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FILE

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June 22, 2001

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie Roman Salas
Secretary
Office of the Commission Secretary
Federal Communications Commission
FCC Portals II
445 12th Street, SW
Washington, DC 20554

Re: C.F. Communications Corp., et al. v. Century Telephone
of Wisconsin, Inc. et al. EB Docket No. 01-99

Dear Ms. Salas:

Enclosed for filing is an original and three copies of Complainant's Responses and Objections to Defendant's First Set of Interrogatories in cases E-93-50 and E-93-62 and Complainant's Responses and Objections to Defendant's First Request for Production of Documents in case E-93-50. Please return one date stamped copy to our messenger.

Thank you for your assistance in this matter.

Sincerely,



Charles V. Mehler, III

CVM/emf
Enclosure

No. of Copies rec'd 0 + 3
List A B C D E

DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP

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June 22, 2001

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JUN 22 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA FACSIMILE AND FIRST-CLASS MAIL

Sherry A. Ingram
Regulatory Counsel
Verizon
1320 North Court House Road
Eighth Floor
Arlington, VA 22201

Re: *C.F. Communications Corp., et. al. v. Century Telephone of Wisconsin, Inc., et. al.*

Dear Sherry:

Enclosed please find Complainant's Responses and Objections to Defendant's First Set of Interrogatories in the cases brought by B.D.A. Sales, Inc. (E-93-50), and Just-Tel, Inc. (E-93-62). We are awaiting signed declaration pages from our client and will forward them to you upon receipt.

We have also enclosed Complainant's Responses and Objections to Defendant's First Request for Production of Documents in the case brought by B.D.A. Sales, Inc. (E-93-50).

Thank you for your assistance. If you have any questions, do not hesitate to call.

Sincerely,



Albert H. Kramer

Att.

cc: Service List Attached to Responses

1177 Avenue of the Americas • 41st Floor • New York, New York 10036-2714

Tel (212) 835-1400 • Fax (212) 997-9880

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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JUN 22 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
C.F. Communications Corp., et. al.,)
)
Complainants,)
)
v.)
)
Century Telephone of Wisconsin, Inc.,)
et. al.,)
)
Defendants.)

EB Docket No. 01-99

File No. E-93-62

To: **Arthur I. Steinberg**
Administrative Law Judge

COMPLAINANT'S RESPONSES AND OBJECTIONS
TO DEFENDANT'S FIRST SET OF INTERROGATORIES

Pursuant to Section 1.323(b) of the Commission's rules, 47 C.F.R. § 1.323(b),
Complainant herein responds to Defendant's First Set of Interrogatories to Complainant.

GENERAL RESPONSES AND OBJECTIONS

1. Complainant's responses to the Interrogatories are based on the best information presently known to Complainant, and Complainant reserves the right to amend, supplement, correct, or clarify its responses when other or additional information becomes available, and to interpose additional objections or to move for an appropriate order when and if such becomes necessary.

2. Where the information requested by these Interrogatories is ascertainable from documents in the possession, custody, or control of Complainant, and the burden of ascertaining or deriving the information from such records is the same for Defendant as for Complainant, Complainants will make such documents available for inspection and review by Defendant. The fact that Complainant produces documents to Defendant, or makes documents available for inspection and review by Defendant, however, does not mean that such documents provide evidence of all ANIs for the telephone lines Complainant had in service during the period through April 16, 1997, or provide evidence of all damages incurred by Complainant during the period through April 16, 1997. Rather, additional information or documents from Defendant may be needed in order to ascertain all the ANIs for the telephone lines Complainant had in service or all the damages that Complainant incurred as a result of the EUCL charges billed by Defendant.

3. Complainant will produce documents to Defendant, and make documents available for inspection and review by Defendant, provided Defendant signs an appropriate confidentiality agreement.

4. Complainant objects to these Interrogatories to the extent that they seek any information or material that is subject to the attorney-client privilege or the common interest privilege or information or material that was prepared in anticipation of litigation or that otherwise constitutes protectable work product.

5. Complainant objects to these Interrogatories to the extent that they seek information pertaining to damages incurred by, or EUCL charges paid by, Complainant during the time period from 1991 through April 16, 1997. Because Complainant and Defendant have entered into a Stipulation Agreement as to the amount of EUCL charges

paid by Complainant each month during this time period, information on these subjects is no longer relevant to any matters at issue in this proceeding.

6. Complainant objects to these Interrogatories as unduly burdensome to the extent that they seek information that is already in the possession of Defendant through Defendant's records or otherwise.

7. The term "Verizon" or "Defendant," as used in these Responses, Objections, and General Objections shall be defined to include the Defendant, Verizon New York, Inc., and any and all of its predecessor or successors, including, but not limited to, New York Telephone Company and NYNEX, as well as any agents, attorneys, employees, or other persons or entities acting on behalf of these entities.

RESPONSES AND OBJECTIONS

1. Please state your full name, your place and date of incorporation, your principal place of business, your current address and telephone number, and all names under which you do or have done business.

Response:

Subject to the foregoing General Objections, Complainant states that its full name is Just-Tel, Inc. ("Just-Tel" or "Complainant"). Just-Tel was incorporated on June 3, 1987 in the State of New York. Just-Tel's principal place of business and current address is P.O. Box 140033, Howard Beach, NY 11414, and its current phone number is (718) 848-4645. Just-Tel has not conducted business under any other name.

2. To the extent that the business or legal entity that filed the Complaint no longer exists, please identify each person or entity that claims a legal right to receive any monetary settlement that might be given or any damages that might be awarded as a result of your Complaint, including, but not limited to, the name, address, and telephone number of any debtor in possession or bankruptcy trustee or estate.

Response:

Subject to the foregoing General Objections, Complainant states that the business or legal entity that filed the Complaint still exists.

