

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

RECEIVED

AUG 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 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

**COMPLAINANTS' MEMORANDUM IN OPPOSITION TO DEFENDANT  
VERIZON'S OBJECTIONS TO LATEST WAVE OF DISCOVERY AND  
MOTION TO QUASH AND FOR A PROTECTIVE ORDER**

In lieu of serving specific objections and responses, the defendant Verizon telephone companies ("Verizon") has moved to "quash" three of Complainants'<sup>1</sup> discovery requests – Complainants' First Set of Requests for Admissions (the "Requests for Admissions"); Complainants' Second Set of Interrogatories (the "Second Interrogatories"); and Complainants' Second Set of Requests for the Production of Documents (the "Second Document Requests") – in their entirety.<sup>2</sup>

<sup>1</sup> Complainants are Alcazar Ltd. (f/k/a Alcazar Homes, Ltd.), Ascom Holding, Inc. (f/k/a Ascom Communications, Inc. and U.S. Communications of Westchester, Inc.), BDA Sales, Inc., Mayflower Communications, Inc. (f/k/a Crescent Communications), ETS Payphones, Inc., Just-Tel, Inc., New York City Telecommunications Company, Inc. (f/k/a Millicom Services Company), New York Payphone Systems, Inc. and Telebeam Telecommunications Corporation (f/k/a Telebeam Telephone Systems, Inc.) (collectively, "Complainants").

<sup>2</sup> Representative copies of the Requests for Admissions, Second Interrogatories and Second Document Requests are annexed as, respectively, Exhibits A, B and C to this Memorandum.

No. of Copies rec'd 016  
List A B C D E

Your Honor need not reach the substance of Verizon's motion, but should order Verizon to answer the specific requests for admissions, document requests and interrogatories in issue<sup>3</sup> because Verizon's counsel made no attempt to meet and confer with counsel for the Complainants before filing its motion papers. Even if considered, however, Verizon's motion should be denied. First, Verizon has failed to show any valid basis for refusing to answer the Requests for Admissions. The discovery rules clearly authorize litigants to obtain discoverable information through requests for admissions in addition to other discovery devices such as document requests and interrogatories. Verizon's argument that the Second Interrogatories are untimely is also unavailing, while Verizon's complaint that the Second Interrogatories and Second Document Requests are improperly "duplicative" of earlier discovery requests does not survive an examination of the requests themselves. Finally, Your Honor's recent discovery Orders overrule many of Verizon's remaining objections. For all of these reasons, Verizon's attempt to avoid valid and relevant discovery requests should be rejected.

## ARGUMENT

### **I. VERIZON'S MOTION SHOULD BE DENIED BECAUSE VERIZON'S COUNSEL DID NOT MEET AND CONFER WITH COMPLAINANTS' COUNSEL BEFORE FILING THE MOTION**

---

Verizon's counsel made no attempt to resolve any of its purported concerns before filing its motion, in direct violation of Your Honor's express directive to the parties at the May 24, 2001 prehearing conference. At that conference, Your Honor emphasized the mandatory nature of the "meet and confer" requirement:

If a [discovery] dispute arises I want you to make a good faith attempt to try to resolve the dispute among yourselves or between yourselves,

---

<sup>3</sup> Complainants seek to enforce the following discovery requests propounded in the Requests for Admissions, Second Interrogatories and Second Document Requests: requests for admissions 1-33 and 35-50; interrogatories 1-4, 8-9, 16, 18-22, 25-26 and 28-40; and document requests 1, 2, 5, 10 and 12-18.

not just a token effort but a real effort. Don't ask me for any kind of discovery ruling before you genuinely attempt to reach agreement yourselves...If you absolutely can't reach an agreement then you file something with me and I'll settle the matter...In that v[e]in, if you file a pleading with me with respect to discovery in order to contain the certification that you attempted to work out your differences but just absolutely couldn't do it... I like to have it because it gives people maybe second thoughts about coming to me initially.

