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2 higher than for IINS, when chargebacks are taken into
3 consideration.

4
5 Q. Are there any additional costs associated with "900"
6 service to IPs?

7 A. In addition to increased per call charges, "900"
8 information providers also experience substantial increased
9 costs in the form of chargebacks. Chargebacks occur when a
10 caller contacts the phone company and denies responsibility
11 for the call. The information provider receives no revenue
12 for the call, but is still required to pay the carrier for
13 the call.

14 Chargebacks for "900" services are substantially --
15 indeed, prohibitively -- greater than chargebacks for
16 InfoFone services and other pay-per-call services offered by
17 other local exchange carriers. Although chargebacks for
18 InfoFone services generally run about 9-11 percent,
19 chargebacks for "900" services are 35-40 percent on the
20 average. This is due to many factors including differences
21 in the placement of the charges on the bill, 11/ the
22

23 11/ BA-NY InfoFone charges are placed on the regular
24 BA-NY monthly telephone bill, along with other BA-NY
charges.

25 With "900" billing, the charge would appear on a
26 separate page and would say that the charge was billed on
behalf of National Telephone. This variation encourages
27 customers to dispute the charges. Moreover, because the
charges are "900" charges, not BA-NY InfoFone charges, BA-NY
28 is much more likely to forgive the charge.

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fact that callers perceive that non-payment of InfoFone phone charges may result in termination, and the price of the calls is much higher in part because of the chargebacks.

Q. How do these additional costs of "900" service affect customers?

A. The increased cost of "900" services to the information providers from substantially higher carrier charges and chargebacks forces information providers for "900" services to charge substantially higher charges to the customer.

Q. What is the effect of AT&T's prices on charges to consumers?

A. National Telephone is keenly aware of the increased "900" service costs because it operates "900" lines to reach customers who have no available local pay-per-call service. Although National Telephone generally charges its InfoFone customers, and most of its other local exchange carrier customers, 35 cents per minute, it charges national "900" customers 99 cents per minute to cover increased costs of the "900" service.

Q. How do these increased costs affect caller volume?

A. These increased costs to callers result in a substantial decline in "900" service call volume. Generally callers use AT&T/MCI/Sprint "900" services only if they are

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2 blocked from using their local pay-per-call services, or are
3 outside an area receiving local pay-per-call services.

4 It is not possible to charge the caller the same price
5 for "900" calls as for InfoFone calls because the higher
6 "900" charges to the IP and the 3 times higher chargeback
7 rate. Accordingly, to provide "900" services, all 976 MAS
8 information providers and virtually all IINS and GBS
9 providers would have to increase their prices to callers,
10 and risk lowering their call volume even further.

11
12 Q. Are there any other reasons callers prefer local pay-
13 per-call service over "900" service?

14 A. In addition, callers to pay-per-call services prefer
15 local pay-per-call services to long distance "900" services.
16 Callers to BA-NY's InfoFone service dial a seven digit local
17 number, while callers to "900" services are required to dial
18 a ten digit long distance number. Callers to pay-per-call
19 services prefer to dial a local seven digit number than a
20 ten digit long distance number.

21
22 Q. Do you have any proof to support your position?

23 A. Proof of this preference for seven digit dialing lies
24 in the history of National Telephone's voice personal
25 service in Los Angeles, an area like New York which should
26 be a highly successful pay-per-call market. There, the
27 local exchange carrier offers an unusual local service -- a
28

1
2 service in which the caller dials a ten digit "900" number,
3 rather than a local seven digit number. This special "900"
4 number only applies to the Los Angeles metropolitan area
5 LATA. The result is that the volume in Los Angeles is very
6 low -- about 1/8 the New York volume. Pay-per-call callers
7 do not want to dial a "900" service for their calls, even if
8 the service is local. 12/ 13/

9
10 Second, National's "900" services are particularly
11 inappropriate for National Telephone because its voice
12 personal business, discussed above, is local in nature,
13 while virtually all "900" service is nationwide. It is
14 impossible to offer a credible local voice personal
15 telephone business through a national "900" line.

16 Third, there is a stigma about "900" services that
17 negatively impacts call volume. There has been substantial
18 adverse publicity surrounding AT&T/MCI/Sprint "900" services
19 and many callers refuse to call that service. The same
20 stigma does not accompany calls to local telephone
21 information services, such as BA-NY's InfoFone services.

22
23
24 12/ Indeed, a three digit telephone number, such as
25 BA-NY's 411 pay-per-call telephone information service, is
even more valuable. National Telephone was willing to pay a
substantial premium to obtain such numbers from Bell South.

26 13/ National Telephone's charge for this service is
27 \$.69 per minute, almost twice what National Telephone
28 charges in the New York metropolitan area.

