstream to EarthLink as set forth in Schedule 1 to the IP Address Transfer Agreement between EarthLink and Windstream (NYSCEF No. 106) and Schedule 1 to the First Amendment to IP Address Transfer Agreement (NYSCEF No. 107). None of these IP Addresses were transferred to Charter. EarthLink further agrees to identify the IP Addresses that Charter has converted upon review of Charter’s production of documents, including in response to EarthLink’s Second Set of Document Request Nos. 1, 2, and 5.

INTERROGATORY NO. 2

Identify all IP Addresses supplied to Charter pursuant to the Agreement that You subsequently sold or transferred, including the dates of the transfer and the name of the individual or entity to whom they were transferred.

RESPONSE TO INTERROGATORY NO. 2

EarthLink objects Interrogatory No. 2 on the grounds that identification of the IP Addresses referenced in Interrogatory No. 2 is not within the permissible scope of interrogatory topics under Commercial Division Rule 11-a. EarthLink further objects to Interrogatory No. 2 to the extent that it is duplicative of and more appropriately addressed through Charter Document Request No.

12, subject to EarthLink’s objections and responses thereto, seeking “Documents and Communications Concerning the transfer or sale of any of the Charter IP Addresses by EarthLink to Netskope, Volt Broadband, US Internet Corp, Cyxtera Technologies, Inc., Asia Pacific Network Information Centre, RIPE Network Coordination Centre, Tombigbee Fiber LLC, or any other third party.”

EarthLink further objects to Interrogatory No. 2 to the extent the terms “sold or transferred” are undefined and vague and ambiguous. Plaintiff further objects to this Interrogatory to the extent it calls for information that is already in Defendant’s possession, custody, or control, or in the public domain.

Based on these and the General Objections and incorporating by reference the Response to Interrogatory No. 1, the IP Addresses that were transferred from Windstream to EarthLink, as set forth in Schedule 1 to the IP Address Transfer Agreement (NYSCEF No. 106) and First Amendment to IP Address Transfer Agreement (NYSCEF No. 107) between EarthLink and Windstream were also “supplied” to Charter during the term of the Agreement “for connecting [the EarthLink Service Subscribers] to the EarthLink High-Speed Service”; however, these IP Addresses were never transferred to Charter.

Subject to these and the General Objections, EarthLink states that it has sold certain of the IP Addresses to Brander Group Inc., as broker; Brander Group Inc. thereafter re-sold such IP Addresses to third-parties, identified below (“Transferees”). EarthLink transferred American Registry for Internet Numbers (“ARIN”) registration of such IP Addresses to the Transferees identified as follows:

| <u>Transferees</u> | <u>Date of Sale to Brander Group Inc.</u> | <u>Date of Completed ARIN Transfer</u> |
|--------------------|-------------------------------------------|----------------------------------------|
| Netskope Inc. | February 24, 2022 | March 10, 2022 |

| <u>Transferees</u> | <u>Date of Sale to Brander Group Inc.</u> | <u>Date of Completed ARIN Transfer</u> |
|----------------------------------------------------------------|-------------------------------------------|----------------------------------------|
| US Internet Corp. | February 18, 2022 | March 16, 2022 |
| 1&1 Versatel Deutschland GmbH | February 25, 2022 | March 22, 2022 |
| Volt Broadband, LLC | March 2, 2022 | March 23, 2022 |
| Stripe, Inc. | March 3, 2022 | March 29, 2022 |
| Cerner Corporation Pty. Limited | February 23, 2022 | March 29, 2022 |
| Palestine Telecommunications Company | February 8, 2022 | March 30, 2022 |
| Cyxtera Data Centers Inc. | March 24, 2022 | April 5, 2022 |
| Pioneer Consolidated, Inc. | April 1, 2022 | April 12, 2022 |
| Tombigbee Electric Power Association d/b/a Tombigbee Fiber LLC | March 23, 2022 | April 13, 2022 |
| DigitalOcean, LLC | April 8, 2022 | April 19, 2022 |
| Cerner Health Services Deutschland GmbH | February 8, 2022 | May 2, 2022 |

INTERROGATORY NO. 3

Identify the names, addresses, phone numbers, email addresses and dates of EarthLink service for all EarthLink customers who were on the receiving end of the following statements alleged in the Amended Complaint:

- Earthlink is “out of business.” (Am. Compl. ¶1.)
- Charter has “taken over” EarthLink. (*Id.*; *see also id.* ¶ 59.)
- EarthLink Internet service “wasn’t available” in markets where it was in fact available. (*Id.* ¶ 1.)
- “[E]arthlink wasn’t in business anymore.” (*Id.* ¶¶ 2, 59.)