3. If the business or legal entity that filed the Complaint sold or otherwise transferred its business or any payphones identified in response to Interrogatory Number 4 to another entity, please identify that entity, the business or payphones involved and any documents that described that transaction.

Response:

Subject to the foregoing General Objections, Complainant states that it has not sold or otherwise transferred its business or any payphones identified in response to Interrogatory Number 4 to any other entity.

4. Please state:

- (i) The telephone number of the lines you used to provide public payphone service for which you claim you were wrongfully assessed an EUCL charged during the relevant time period;
- (ii) The date on which each such telephone line was installed and the date each such telephone line was suspended or disconnected; and
- (iii) The location of each public payphone for which you claim you were wrongfully assessed an EUCL charge during the relevant time period; and

- (iv) For each such payphone, state the basis for our contention that there was not “a combination of general public and specific customer need” for the payphone services at that location.

For each person identified as having personal knowledge of this information, state the substance of their knowledge and identify any documents, data compilations, or tangible things in their possession, custody, or control that are relevant to the facts alleged in the Complaint or that support your claim for damages in this proceeding.

Objection:

Complainant objects to this Interrogatory because Defendant, as the provider of the telephone lines to which Complainant’s phones were connected, already has the information requested in this Interrogatory within its possession. Moreover, Complainant objects to this Interrogatory on the grounds of relevance because Complainant has entered into a Stipulation Agreement with Verizon as to the amount of EUCL charges that Complainant paid to Verizon during each month of the time period from 1991 through April 16, 1997. Thus, evidence as to the amount of EUCL charges paid by Complainant to Verizon during this time period, proof of payment of such charges, and documents regarding, referring to, or reflecting such payment, is not relevant to any matters at issue in this proceeding.

Response:

Subject to this specific objection and the foregoing General Objections, Complainant responds to this Interrogatory as follows:

- (i) The ANIs of the telephone lines that Complainant used to provide payphone service for which Complainant was wrongfully assessed EUCL charges during the relevant time period are included in an ANI list sent by NYNEX to Complainant on or about January 14, 1997 that has already been provided to Defendant. The ANIs of the telephone

lines that Complainant used to provide public payphone service are also set forth in dialaround records from both the Independent Payphone Association of New York (“IPANY”) and the American Public Communications Council (“APCC”), the entities which collected dial around compensation for Complainant, copies of which will be made available for Defendant’s inspection and review.

In addition, the ANIs of the telephone lines that Complainant used to provide public payphone service for which Complainant was wrongfully assessed EUCL charges are also set forth in phone bills sent by Verizon to Complainant in which such EUCL charges were imposed. These phone bills, which are voluminous, will be made available for inspection and review by Defendant at the offices of Dickstein Shapiro Morin & Oshinsky LLP, 2101 L Street, NW, Washington, DC 20037-1526, (202) 785-9700. Some or all of the ANIs of the telephone lines that Complainant used to provide public payphone service are also set forth in various other business records in the possession, custody, or control of Complainant, including copies of cancelled checks from Complainant for the amounts paid to Verizon.

Because the burden of deriving or ascertaining the telephone numbers of the lines used by Complainant to provide public payphone service from the dialaround records, the phone bills, and/or the business records referenced above is the same for Defendant as for Complainant, Complainant will make the records in its possession, custody, or control that are responsive to this Interrogatory available for Defendant’s inspection and review at the offices of Dickstein Shapiro Morin & Oshinsky LLP, 2101 L Street, NW, Washington, DC 20037-1526, (202) 785-9700.

(ii) The date on which each telephone line that Complainant used to provide public payphone service was installed, suspended, or disconnected can be ascertained or

derived from the records identified in response to part (i) of this Interrogatory, including the dialaround records and the phone bills. Because the burden of deriving or ascertaining this information from these records is the same for Defendant as for Complainant, Complainant will make the records in its possession, custody, or control that are responsive to this Interrogatory available for inspection and review by Defendant at the offices of Dickstein Shapiro Morin & Oshinsky LLP, 2101 L Street, NW, Washington, DC 20037-1526, (202) 785-9700.

(iii) The location of each public payphone on which Complainant was wrongfully assessed EUCL charges during the relevant time period can be ascertained or derived from the records identified in response to part (i) of this Interrogatory, including the APCC dialaround records and the phone bills. Because the burden of deriving or ascertaining this information from these records is the same for Defendant as for Complainant, Complainant will make the records in its possession, custody, or control that are responsive to this Interrogatory available for inspection and review by Defendant at the offices of Dickstein Shapiro Morin & Oshinsky LLP, 2101 L Street, NW, Washington, DC 20037-1526, (202) 785-9700.

(iv) Unlike Defendant's business, Complainant's business was focused on public pay telephones. The telephones owned, installed, and/or serviced by Complainant were tariffed as public payphones and installed for public use. Various attributes of Complainant's payphones, while overlapping and not required to establish their public purpose and use, provide support for the conclusion that Complainant's payphones were for public use. Complainant's payphones, for instance, were installed outdoors where they would be most available to the public. As a matter of business practice, Complainant

generally does not install pay telephones to meet a specific customer need or the specific needs of a location owner or manager. Complainant's payphones were generally not even capable, as installed, of receiving incoming phone calls. It is Complainant's practice, both currently and during the time period relevant to this proceeding, to select locations for its payphones on the basis of coin revenue potential, meaning locations that are available to the largest number of end users. Such locations are public places.

The following individual has personal knowledge of the information in Complainant's response to Interrogatory Number 4: Ed Orr, Just-Tel, Inc., P.O. Box 140033, Howard Beach, New York 11414, (718) 848-4645. The relevant documents in the possession, custody, or control of Mr. Orr consist of all the records identified in Complainant's response to parts (i) through (iv) above.

5. For each telephone number identified in response to Interrogatory Number 4, please state the amount of the EUCL charge you claim you paid each month during the relevant time period, provide proof of your payment of the charge, and identify any documents you contend constitute evidence of payment.