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2 Fourth, the major "900" carriers (AT&T and MCI) will
3 not bill for adult programs or chat lines, but require the
4 IP to use a third-party billing company, such as FTT, or
5 VRS-Integrated to bill the calls. Using a third party
6 biller results in even higher chargebacks and billing losses
7 to the IP. Sprints' costs are substantially higher even
8 than AT&T and MCI's and are further increased by Sprints'
9 refusal to do billing and collecting at all.
10

11 Q. Does National Telephone use "900" services and, if so,
12 why?

13 A. National Telephone does have "900" lines in areas with
14 no local pay-per-call services. These services are all
15 doing poorly, even though National Telephone, because of its
16 size and status, is able to get preferred rates. National
17 Telephone's "900" services were doing so poorly in San
18 Francisco and Tampa that National Telephone has terminated
19 service in those cities.
20

21 Q. Do CLEC's present a viable alternative to BA-NY?

22 A. Although BA-NY suggests that a CLEC might provide this
23 service, there is no CLEC anywhere in the country that now
24 offers such a service. Although CLECs were invited to
25 attend the Technical Conference on this issue, not a single
26 CLEC appeared.
27
28

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2 In fact, no CLEC could provide the service for a
3 reasonable cost. Virtually all callers to this service are
4 BA-NY customers. BA-NY acknowledges that, for the service
5 to be provided, BA-NY must continue to provide call
6 origination, call transport and call billing and collection,
7 leaving little for the CLEC but call processing. (BA-NY
8 October 6 Presentation, at 15.
9

10 Q. If there were a CLEC willing to provide call
11 processing, would it be a viable alternative to InfoFone
12 providers generally and to IINS, GBS, and Circuit 9 services
13 in particular?

14 A. Even if a New York CLEC stepped forward and offered to
15 provide the call processing portion of the service, the
16 services offered by that CLEC would not be a viable
17 alternative for several reasons.

18 First, any such arrangement would provide the CLEC with
19 an unregulated monopoly over pay-per-call services. This
20 monopoly would enable the CLEC, in the long run if not at
21 first, to charge monopoly prices far in excess of a
22 reasonable price, leaving information providers with no
23 viable alternative.

24 Moreover, most of the services would continue to be
25 provided by BA-NY. Although BA-NY's charges for call
26 origination and call transport would be regulated (and
27 therefore reasonable), BA-NY's charges for billing and
28

1
2 collection would not. BA-NY currently charges about 30
3 cents for billing and collection, even though the cost of
4 providing billing and collection services is only 2 cents.
5 A copy of a BA-NY billing and collection price list is
6 annexed as Exh. D; see also Commission Order 97-7 in 93-C-
7 0451 dated May 29, 1997.

8
9 The inadequacy of the CLEC alternative is even
10 greater for IINS, GBS and Circuit 9 providers because BA-
11 NY's contracts with CLECs exclude them from the agreement.
12 In its February 12, 1996 submission to the Commission, p.9,
13 annexed as Exh. A, BA-NY advised the Commission that its
14 traffic arrangements agreement with CLEC's provides certain
15 financial incentives for CLEC's to deliver 976 traffic, but
16 no incentive to deliver IINS, GBS, and Circuit 9 traffic.
17 This discriminatory contract provision will make any CLEC
18 reluctant to carry this IINS, GBS and Circuit 9 traffic.

19
20 Q. How would prices be affected if a CLEC were to provide
21 such services?

22 A. In view of the fact that any such hypothetical CLEC
23 service will be jointly provided by two largely unregulated
24 monopolies--BA-NY (who charges 30 cents per call for billing
25 and collection even though the costs of such service is 2
26 cents per call) and the CLEC (for call transport and call
27 processing), prices for such service will likely be
28 materially higher than current prices -- certainly much

1
2 higher than the 40 cent per call 976 MAS IP charge to
3 callers. See BA-NY's rates and charges for billing and
4 collecting, annexed as Exh. E. As a result of this price
5 increase to IPs, prices to callers will rise, volume will
6 decline precipitously, and many if not most New Yorkers will
7 be deprived of the low price telephone information service
8 that they have enjoyed for more than a quarter century.
9

10
11 Q. Would transfer of this service to a CLEC put IPs at
12 risk?

13 A. Transfer of this service to a CLEC leaves the IPs in
14 substantial jeopardy. The CLEC will be collecting from BA-
15 NY substantial sums of money which belong to the IPs. If
16 the CLEC lacks integrity or a sound financial basis, the IPs
17 business is threatened.

18 There have been many companies which have offered 900
19 services which have eventually gone bankrupt or out-of-
20 business, such as Tele-Sphere, Starlink and ITA. Simply
21 because a service bureau, CLEC or telephone company is
22 adequately capitalized at the start, there is no guarantee
23 of their performance in the future.
24

25 Q. Will chargebacks increase under this alleged
26 alternative system?
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A. With a CLEC serving these accounts, service will not be terminated if the caller fails to pay. As a result, as with "900" services, chargebacks will likely increase from 11 percent to 35-40 percent, resulting in a substantial out-of-pocket loss for all services even if BA-NY does the billing and collection. Moreover, the charge will be placed on a separate bill page and will reference the name of the information provider, further enhancing the likelihood of chargebacks.

Q. Does the lack of portability pose a problem in connection with any transfer of service to CLEC?

A. With transfer to a CLEC, there is no guarantee that the IP's would be able to retain their telephone numbers. A CLEC taking over the InfoFone service would recognize the value and the goodwill that resides in an IP's number and might try to keep the numbers with substantial call volumes for themselves, thereby appropriating all the goodwill that the current IP has created.