- “I could not keep Earthlink internet because I dropped my TV subscription with Spectrum.”
(*Id.* ¶ 2.)
- “EarthLink service was not supported by Spectrum.” (*Id.* ¶ 12.)
- “[I]f a customer wanted to make any changes to Spectrum services associated with their EarthLink account they had to terminate their subscriber agreement with EarthLink.” (*Id.*)
- That because the Service Subscriber “(a) was on an old EarthLink plan; . . . (b) if he wanted more speed, he would need to agree to cancel his EarthLink agreement and order the new speed directly from Spectrum.” (*Id.* ¶ 58.)
- That in order to cancel Spectrum TV service, the Service Subscriber would be required to “cancel[] their EarthLink package and then order[] Internet from Spectrum directly.” (*Id.*)
- That if the Service Subscriber “wanted to change anything about their current account, they were required to cancel their EarthLink High-Speed Service.” (*Id.*)
- “Spectrum did not support EarthLink.” (*Id.* ¶ 59.)

RESPONSE TO INTERROGATORY NO. 3

EarthLink objects to Interrogatory No. 3 on the ground that it is unduly compound and constitutes multiple interrogatories in that it seeks identification of information in connection with at least eleven separate statements referenced therein, comprising at least eleven subparts to this Interrogatory. EarthLink further objects to Interrogatory No. 3 to the extent the information requested is not within EarthLink’s possession, custody or control. EarthLink further objects to Interrogatory No. 3 to the extent that “dates of service” is vague and ambiguous and is not within the permissible scope of interrogatory topics under Commercial Division Rule 11-a. EarthLink further objects to Interrogatory No. 3 on the ground that it duplicative of and more appropriately addressed through the Charter Document Requests, including Charter Document Request Nos. 27

through 45. EarthLink further objects to Interrogatory No. 3 to the extent it seeks identification of “all EarthLink customers who were on the receiving end of the following statements” in the identified paragraphs of the Amended Complaint, as that is the subject of ongoing discovery, including Charter’s responses to EarthLink’s First and Second Set of Documents Requests and Interrogatories to Charter.

Subject to these and the General Objections, EarthLink identifies the following individuals who reported receiving statements from Charter as referenced in Interrogatory No. 3:

| <u>Customer Name</u> | <u>Contact Information</u> | <u>Statements to EarthLink</u> |
|-----------------------|--------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Crystal M. Farrington | 77 Fox Hill Rd. Northville, NY 12134 white_dove158@yahoo.com; crystal_f@earthlink.net (518) 863-1117 | “I was switched by spectrum...they told me earthlink wasn’t in business anymore” (Am. Compl. ¶¶ 1, 2, 59) |
| Heather Schneider | 323 Helena Ln. Clayton, NC 27527 kaylee2665@yahoo.com; heatherschneider@earthlink.net (715) 864-9227 | “Spectrum told me that they took over you” (Am. Compl. ¶¶ 1, 59) |
| Ronald Koralewski | Emerson Dr. Muskego, WI 53150 roncark@sbcglobal.net; roncark@earthlink.net (414) 243 9888 | “Earthlink is not available in my area” (Am. Compl. ¶ 1) |
| Kevin Lalor | 431 New Salem Rd. Kingston, NY 12401 lalorkj@aol.com; lalorkj1@earthlink.net (845) 339-7278 | “I was told by Spectrum that I could not keep Earthlink internet because I dropped my TV subscription with Spectrum. I still don’t understand why and wish I was still with Earthlink. Maybe you can find out why they made me leave Earthlink and forced me to pay more for Spectrum internet?” (Am. Compl. ¶ 2, 58, 59) |
| Deborah Stewart | 16716 Watermelon Ln. | “Spectrum did not support Earthlink” (Am. |

