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CORRESPONDENCE

Before the FILE

Federal Communications Commission
Washington, D.C. 20554

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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 Nos. E-93-34, E-93-35, E-93-36, E-93-37, E-93-38, E-93-40, E-93-41, E-93-42, E-93-46, E-93-47, E-93-48, E-93-50, E-93-56, E-93-59, E-93-60, E-93-61, E-93-62, E-93-74, E-93-81

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

VERIZON'S OPPOSITION TO NOTICE OF DEPOSITION

Pursuant to section 1.315(b) of the Commission's Rules, defendant Verizon telephone companies respond to and oppose complainants' Notice of Deposition as follows:

Defendants have no objection to making employees available for deposition on any matter relevant to these actions. Such subjects include the EUCL charges assessed by defendants on the complainants ("Topic of Inquiry" No. 1), complainants' payment of — or failure to pay — these charges (Topic of Inquiry No. 2), defendants' billing and collection practices (Topics of Inquiry Nos. 7,¹ 8) and defendants' billing systems and document retention policies (Topics of Inquiry Nos. 9, 10).²

Defendants will be providing complainants significant discovery in response to these

¹ In addition to asking for testimony about independent payphone provider billing practices, complainants ask also about business and residential customer billing practices, which cannot be relevant to these cases.

² While Topic of Inquiry No. 5 may be relevant to this litigation, defendants have made no determinations concerning the classification of complainants' payphones.

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topics. There are nine defendant Verizon telephone companies in these 18 cases. During the relevant time period, these nine companies were owned by three unaffiliated holding companies, with different systems and potentially different practices. As a result, defendants estimate that they will need to produce as many as eight different individuals, and perhaps more, to cover these topics.

Defendants object, however, to producing witnesses to give testimony about subjects that cannot be relevant to this case.

First, defendants object to producing witnesses to give testimony relating to periods of time beyond the two-year statute of limitations period. Complainants' Topics of Inquiry Nos. 1, 2, 6, 8 and 9 must be limited to the relevant time period.

Second, defendants object to producing witnesses to testify about defendants' payphone businesses and the number of public and semi-public payphones defendants provided (Topics of Inquiry Nos. 3, 4 and 6). These inquiries cannot be relevant to the only issues that are to be tried at this hearing — how many of *complainants'* payphone were “public” and how much complainants paid in EUCL charges on those payphones.³ Defendants' practice of classifying its own payphones as “public” or “semi-public” for state tariff purposes or the number of such payphones cannot be relevant to those questions. Furthermore, the individuals who have knowledge of these subjects are different from the witnesses who will testify about the EUCL charges billed by defendants, and expanding the scope of discovery to include these subjects would significantly increase the burden of discovery on defendants.

Third, defendants further object to Topic of Inquiry No. 4, which seeks testimony about the “attributes that Verizon considers relevant” in determining whether a payphone is a “public

³ HDO ¶ 25.

payphone” for the purposes assessment of EUCL charges. This Topic, therefore, asks for testimony about legal theories and arguments, not a proper subject of discovery.

For these reasons, defendants request that the Commission limit the scope of these depositions to those identified above as being relevant to these cases.

Dated: July 13, 2001

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of July, 2001, copies of the foregoing
“Verizon’s Opposition to Notice of Deposition” were sent by first class mail, postage
prepaid, to the parties on the attached list.


Eric Fitzgerald Reed

* Via hand delivery.

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