Q. Are POTS information services a viable alternative?

A. POTS information services also fail to provide IPs with a viable alternative because of insurmountable payment problems and low volumes due to lack of consumer interest in using credit cards. There are three possible sources of payment for such services: third-party advertisements,

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2 customer credit cards, and periodic subscriptions. None
3 offer a viable alternative for the service.
4

5 Q. Can IPs operate a viable POTS line information service
6 by obtaining revenues through the sale of advertising spots
7 in the line?

8 A. National Telephone and virtually all other information
9 providers can not be paid through third-party advertising.
10 Even if willing advertisers could be found, which I doubt,
11 customers would not call a second time if faced with a
12 barrage of advertisements. In addition, the rates paid by
13 advertisers would not come close to what an IP receives from
14 InfoFone services.
15

16 Q. Can IPs operate a viable information service by
17 obtaining revenues through credit cards?

18 A. Payment by credit card would not be viable for two
19 reasons. First, smaller information providers could find it
20 difficult, if not impossible, to become a qualified credit
21 card subscriber. There are only three banks in the country
22 which offer credit card services for pay-per-call (Charter
23 Pacific, First Bank of Beverly Hills, and Humboldt Bank).
24 These banks require a strong financial statement and a
25 \$25,000 bond, which smaller information providers cannot
26 meet. Although service bureaus do provide such services for
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2 qualified customers, they charge a substantial fee for this
3 service.

4 Second, the vast majority of pay-per-call customers
5 will not pay by credit card. When credit card payment is
6 offered as an option for National Telephone services, at
7 most ten percent of customers accept that option even when
8 special financial inducements to credit card payment are
9 offered.

10 Many InfoFone customers are lower income residents who
11 do not have such cards. These customers, which likely
12 constitute a majority of National Telephone's customers,
13 would be deprived of this service if a credit card were
14 required.

15
16
17 Q. Are there any additional reason credit cards are not a
18 viable alternative?

19 A. Callers who hold valid credit cards are themselves
20 reluctant to use them for pay-per-call services. These
21 services are often used by "impulse" callers who decide on
22 the spur of the moment to make the calls. The spontaneity
23 of the "impulse" is destroyed if callers have to find their
24 credit card, give the card number to the provider, and wait
25 for acceptance. In addition, many consumers do not want to
26 transmit credit card information to information provider
27 companies over the telephone for fear of credit card abuse.
28 Credit card payment would cut call volume by at least 80%-

1
2 90% and put most of the information providers out of
3 business.

4
5 Q. Which customers use credit cards?

6 A. The only callers who use credit cards are often those
7 who do not want the charge to appear on their telephone
8 bills, or use credit cards to keep track of spending. These
9 customers will use credit cards without regard to price, so
10 long as the price remains reasonable, and lowering the price
11 would not increase call volume.

12
13 Q. Do you have any evidence that there is not enough
14 credit card business in the New York area, to sustain a
15 viable POTS line information service?

16 A. Because of the lack of customer interest in credit card
17 calls, National Telephone has not even bothered to install
18 credit card equipment in New York, routing the few such
19 calls made through Philadelphia and then back to New York.
20 If there were sufficient interest, National Telephone would
21 have purchased such equipment and reduced its costs, but
22 there was not.

23
24 Q. Can IPs provide a viable POTS line information service
25 by relying on caller subscriptions?

26 A. A third possible payment source is the offering of a
27 "subscription" service which allows the caller, for a fixed
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2 fee, to receive the information service for some defined
3 period of time. Most callers are unwilling to enroll in a
4 subscription service, even if there are financial incentives
5 to do so. With an impulse service such as this, callers
6 want to spontaneously pick up the phone, call, and be billed
7 for the service in their monthly telephone bills.
8

9
10 Q. What will happen to IPs if BA-NY terminates the
11 InfoFone service?

12 A. In view of the lack of any viable alternative to the
13 InfoFone service that makes economic sense, if BA-NY is
14 permitted to terminate the InfoFone service, in my opinion,
15 most of the information providers will go out of business.
16 For those few who might continue to provide these services
17 in some other way (e.g., through "900" services, credit
18 cards or subscription services), I believe their profits and
19 call volume will drop precipitously and quickly, by at least
20 60-70 percent and that charges will have to more than
21 double, which will itself cause further volume
22 declines. 14/

23
24 Q. Is continuation of this service in the public interest?

25 14/ If, for example, National Telephone were to seek
26 to provide voice personal services in New York through "900"
27 services, National Telephone would have to raise its price
28 to at least 75 cents per minute. As a result, the price of
a twenty minute call would increase from approximately \$7 to
\$15.

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3 A. Continuation of the InfoFone service is in the public
4 interest because there are no viable alternatives that would
5 provide consumers with the same universally available
6 program, ease of access, low cost, information on demand
7 characteristics of the InfoFone services currently being
8 enjoyed by 50 million callers each year. Termination of
9 this service would cause consumer harm and for that reason
10 its discontinuation is not in the public interest.

11
12 Q. Is BA-NY's claim that there are other sources of viable
13 information alternatives correct?