| <u>Customer Name</u> | <u>Contact Information</u> | <u>Statements to EarthLink</u> |
|----------------------|----------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | Charlotte, NC 28278 deb@deborahstewart.us; deborah.stewart@earthlink.net (980) 254-1952 | Compl. ¶¶ 12, 59) |
| Richard Harre | 1149 Eastridge Drive Seward, NY 68434 richharre@yahoo.com; rfharre@earthlink.net (402) 643-9176 | “Real happy with EarthLink. was sad when Spectrum said it would no longer support you” (Am. Compl. ¶¶ 12, 59) |
| Joseph Provenzano | 2945 Sonoma St. Torrence, CA 90503 joeprovenzano@earthlink.net (310) 328-9268 | “[I]f a customer wanted to make any changes to Spectrum services associated with their EarthLink account they had to terminate their subscriber agreement with EarthLink.” (Am. Compl. ¶ 12) |
| Jonathan Manness | 1668 Rodney Dr. Los Angeles, CA 90027 jmanness@earthlink.net (310) 427-4451 | That because the Service Subscriber “(a) was on an old EarthLink plan; . . . (b) if he wanted more speed, he would need to agree to cancel his EarthLink agreement and order the new speed directly from Spectrum.” (Am. Compl. ¶ 58) |
| Troy W. Weldy | One Eastwood Drive Ballston Lake, NY 12019 junk@gtweldy.com gtweldy@earthlink.net (518) 402-8952 | That in order to cancel Spectrum TV service, the Service Subscriber would be required to “cancel[] their EarthLink package and then order[] Internet from Spectrum directly.” (Am. Compl. ¶ 58) |
| Jonathan Manness | 1668 Rodney Dr. Los Angeles, CA 90027 jmanness@earthlink.net (310) 427-4451 | That if the Service Subscriber “wanted to change anything about their current account, they were required to cancel their EarthLink High-Speed Service.” (Am. Compl. ¶ 58) |

INTERROGATORY NO. 4

Identify the dates and times when each of the alleged statements in Interrogatory No. 3 took place.

RESPONSE TO INTERROGATORY NO. 4

EarthLink objects to Interrogatory No. 4 on the ground that it is unduly compound and constitutes multiple interrogatories in that it seeks EarthLink to identify dates and times of at least eleven separate statements referenced therein, comprising at least eleven subparts to this Interrogatory. EarthLink further objects to Interrogatory No. 4 to the extent it seeks information it seeks information outside of EarthLink's possession, custody, or control, particularly because the dates and times on which Charter employees or representatives made the statements reported to EarthLink are within Defendant's particular knowledge. EarthLink further objects to Interrogatory No. 4 on the ground that it duplicative of, and more appropriately addressed through, the Charter Document Requests, including Charter Document Request Nos. 27 through 45.

Based on these and the General Objections, EarthLink states that it will respond to Interrogatory No. 4 by identifying the relevant dates and times of Charter's statements to EarthLink's customers upon review of Charter's production, but further states that the referenced statements occurred on or before July 10, 2020, when EarthLink began conducting the survey referenced in paragraph 59 of the Amended Complaint. EarthLink will also search for and produce non-privileged documents, to the extent they are within EarthLink's possession, custody, or control, identifying any dates and times of the cited statements in response to the Charter Document Requests Nos. 27 through 45.

INTERROGATORY NO. 5

Identify the names, email addresses and phone numbers of all Charter employees who are alleged to have made the statements to EarthLink customers identified above in paragraphs 1–2,

12, and 58–59 of the Amended Complaint.

RESPONSE TO INTERROGATORY NO. 5

EarthLink objects to Interrogatory No. 5 on the ground that it is unduly compound and constitutes multiple interrogatories in that it seeks EarthLink to identify individuals in connection with at least eleven separate statements referenced therein, comprising at least eleven subparts to this Interrogatory. EarthLink objects to Interrogatory No. 5 to the extent it seeks information not within EarthLink's possession, custody, or control and/or outside the permissible scope of Commercial Division Rule 11-a. EarthLink further objects to Interrogatory No. 5 to the extent it seeks information within the possession, custody, or control of Defendant, particularly because the identities of which of Charter employees or representatives made the statements reported to EarthLink are within Defendant's particular knowledge. EarthLink further objects to Interrogatory No. 5 on the ground that it duplicative of, and more appropriately addressed through the Charter Document Requests, including Charter Document Request Nos. 27 through 45. EarthLink further objects to Interrogatory No. 5 to the extent it seeks identification of all Service Subscribers to whom Charter representatives made the statements complained of in the identified paragraphs of the Amended Complaint, which is the subject of ongoing discovery, including Charter's responses to EarthLink's First and Second Set of Documents Requests and Interrogatories to Charter.

