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Before the
Federal Communications Commission
Washington, D.C. 20554

FCC 01M-32

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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,
v.	)	E-93-37, E-93-38, E-93-40, E-93-41,
	)	E-93-42, E-93-43, E-93-44, E-93-45,
Century Telephone of Wisconsin, Inc., et al.,	)	E-93-46, E-93-47, E-93-48, E-93-49,
	)	E-93-50, E-93-56, E-93-58, E-93-59,
Defendants.	)	E-93-60, E-93-61, E-93-62, E-93-73,
	)	E-93-74, E-93-081

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MEMORANDUM OPINION AND ORDER

Issued: August 3, 2001 ; Released: August 8, 2001

Under consideration are: (a) Defendant's Motion and Memorandum to Compel Answers to Interrogatories from Complainant Ascom Holding, Inc., filed on July 18, 2001, by Carolina Telephone and Telegraph Company, United Telephone Company of Pennsylvania, and United Telephone Company of Florida (collectively "Sprint"); and (b) Complainant's Opposition to Defendant's Motion and Memorandum to Compel Answers to Interrogatories from Complainant Ascom Holding, Inc., filed on July 25, 2001, by Ascom Holding, Inc. ("Ascom"). These pleadings relate to the complaints associated with File Nos. E-93-43, E-93-44, and E-93-45.

Sprint seeks an order compelling Ascom to provide "substantive answers" to interrogatory numbers 3 and 4(a) through (f) propounded in Defendant's First Set of Interrogatories. Ascom opposes the motion, contending that it is untimely, that Sprint already has the information requested within its possession, and that it would require Ascom to compile a summary of its records for Sprint.

Sprint's motion will be granted to the extent discussed below. Initially, it must be noted that, contrary to Ascom's assertion, Sprint's motion to compel was timely filed. Ascom responded to Sprint's interrogatories on July 6, 2001. Section 1.323(c) of the Commission's Rules provides that motions to compel are to be filed within 7 days of the service of the answer. However, Section 1.4(h) of the Rules affords *all* parties, including Sprint, an additional 3 days (excluding "holidays") within which to file a "response" (in this instance a motion to compel) if the filing period is 10 days or less and if the "document" (in this instance Ascom's response to the interrogatories) is served by mail. Since Ascom's response was served by mail on several of the parties to this proceeding, Sprint was entitled to an additional 3 days within which to file its motion to compel. Consequently, Sprint's motion was filed on the date it was due.

Turning to the merits of Sprint's motion, Ascom will be required to answer Interrogatories 3 and 4(a) through (f). The information sought "appears reasonably calculated to lead to the discovery of admissible evidence." Section 1.311(b) of the Commission's Rules. The fact that Sprint's records may reflect some of the same information requested provides no basis for

precluding its production from Ascom.[1] In addition, Ascom's argument that it should not be required, in essence, to compile a summary for Sprint is rejected. Suffice it to say, the interrogatories served by Ascom on Sprint request virtually identical information and would, in effect, require Sprint to compile a similar summary for the benefit of Ascom. Under these circumstances, it does not appear unreasonable for Sprint to ask Ascom to do the same.[2]

With respect to Interrogatory 4(e), Ascom will be required to provide an answer based upon the materials it has in its possession, custody and control on the date the answer is given. Section 1.722 of the Rules, cited by Ascom in support of its position that the information requested in Interrogatory 4(e) need not be provided now, is not applicable to the discovery in this proceeding. Rather, such discovery is governed by Sections 1.311-1.325 of the Rules, *Hearing Designation Order*, DA 01-1044, released April 24, 2001 (¶¶ 20, 28), and under those rules the information sought by Sprint is clearly discoverable now.

Accordingly, IT IS ORDERED that Defendant's Motion and Memorandum to Compel Answers to Interrogatories from Complainant Ascom Holding, Inc., filed by Sprint on July 18, 2001, IS GRANTED to the extent discussed above, and IS DENIED in all other respects.

IT IS FURTHER ORDERED that Ascom SHALL PROVIDE its answers to Sprint Interrogatories 3 and 4(a) through (f) within 10 days of the release of this order or within such other period of time as the parties may mutually agree.

FEDERAL COMMUNICATIONS COMMISSION

Arthur I. Steinberg
Administrative Law Judge

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[1] It should be noted that this portion of Ascom's objections appears to be inconsistent with the position it advocated in a motion to compel it filed against Sprint. *See* Complainant Ascom Holding, Inc.'s Motion to Compel Answers to Interrogatories and the Production of Documents from Defendant Sprint Corporation and Memorandum in Support, filed on July 13, 2001, at 4 (last paragraph).

[2] Ascom and Sprint are strongly urged to reach an accommodation that would serve to reduce the burdens they have placed upon each other.