Transcript of May 24, 2001 Prehearing Conference at 38-39.<sup>4</sup> At no time before filing its motion did Verizon's counsel contact Complainants' counsel to discuss any of the numerous objections to the subject discovery requests that are raised in Verizon's motion.<sup>5</sup>

Verizon's failure to comply with this directive is unfortunate. Had counsel for Verizon contacted Complainant's counsel concerning the proposed motion, counsel for the Complainants would have urged Verizon to await Your Honor's recent discovery Orders so as to avoid unnecessary motion practice. Verizon did not do so, however, and, as a result, Verizon's motion papers expound upon topics that are resolved in Your Honor's recent Orders and upon discovery requests that are no longer in issue.<sup>6</sup>

Because Verizon failed to meet and confer, its motion should be denied.

## II. VERIZON SHOULD BE DIRECTED TO ANSWER THE REQUESTS FOR ADMISSIONS

Verizon contends that it should be relieved of any obligation to answer the Requests for Admissions<sup>7</sup> on the ground that these requests are "duplicative" of

---

<sup>4</sup> Copies of the relevant pages from the transcript of the prehearing conference are annexed as Exhibit D to this Memorandum.

<sup>5</sup> Your Honor's recent Orders admonish two other defendants in these proceedings for failing to contact the complainants' counsel "to see if their differences could be resolved short of the filing" of discovery motions, noting that [s]uch conduct, if true, appears to be in direct violation of the ground rules the Presiding Judge set forth in the May 24, 2001 prehearing conference in this proceeding." See Orders on defendant Sprint Corporation("Sprint")'s and defendant Southwestern Bell Telephone Company("SBC")'s motions to quash Rule 30(b)(6) deposition notices.

<sup>6</sup> See, e.g. Verizon Mem. at 9-11 (discussing the relevant time period for discovery).

<sup>7</sup> Complainants seek answers to requests for admissions 1-33 and 35 through 50.

Complainants' document requests and interrogatories. This argument misapprehends the discovery process.

The discovery rules provide for a number of different devices for obtaining information. None of these devices, whether depositions, interrogatories, requests for admissions or document requests, is exclusive, and all may be, and generally are, pursued simultaneously. Your Honor recognized this point in denying Sprint's application to quash a Rule 30(b)(6) deposition notice based upon Sprint's argument that the Topics of Inquiry in the notice were "duplicative" of other discovery. *See* Order on Sprint's Motion to Quash July 6, 2001 Rule 30(b)(6) deposition at 2 ("The Commission's rules provide for the use of both interrogatories and depositions, and there appears to be no reason to limit Ascom's discovery in this proceeding to one or the other."). The governing procedural regulations expressly authorize the use of requests for admissions, which are particularly useful for identifying undisputed issues and, thus, for facilitating the judgment or settlement of litigation. *See* Commission Rule 1.246, 47 CFR § 1.246.

The Requests for Admissions here seek information within the scope of the governing Hearing Designation Order, which directs Complainants to prove the damages that they incurred as a result of (i) paying (ii) improperly assessed EUCL charges (iii) on public payphones (iv) that were in use during the relevant time periods.<sup>8</sup> These discovery

---

<sup>8</sup> The Hearing Designation Order identifies the issues for resolution at the upcoming damages hearing as follows:

The scope of the hearing is limited to determining the proper amount of damages to which the Complainants are entitled. The measure of damages is the amount of EUCL payments Defendants assessed and collected from the Complainants for their public payphones. Based on the Liability Order's findings, each Complainant must demonstrate the number of public payphones it had under the definition established in the First Reconsideration Order, as clarified in the Liability Order, and the number of full charges it paid for those public payphones. In addition, each Complainant must calculate the

(footnote continued on next page)

requests relate to the imposition and payment of EUCL charges (requests for admissions 1-9, 33, 35-39, 46-50); the “public”/”semi-public” distinction (requests for admissions 10-32); and relevant documentary evidence (requests for admission 40-43).

Because Complainants are entitled to pursue discovery through requests for admissions, and because the Requests for Admissions seek information that is “relevant to the hearing issues” or, at a minimum, “reasonably calculated to lead to the discovery of admissible evidence,” Commission Rule 1.311(b), 47 CFR § 1.311(b), Verizon should be directed to answer the subject requests for admissions.