14 A. No. BA-NY's claim that other pay-per-use, POTs,
15 Internet services, cable TV, newspapers, and other sources
16 of information are viable alternatives to its InfoFone
17 service (BA-NY October 6 Presentation) is not borne out by
18 the facts.

19 As shown above, "900" services and POTS services (i.e.,
20 services provided by a provider using regular telephone; not
21 a pay-per-call line) paid for by subscription, advertising,
22 or credit card do not offer consumers the same low price,
23 safe, and reliable characteristics as pay-per-call service
24 and, for most customers, do not offer an acceptable
25 substitute. No CLEC has ever offered to provide such a
26 service but I doubt whether any such CLEC-offered service
27 could ever provide a viable alternative.
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Q. Is the Internet a viable alternate to InfoFone services?

A. BA-NY's reliance on the Internet as a viable alternative is misplaced. To reach the InfoFone service, a caller only needs access to a telephone, nothing more. Even if the same information were provided by way of the Internet (which it is not), to obtain access, a caller must have a telephone line, a computer connected to the line, a computer permitting access to the internet, and knowledge of how to use the internet, all of which are costly and require substantial technical sophistication. BA-NYs reliance on the Internet underscores its willingness to sacrifice the information needs of the poor and the technically unsophisticated. People who want to find out the time, weather, sports scores, and lottery results want to pick up a phone and immediately get the answer to their question. Using the Internet is not a practical alternative.

Certainly there are no Internet services like the pay-per-call voice personal service that National Telephone offers. Internet services are not instantaneous and do not involve voice. There is no Internet service that permits residents to submit live personal voice messages and to immediately respond to personal voice messages left by others.

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Q. Do telephone or radio constitute a viable alternative to the InfoFone services?

A. Telephone and radio are not viable substitutes. Even for those limited subjects for which these other media provides arguably similar information, such as weather, the caller must wait for air time rather than be able to receive information on demand.

Q. Are there any other viable alternative sources of information that offer callers the same immediate on demand information service?

A. No. BA-NY's reliance on undefined information service bureaus, business, government, cultural, community and social organizations as providing viable alternatives is meritless. There is no evidence that any such service provides the same low cost, user friendly, information-on-demand option provided by InfoFone IPs, and none provides a voice personal service like National Telephone.

Q. Does the price of any of these alleged alternative information services affect National Telephone's price to its customers?

A. Prices charged by "900" services, POTS information services, Internet services, cable services, newspapers, and information services provided by any organization have no effect on National Telephone's prices for its New York

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2 information services. Rather, to the extent National
3 Telephone's prices reflect competitive conditions, they only
4 take into account competition from the other IINS IPs.
5

6 Q. Has BA-NY articulated an adequate justification for its
7 proposal to terminate its InfoFone services?

8 A. No. BA-NY seeks to terminate its InfoFone service
9 because it no longer satisfies BA-NY's long term vision, no
10 longer provide opportunities for revenue growth, and is
11 offered through the Ericsson switch which, BA-NY claims,
12 must be replaced because of "technological complications
13 surrounding Year 2000 compliance." (BA-NY October 6
14 Presentation, at 11).
15

16 Q. Does BA-NY's long term vision justify termination of
17 this service?

18 A. BA-NY's undefined "long term vision" affords no viable
19 justification for terminating a service with 50 million
20 callers annually. BA-NY is a common carrier, reaping for
21 decades the financial benefits of a legal monopoly and the
22 extraordinary financial benefits from the InfoFone service,
23 recovering as contribution more than double its permitted
24 rate of return. BA-NY failed to explain its long term
25 vision and why continuation of this service is inconsistent
26 with that vision. It does not take much time or many
27 resources for BA-NY to staff and maintain the Infofone
28

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2 services. 15/ In fact, Bell Atlantic provides Infofone
3 services in Pittsburgh, Philadelphia, Washington, and
4 Baltimore, with only one representative handling questions
5 and problems for all four cities.
6

7 Q. Does BA-NY's desire for greater profits justify
8 termination?

9 A. BA-NY's desire for greater profits does not justify
10 termination of this service. BA-NY has consistently
11 recovered excessive revenues from this service, realizing a
12 level of contribution that far exceeds most, if not all, its
13 other services. Now that the Commission has decided to
14 limit contribution to that level realized from other
15 services, BA-NY seeks to terminate the service.
16

17 BA-NY should not be permitted to terminate this service
18 merely because its profits are the same as those realized
19 from other services. BA-NY's claim that falling call
20 volumes justify termination because it will suffer a loss in
21 the future if volume continues to decline is similarly
22 misplaced.

23 There is no evidence that call volumes will continue to
24 decline. Although some information provider volumes have

25 _____
26 15/ The fact that BA-NY has had to spend time and money
27 in its unsuccessful effort to defend itself against claims
28 of gross negligence and willful misconduct or to defend a
RICO action does not offer a justifiable basis for
terminating this service.

1
2 declined, National Telephone's call volumes and revenues
3 have increased for each of the past three years, spending
4 more than \$500,000 per year in New York advertising to
5 maintain and increase that volume.