Objection:

Complainant objects to this Interrogatory on the grounds of relevance because Complainant has entered into a Stipulation Agreement with Verizon as to the amount of EUCL charges paid by Complainant to Verizon during each month of the time period from 1991 through April 16, 1997. Thus, evidence as to the amount of EUCL charges paid by Complainant to Verizon during this time period, proof of payment of such charges, and documents evidencing such payment, is not relevant to any matters at issue in this proceeding. Complainant also objects to this Interrogatory because Defendant, as the

provider of the telephone lines to which Complainant's phones were connected, already has the information requested in this Interrogatory within its possession, custody, or control.

Response:

Subject to this specific objection and the foregoing General Objections, Complainant states that as to the amount EUCL charges paid by Complainant to Verizon during the time period prior to 1991, information on the amount of EUCL charges Complainant paid per phone line per month can be ascertained or derived from the ANI list referenced above that will be provided to Defendant, along with information within the Defendant's possession, custody, or control regarding the installation and disconnect dates and the applicable EUCL rates, as well as from Complainant's copies of the phone bills sent by Verizon to Complainant, and from copies of cancelled checks written by Complainant to Verizon for payment of the amounts billed during this period. The phone bills and cancelled checks will be made available at the offices of Dickstein Shapiro Morin & Oshinsky LLP, 2101 L Street, NW, Washington, DC 20037-1526, (202) 785-9700 for Defendant's inspection and review as the burden of ascertaining this information from these records is the same for Defendant as for Complainant.

6. Please provide a computation of each and every category of damages for which recovery is sought, including the source and method of computation, and identify all relevant documents and materials or such other evidence to be used by the Complainant to determine the amount of damages sought as set forth in section 1.722 of the Commission's rules.

Objection:

Complainant objects to this Interrogatory on the grounds of relevance because Complainant has entered into a Stipulation Agreement with Verizon as to the amount of EUCL charges paid by Complainant to Verizon during each month of the time period from 1991 through April 16, 1997. Thus, evidence as to the amount of EUCL charges paid by Complainant to Verizon during this time period, proof of payment of such charges, and documents regarding, referring, or reflecting such payment, is not relevant to any matters at issue in this proceeding. Complainant also objects to this Interrogatory because Defendant, as the provider of the telephone lines to which Complainant's phones were connected, already has the information requested in this Interrogatory within its possession, custody, or control.

Response:

Subject to this specific objection and the foregoing General Objections, Complainant states that Complainant seeks recovery of the amount that it paid in EUCL charges to Verizon through April 16, 1997, plus interest on this amount. The EUCL charges were imposed as a flat fee per telephone line in operation per month. The damages, other than interest, that Complainant incurred for any particular month can be calculated by multiplying the number of lines that Complainant had in service during a particular month by the EUCL charge rate in effect during that month for that area. The documents and materials to be used by the Complainant to determine the amount of damages, other than interest, sought by Complainant are Complainant's copies of the phone bills sent by Verizon to Complainant imposing such charges, the dialaround records from APCC and IPANY, the other records referenced in Complainant's response to

Interrogatory Number 4 above, and such records, including billing records, that Complainant obtains from Defendant in discovery in this proceeding.

As for the damages incurred by Complainant, apart from interest, prior to 1991, a complete, accurate, and detailed computation of Complainant's damages for this period can be completed after Defendant produces information and documents within the Defendant's possession, custody, or control, including information regarding the installation date and suspension or disconnect date for each ANI Complainant had in service, billing records, and information as to the applicable EUCL rates that the Defendant had in effect during the relevant period. Using the method of computation described above, Defendant can use the information within its possession, custody, or control to calculate Complainant's damages as easily as Complainant can calculate such damages.

7. If you cannot provide the information requested in Interrogatory Number 6, then please provide an explanation of:

- (i) The information not in the possession of the Complainant that is necessary to develop a detailed computation of damages;
- (ii) Why such information is unavailable to the Complainant;
- (iii) The factual basis Complainant has for believing that such evidence of damages exists; and
- (iv) A detailed outline of the methodology that would be used to create a computation of damages with such evidence, as set forth in Section 1.7222 of the Commission's rules.

Objection:

Complainant objects to this Interrogatory on the grounds of relevance because Complainant has entered into a Stipulation Agreement with Verizon as to the amount of

EUCL charges paid by Complainant to Verizon during each month of the time period from 1991 through April 16, 1997. Thus, evidence as to the amount of EUCL charges paid by Complainant to Verizon during this time period, proof of payment of such charges, and documents evidencing such payment, is not relevant to any matters at issue in this proceeding.

Response:

Subject to this specific objection and the foregoing General Objections, Complainant states that a complete, accurate, and detailed computation of the damages it has incurred due to the wrongful billing of EUCL charges by Verizon could be conducted based upon information currently in the possession, custody, or control of the Defendant, including the installation date and suspension or disconnect date for each ANI on the list referenced in Complainant's Response to Interrogatory Number 4, billing records, and information as to the EUCL rates that the Defendant had in effect each month during the relevant period or, at a minimum, confirmation from the Defendant that the EUCL rates Complainant believes were imposed by Defendant during the relevant time period are accurate. With this information, the time periods during which each of the phone numbers on the attached ANI list were in service could be obtained, and then the applicable EUCL rates could be multiplied by the number of lines in service each month in order to determine the amount of damages incurred by Complainant. This information is not readily available to Complainant because Complainant cannot verify whether the records in its possession, custody, or control regarding the EUCL charges billed by Verizon, and paid by Complainant, including the actual phone bills, are complete, and review of the actual phone bills sent by Verizon to Complainant, and the cancelled checks from Complainant paying these bills, in order to ascertain the amounts that Complainant paid to Defendant in

EUCL charges for each telephone line is unduly burdensome in light of the voluminous nature of these records and because Defendant, as the provider of the telephone lines to which Complainant's payphones were connected, has this information readily in its possession. For this reason, Defendant was able to ascertain this information in reaching the Stipulation with Complainant as to the EUCL charges paid during the time period from 1991 through April 16, 1997.