**III. VERIZON SHOULD ALSO BE DIRECTED TO RESPOND TO THE INTERROGATORIES AND DOCUMENT REQUESTS, WHICH SEEK INFORMATION THAT IS DISCOVERABLE UNDER YOUR HONOR’S RECENT ORDERS**

---

**A. Complainants Seek Relevant and Discoverable Evidence**

Consistent with the Hearing Designation Order, the interrogatories and document requests<sup>9</sup> seek information regarding the assessment and payment of EUCL charges; the “public” or “semi-public” nature of Complainants’ payphones; and documents, and persons with knowledge, relevant to these issues:

- (i) the payment of EUCL charges, including the telephone lines in use during the relevant time periods and Verizon’s policies and practices with respect to the payment of disputed charges (interrogatories 1-4, 16, 28, 33-34; document requests 2, 10, 12-15);
- (ii) the “public”/”semi-public” issue (interrogatories 8-9, 25-27; document request 5);

---

applicable amount of interest due on those improperly assessed charges.

April 24, 2001 HDO at ¶ 23.

<sup>9</sup> As noted above, Complainants seek answers to interrogatories 1-4, 8-9, 16, 18-22, 25-26 and 28-40 and the production of documents responsive to document requests 1, 2, 5, 10 and 12-18.

- (iii) Verizon's ability to access and obtain responsive customer account information from its computer databases and other information storage systems (interrogatories 29-32);
- (iv) Verizon's policies and practices with respect to the retention or destruction of documents relevant to Commission proceedings; responsive documents that have been lost or destroyed; and the identification of the applicable document custodians (interrogatories 35-37; document request 16);
- (v) persons with knowledge of the EUCL charges and other issues relevant to these proceedings (interrogatories 18-22, 40); and
- (vi) documents referenced, relied upon, or otherwise pertinent to, Verizon's Responses to the Requests for Admissions and Second Interrogatories (interrogatories 38-39; document requests 17-18).

Although the information sought is clearly relevant and discoverable under Your Honor's prior rulings, Verizon objects to responding to any of the subject discovery requests.

**B. None of Verizon's Objections Withstand Scrutiny**

**1. The Subject Document Requests And Interrogatories Are Not Duplicative**

Verizon contends that it should not have to provide any discovery because certain interrogatories in the Second Interrogatories allegedly "overlap" with certain document requests in the Second Document Requests. Verizon Mem. at 5. As discussed above, the Commission's procedural rules authorize litigants to inquire into the same or similar topics through different discovery devices. Indeed, it is standard practice for parties to produce documents and answer interrogatories on the same subjects.<sup>10</sup>

Verizon's further complains that certain requests in the Second Interrogatories and Document Requests "duplicate" written discovery previously served by Complainants. While certain requests in both the earlier and subsequent discovery demands inquire into

---

<sup>10</sup> It is equally common, of course, for parties to answer interrogatories by referring to documents produced pursuant to corresponding document requests. Verizon could have – but did not – exercise such an option here.

the same general topics, the specific inquiries differ significantly in their scope and subject matter and are not “duplicative” of Complainants’ earlier discovery requests in any sense of the term.<sup>11</sup> Verizon – which conspicuously fails to quote *any* of the assertedly “duplicative” discovery requests – has made no showing to the contrary. In any event, Verizon’s professed concern with “duplication” is belied by Verizon’s refusal to answer *any* interrogatories or to respond to *any* document requests. Verizon does not seek to avoid *duplicative* discovery, but to avoid *any* discovery.<sup>12</sup>

## 2. Verizon Cannot Avoid Its Discovery Obligations Based Upon The Timing Of Service Of The Second Interrogatories

Verizon contends that it should not have to respond to the Second Interrogatories because these interrogatories were served “after the close of business on July 20 or perhaps some time over that weekend.” Verizon Mem. at 2. Pursuant to the Commission’s rules, Complainants telefaxed and mailed their Second Sets of Interrogatories to counsel for Verizon on July 20, 2001.<sup>13</sup> See 47 C.F.R. § 1.735(f). Because parties responding to interrogatories have 14 days in which to serve answers and objections, 47 C.F.R. § 1.323(b), Verizon’s responses were due on August 3, 2001, within the discovery period set during the May 24, 2001 Prehearing Conference. Thus, regardless

---

<sup>11</sup> By way of example only, while Verizon notes that both interrogatory 29 and document request 24 in Complainants’ initial discovery requests and interrogatory 2 in the Second Interrogatories seek information concerning potential placements of disputed EUCL charges into escrow accounts, the earlier requests only seek information as to Verizon’s “authorization” of, or “agreement” to, such placements. The subsequent interrogatory is much broader, inquiring into Verizon’s *knowledge* of escrow placements, irrespective of whether Verizon “authorized” or “agreed” to those placements.