6
7 Moreover, although revenue from 976 MAS has fallen over
8 the past three years, revenue from IINS and GBS have in fact
9 increased each year and 1997 revenues were the highest in
10 the past five years. 16/ See BA-NY's October 6
11 Presentation, Appendix A. Since IINS and GBS account for
12 more than half of BA-NY's revenues, and since BA-NY
13 continues to earn excessive contribution on those services,
14 BA-NY's complaint concerning losses from these services is
15 wholly without merit. BA-NY is in fact making higher
16 profits from these IINS and GBS services, which account for
17 50 percent of its total InfoFone revenue, than at any time
18 in the past five years.

19 Q. Is BA-NY responsible for the call volume issues that it
20 raises?

21 A. Further, BA-NY bears substantial responsibility for
22 the decline in "976" call volume and the failure of IINS to
23

24
25 16/ Total gross revenues to BA-NY from IINS and GBS
26 for the years 1995 through 1997 were as follows:
\$9,052,000, \$9,339,000, \$8,456,000, \$9,156,000, and
\$9,492,000. BA-NY October 6 Presentation, Appendix A.

27 National Telephone's revenues were more than 10
28 percent higher in 1997 and than in 1995.

1
2 achieve its growth potential in view of its failure to
3 support this service. Although an independent market
4 research company retained by BA-NY recommended at a meeting
5 with IPs that BA-NY support this service in 1993 or 1994
6 through advertising, marketing and in various other
7 ways, 17/ BA-NY failed to provide the promised support.

8 See BA-NY answer to PPI-BA-NY-43, a copy of which is annexed
9 as Exh. F, which lists recommendations as to what BA-NY
10 would do to promote these services. To my knowledge, BA-NY
11 undertook none of those actions, except perhaps to rename
12 the service.
13

14
15 17/ As shown in the attached Presentation to Audiotex
16 information providers, annexed as Exh. G, the market
17 research company making the presentation recommended that
18 BA-NY support the service in inter alia the following ways:

- 19 1. Staff the 1-800-Infocall line with live
20 operators.
- 21 2. Educate 411 and 555-1212 directory assistance
22 operators about Infocall Services, direct
23 transfer calls to 1-800-Infocall, and
24 incentivize 411 operators.
- 25 3. NYT advertising should focus on 1-800-
26 Infocall and upscale positioning.
- 27 4. Primary BA-NY advertising should be on TV.
- 28 5. 1-800-Infocall services should be heavily
advertised in the Yellow and White Pages.
6. \$5.00 (or other value) coupons should
periodically be delivered in phone bills.
7. BA-NY should deliver pocket/wallet directory
cards in phone bills.

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3 On the contrary, BA-NY seems determined to destroy the
4 service. In 1997, BA-NY spent only \$10,574 of its
5 \$18,000,000 in InfoFone revenues on advertising the service
6 (See Exh. C; BA-NY October 6, 1998 Presentation, Appendix
7 A), revealing a prior intent to lower call volume.
8 Moreover, there is evidence that BA-NY is systematically
9 taking steps to maximize customer blocking of these service.
10 See Jay Thomas testimony, pp. 3-4. These apparently
11 intentional efforts to suppress call volume and justify
12 termination are in line with prior BA-NY actions which
13 resulted in a finding by the Commission--recently sustained
14 by the Courts--that BA-NY had engaged in willful misconduct.

15 Even if one assumes a declining revenues for BA-NY, BA-
16 NY is protected from suffering a loss. First, BA-NY now
17 earns monopoly profits as all its services. Even if BA-NY
18 losses contributions for its 976 MAS service, absent a
19 contrary ruling by the Commission, BA-NY will continue to
20 recover monopoly profits on its IINS and GBS services, which
21 account for 50 percent of BA-NY's InfoFone income.

22 Even if the service should continue to decline in call
23 volume, regardless the reason, and the service become
24 unprofitable, BA-NY can seek a rate increase upon a showing
25 of need. A service generating 50 million calls per year and
26 more than 135,000 calls per day is hardly the type of
27
28

1
2 unutilized service that would warrant, or permit,
3 termination. 18/
4

5 Q. Have alternative information sources contributed to a
6 decline in call volume?

7 A. Attempting to deflect responsibility from itself for
8 the declining call volume, BA-NY blames the presence of
9 other information alternatives for the decline, such as
10 "800" and "900" telephone information services, Internet,
11 cable television, radio and newspapers. BA-NY offers not a
12 single shred of objective evidence that these alternate
13 sources of information have created a decline in volume.
14 Since these other information sources (other than the
15 Internet) have been around for a long time, BA-NY's
16 explanation lacks credibility. National Telephone's
17 business over the last three years has increased and not
18 decreased, even though the Internet, cable TV, radio and
19 newspapers have expanded their presence.
20

21 Q. In your opinion, are the alleged Ericsson switch
22 technical concerns a valid reason for BA-NY's termination of
23 this service?
24
25

26 _____
27 18/ Advertising expenditures were slightly greater in
28 the years before 1997, with expenditures of \$140,480 in 1996
and \$ 211,103 in 1995. See Exh. C annexed hereto.