8. Please state the full name, address title, and position of each person you plan to call as a witness at the hearing in this matter and identify the subject matter on which they are expected to testify. For any person you plan to call as an expert witness, also include their professional qualifications, the facts and opinions to which they are expected to testify, the grounds of each opinion, and any documents used to formulate or support their opinion.

Response:

Subject to the foregoing General Objections, Complainant states that it has not yet determined what witnesses, either expert or lay, that it will call at the hearing in this matter or the subject matter on which such witnesses will testify. When this determination is made, Complainant will provide this information to Defendant in a supplemental response to this Interrogatory.

Dated: June 22, 2001

DICKSTEIN SHAPIRO MORIN
& OSHINSKY LLP
2101 L Street, N.W.
Washington, D.C. 20037-1526
(202)785-9700
Attorneys for Complainants

By: Albert H. Kramer
Albert H. Kramer

CERTIFICATE OF SERVICE

I hereby certify that on June 22, 2001, a copy of the foregoing Complainant's Responses and Objections to Defendant's First Set of Interrogatories was served by facsimile and first-class mail, postage prepaid, on Sherry A. Ingram, Verizon, 1320 North Court House Road, Arlington, VA 22201, and by first-class mail, postage prepaid, on the following parties:

The Honorable Arthur I. Steinberg
Administrative Law Judge
Federal Communications Commission
445 12th Street, SW
Room I-C861
Washington, DC 20554

Magalie Roman Salas, Secretary
Office of the Commission Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-B204
Washington, D.C. 20554
(Original and 3 Copies)

Tejal Mehta, Esquire
Federal Communications Commission
Market Disputes Resolution Division
Enforcement Bureau
445 12th Street, S.W.
Washington, D.C. 20554

David H. Solomon, Chief
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Michael Thompson, Esquire
Wright & Talisman, P.C.
1200 G Street, N.W.
Washington, D.C. 20005

John M. Goodman
Verizon
1300 I Street, NW 400W
Washington, DC 20005

Rikke Davis, Esquire
Sprint Corporation
401 9th Street, N.W., Suite 400
Washington, D.C. 20004

Mary Sisak, Esquire
Robert Jackson, Esquire
Blooston, Mordkowsky, Dickens, Duffy & Prendergast
2120 L Street, N.W., Suite 300
Washington, D.C. 20037

William A. Brown, Esquire
Davida M. Grant, Esquire
Southwestern Bell Telephone Company
1401 I Street, N.W., Suite 1100
Washington, D.C. 20005

Angela M. Brown, Esquire
Theodore Kingsley, Esquire
Bell South Telecommunications, Inc.
675 West Peachtree Street, Suite 4300
Atlanta, Georgia 30375



Charles V. Mehler III

DECLARATION OF ED ORR

I, Ed Orr, hereby declare and state that I have read the foregoing, "Complainant's Responses and Objections To Defendant's First Set of Interrogatories," and hereby certify that the statements contained therein answering the Defendant's interrogatories are true and correct to the best of my knowledge and belief.

Signed and dated this ____ day of June 2001.

Ed Orr

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)

C.F. Communications Corp., et. al.,)

Complainants,)

v.)

Century Telephone of Wisconsin, Inc.,)
et. al.,)

Defendants.)

EB Docket No. 01-99

File No. E-93-50

**To: Arthur I. Steinberg
Administrative Law Judge**

**COMPLAINANT'S RESPONSES AND OBJECTIONS
TO DEFENDANT'S FIRST SET OF INTERROGATORIES**

Pursuant to Section 1.323(b) of the Commission's rules, 47 C.F.R. § 1.323(b),
Complainant herein responds to Defendant's First Set of Interrogatories to Complainant.

GENERAL RESPONSES AND OBJECTIONS

1. Complainant's responses to the Interrogatories are based on the best information presently known to Complainant, and Complainant reserves the right to amend, supplement, correct, or clarify its responses when other or additional information becomes available, and to interpose additional objections or to move for an appropriate order when and if such becomes necessary.

2. Where the information requested by these Interrogatories is ascertainable from documents in the possession, custody, or control of Complainant, and the burden of ascertaining or deriving the information from such records is the same for Defendant as for Complainant, Complainants will make such documents available for inspection and review by Defendant. The fact that Complainant produces documents to Defendant, or makes documents available for inspection and review by Defendant, however, does not mean that such documents provide evidence of all ANIs for the telephone lines that Complainant had in service during the period through April 16, 1997, or provide evidence of all damages incurred by Complainant during the period through April 16, 1997. Rather, additional information or documents from Defendant may be needed to ascertain all the ANIs for the telephone lines that Complainant had in service or all the damages that Complainant incurred as a result of the EUCL charges billed by Defendant.

3. Complainant will produce documents to Defendant, and make documents available for inspection and review by Defendant, provided that Defendant signs an appropriate confidentiality agreement.

4. Complainant objects to these Interrogatories to the extent that they seek any information or material that is subject to the attorney-client privilege or the common interest privilege or information or material that was prepared in anticipation of litigation or that otherwise constitutes protectable work product.

5. Complainant objects to these Interrogatories as unduly burdensome to the extent that they seek information that is already in the possession of Defendant through Defendant's records or otherwise.

6. The term "Verizon" or "Defendant," as used in these Responses, Objections, and General Objections shall be defined to include the Defendant, Verizon New York, Inc.,

and any and all of its predecessor or successors, including, but not limited to, New York Telephone Company, NYNEX, and Bell Atlantic, as well as any agents, attorneys, employees, or other persons or entities acting on behalf of these entities.

RESPONSES AND OBJECTIONS

1. Please state your full name, your place and date of incorporation, your principal place of business, your current address and telephone number, and all names under which you do or have done business.