<sup>12</sup> Verizon’s assertions of “duplication” ill comport with Verizon’s other complaint that compliance with the Second Interrogatories and Document Requests would be “unduly burdensome” and “oppressive.” If – as Verizon apparently contends – it already has answered the subject requests, no special effort should be required to refer Complainants to Verizon’s prior discovery responses.

<sup>13</sup> Verizon submits no evidence to support its conjecture that the Second Interrogatories were “perhaps” delivered “some time over th[e] weekend” following July 20. Verizon Mem. at 2.

of whether the discovery was served “after the close of business,” Verizon had 14 days to respond to the Second Interrogatories and has not been prejudiced by the timing of service.

Even if Your Honor determines that the discovery requests were effectively not served until Monday July 23, 2001 with a response due on August 7, 2001, Verizon should not be permitted to evade its discovery obligations on this basis. Although August 3, 2001 was the date originally set for the close of discovery, discovery has extended beyond that period. In fact, the parties have yet to begin taking depositions and deposition discovery will almost certainly extend into September. Given that discovery has continued well beyond the original August 3, 2001 closing date, Verizon should not be allowed to avoid discovery merely because the discovery was served “after the close of business” on the due date.<sup>14</sup>

In the alternative, Complainants respectfully request that Your Honor shorten the 14-day period for Verizon to respond to the Second Interrogatories so that Verizon’s responses retroactively are deemed due by August 3, 2001, within the original discovery period.

### **3. Complainants Are Entitled To All Information Concerning The Applicable Payphone Lines**

Not even Verizon disputes that information concerning the Verizon payphone lines to which Complainants subscribed, and on which the EUCL charges were assessed, is relevant to the issues in these proceedings. Indeed, according to Verizon, this information

---

<sup>14</sup> Another complainant represented by this law firm, Ascom Holding, Inc. (“Ascom”), in its case against defendant Sprint, could have made the same argument made by Verizon here but chose not to engage in such quibbling. Because Sprint served its Second Set of Interrogatories late, Ascom’s responses were not due until August 6, 2001. Recognizing that discovery was ongoing and that it was not prejudiced by the late service of this discovery, Ascom, unlike Verizon, did not move to quash – or refuse to answer – the discovery.

may be *essential* to a resolution of the damages issues. In its responses to Complainants' earlier discovery requests, Verizon consistently represents that it can only retrieve billing and other customer account information "by using the ANI [telephone number] of the phone line in question." Verizon specifically denies that it has any ability to "search its records based on Complainant's name" and avers that it cannot locate responsive payment and other records "unless the complainant provides [ANI] information." *See, e.g.*, responses to document requests 3-9 in Defendant Verizon New York Inc.'s Response to Complainant's First Set of Document Requests (Exhibit E).

Interrogatories 28 and 34 and document requests 12 and 15 seek lists of ANIs that Verizon submitted to the National Payphone Clearinghouse as part of the dialaround compensation process in addition to other information concerning Verizon's participation in this process. Under Commission regulations, *see* 64.1310(b), local exchange carriers ("LECs") such as Verizon have been required to prepare ANI lists at the conclusion of each calendar quarter since September 1992. These lists are then submitted to the National Payphone Clearinghouse, an agent for the long-distance companies, for use in the payphone dialaround compensation process. The ANI lists set forth the telephone numbers of all lines used and in service by independent payphone providers, including Complainants, as of the end of each calendar quarter since the third quarter of 1992. Complainants intend to use these ANI lists to determine the amount of EUCL charges that Verizon unlawfully assessed; they may also use the ANI lists to query Verizon's databases to obtain Complainants' payment records. Given its position that it can "access its customer records only by using the number of the phone line in question" (Exhibit E), Verizon cannot plausibly contend that ANI information is not a proper subject of discovery.

Interrogatories 29-31 are unobjectionable for the same reason. These requests inquire into Verizon's ability to access payment, billing and other customer account information.

Your Honor should also direct Verizon to answer interrogatory 1 and to respond to document request 2, which seek information concerning the maintenance of Verizon payphone access lines. These discovery requests are, at the very least, "reasonably calculated to lead to the discovery of admissible evidence," Commission Rule 1.311(b), 47 CFR § 1.311 (b), because these records should reflect the dates of installation and service and of any disconnections, of the payphone lines on which the EUCL charges were assessed.