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2
3 A. BA-NY's final argument concerning the high cost of
4 replacing the Ericsson switch is, I believe, a contrived
5 excuse, rather than an honest explanation, resulting from
6 BA-NY's conclusion that the PSC is not likely to permit
7 termination based solely on economic considerations, but
8 might support termination if it is otherwise justified.

9
10 Q. Do you have any authority for your position that the
11 claimed Ericsson switch Year 2000 concerns were contrived?

12 A. An internal BA-NY memorandum, entitled "Bell Atlantic
13 InfoFone Services - New York and Y2K" and annexed as Exh. H,
14 reveals that BA-NY recognized it could not terminate this
15 service for financial reasons but that it might receive
16 Commission approval if that service could not be provided
17 for other reasons, such as technical reasons.

18
19 Q. Is the Ericsson Switch capable of becoming year 2000
20 compliant?

21 A. Based on recent information I have received, I believe
22 that the switch is, or may be made, year 2000 compliant. I
23 am advised that the problems with the switch occurred
24 because BA-NY failed to install the 301 and 302 upgrades to
25 the Ericsson switch. Although upgrades must be made in
26 sequence for the switch to work properly, BA-NY sought to
27 install the 304 upgrade in 1996, without installing the
28 prior upgrades.

1
2 I am further advised that BA-NY's 1996 installation of
3 the 304 upgrade would have succeeded if BA-NY had
4 reconfigured some trunks and lines (which BA-NY failed and
5 refused to do this) and that, with these and possibly one
6 more upgrade, the switch would have been year 2000
7 compliant. I make this allegation despite the fact that BA-
8 NY has generally refused to provide responsive answers to
9 most information requests, including requests regarding the
10 Ericsson switch.

11 Any potential year 2000 failure thus appears to result
12 from BA-NY's gross negligence not from any switch
13 imperfection.
14

15 Q. Even if BA-NY's concerns about the Ericsson switch were
16 correct, are there any options available to BA-NY short of
17 obtaining a new switch or migrating the service to continue
18 to keep the Ericsson switch operational after the year 2000?

19 A. Even if BA-NY's claims about the Ericsson switch and
20 its potential failure in year 2000 were correct (many or all
21 of which are not), as shown in the accompanying testimony of
22 Elwin Macomber, BA-NY has inexpensive options short of
23 replacing the switch that would enable BA-NY to maintain its
24 service.
25

26 First, BA-NY could set the clock forward on the
27 existing Ericsson switch to determine whether there would be
28 a year 2000 failure. This is commonly done to test

1
2 switches, like the Ericsson AXE 10 IMAS switch, which are
3 not used for accounting purposes. See Macomber Test., p. 5.
4 If there is a failure, BA-NY can immediately correct the
5 problem by returning the switch back to the current date.
6 BA-NY may be able to avoid the problem by turning back the
7 switch prior to the year 2000. BA-NY could select an
8 appropriate prior year and turn the switch back to that
9 year. Moreover, BA-NY can test if turning back the switch
10 will work at this time, well before the year 2000. See,
11 Macomber Aff., p. 6.

12 In sum, BA-NY's reliance in alleged year 2000 Ericsson
13 problems appears to be a red herring -- an argument created
14 by BA-NY to induce Commission approval for its exodus from
15 this service.
16

17 Q. In the event that BA-NY is required to migrate this
18 service from the Ericsson switch, is BA-NY's claim that it
19 cannot continue to provide the broadcast function accurate?

20 A. As an alternative, to testing or adjusting the Ericsson
21 switch, BA-NY concedes it can migrate all InfoFone services
22 to the 5ESS at West 18th Street at a cost well below that
23 necessary to replace the Ericsson switch. Although BA-NY
24 claims it cannot provide the broadcast feature for 976 MAS
25 after migration to the 5ESS, this is inaccurate. According
26 to Elwin Macomber, BA-NY can connect various types of
27 relatively inexpensive equipment, such as IVRs, to perform a
28

1
2 broadcast function with the 5ESS. See Macomber Test., pp.
3 3-5. Mr. Macomber cannot presently assess the cost of such
4 broadcast service because BA-NY has refused to answer
5 information requests directed to those issues. However,
6 based on sheer speculation as to peak load volume, he
7 estimates the cost at less than \$1 million, perhaps
8 considerably less. See Exh. to Macomber Test. In addition,
9 some IPs' may be willing to increase their rate for a period
10 of five years in order to pay the costs of this equipment.
11

12 Q. Are you aware of any additional evidence which supports
13 your position that BA-NY assertions about the switch are
14 untrue?
15

16 A. That BA-NY's assertions about the Ericsson switch are a
17 red herring is confirmed by the fact that BA-NY proposes to
18 terminate InfoFone services in areas of the State outside
19 the New York metropolitan area where the Ericsson switch is
20 not used, such as Buffalo, Albany, Syracuse and Binghamton.