Response:

Subject to the foregoing General Objections, Complainant states that B.D.A. Sales, Inc. (“BDA”) was incorporated in December 1985 in the State of New York. BDA’s current address and principal place of business is 2035 Victory Boulevard, Staten Island, New York 10314, and its current phone number is (718) 494-4330. BDA has not done business under any other names.

2. To the extent that the business or legal entity that filed the Complaint no longer exists, please identify each person or entity that claims a legal right to receive any monetary settlement that might be given or any damages that might be awarded as a result of your Complaint, including, but not limited to, the name, address, and telephone number of any debtor in possession or bankruptcy trustee or estate.

Response:

Subject to the foregoing General Objections, Complainant states that the business or legal entity that filed the Complaint still exists.

3. If the business or legal entity that filed the Complaint sold or otherwise transferred its business or any payphones identified in response to Interrogatory Number 4 to another entity, please identify that entity, the business or payphones involved and any documents that described that transaction.

Response:

Subject to the foregoing General Objections, Complainant states that on or about January 26, 1996, Complainant sold approximately 350 of its payphones to Island Communications, Inc. On or about May 17, 2001, BDA transferred approximately 70 of its payphones to B.D.A. Payphones. Documents describing these transactions and setting forth the specific payphones involved are being located and will be produced to Defendant.

4. Please state:
- (i) The telephone number of the lines you used to provide public payphone service for which you claim you were wrongfully assessed an EUCL charge during the relevant time period;
 - (ii) The date on which each such telephone line was installed and the date each such telephone line was suspended or disconnected; and
 - (iii) The location of each public payphone for which you claim you were wrongfully assessed an EUCL charge during the relevant time period; and

- (iv) For each such payphone, state the basis for our contention that there was not “a combination of general public and specific customer need” for the payphone services at that location.

For each person identified as having personal knowledge of this information, state the substance of their knowledge and identify any documents, data compilations, or tangible things in their possession, custody, or control that are relevant to the facts alleged in the Complaint or that support your claim for damages in this proceeding.

Objection:

Complainant objects to this Interrogatory because Defendant, as the provider of the telephone lines to which Complainant’s phones were connected, already has the information requested in this Interrogatory within its possession.

Response:

Subject to this specific objection and the foregoing General Objections, Complainant responds to this Interrogatory as follows:

- (i) The ANIs of the telephone lines that Complainant used to provide public payphone service for which Complainant was wrongfully assessed EUCL charges during the time period through April 16, 1997 are set forth in various records, including:
 - (a) dialaround records from the American Public Communications Council (“APCC”), an entity that collected dialaround compensation for Complainant;
 - (b) dialaround records from the Independent Payphone Association of New York (“IPANY”), an entity that collected dialaround compensation for Complainant;
 - (c) phones bills sent by Verizon to Complainant imposing the EUCL charge;
 - (d) cancelled checks from Complainant for the amounts paid to Verizon;
 - (e) installation records; and
 - (f) installation confirmation records received from Verizon.

Because the burden of ascertaining or deriving the information necessary to answer this interrogatory from these records is the same for Defendant as for Complainant, Complainant will make responsive documents in its possession, custody, or control available to Defendant for inspection and review at the offices of Dickstein Shapiro Morin & Oshinsky LLP, 2101 L Street, NW, Washington, DC 20037-1526, (202) 785-9700.

(ii) The date on which each telephone line that Complainant used to provide public payphone service was installed, suspended, or disconnected can be ascertained or derived from the records identified in response to part (i) of this Interrogatory, including the APCC and IPANY dialaround records and the phone bills. Because the burden of deriving or ascertaining this information from these records is the same for Defendant as for Complainant, Complainant will make responsive documents in its possession, custody, or control available for inspection and review by Defendant at the address listed in Complainant's response to part (i) of this Interrogatory.

(iii) The location of each public payphone on which Complainant was wrongfully assessed EUCL charges during the relevant time period can be ascertained or derived from the records identified in response to part (i) of this Interrogatory, including the APCC and IPANY dialaround records and the phone bills. Because the burden of deriving or ascertaining this information from these records is the same for Defendant as for Complainant, Complainant will make responsive documents in its possession, custody, or control available for inspection and review by Defendant at the address listed in Complainant's response to part (i) of this Interrogatory.

(iv) Unlike Defendant's business, Complainant's business was focused on public pay telephones. The telephones owned, installed, and/or serviced by Complainant were tariffed as public payphones and were installed for public use, rather than for the use of any

specific customer or premises owner of for “a combination of general public and specific customer need.” Various attributes of Complainant’s payphones, while overlapping and not required to establish their public purpose and use, support the conclusion that Complainant’s payphones were for public use. The vast majority of these payphones, for instance, were installed outdoors where they would be most available to the public. In those instances where Complainant installed a pay telephone indoors, such pay telephone was placed in the area where the pay telephone would be most available to the public. Except for a few rare exceptions, none of Complainant’s payphones were capable, as installed and subscribed, of receiving incoming phone calls. As a matter of business practice, Complainant generally did not install pay telephones to meet a specific customer need or the specific needs of a location owner or manager. It was Complainant’s practice, both currently and during the time period relevant to this proceeding, to select locations for its payphones on the basis of coin revenue potential, meaning locations that are available to the largest number of end users. Such locations are public places.

The following individuals have personal knowledge of the information in Complainant’s response to Interrogatory Number 4: (a) Debra Kaloyios, 2035 Victory Boulevard, Staten Island, New York 10314, (718) 494-4330; (b) Steve Kaloyios, 2035 Victory Boulevard, Staten Island, New York 10314, (718) 494-4330; and (c) Anthony Aspromonte, 2035 Victory Boulevard, Staten Island, New York 10314, (718) 494-4330. The relevant documents in the possession, custody, or control of these individuals consist of all the records identified in Complainant’s response to parts (i) through (iv) above.