**4. Complainants Are Entitled To Evidence That Is Relevant To Prove Payment Of the EUCL Charges**

Interrogatory 2 inquires into Verizon's knowledge of instances when "Complainant[s] ever placed any amounts billed to Complainant[s] for EUCL charges in escrow . . . ." This topic is clearly pertinent to the issue of whether the EUCL charges were paid to Verizon and, thus, to whether Complainants are entitled to reimbursement of those charges from Verizon today. Accordingly, Your Honor has authorized discovery on this very issue. *See, e.g.*, Order on Sprint's motion to quash July 12, 2001 notice of Rule 30(b)(6) deposition (overruling objection to Topic of Inquiry 12).

Interrogatories 3 and 4 seek an explanation of the "previous balance" entries contained in the telephone bills sent by Verizon. A zero balance in such an entry ordinarily signifies that all previous bills for the account have been paid. Complainants are entitled to

learn whether Verizon followed some other practice and, in that event, to discover evidence that bears upon the existence and implementation of that practice.<sup>15</sup>

Interrogatories 32 and 33 and document requests 13 and 14 seek information concerning Verizon's policies and practices with respect to the non-payment of charges that are disputed by Verizon's telephone customers. In its discovery responses, Verizon has advised Complainants that it would not have terminated or suspended Complainants' telephone service for failure to pay EUCL charges because Verizon followed a general policy against such terminations or suspension where the unpaid charges were "disputed" by the telephone customer. The subject discovery requests seek evidence relating to the existence of this purported policy during the relevant time period. Evidence of Verizon's payment practices is relevant to prove that those practices were actually followed and to show, by extension, that the EUCL charges were paid. *See, e.g.*, Fed. R. Evid. 406. Accordingly, Your Honor has upheld discovery relating to these practices. *See, e.g.*, Order on motion to compel against Sprint (overruling objections to interrogatory 33 and document request 21); Order on motion to compel against SBC (overruling objections to interrogatory 23 and document request 21).

**5. Complainants Are Entitled To Information Concerning The "Public/Semi-Public" Issue That Is Discoverable Under Your Honor's Prior Rulings**

Your Honor already has overruled objections on the specific topics addressed in interrogatories 8, 9 and 25-27 and document request 5. *See* Orders on Verizon's and Sprint's motions to quash July 12, 2001 notices of Rule 30(b)(6) depositions (authorizing testimony on Topic of Inquiry 4 and citing Liability Order). Verizon's objections to

---

<sup>15</sup> Such evidence would include contemporaneous documents reflecting Verizon's guidelines for monitoring the payments made by its telephone customers as well as any contemporaneous explanations as to the intended purpose of "previous balance" entries.

responding to interrogatories and producing documents on these issues should be overruled here as well.

**6. Verizon Should Be Directed To Respond To Standard Discovery Requests Relating To Documents And Witnesses**

Document requests 1, 17 and 18 seek the production of documents referenced, relied upon, or otherwise pertinent to, Verizon's responses to the Requests for Admissions and the Second Interrogatories. These materials should be readily accessible to Verizon and, in accordance with Your Honor's prior rulings, should be produced by Verizon here. *See* Order on motion to compel against SBC (overruling objections to document request 1).

Your Honor has similarly authorized discovery on the general topics addressed in interrogatories 18-22, 35-37 and 40 and document request 16. These discovery requests seek information concerning (i) Verizon's policies and practices with respect to the retention and destruction of documents relevant to Commission proceedings (interrogatory 35; document request 16); (ii) responsive documents that may have been "destroyed, not retained, or deleted" (interrogatory 36); (iii) document custodians (interrogatory 37); (iv) fact witnesses (interrogatories 18-22);<sup>16</sup> and (v) persons who provided the information for Verizon's interrogatory responses (interrogatory 40). *See* Order on motion to compel against Sprint (overruling objections to interrogatories 38-40, 42 and 45 and document request 26); Order on motion to compel against SBC (overruling objections to interrogatories 28-30, 32 and 35 and document request 26).