Subject to these and the General Objections, EarthLink will identify the relevant Charter employees or representatives upon review of Charter's production; EarthLink will also search for and produce non-privileged documents, to the extent they are within EarthLink's possession, custody, or control, identifying information of any Charter employees or representatives who made the cited statements in response to the Charter Document Requests Nos. 27 through 45.

INTERROGATORY NO. 6

Identify the names, addresses, phone numbers, and email addresses of all Service Subscribers identified in paragraphs 56–57 of the Amended Complaint who reported that “during customer service calls, Charter representatives had tried to convince them to switch from EarthLink to Spectrum,” “and/or that Charter representatives had affirmatively misled the customers about their EarthLink service,” including the dates and times when such communications between the Service Subscriber and Charter allegedly took place.

RESPONSE TO INTERROGATORY NO. 6

EarthLink objects to Interrogatory No. 6 on the ground that Charter has exceeded the maximum number of Interrogatories allowed under Commercial Division Rule 11-a(a) and accordingly, EarthLink has no obligation to respond to this Interrogatory. EarthLink further objects to Interrogatory No. 6 on the ground that it is unduly compound and constitutes multiple interrogatories in that it seeks identification of several categories of information in connection with multiple separate statements referenced therein. EarthLink further objects to Interrogatory No. 6 to the extent that it is duplicative of Interrogatory No. 3 in that it seeks identification of the same individuals identified in response to Interrogatory No. 3. EarthLink further objects to Interrogatory No. 6 to the extent the information requested is not within EarthLink’s possession, custody or control. EarthLink further objects to Interrogatory No. 6 on the ground that it duplicative of and more appropriately addressed through the Charter Document Requests, including Charter Document Request Nos. 38 through 41. EarthLink further objects to Interrogatory No. 6 to the extent it seeks identification of all Service Subscribers to whom Charter representatives made the statements complained of in the identified paragraphs of the Amended Complaint, which is the subject of ongoing discovery, including Charter’s responses to EarthLink’s First and Second Set of Documents Requests and Interrogatories to Charter.

Based on these and the General Objections, EarthLink refers Charter to its Response to Interrogatory No. 3.

INTERROGATORY NO. 7

Identify the names, addresses, phone numbers and email addresses of the individuals or entities who conducted the survey described in paragraph 59 of the Amended Complaint.

RESPONSE TO INTERROGATORY NO. 7

EarthLink objects to Interrogatory No. 7 on the ground that Charter has exceeded the maximum number of Interrogatories allowed under Commercial Division Rule 11-a(a) and accordingly, EarthLink has no obligation to respond to this Interrogatory. EarthLink further objects to Interrogatory No. 7 on the ground that the phrase “conducted the survey” is vague and ambiguous, such that responding to Interrogatory No. 7 is overbroad and unduly burdensome. EarthLink further objects to Interrogatory No. 7 on the ground that it duplicative of, and more appropriately addressed through the Charter Document Requests, including Charter Document Request No. 46. Subject to these and the General Objections, EarthLink identifies the following individuals primarily responsible for creating and administering the survey described in paragraph 59 of the Amended Complaint:

| <u>Individual</u> | <u>Contact Information</u> |
|----------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------|
| Jennifer Clayton, EarthLink Director of Customer Success ² | 980 Hammond Dr NE, Suite 400 Atlanta, GA 30328 Jennifer.clayton@elink.net (404) 815-0770 |
| Steve Cutler, former EarthLink Senior Director of Program and Product Management | 3801 Swallow View NE Marietta, GA 30066 steve@cutlercrew.net |

² Any communications with any and all of EarthLink’s current and/or former employees, including each of the individuals identified in these Responses should be directed to EarthLink’s undersigned counsel.

| <u>Individual</u> | <u>Contact Information</u> |
|-----------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------|
| | (678) 595-2872 |
| Chris Douglass, EarthLink Senior Director, Strategy & Program Operations | 980 Hammond Dr NE, Suite 400 Atlanta, GA 30328 Christopher.Douglass@elink.net (404) 815-0770 |
| Glenn Goad, EarthLink Chief Executive Officer | 980 Hammond Dr NE, Suite 400 Atlanta, GA 30328 glenn.goad@elink.net (404) 815-0770 |
| Michael Toplisek, EarthLink President | 980 Hammond Dr NE, Suite 400 Atlanta, GA 30328 mike.toplisek@elink.net (404) 815-0770 |

INTERROGATORY NO. 8

Identify the dates on which the survey described in paragraph 59 of the Amended Complaint was conducted.