5. For each telephone number identified in response to Interrogatory Number 4, please state the amount of the EUCL charge you claim you paid each month

during the relevant time period, provide proof of your payment of the charge, and identify any documents you contend constitute evidence of payment.

Objection:

Complainant objects to this Interrogatory because Defendant, as the provider of the telephone lines to which Complainant's phones were connected, already has the information requested in this Interrogatory within its possession, custody, or control.

Response:

Subject to this specific objection and the foregoing General Objections, Complainant states that the amount of EUCL charges paid by Complainant to Verizon during the time period through April 16, 1997, can be ascertained or derived from the documents referenced in Complainant's response to part (i) of Interrogatory Number 4 above, including copies of the phone bills sent by Verizon to Complainant and copies of cancelled checks written by Complainant to Verizon for payment of the amounts billed during this period, along with information within the Defendant's possession, custody, or control regarding the installation and disconnect dates and the applicable EUCL rates. The records in Complainant's possession, custody, or control that are responsive to this request will be made available at the offices of Dickstein Shapiro Morin & Oshinsky LLP, 2101 L Street, NW, Washington, DC 20037-1526, (202) 785-9700, for Defendant's inspection and review, because the burden of ascertaining the information requested in this Interrogatory from these records is the same for Defendant as for Complainant.

6. Please provide a computation of each and every category of damages for which recovery is sought, including the source and method of computation, and identify all relevant documents and materials or such other evidence to be used by the Complainant to

determine the amount of damages sought as set forth in section 1.722 of the Commission's rules.

Objection:

Complainant objects to this Interrogatory because Defendant, as the provider of the telephone lines to which Complainant's phones were connected, already has the information requested in this Interrogatory within its possession, custody, or control.

Response:

Subject to this specific objection and the foregoing General Objections, Complainant states that Complainant seeks recovery of the amount that it paid in EUCL charges to Verizon through April 16, 1997, plus interest on this amount. The EUCL charges were imposed as a flat fee per telephone line in operation per month. The damages, other than interest, that Complainant incurred for any particular month can be calculated by multiplying the number of lines that Complainant had in service during a particular month by the EUCL charge rate in effect during that month for that area. The documents and materials to be used by the Complainant to determine the amount of damages, other than interest, sought by Complainant are Complainant's copies of the phone bills sent by Verizon to Complainant imposing such charges, the dialaround records from APCC and IPANY, the other records referenced in Complainant's response to Interrogatory Number 4 above, and such records, including billing records, that Complainant obtains from Defendant in discovery in this proceeding.

A complete, accurate, and detailed computation of the damages Complainant incurred for the period through April 16, 1997 can be completed after Defendant produces information and documents within the Defendant's possession, custody, or control, including information regarding the installation date and suspension or disconnect date for each ANI that Complainant had in service, billing records, and information as to the applicable EUCL rates that the Defendant had in effect during the relevant period. Using the method of computation described above, Defendant can use the information within its possession, custody, or control to calculate Complainant's damages as easily as Complainant can calculate such damages.

7. If you cannot provide the information requested in Interrogatory Number 6, then please provide an explanation of:

- (i) The information not in the possession of the Complainant that is necessary to develop a detailed computation of damages;
- (ii) Why such information is unavailable to the Complainant;
- (iii) The factual basis Complainant has for believing that such evidence of damages exists; and
- (iv) A detailed outline of the methodology that would be used to create a computation of damages with such evidence, as set forth in Section 1.7222 of the Commission's rules.

Response:

Subject to the foregoing General Objections, Complainant states that a complete, accurate, and detailed computation of the damages it has incurred due to the wrongful billing of EUCL charges by Verizon could be conducted based upon information currently

in the possession, custody, or control of the Defendant, including the installation date and suspension or disconnect date for each ANI subscribed to by Complainant, billing records, and information as to the EUCL rates that the Defendant had in effect each month during the relevant period or, at a minimum, confirmation from the Defendant that the EUCL rates that Complainant believes were imposed by Defendant during the relevant time period are accurate. With this information, the time periods during which each of the ANIs Complainant had in service could be obtained, and then the applicable EUCL rates could be multiplied by the number of lines in service each month in order to determine the amount of damages incurred by Complainant. This information is not readily available to Complainant because Complainant has not verified whether the records in its possession, custody, or control regarding the EUCL charges billed by Verizon, and paid by Complainant, including the actual phone bills, are complete, and because Defendant, as the provider of the telephone lines to which Complainant's payphones were connected, has this information readily in its possession.

8. Please state the full name, address title, and position of each person you plan to call as a witness at the hearing in this matter and identify the subject matter on which they are expected to testify. For any person you plan to call as an expert witness, also include their professional qualifications, the facts and opinions to which they are expected to testify, the grounds of each opinion, and any documents used to formulate or support their opinion.

Response:

Subject to the foregoing General Objections, Complainant states that it has not yet determined what witnesses, either expert or lay, that it will call at the hearing in this matter or the subject matter on which such witnesses will testify. When this determination is made, Complainant will provide this information to Defendant in a supplemental response to this Interrogatory.