---

<sup>16</sup> Although Verizon contends that interrogatories 18-20 – which seek information about the specific employment responsibilities of three Verizon employees whose depositions have been noticed by Complainants – "border on the bizarre" (Verizon Mem. at 2), the rationale for these interrogatories is quite simple. By obtaining additional information about the deponents in advance of their depositions, Complainants' counsel may be able to focus the examination questions and thus shorten the time required for the depositions. Such an outcome would benefit all parties, to say nothing of the deponents themselves.

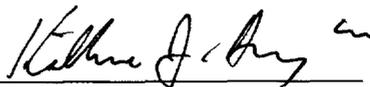
Finally, Your Honor should also direct Verizon to answer interrogatories 38-39 and document requests 17-18, which inquire into the factual bases for any failure by Verizon to admit the requests set forth in Complainants' First Set of Requests for Admissions.

### CONCLUSION

None of the grounds advanced by Verizon support Verizon's application to "quash" discovery requests which seek information that is relevant to these proceedings and discoverable under Your Honor's prior rulings. Accordingly, Verizon should be directed to answer (i) requests 1-33 and 35-50 in the Requests for Admissions; (ii) interrogatories 1-4, 8-9, 16, 18-22, 25-26 and 28-40 in the Second Interrogatories; and (iii) document requests 1, 2, 5, 10 and 12-18 in the Second Document Requests.

Dated: August 22, 2001

Respectfully submitted,

By 

Albert H. Kramer  
Katherine J. Henry  
Dickstein Shapiro Morin & Oshinsky LLP  
2101 L Street, N.W.  
Washington, D.C. 20037-1526  
(202) 785-9700  
Attorneys for Complainants  
Alcazar Ltd. (f/k/a Alcazar Homes, Ltd.),  
Ascom Holding, Inc. (f/k/a Ascom  
Communications, Inc. and U.S.  
Communications of Westchester, Inc.), BDA  
Sales, Inc., Mayflower Communications, Inc.  
(f/k/a Crescent Communications), ETS  
Payphones, Inc., Just-Tel, Inc., New York  
City Telecommunications Company, Inc.  
(f/k/a Millicom Services Company), New  
York Payphone Systems, Inc. and Telebeam  
Telecommunications Corporation (f/k/a  
Telebeam Telephone Systems, Inc.)

**CERTIFICATE OF SERVICE**

I hereby certify that on August 22, 2001, a copy of the foregoing Complainants' Memorandum In Opposition To Defendant Verizon's Objections To Latest Wave Of Discovery And Motion To Quash And For A Protective Order was served by hand-delivery, facsimile (without attachments), and/or first-class mail, postage prepaid, as indicated below, on the following:

By Hand-Delivery:

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

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

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

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

By Facsimile and First-Class Mail, Postage Prepaid:

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

Sherry A. Ingram, Esquire  
Verizon  
1320 North Court House Road  
Arlington, VA 22201

By First-Class Mail, Postage Prepaid:

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

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

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

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



---

Charles V. Mehler III



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

RECEIVED

AUG 22 2001

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

---

In the Matter of )  
 )  
C.F. Communications Corp., et. al., )  
 )  
Complainants, ) EB Docket No. 01-99  
 )  
v. ) File No. E-93-56  
 )  
Century Telephone of Wisconsin, Inc., )  
et. al., )  
 )  
Defendants. )

---

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

and

**Verizon**

**COMPLAINANT'S FIRST SET OF REQUESTS FOR ADMISSION OF  
FACTS AND THE GENUINENESS OF DOCUMENTS**

Pursuant to Section 1.246 of the Commission's rules, 47 C.F.R. § 1.246,  
Complainant requests that the Defendant in the above-referenced case admit the  
truth of the following facts and the genuineness of the following documents.

**INSTRUCTIONS**

1. Each of the matters of which an admission is requested shall be  
deemed admitted unless you serve responses within ten days from the date of service

of these Requests for Admission that are in conformity with Commission Rule 1.246.

2. If you do not specifically admit or deny the matter set forth in the request, set forth in detail the reasons why you cannot truthfully admit or deny the matter.

3. When good faith requires that you qualify your answer or deny only a part of the matter on which an admission is requested, specify so much of it as is true and qualify or deny the remainder.

4. You may not give lack of information or knowledge as a reason for your failure to admit or deny a matter unless you state that you have made reasonable inquiry and the information known or readily obtainable by you is insufficient to enable you to admit or deny the matter.