RESPONSE TO INTERROGATORY NO. 8

EarthLink objects to Interrogatory No. 8 on the ground that Charter has exceeded the maximum number of Interrogatories allowed under Commercial Division Rule 11-a(a) and accordingly, EarthLink has no obligation to respond to this Interrogatory. EarthLink further objects to Interrogatory No. 8 on the ground that it duplicative of, and more appropriately addressed through, the Charter Document Requests, including Charter Document Request No. 44.

Subject to these and the General Objections, EarthLink states that a link providing access

to the survey described in paragraph 59 of the Amended Complaint was transmitted on June 18, 2020, and responses to the survey questions were received through July 10, 2020.

INTERROGATORY NO. 9

Identify the names and titles of individuals who commissioned or otherwise requested the survey described in paragraph 59 of the Amended Complaint.

RESPONSE TO INTERROGATORY NO. 9

EarthLink objects to Interrogatory No. 9 on the ground that Charter has exceeded the maximum number of Interrogatories allowed under Commercial Division Rule 11-a(a) and accordingly, EarthLink has no obligation to respond to this Interrogatory. EarthLink further objects to Interrogatory No. 9 on the ground that the phrase “commissioned or otherwise requested” is vague and ambiguous, such that responding to Interrogatory No. 9 is overbroad and unduly burdensome. EarthLink further objects to Interrogatory No. 9 on the ground that it duplicative of, and more appropriately addressed through the Charter Document Requests. EarthLink further objects to Interrogatory No. 9 to the extent it calls for any information or materials that are protected against disclosure by any applicable privilege or immunity, particularly the attorney-client and work-product privileges.

Subject to these and the General Objections, EarthLink identifies the following individual who commissioned the survey:

| <u>Individual</u> | <u>Contact Information</u> |
|-----------------------------|--------------------------------------------------------------------------------------------------------|
| Michael Toplisek, President | 980 Hammond Dr NE, Suite 400 Atlanta, GA 30328 mike.toplisek@elink.net (404) 815-0770 |

INTERROGATORY NO. 10

Identify the names, addresses, phone numbers, and email addresses of all Service Subscribers identified in paragraph 60 of the Amended Complaint who switched to Spectrum, and the dates on which they switched their service provider.

RESPONSE TO INTERROGATORY NO. 10

EarthLink objects to Interrogatory No. 10 on the ground that Charter has exceeded the maximum number of Interrogatories allowed under Commercial Division Rule 11-a(a) and accordingly, EarthLink has no obligation to respond to this Interrogatory. EarthLink further incorporates by reference its objections and responses to Interrogatory No. 3. EarthLink further objects to Interrogatory No. 10 on the ground that it is duplicative of Interrogatory No. 3 in that it seeks identification of the same individuals identified in response to Interrogatory No. 3. EarthLink further objects to Interrogatory No. 10 on the ground that the dates on which these individuals switched their provider to Spectrum are not within the permissible scope of interrogatory topics under Commercial Division Rule 11-a. EarthLink further objects to Interrogatory No. 10 on the ground that the dates on which the identified customers began service with Spectrum is not in possession, custody or control of EarthLink, and is within Defendant's particular knowledge.

Based on these and the General Objections, EarthLink refers Charter to its Response to Interrogatory No. 3.

INTERROGATORY NO. 11

Identify the names, addresses, phone numbers, email addresses and service contracts of all “Service Subscribers . . . [who] reported price increases for their internet service that do not correspond to any price increases instituted by EarthLink” described in paragraph 61 of the Amended Complaint.

RESPONSE TO INTERROGATORY NO. 11

EarthLink objects to Interrogatory No. 11 on the ground that Charter has exceeded the maximum number of Interrogatories allowed under Commercial Division Rule 11-a(a) and accordingly, EarthLink has no obligation to respond to this Interrogatory. EarthLink further objects to Interrogatory No. 11 to the extent it seeks information outside the permissible scope of Commercial Division Rule 11-a, including as to “service contracts.” EarthLink further objects to Interrogatory No. 11 on the ground that it is compound in that it seeks the identification of individuals’ “service contracts,” and identities and contact information, comprising multiple subparts to this interrogatory. EarthLink further objects to the identification of “service contracts” as vague and ambiguous and EarthLink is not in possession, custody or control of this information, as the details of any agreements between Charter and its customers are necessarily within Charter’s control, not EarthLink’s. EarthLink objects to Interrogatory No. 11 to the extent that the identities of Service Subscribers whom Charter improperly instituted prices increases is information that is within Defendant’s particular knowledge. EarthLink further objects to Interrogatory No. 11 to the extent it seeks EarthLink to identify all Service Subscribers impacted by Charter’s complained of conduct in the identified paragraph of the Complaint, which is the subject of ongoing discovery, including Charter’s responses to EarthLink’s First and Second Set of Documents Requests and

Interrogatories to Charter.