As to Specific and General Objections:

Dated: June 22, 2001

DICKSTEIN SHAPIRO MORIN
& OSHINSKY LLP
2101 L Street, N.W.
Washington, D.C. 20037-1526
(202)785-9700
Attorneys for Complainants

By: Albert H. Kramer
Albert H. Kramer

CERTIFICATE OF SERVICE

I hereby certify that on June ²² ___, 2001, a copy of the foregoing Complainant's Responses and Objections to Defendant's First Set of Interrogatories was served by facsimile and first-class mail, postage prepaid, on Sherry A. Ingram, Verizon, 1320 North Court House Road, Arlington, VA 22201, and by first-class mail, postage prepaid, on the following parties:

The Honorable Arthur I. Steinberg
Administrative Law Judge
Federal Communications Commission
445 12th Street, SW
Room I-C861
Washington, DC 20554

Magalie Roman Salas, Secretary
Office of the Commission Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-B204
Washington, D.C. 20554
(Original and 3 Copies)

Tejal Mehta, Esquire
Federal Communications Commission
Market Disputes Resolution Division
Enforcement Bureau
445 12th Street, S.W.
Washington, D.C. 20554

David H. Solomon, Chief
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

John M. Goodman
Verizon
1300 I Street, NW
400W
Washington, DC 20005

Michael Thompson, Esquire
Wright & Talisman, P.C.
1200 G Street, N.W.
Washington, D.C. 20005

Rikke Davis, Esquire
Sprint Corporation
401 9th Street, N.W., Suite 400
Washington, D.C. 20004

Mary Sisak, Esquire
Robert Jackson, Esquire
Blooston, Mordkowsky, Dickens, Duffy & Prendergast
2120 L Street, N.W., Suite 300
Washington, D.C. 20037

William A. Brown, Esquire
Davida M. Grant, Esquire
Southwestern Bell Telephone Company
1401 I Street, N.W., Suite 1100
Washington, D.C. 20005

Angela M. Brown, Esquire
Theodore Kingsley, Esquire
Bell South Telecommunications, Inc.
675 West Peachtree Street, Suite 4300
Atlanta, Georgia 30375

A handwritten signature in black ink, reading "Charles V. Mehler III". The signature is written in a cursive style and is positioned above a horizontal line.

Charles V. Mehler III

DECLARATION OF DEBRA KALOYIOS

I, Debra Kaloyios, hereby declare and state that I have read the foregoing, “Complainant’s Responses and Objections To Defendant’s First Set of Interrogatories,” and hereby certify that the statements contained therein answering the Defendant’s interrogatories are true and correct to the best of my knowledge and belief.

Signed and dated this ____ day of June 2001.

Debra Kaloyios
B.D.A. Sales, Inc.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)

C.F. Communications Corp., et. al.,)

Complainants,)

v.)

Century Telephone of Wisconsin, Inc.,)
et. al.,)

Defendants.)

EB Docket No. 01-99

File No. E-93-50

To: **Arthur I. Steinberg**
Administrative Law Judge

**COMPLAINANTS' RESPONSES AND OBJECTIONS TO DEFENDANT'S
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS**

Pursuant to Section 1.325(a) of the Commission's rules, 47 C.F.R. § 1.325(a),
Complainant herein responds to Defendant's First Request for Production of Documents
to Complainant.

GENERAL RESPONSES AND OBJECTIONS

1. Complainant's responses to the Requests for Productions are based on the
best information presently known to Complainant and the documents presently known and
available to Complainant, and Complainant reserves the right to amend, supplement,
correct, or clarify its responses when other or additional information or documents become

available, and to interpose additional objections or to move for an appropriate order when and if such becomes necessary.

2. The fact that Complainant produces documents to Defendant, or makes documents available for inspection and review by Defendant, however, does not mean that such documents provide evidence of all ANIs for the telephone lines that Complainant had in service during the period through April 16, 1997, or provide evidence of all damages incurred by Complainant during the period through April 16, 1997. Rather, additional information or documents from Defendant may be needed to ascertain all the ANIs for the telephone lines that Complainant had in service or all the damages that Complainant incurred as a result of the EUCL charges billed by Defendant.

3. Complainant will produce documents to Defendant and/or make documents available for inspection and review by Defendant, as set forth in the responses below, provided that Defendant signs an appropriate confidentiality agreement.

4. Complainant objects to these Requests for Production of Documents to the extent that they seek production of documents that are subject to the attorney-client privilege or the common interest privilege, documents that were prepared in anticipation of litigation or that otherwise constitutes protectable work product, or documents that contain or reflect confidential and proprietary business information.

5. Complainant objects to these Requests for the Production of Documents as unduly burdensome to the extent that they seek documents that are already in the possession of Defendant.

6. The term "Verizon" or "Defendant" as used in these Responses, Objections, and General Objections shall be defined to include the Defendant, Verizon New York, Inc., and any and all of its predecessor or successors, including, but not limited to, New York

Telephone Company, NYNEX, and Bell Atlantic, as well as any agents, attorneys, employees, or other persons or entities acting on behalf of these entities.

RESPONSES AND OBJECTIONS

1. All documents, including, but not limited to, service orders, invoices, bills, or receipts, that identify or reflect the dates of installation, suspension and disconnection during the relevant time period of each telephone line you used to provide public payphone service as to which you claim Defendant wrongfully assessed EUCL charges.

Objection:

Complainant objects to this Request for Production of Documents because Defendant, as the provider of the telephone lines to which Complainant's phones were connected, already has in its possession the documents requested in this Request for Production and the information contained within such documents.

Response:

Subject to this specific objection and the foregoing General Objections, Complainants will make available for Defendant's inspection, copying, and review at the offices of Dickstein Shapiro Morin & Oshinsky LLP, 2101 L Street, NW, Washington, DC 20037-1526, (202) 785-9700, the non-privileged documents in Complainant's possession, custody, or control that are fairly called for by this Request.

2. All documents, including, but not limited to, service orders, invoices, bills, or receipts, that identify or reflect the location of each public payphone for which you claim you were wrongfully assessed EUCL charges during the relevant time period.

Objection:

Complainant objects to this Request for Production of Documents because Defendant, as the provider of the telephone lines to which Complainant's phones were connected, already has in its possession the documents requested in this Request for Production and the information contained within such documents.

Response:

Subject to this specific objection and the foregoing General Objections, Complainants will make available for Defendant's inspection, copying, and review at the offices of Dickstein Shapiro Morin & Oshinsky LLP, 2101 L Street, NW, Washington, DC 20037-1526, (202) 785-9700, the non-privileged documents in Complainant's possession, custody, or control that are fairly called for by this Request.