5. You may not object to a request solely on the ground that you believe the admission sought presents a genuine issue for trial or hearing, but you may, subject to the provisions of Fed. R. Civ. P. 37(c)(2), deny the matter or set forth the reasons why you cannot admit or deny it.

6. If you deny or qualify the genuineness of an attached document, you shall produce a copy of the exhibit which you attest is the true and accurate document and state why you deny or qualify the genuineness of the document.

## DEFINITIONS

1. The terms “and” as well as “or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of the request all responses which otherwise might be construed to be outside its scope.
2. The phrase “Commission definition” shall mean the definition of public and semi-public pay telephone service set forth by the Federal Communications Commission in the *First Reconsideration Order*, 97 FCC 2d at 704, n. 40 and n. 41, as clarified in the *Liability Order*, 15 FCC Rcd at 8771.
3. The terms “Complainant,” and/or “Plaintiff” shall include Alcazar Ltd., Alcazar Homes, Ltd., and any and all predecessors or successors of these entities, as well as individuals or entities acting on behalf of these entities.
4. The term “Complaint” shall mean Plaintiff’s formal complaint filed with the Federal Communications Commission and any amendments thereto filed in this action.
5. The terms “Defendant,” “you,” “your,” or “Verizon” shall be defined to include the Defendant, Verizon New York, Inc., and any and all of its predecessors, successors, parents, subsidiaries, or divisions, including, but not limited to New York Telephone Company, NYNEX, New England Telephone Company, Bell Atlantic Telephone Company, New Jersey Bell Telephone Company, Bell Telephone Company of Pennsylvania, C & P Telephone Company of Virginia, C & P Telephone Company of Maryland, Chesapeake and Potomac Telephone

Company, GTE North, GTE South, and GTE Florida, as well as any agents, attorneys, employees, or other persons acting on behalf of any of these entities.

6. The terms “director,” “officer,” “employee,” “agent,” or “representative” shall mean any individual serving as such and any individual serving at any relevant time in such capacity, even though no longer serving in such capacity.

7. The term “document(s)” or “record(s)” means all materials within the full scope of Federal Rule of Civil Procedure 34, including but not limited to: all writings and recordings, including the originals and all non-identical copies, whether different from the original by reason of any notation made on such copies or otherwise (including without limitation, correspondence, memoranda, notes, diaries, minutes, statistics, letters, telegrams, minutes, contracts, reports, studies, checks, statements, tags, labels, invoices, brochures, periodicals, telegrams, receipts, returns, summaries, pamphlets, books, interoffice and intraoffice communications, offers, notations of any sort of conversations, working papers, applications, permits, file wrappers, indices, telephone calls, meetings or printouts, teletypes, telefax, invoices, worksheets, and all drafts, alterations, modifications, changes and amendments of any of the foregoing), graphic or aural representations of any kind (including without limitation, photographs, charts, microfiche, microfilm, videotape, recordings, motion pictures, plans, drawings), and electronic, mechanical, magnetic,

optical or electric records or representations of any kind (including without limitation, computer files and programs, tapes, cassettes, discs, recordings).

8. The term “EUCL” charges shall mean end user common line charges.

9. The term “Interrogatory” or “Interrogatories” shall mean Complainant’s First Set of Interrogatories to Defendant in EB Docket No. 01-99, File No. E-93-56.

10. The terms “person” or “persons” shall mean natural persons (including those employed by the Complainant or Defendant), and any and all such person’s principals, employees, agents, attorneys, consultants, and other representatives, and shall also include any partnership, foundation, proprietorship, association, organization, or group of natural persons.

11. The term “premises” shall mean the street address of the location in which a payphone is installed. Where no street address exists for the location where the payphone is installed, “premises” shall mean the geographic location of the phone within a specific city, county, or town (i.e., “on the public right of way on the corner of 21<sup>st</sup> Street and L Street in the City of Washington, D.C. 20037”). The term “premises” does not mean the precise location where a phone is installed within a premises (i.e. “on the wall beside the rear door”).

12. The terms “relating to” and “referring to” shall be interpreted so as to encompass the scope of discovery set forth in Federal Rule of Civil Procedure 26(b)(1).

