

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK
COMMERCIAL DIVISION, PART 48

EARTHLINK, LLC,

Plaintiff,

v.

CHARTER COMMUNICATIONS
OPERATING, LLC,

Defendant.

Index No.: 654332/2020

Motion Sequence No. 004

Hon. Andrea Masley

EDWARD T. LOGAN, an attorney duly admitted to practice law in the State of Georgia, affirms under the penalties of perjury that:

1. I am a lawyer with the firm of King & Spalding LLP, 1180 Peachtree St NE, Atlanta, GA 30309, counsel for Plaintiff EarthLink, LLC (“Plaintiff” or “EarthLink”).
2. I submit this affirmation in connection with EarthLink’s motion by Order to Show Cause for Spoliation Sanctions (the “Motion”) against Defendant Charter Communications Operating, LLC (“Defendant” or “Charter”).
3. My practice focuses on e-discovery, including work related to storing and accessing significant volumes of data.
4. Numerous options for saving Charter’s call recordings using a third-party vendor existed when this litigation commenced in 2020, and even years before this lawsuit was filed.
5. After first launching a data storage service in 2006 called Amazon S3, Amazon launched a product known as Amazon S3 Glacier Deep Archive (“Glacier Deep Archive”) March 2019. A copy of Amazon’s March 27, 2019 announcement regarding the launch of Glacier Deep Archive is attached hereto as **Exhibit 1**. As shown Exhibit 1, Amazon marketed

Glacier Deep Archive to customers who “collect and store large volumes (often a petabyte or more) of important data but seldom access it.” As Amazon explained in its announcement, Glacier Deep Archive was “designed to provide durable and secure long-term storage for large amounts of data at a price that is competitive with off-premises tape archival services.”

6. Attached hereto as **Exhibit 2** is an August 22, 2022 Amazon blog post regarding Amazon’s “Glacier” services. As shown in Exhibit 2, by March of 2019, Amazon offered storage on Glacier Deep Archive for “just \$0.00099 per GB-month (or \$1 per TB-month),” which was the “lowest cost storage in the cloud **at prices significantly lower than storing and maintaining data in on-premises tape** or archiving data off-site” (emphasis added).

7. Amazon’s Glacier Deep Archive services have continued to be available to customers from their launch through the present. As the exhibits attached hereto show, those services were (and are) well-equipped to handle storage of Petabytes of data – many times more storage than Charter asserts would have been necessary to store its call recordings.

8. Based on (1) Charter’s estimate of 20 million calls and 10,000 gigabytes of call recording data per day (Dkt. 183 ¶¶ 6–7), (2) Charter’s estimate of 217 days of calls it claims were deleted within the spoliation period (*see* Dkt. 174, at 9), and (3) Amazon Glacier Deep Archive price of just \$1 per Terabyte per month, it would have been relatively affordable for Charter to store on Glacier Deep Archive all Charter’s calls for the 217-day period for which it advocates. In fact, we estimate that, for all calls in the 217-day period, the storage cost would be less than \$2,500 per month if the data remained in storage.

9. In addition, since December 13, 2017, Microsoft has provided a service known as Archive BLOB Storage, which can provide storage for Petabytes of data. Attached hereto as **Exhibit 3** is Microsoft’s announcement regarding the launch of Archive BLOB Storage.

10. Similarly, since January 8, 2020, Google has provided a service known as Archive Cloud Storage, which also can provide storage for Petabytes of data. Attached hereto as **Exhibit 4** is Google's announcement regarding the launch of Archive Cloud Storage.

Dated: October 13, 2022
Atlanta, Georgia

Submitted by,



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