Subject to these and the General Objections, EarthLink identifies the following individuals who reporting price increases from Charter as referenced in Interrogatory No. 11:

| <u>Customer Name</u> | <u>Contact Information</u> |
|-----------------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| Gregg Carlson | 4300 Clarksburg Rd. Clemmons, NC 27012 gregglc1@outlook.com; gregglc1@earthlink.net (336) 712-9987 |
| Gail Frilot | 4005 Volcanic Ave El Paso, TX 79904 frilot1@earthlink.net (915) 433-0136 |
| Alex Givens | 5004 Monck Ct. Wilmington, DE 28409 alex.givens@gmail.com (330) 705-9752 |
| Stevette Levine | 1601 Kornegay Ave. Wilmington, NY 28405 stevettelevine@aol.com; stevettelevine11@earthlink.net (910) 262-0278 |
| Caryn Voskuil | 18175 Whispering Gables Ln. Dallas, TX 75287 cmvox@yahoo.com; cmvox@earthlink.net (972) 867-8048 |

INTERROGATORY NO. 12

Identify the names, addresses, phone numbers, email addresses and service contracts of the Service Subscribers identified in paragraph 62 of the Amended Complaint, who “reached out to Earthlink to report similar experiences with Charter customer service representatives,” and the dates and times when such communications with EarthLink took place.

RESPONSE TO INTERROGATORY NO. 12

EarthLink objects to Interrogatory No. 12 on the ground that Charter has exceeded the maximum number of Interrogatories allowed under Commercial Division Rule 11-a(a) and accordingly, EarthLink has no obligation to respond to this Interrogatory. EarthLink further objects to Interrogatory No. 12 to the extent it seeks information outside the permissible scope of Commercial Division Rule 11-a, including as to “service contracts.” EarthLink further objects to Interrogatory No. 12 on the ground that it is compound in that it seeks the identification of individuals’ “service contracts,” and identities and contact information, comprising multiple subparts to this interrogatory. EarthLink further objects to the identification of “service contracts” as vague and ambiguous and EarthLink is not in possession, custody or control of this information, as the details of any agreements between Charter and its customers are necessarily within Charter’s control, not EarthLink’s. EarthLink further objects to Interrogatory No. 12 to the extent it seeks identification of all Service Subscribers impacted by Charter’s complained of conduct in the identified paragraph of the Amended Complaint, which is the subject of ongoing discovery, including Charter’s responses to EarthLink’s First and Second Set of Documents Requests and Interrogatories to Charter.

Subject to these and the General Objections, EarthLink identifies the following individual

who reported similar experiences to EarthLink as alleged in paragraph 62 of the Amended Complaint:

| <u>Customer Name</u> | <u>Contact Information</u> |
|-----------------------------|----------------------------------------------------------------------------------------------------|
| Albert Toy | 67 Sullivan St. New York, NY 10012 alberttoy@earthlink.net (212) 274-9246 |
| Bruce Wheatley | 11508 Tom Ulozas Drive El Paso, TX 79936 buckwheat48@earthlink.net (915) 474-1083 |

INTERROGATORY NO. 13

Identify the name, address, phone number, email address and service agreements of the Service Subscriber identified in paragraph 76 of the Amended Complaint, and the date of the alleged communication from Charter.

RESPONSE TO INTERROGATORY NO. 13

EarthLink objects to Interrogatory No. 13 on the ground that Charter has exceeded the maximum number of Interrogatories allowed under Commercial Division Rule 11-a(a) and accordingly, EarthLink has no obligation to respond to this Interrogatory. EarthLink further objects to Interrogatory No. 13 to the extent it seeks information outside the permissible scope of Commercial Division Rule 11-a, including as to “service agreements” EarthLink further objects to Interrogatory No. 13 on the ground that it is compound in that it seeks the identification of individuals’ “service agreements,” and identities and contact information, comprising multiple subparts to this interrogatory. EarthLink further objects to the identification of “service

agreements” as vague and ambiguous and EarthLink is not in possession, custody or control of this information, as the details of any agreements between Charter and its customers are necessarily within Charter’s control, not EarthLink’s. Subject to these and the General Objections, EarthLink responds that the Service Subscriber referenced in paragraph 76 of the Amended Complaint is the individual with the username Rough_pause, who reported the events referenced therein in an online post on Reddit.com., available at:

https://www.reddit.com/r/Spectrum/comments/jf56xf/earthlink_agreement_ending_with_spectrum_time/.