13. The term “third party” shall mean any person or entity not a party to this proceeding.

### **REQUESTS FOR ADMISSION**

1. Admit that all the ANIs identified in your response to Interrogatory Number 3 of Complainant’s First Set of Interrogatories to Defendant in the above referenced proceeding were “public” payphones under the Commission definition during the time period from 1987 through April 14, 1997.

2. Admit that you are not aware of any evidence that shows or indicates that any of the ANIs identified in your response to Interrogatory Number 3 of Complainant’s First Set of Interrogatories to Defendant in the above referenced proceeding were not “public” payphones under the Commission definition during the time period from 1987 through April 14, 1997.

3. Admit that none of the ANIs identified in your response to Interrogatory Number 3 of Complainant’s First Set of Interrogatories to Defendant in the above referenced proceeding subscribed to telephone service that was tariffed as “semi-public” telephone service at any point during the time period from 1987 through April 14, 1997.

4. Admit that during the time period from 1987 through April 14, 1997, you imposed EUCL charges on payphones owned and/or operated by independent payphone service providers that obtained payphone access lines from Verizon, but did not impose EUCL charges on payphones owned and/or operated by Verizon that were tarified as “public” rather than “semi-public” telephone lines.

5. Admit that the table attached as Exhibit A accurately and completely reflects the amount of EUCL rates imposed by Verizon per payphone access line per month in the State of New York during the time periods set forth in the table.

6. Admit that Complainant paid all of the EUCL charges billed by Verizon on the payphone access lines subscribed to by Complainant in the State of New York during the period from 1987 through April 14, 1997.

7. Admit that you are not aware of any evidence that shows or indicates that Complainant never paid any of the EUCL charges billed by Verizon on the payphone access lines subscribed to by Complainant in the State of New York during the period from 1987 through April 14, 1997.

8. Admit that Complainant paid all of the EUCL charges billed by Verizon on the payphone access lines subscribed to by Complainant in the State of New York during the time period from 1987 through April 14, 1997 on or prior to the due date.

9. Admit that you are not aware of any evidence that shows or indicates that Complainant paid, after the due date, any of the EUCL charges billed

by Verizon on the payphone access lines subscribed to by Complainant in the State of New York during the time period from 1987 through April 14, 1997.

10. Admit that none of the payphones owned and/or operated by Complainant in the State of New York and connected to Verizon phone lines were “semi-public” payphones under the Commission definition during the time period from 1987 through April 14, 1997.

11. Admit that you are not aware of any evidence that shows or indicates that any of the payphones owned and/or operated by Complainant in the State of New York were “semi-public” payphones under the Commission definition during the time period from 1987 through April 14, 1997.

12. Admit that none of the payphones owned and/or operated by Complainant in the State of New York and connected to Verizon payphone access lines were subscribed to telephone service that was “semi-public” telephone service under the applicable tariff during the time period from 1987 through April 14, 1997.

13. Admit that none of the payphones owned and/or operated by Complainant in the State of New York and connected to Verizon payphone access lines during the time period from 1987 through April 14, 1997 had extensions connected to them.

14. Admit that you are not aware of any evidence that shows or indicates that any of the payphones owned and/or operated by Complainant in the

State of New York and connected to Verizon payphone access lines during the time period from 1987 through April 14, 1997 had extensions connected to them.

15. Admit that none of the payphones owned and/or operated by Complainant in the State of New York and connected to Verizon payphone access lines during the time period from 1987 through April 14, 1997 had directory listings assigned to them.

16. Admit that you are not aware of any evidence that shows or indicates that any of the payphones owned and/or operated by Complainant in the State of New York and connected to Verizon payphone access lines during the time period from 1987 through April 14, 1997 had directory listings assigned to them.

17. Admit that, during the time period from 1987 through April 14, 1997, there were Verizon-owned payphones that were both (a) located within buildings or premises closed to the public for at least part of each day, and (b) subscribed to telephone service that was tariffed as “public” telephone service.

18. Admit that, during the time period from 1987 through April 14, 1997, there were Verizon-owned payphones located at gas stations that were subscribed to telephone service that was tariffed as “public” telephone service.

19. Admit that, during the time period from 1987 through April 14, 1997, there were Verizon-owned payphones located at pizza parlors that were subscribed to telephone service that was tariffed as “public” telephone service.