3. All documents, including, but not limited to, service orders, invoices, bills, or receipts, that identify or reflect whether the payphone was used to provide public telephone service where a public need existed.

Objection:

Complainant objects to this Request for Production of Documents because Defendant, as the provider of the telephone lines to which Complainant's phones were connected, already has in its possession the documents requested in this Request for Production and the information contained within such documents.

Response:

Subject to this specific objection and the foregoing General Objections, Complainants will make available for Defendant's inspection, copying, and review at the offices of Dickstein Shapiro Morin & Oshinsky LLP, 2101 L Street, NW, Washington, DC 20037-1526, (202) 785-9700, the non-privileged documents in Complainant's possession, custody, or control that are fairly called for by this Request.

4. All documents, including, but not limited to, bills, invoices, cancelled checks, pay stubs or receipts, that evidence your payment of EUCL charges you claim were wrongfully assessed for each month during the relevant time period.

Objection:

Complainant objects to this Request for Production of Documents because Defendant, as the provider of the telephone lines to which Complainant's phones were connected, already has in its possession the documents requested in this Request for Production and the information contained within such documents.

Response:

Subject to this specific objection and the foregoing General Objections, Complainants will make available for Defendant's inspection, copying, and review at the offices of Dickstein Shapiro Morin & Oshinsky LLP, 2101 L Street, NW, Washington, DC 20037-1526, (202) 785-9700, the non-privileged documents in Complainant's possession, custody, or control that are fairly called for by this Request.

5. All documents, including any communications, relating to your payment or non-payment of any EUCL charges you claim were wrongfully assessed during the relevant time period.

Objection:

Complainant objects to this Request for Production of Documents because Defendant, as the provider of the telephone lines to which Complainant's phones were connected, already has in its possession the documents requested in this Request for Production and the information contained within such documents.

Response:

Subject to this specific objection and the foregoing General Objections, Complainants will make available for Defendant's inspection, copying, and review at the offices of Dickstein Shapiro Morin & Oshinsky LLP, 2101 L Street, NW, Washington, DC

20037-1526, (202) 785-9700, the non-privileged documents in Complainant's possession, custody, or control that are fairly called for by this Request.

6. All documents you rely upon to support your claim for damages in this proceeding.

Response:

Subject to the foregoing General Objections, Complainants will make available for Defendant's inspection, copying, and review at the offices of Dickstein Shapiro Morin & Oshinsky LLP, 2101 L Street, NW, Washington, DC 20037-1526, (202) 785-9700, the non-privileged documents in Complainant's possession, custody, or control that are fairly called for by this Request.

7. All documents or other evidentiary material relating to your computation of damages for the relevant time period.

Response:

Subject to the foregoing General Objections, Complainants will make available for Defendant's inspection, copying, and review at the offices of Dickstein Shapiro Morin & Oshinsky LLP, 2101 L Street, NW, Washington, DC 20037-1526, (202) 785-9700, the non-privileged documents in Complainant's possession, custody, or control that are fairly called for by this Request.

8. All documents provided to any expert you plan to call as a witness at the hearing on this matter.

Response:

Subject to the foregoing General Objections, Complainant states that it has not yet determined whether it will call any expert witness at the hearing in this matter or the documents that will be provided to any such expert. When these determinations are made, Complainant will provide and/or make available for Defendant's inspection, copying, and review the responsive, non-privileged documents in Complainant's possession, custody, or control that are fairly called for by this Request in accordance with any expert disclosure schedule that the parties or the Administrative Law Judge may establish.

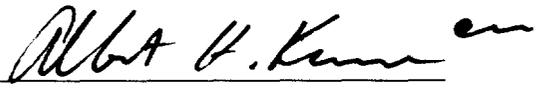
9. All documents prepared by, or under the direction or supervision of any expert you expect to call as a witness at the hearing in this matter, including reports that contain preliminary conclusions.

Response:

Subject to the foregoing General Objections, Complainant states that it has not yet determined whether it will call any expert witness at the hearing in this matter, and thus does not currently possess any documents responsive to this Request.

Dated: June 22, 2001

DICKSTEIN SHAPIRO MORIN
& OSHINSKY LLP
2101 L Street, N.W.
Washington, D.C. 20037-1526
(202)785-9700
Attorneys for Complainants

By: 
Albert H. Kramer

CERTIFICATE OF SERVICE

I hereby certify that on June 22, 2001, a copy of the foregoing Complainant's Responses and Objections to Defendant's First Request for Production of Documents was served by facsimile and first-class mail, postage prepaid, on Sherry A. Ingram, Verizon, 1320 North Court House Road, Arlington, VA 22201, and served by first-class mail, postage prepaid, on the following parties:

The Honorable Arthur I. Steinberg
Administrative Law Judge
Federal Communications Commission
445 12th Street, SW
Room 1-C861
Washington, DC 20554

Magalie Roman Salas, Secretary
Office of the Commission Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-B204
Washington, D.C. 20554
(Original and 3 Copies)

Tejal Mehta, Esquire
Federal Communications Commission
Market Disputes Resolution Division
Enforcement Bureau
445 12th Street, S.W.
Washington, D.C. 20554

David H. Solomon, Chief
Enforcement Bureau
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400W
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Rikke Davis, Esquire
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Mary Sisak, Esquire
Robert Jackson, Esquire
Blooston, Mordkowsky, Dickens, Duffy & Prendergast
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William A. Brown, Esquire
Davida M. Grant, Esquire
Southwestern Bell Telephone Company
1401 I Street, N.W., Suite 1100
Washington, D.C. 20005

Angela M. Brown, Esquire
Theodore Kingsley, Esquire
Bell South Telecommunications, Inc.
675 West Peachtree Street, Suite 4300
Atlanta, Georgia 30375

A handwritten signature in black ink, appearing to read "Charles V. Mehler III", written over a horizontal line.

Charles V. Mehler III