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March 6, 2008

Marlene H. Dortch
Secretary
Federal Communications Commission
236 Massachusetts Avenue, NE
Suite 110
Washington, D.C. 20002

FILED/ACCEPTED
MAR - 6 2008
Federal Communications Commission
Office of the Secretary

RE: Answers to EB's First Set of Interrogatories; EB Docket No. 07-197

Dear Madame Secretary:

Enclosed for filing on behalf of Kurtis J. Kintzel, Keanan Kintzel, and all Entities by which they do business before the Federal Communications Commission, are the Answers to Enforcement Bureau's First Set of Interrogatories to All Defendants, in the above-referenced matter.

Sincerely,

Catherine Park, Esq.

Catherine Park, Esq.

Enclosures: Original + 3 Copies

No. of Copies rec'd 0+3
List ABCDE

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

In the Matter of	)	
	)	
Kurtis J. Kintzel, Keanan Kintzel, and all Entities by which they do business before the Federal Communications Commission	)	EB Docket No. 07-197
	)	
Resellers of Telecommunications Services	)	

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MAR - 6 2008
Federal Communications Commission
Office of the Secretary

To: Chief, Enforcement Bureau (Kris Monteith)

ANSWERS TO ENFORCEMENT BUREAU'S FIRST SET OF INTERROGATORIES TO ALL DEFENDANTS

Kurtis J. Kintzel, Keanan Kintzel, and all Entities by which they do business before the Federal Communications Commission, by and through undersigned counsel, hereby submit these Answers to Enforcement Bureau's First Set of Interrogatories to All Defendants, as follows:

a. The information supplied in these Answers is true to the best of the Defendants' knowledge, information, and belief;

b. The word usage and sentence structure may be those of the attorney who in fact prepared these Answers and does not purport to be that of the executing Defendants;

c. Discovery is ongoing. Defendants reserve the right to supplement their Answers if additional information comes to their attention; and

d. To determine the substance of each Answer, Defendants relied upon Kurtis J. Kintzel and/or documents identified in each Answer. As to documents, only those currently in Defendants' possession were relied upon, unless otherwise specified in the Answer. The identifying information for each document should be self-evident in the Answers. If no

documents are mentioned or identified in an Answer, none were relied upon.

General Objections

Defendants object to the Definitions and Instructions of the Enforcement Bureau's First Set of Interrogatories to All Defendants to the extent that they differ from or purport to set forth requirements in addition to those permitted by Commission Rules and the Federal Rules of Civil Procedure, and to the extent that they purport to apply definitions broader than or different from those permitted by Commission Rules and the Federal Rules of Civil Procedure. Defendants further object to the definitions of "Avatar," "BOI," "Buzz," "U.S. Bell," and "Companies" provided by the Bureau, on the ground that such definitions are overbroad, encompassing entities and individuals clearly beyond the reasonable range of questions purportedly directed to the corresponding named Defendants (respectively, Avatar Enterprises, Inc.; Business Options, Inc.; Buzz Telecom Corp.; U.S. Bell, Inc.; and all Defendant companies collectively).

Defendants additionally object to the interrogatories as overbroad, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence.

Defendants also object to the Bureau's propounding of 52 detailed interrogatory items in one of set of interrogatories (along with the propounding of a massive Request for Production of Documents, consisting of 61 voluminous requests, due on the same day as the 52 interrogatory answers), a circumstance that has placed considerable strain on Defendants' financial and personnel resources in the effort to submit complete and meaningful answers.

Nothing in the Answers to the individual interrogatories is intended as nor shall be construed as a waiver of the applicability of these general objections which are incorporated by reference into each Answer.

Answers

Interrogatory No. 1:

State the name and, if known, the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information—regarding the allegations contained in the Order to Show Cause or any defenses thereto.

Answer:

Defendants object to this interrogatory as vague and ambiguous, inter alia, as to the phrase "likely to have discoverable information ... regarding the allegations contained in the Order to Show Cause or any defenses thereto," since the Order to Show Cause contains only broad, generalized statements as to categories of offenses allegedly committed by Defendants, without even specifying dates that each offense was allegedly committed, how many instances of each alleged offense are referred to, or which of the six named Defendants is being investigated for which category of offense. In short, the Order to Show Cause reads more like a broad discovery request than a charging instrument, and violates the Administrative Procedure Act and the Due Process Clauses of the U.S. Constitution, which guarantee that Defendants shall be informed at a meaningful time and in a meaningful manner of the charges for which they are being tried. Notwithstanding the foregoing, and without waiving any objections, Defendants answer as follows:

1. Kurtis J. Kintzel: 109 Library Lane, Valparaiso, IN 46383, (219) 808-7910. Most aspects of the case.

2. Keanan Kintzel: P.O. Box 8, Clearwater, FL 33757, (312) 283-0747. Compliance with regulatory requirements and 2004 Consent Decree.

