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Before the
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.,	)	EB Docket No. 01-99
	)	
Complainants,	)	
	)	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
v.	)	
	)	
Century Telephone of Wisconsin, Inc., et al.,	)	
	)	
Defendants.	)	

To: Arthur I. Steinberg
Administrative Law Judge

VERIZON'S OPPOSITION TO NOTICES OF DEPOSITION

On July 6, complainants served on Verizon a deposition notice seeking testimony on every subject that could be relevant to this case (and a few subjects that are not relevant at all). A week later, either just before or just after midnight, complainants faxed copies of five more deposition notices, totaling more than 60 pages. One of these notices asks Verizon to designate a witness or witnesses to give testimony on some of the same subjects that were in the July 6 notice. In addition, complainants have noticed depositions of three named Verizon employees all to give testimony on the same 24 subject areas, virtually all of which are included in complainants' first two notices. A road map showing the overlap of complainants' various deposition notices is attached. There can be no justification for this duplicative — actually, quintuplicative — discovery.

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

As defendants previously indicated, they have no objection to discovery on any matter

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relevant to these actions.[1] Such subjects include the EUCL charges assessed by defendants on the complainants (July 6 notice Topic of Inquiry No. 1), complainants' payment of — or failure to pay — these charges (July 6 notice Topic of Inquiry No. 2), defendants' billing and collection practices (July 6 notice Topics of Inquiry Nos. 7,[2] 8) and defendants' billing systems and document retention policies (1st notice Topics of Inquiry Nos. 9, 10).[3] However, complainants have now issued five separate notices on the first two of these subjects and four notices on the others. This is surely overkill. Defendants will produce witnesses to testify on these subjects, but complainants should not be permitted to examine multiple other witnesses on the same topics.[4]

Defendants continue to object 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 that are not covered by these complaints. Half of complainants' Topics of Inquiry expressly ask for testimony about periods of time before the two-year statute of limitations period as well

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[1] This does not mean, of course, that defendants have any employees with knowledge of these subjects. For example, as defendants explained in response to complainants' interrogatories about these same topics, defendants do not have records that reflect the telephone lines subscribed to by complainants at various times during the relevant period, and, therefore, do not know the amounts of EUCL charges imposed.

[2] 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.

[3] While Topic of Inquiry No. 7 may be relevant to this litigation, defendants have made no determinations concerning the classification of complainants' payphones.

[4] Defendants will be providing complainants significant discovery in response to these 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.

as about activities after the end of the damages period in April 1997.[5] And one asks for information *only* about the period after the conduct at issue had ceased.[6] Whatever depositions are permitted 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.[7] 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.[8] 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. These subjects cannot simply be added to the examination of the people Verizon will produce to testify about other topics, as the individuals who have knowledge of these subjects are different from the witnesses who will testify about those other topics. Expanding the scope of discovery to include these subjects would, therefore, significantly increase the burden of discovery on defendants.

Some of the topics complainants seek testimony on are truly breathtaking in scope. For example, they want Verizon to produce witnesses to testify about "each and every payphone" in 13 states over a 14-year period that satisfied various criteria.[9] No single individual has knowledge of that type, and an enormous records search would be required to prepare witnesses to give such testimony.

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[5] Individual Topics of Inquiry Nos. 1, 2, 3, 4, 9, 10, 12, 14, 17, 18, 19, 20.

[6] Individual Topic of Inquiry No. 21.

[7] Individual Topics of Inquiry Nos. 6, 7 and 9 — all of which are identical to topics in complainants' July 6 notice — and 14, 15, 16, 19, 20 and 21.

[8] HDO ¶ 25.

[9] Topic of Inquiry No. 4 in the second "30(b)(6)" notice.

Third, complainants' midnight notices include new subject areas that are not relevant to this case, such as complainants' practices concerning credit ratings and deposits.[10] Testimony should not be required on these topics either.

Two other subject areas are objectionable for other reasons:

Defendants object to Individual Topic of Inquiry No. 5, which seeks testimony about the preparation by Verizon counsel of draft stipulations in three of these actions. This inquiry seeks attorney work product and the content of privileged communications.

Defendants object to Individual Topic of Inquiry No. 7, which seeks testimony about the "attributes that Verizon considers relevant" in determining whether a payphone is a "public payphone" for the purposes of assessment of EUCL charges. This Topic, therefore, asks for testimony about legal theories and arguments, not a proper subject of discovery.

Finally, defendants have not retained any experts for this proceeding and, therefore, have none to produce on August 2.

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

Respectfully submitted,

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Of Counsel
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Dated: July 19, 2001

[10] Individual Topics of Inquiry Nos. 17, 18.

ATTACHMENT

Road Map for Complainants' Deposition Notices

Subject	Masterson	Riccardi	Klein	First 30(b)(6)	Second 30(b)(6)
EUCLs imposed	Topic 1	Topic 1	Topic 1	Topic 1	Topic 1
EUCL rate	2	2	2		
Complainants' (πs') lines	3	3	3		
EUCLs not paid	4	4	4	2	2
Draft stipulations	5	5	5		14
VZ tariff criteria	6	6	6	3	
Attributes of pub/semi	7	7	7	4	
πs' phones pub/semi	8	8	8	5	
VZ phones pub/semi	9	9	9	6	3
Billing practices	10	10	10	7	
Escrows for πs'	11, 22	11, 22	11, 22	8	12
Document retention	12	12	12	9	
Billing records	13	13	13	10	
VZ payphones	14	14	14		4
VZ payphones	15	15	15		5
Other line classifications	16	16	16		6
Credit rating practices	17	17	17		7
Deposit practices	18	18	18		8
VZ payphones	19	19	19		9
VZ training	20	20	20		10
Billing practices	21	21	21		11
VZ payphones	23	23	23		13
Document search	24	24	24	11	15

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of July, 2001, copies of the foregoing "Verizon's Opposition to Notices 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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