21 Moreover, BA-NY failed to disclose in its October 6,
22 1998 presentation the true reason for the termination.
23 However, an internal BA-NY memorandum, annexed as Exh. G,
24 reveals that BA-NY is terminating the service in whole or in
25 part because certain 976 information providers who have
26 obtained a Commission determination in Case No. 93-C-0451,
27 recently affirmed on appeal, that BA-NY was grossly
28 negligent and engaged in willful misconduct in providing

1
2 this service, and have filed a pending RICO action against
3 BA-NY. See Exh. H, pp. 2, 7-8.

4 Moreover, a 1996 BA-NY submission to the Commission,
5 annexed as Exh. A, reveals that BA-NY was providing, or
6 intended to provide, telephone information services that
7 would directly compete against the 976 MAS service which it
8 now seeks to destroy, by terminating the service and, if
9 required to continue the service, insist on eliminating the
10 broadcast function following migration.

11
12 Q. Are any CLECs interested in providing InfoFone
13 services?

14 A. National Telephone is unaware of any CLEC who has
15 provided pay-per-call information services. BA-NY has
16 failed to identify any CLEC who has offered to provide the
17 service.

18
19 Q. What problems would be encountered if the IPs were
20 required to migrate to "900" services?

21 A. Although BA-NY asserts that the InfoFone service could
22 be offered through AT&T's "900" service, as discussed above,
23 there is no number portability with AT&T's "900" service and
24 there could be no seamless migration to AT&T. Each InfoFone
25 IP would have to obtain a new "900" number, terminate its
26 old business, and forfeit some or all the goodwill created
27 in existing telephone numbers.
28

1
2
3 Additionally, as discussed above, in view of the
4 nationwide character of AT&T's "900" service, its higher
5 prices, and higher chargebacks and the "stigma" that
6 accompanies that service, AT&T's "900" service is not a
7 viable alternative for National Telephone. If it were,
8 National Telephone and the other IPs might have operated
9 their business through AT&T's "900" service from the outset.
10

11 Q. Is it possible to insure a seamless transition to 900
12 services?

13 A. A seamless transition to a "900" number is not possible
14 without number portability. Since there is no portability
15 between BA-NY's InfoFone services and any of the "900"
16 services, there can be no seamless transition to this
17 service.
18

19 In view of the absence of any "CLEC" willing to provide
20 this service, there can be no transition, let alone a
21 seamless one. Even if a CLEC were willing to provide the
22 service, whether the transition would be seamless depends
23 upon number portability, the financial strength and ethics
24 of the CLEC, its technical ability to provide the service,
25 the price it would charge, the price BA-NY would charge for
26 its portion of the service, BA-NY's willingness to continue
27 to provide billing and collecting, and the technical
28 precision of the cut-over.

1
2
3 BA-NY does not appear willing to take the steps
4 necessary to assure the IPs a seamless transition to the
5 same IP number, as discussed above. Moreover, for reasons
6 discussed above, it is unlikely that the transition would be
7 seamless. Even if there were number portability and the
8 cut-over were well performed technically, outstanding issues
9 of the character and ethical make-up of the CLEC and its
10 financial soundness effect whether the transition is
11 seamless.

12 Finally, a steep price increase will destroy this
13 service as quickly and efficiently as a technically
14 incompetent operator, and BA-NY's prices for billing and
15 collection would cause the CLEC to pay BA-NY nearly as much
16 as 976 MAS and many IINS IPs now charge their callers. A
17 transition that would charge high prices, requiring IPs to
18 pass on those charges to customers and lose call volume as a
19 result, is not seamless.

20 Q. Do BA-NY's billing and collection policies confirm its
21 intent to destroy this service?

22 A. BA-NY's billing and collection policies, which it
23 discussed in its October 6 Presentation in the context of a
24 hypothetical migration of the InfoFone service to an IXC or
25 CLEC, are inadequate. BA-NY offers no guarantee on how long
26 it will continue to provide such services, and in any event,
27 it charges are gravely over priced (1500 percent in excess
28

1
2 of its cost). Moreover, BA-NY cannot provide billing and
3 collection services for calls made by customers serviced by
4 other CLECs. Nor would BA-NY guarantee a price for this
5 service for a long period of time.

6
7 Moreover, BA-NY's prices for billing and
8 collection reflect an extraordinary level of monopoly
9 profit. Although BA-NY's costs are only 2 cents per call,
10 BA-NY charges 30 cents per call for their services (See Exh.
11 E), an increase of 1500 per cent. By terminating this
12 service, BA-NY has evaded a regulatory limitation on price,
13 not only maximizing its profits from any information
14 providers able to survive the termination, but forcing them
15 to raise their prices to consumers, causing severe declines
16 in their volume and creating a price umbrella that permits
17 BA-NY to charge higher prices for the information services
18 that it decides to offer.

19
20 Q. Are there any other problems with BA-NY's billing and
21 collection agreements?

22 A. BA-NY's billing and collection contracts with
23 interexchange carriers, by their terms, permit BA-NY to
24 refuse to bill and collect for certain services based on
25 information content. BA-NY's reservation of their right to
26 bill and collect for particular information providers is
27 particularly troubling and, we submit, prevents a "seamless"
28

1
2 transition, undermining any assurances that BA-NY may have
3 provided.
4

5 Q. Are there any other entities that could perform billing
6 and collection services under reasonable terms and prices?
7

8 A. BA-NY failed to identify any other entities that could
9 provide billing and collection services, or to advise of the
10 terms and conditions of those services. To my knowledge,
11 there are no such entities that provide billing and
12 collection services that are reliable and that charge a
13 reasonable fee.