INTERROGATORY NO. 14

Identify the name, address, phone number, email address and service agreements of the Service Subscriber identified in paragraph 77 of the Amended Complaint who reported receiving a communication from Spectrum, and the date of the alleged communication from Charter.

RESPONSE TO INTERROGATORY NO. 14

EarthLink objects to Interrogatory No. 14 on the ground that Charter has exceeded the maximum number of Interrogatories allowed under Commercial Division Rule 11-a(a) and accordingly, EarthLink has no obligation to respond to this Interrogatory. EarthLink further objects to Interrogatory No. 14 to the extent it seeks information outside the permissible scope of Commercial Division Rule 11-a, including as to “service agreements.” EarthLink further objects to Interrogatory No. 14 on the ground that it is compound in that it seeks the identification of individuals’ “service agreements,” and identities and contact information, comprising multiple subparts to this interrogatory. EarthLink further objects to the identification of “service agreements” as vague and ambiguous and EarthLink is not in possession, custody or control of this information, as the details of any agreements between Charter and its customers are necessarily

within Charter's control, not EarthLink's. Subject to these and the General Objections, EarthLink responds that the Service Subscriber referenced in paragraph 77 of the Amended Complaint is the individual with the username Racer---X, who reported the events referenced therein in an online post on Reddit.com, available at:

https://www.reddit.com/r/Spectrum/comments/jf56xf/earthlink_agreement_ending_with_spectrum_time/.

INTERROGATORY NO. 15

Identify the names, addresses, phone numbers, email addresses and service agreements of the Service Subscribers identified in paragraph 78 of the Amended Complaint who "have reported that they received similar promotional materials in a variety of forms including emails, fliers, and hard copy mail, prior to the end of the Transition Period on October 31, 2020."

RESPONSE TO INTERROGATORY NO. 15

EarthLink objects to Interrogatory No. 15 on the ground that Charter has exceeded the maximum number of Interrogatories allowed under Commercial Division Rule 11-a(a) and accordingly, EarthLink has no obligation to respond to this Interrogatory. EarthLink further objects to Interrogatory No. 15 to the extent it seeks information outside the permissible scope of Commercial Division Rule 11-a, including as to "service agreements" EarthLink further objects to Interrogatory No. 15 on the ground that it is compound in that it seeks the identification of individuals' "service agreements," and identities and contact information, comprising multiple subparts to this interrogatory. EarthLink further objects to the identification of "service agreements" as vague and ambiguous and EarthLink is not in possession, custody or control of this information, as the details of any agreements between Charter and its customers are necessarily within Charter's control, not EarthLink's. EarthLink further objects to Interrogatory No. 15 to the

extent it seeks identification of all Service Subscribers impacted by Charter's complained of conduct in the identified paragraph of the Amended Complaint, which is the subject of ongoing discovery, including Charter's responses to EarthLink's First and Second Set of Documents Requests and Interrogatories to Charter.

Subject to these and the General Objections, EarthLink refers Charter to the individuals identified in its responses to Interrogatory Nos. 12, 13, and 14.

Dated: New York, New York
June 24, 2022

KING & SPALDING LLP

By: /s/ Shaila R. Diwan
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Attorneys for Plaintiff EarthLink, LLC

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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

CERTIFICATE OF SERVICE

I hereby certify that, on June 24, 2022, I caused to be served (1) Responses and Objections of Plaintiff Earthlink, LLC to Defendant Charter Communications Operating, LLC's First Set of Interrogatories; and (2) Responses and Objections of Plaintiff Earthlink, LLC to Defendant Charter Communications Operating, LLC's First Set of Requests for Production of Documents via electronic mail on:

Patterson Belknap Webb & Tyler LLP
Saul B. Shapiro
Clinton W. Morrison
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United States of America

Attorneys for Defendant

KING & SPALDING LLP

/s/ Lauren Devendorf
Lauren Devendorf