14 On the contrary, all billing and collection services of
15 which I am aware charge exorbitant rates and their
16 collection rates are very low. Even if BA-NY provided
17 billing and collection, the prices would be prohibitive, as
18 discussed above.

19 Q. What costs are associated with a third party billing
20 and collection agency?
21

22 A. A billing and collection agency would submit the call
23 to BA-NY who would charge at least 30 cents for that
24 service. That 30 cent charge, when added to the third party
25 billing and collection agency's expenses and profits, would
26 necessarily result in charges to IPs for this service will
27 be in excess of the 40 cent 976 MAS charge to its customers,
28 and perhaps as much as \$1.00.

1
2
3 Q. What would happen to customers now using the services
4 if BA-NY terminated this service?

5 A. In the event that BA-NY were permitted to terminate
6 this service, it would soon disappear and 50 million callers
7 would have lost their ability to obtain the low priced,
8 reliable, information on demand service they have obtained
9 the benefit of for a quarter of a century.

10 Even if some callers began using "900" services, credit
11 card services, or subscription services as a substitute, the
12 number that would do so for more than six months is in my
13 opinion quite small -- no more than 20 percent.

14 As a result, tens of millions of InfoFone callers will
15 be deprived of a service they had relied on and used for
16 years. In view of this untapped demand, it is possible --
17 indeed probable -- that a BA-NY subsidiary would involve
18 itself in the provision of these services.

19
20 Q. Is BA-NY an actual or potential competitor in the
21 business of providing telephone information services?

22 A. BA-NY and its predecessors have over the years been
23 providing information programming for these services. It
24 was New York Telephone Company that originated the time and
25 weather services many, many years ago and continued to
26 operate those services until a decade ago when Judge Greene
27 forced a divestiture of these services in United States v.
28 AT&T, 552 F. Supp. 131 (D.D.C 1982).

1
2 To this day, BA-NY still owns InfoFone time and weather
3 programs. Although precluded from operating these services
4 by Judge Greene's decree, BA-NY auctions these services off
5 each year. Although I do not know the amount that BA-NY
6 receives from these services, in recent years BA-NY has
7 demanded a minimum bid of \$500,000 for its weather program
8 and \$150,000 to \$200,000 for its time program. See Weiss
9 Test. p. 23.

10 Although BA-NY has refused to provide information to
11 the IPs on the information programming services that it
12 previously provided or that it now provides, I am advised
13 that New York Telephone Company, following divestiture,
14 tried to provide telephone information services of its own
15 through its NYNEX Information Resources Corp. ("NIRC")
16 subsidiary, such as its "Consumer Tips" service. Attached
17 as Exh. I is a copy of BA-NY's "Consumer Tips" advertising
18 materials, which describe to consumers the information
19 services that it provides, including sports, lottery,
20 entertainment, business report, news, weather, and other
21 telephone information services.

22 Although BA-NY claims that it terminated those
23 services in 1997 (See BA-NY response to PPI-BA-NY-36,
24 annexed as Exh. E), it is possible--indeed likely--that BA-
25 NY terminated its services in order to avoid antitrust
26 arguments prohibiting the termination of InfoFone competitor
27 by a monopolist, and that further discovery will prove this
28

1
2 point, and that, following termination, BA-NY will return
3 to, or substantially increase its presence in, the New York
4 information services market. (If in fact it is no longer
5 competing in this market).

6 Bell Atlantic Mobile, a BA-NY subsidiary or
7 affiliate, currently provides many pay-per-call information
8 services to callers including traffic reports and Bloomberg
9 financial news reports.

10
11 Q. Once the InfoFone services are terminated, would there
12 be any barriers for BA-NY's re-entry into the market?

13 A. Once InfoFone services are terminated and the
14 information providers, left with unsatisfactory, non viable
15 telephone information alternatives, close their business, an
16 unregulated BA-NY subsidiary could reenter the information
17 services market and provide the same type of services
18 previously provided, except without effective competition.

19 If this were to occur, as I believe it will, an
20 unregulated BA-NY information subsidiary will, I am advised,
21 be able to earn monopoly profits on pay-per-call information
22 programs using local seven digit dialing devoid of
23 competition. See Eisenstadt Test.

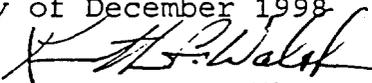
24 Q. What is your conclusion in view of the foregoing?
25
26
27
28

A. BA-NY's application to withdraw its InfoFone services tariff and terminate all InfoFone services should be denied, BA-NY should be required to comply with the terms of its InfoFone tariff, including its tariff for the 976 mass announcement service, contribution should be removed from all InfoFone services, and BA-NY should be required to assure call count accuracy for this service.



Richard Cohen

Sworn to before me this
11th day of December 1998



KENNETH G. WALSH
Notary Public, State of New York
No. 02 WA-5011216
Qualified In Queens County
Commission Expires 04/12/99

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