3. Scott Wilson: UMCC Holdings, 484 East Carmel Drive, Suite 290, Carmel, IN 46032. Wilson is President of UMCC Holdings, which purchased Buzz Telecom Corp.'s major assets (including customers), immediately following Qwest's discontinuation of service to customers of Buzz Telecom Corp. in November 2006. UMCC and Wilson failed to pay Defendants as contracted. The Bureau should investigate whether UMCC's and Wilson's non-payment of the

contract and assumed liabilities may be to blame for Buzz Telecom Corp.'s alleged non-payment of certain Commission-mandated obligations.

4. Kaiser D. Lowe, Esq.: Lowe and Webster Lowe, Attorneys & Counselors At Law, 8470 Allison Pointe Blvd., Suite 100, Indianapolis, IN 46250, (317) 638-5291. Attorney Lowe represents Buzz Telecom Corp., Kurtis Kintzel, and Keanan Kintzel in a lawsuit filed against UMCC and Scott Wilson for damages caused by their failure to pay for the purchase of Buzz Telecom Corp.'s assets.

5. Elizabeth Ontiveros-Rosas: 6703 New Hampshire Ave., Hammond, IN 46323, (219) 844-3705. Ontiveros-Rosas would be able to attest that customers were provisioned only after they had been verified by a legitimate third party company.

6. Terry Dunnington: Staff Paralegal, Qwest, 1801 California Street, 900, Denver, CO 80202, (303) 383-6495. Dunnington and Kurtis Kintzel conducted a three-way phone call with a purported complaining customer, to resolve an apparent complaint against Buzz Telecom Corp. During the call, it was discovered that another company was the culprit—not Buzz Telecom Corp., which had been falsely accused. It turned out that the complaining customer (a "Charles Scholpp," BTN 9703779823) was never sold or provisioned services by Buzz Telecom Corp.

7. Steven Hansen: Vice President, Carrier Relations, Qwest, 1801 California Street, Suite 2400, Denver, CO 80202, (303) 896-1250. He sent a letter to Kurtis Kintzel dated September 29, 2006, regarding alleged customer complaints about Buzz Telecom Corp. The letter threatened suspension of services due to the alleged complaints, but this letter was rescinded, and service was not disrupted.

8. Barbara Brohl: Senior Attorney, Regulatory Law, Qwest, 1801 California Street, 10th Floor, Denver, CO 80202, (303) 383-6641. Brohl wrote a letter dated August 3, 2007 to "Leslie Anderson" (apparently a Staff Attorney at the West Virginia Public Service Commission) summarizing the actions that transpired between Qwest, Buzz Telecom Corp., and UMCC Holdings with respect to the discontinuation of service in November 2006.

9. Leslie Anderson: Staff Attorney, Organization Unknown (but may be West Virginia Public Service Commission), 201 Brooks Street, PO Box 812, Charleston, WV 25323. (Phone number unknown, but may be (304) 340-0368.) Recipient of letter from Barbara Brohl, Qwest Senior Attorney, Regulatory Law, regarding the actions that transpired between Qwest, Buzz Telecom Corp.

10. Cindy Bell: Wholesale Sales, Qwest, (602) 569-0776. Account representative who, either immediately before or immediately after Qwest's discontinuation of service to Buzz Telecom Corp. customers in November 2006, raised the suggestion to Kurtis J. Kintzel that he should sell his base of customers.

Bell placed Kurtis J. Kintzel in contact with another Qwest reseller, Scott Wilson of UMCC Holdings.

11. Kay Smith: Accounts Receivable Analyst, Qwest, (800) 686-9807 x16268. She managed Buzz Telecom Corp.'s account and may offer her point of view on Buzz Telecom Corp.'s payment of invoices.

Interrogatory No. 2:

State the name and, if known, the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information—that the Defendants may use to support their claims or defenses.

Answer:

Defendants object to this interrogatory as vague and ambiguous, inter alia, as to the phrase "likely to have discoverable information ... that the Defendants may use to support their claims or defenses," since the Order to Show Cause contains only broad, general statements as to categories of offenses allegedly committed by Defendants, without even specifying dates that each offense was allegedly committed, how many instances of each alleged offense are referred to, or which of the six named Defendants is being investigated for which category of offense. In short, the Order to Show Cause reads more like a broad discovery request than a charging instrument, and violates the Administrative Procedure Act and the Due Process Clauses of the U.S. Constitution, which guarantee that Defendants shall be informed at a meaningful time and in a meaningful manner of the charges for which they are being tried.

Defendants further object on the ground that discovery is ongoing, and Defendants have not yet determined all claims and defenses to be used in the proceeding.

Notwithstanding the foregoing, and without waiving any objections, Defendants answer as follows:

1. All individuals named in the Answer to Interrogatory No. 1, and as to the same subjects.

2. Kemal Hawa, Esq.: Mintz, Levin, Cohn, Ferris, Glovsky, and Popeo, P.C., 701 Pennsylvania Ave., NW, 9th Floor, Washington, D.C. 20004, (202) 434-7363. Attorney Hawa represented Defendant Business Options, Inc., in the 2003 Enforcement Bureau proceeding (EB Docket No. 03-85) which led to the 2004 Consent Decree. Hawa negotiated the Consent Decree on behalf of Defendants. Document production will be sought through subpoena from his old law firm (Chadbourne & Parke, LLP, 1200 New Hampshire Ave., NW, Suite 300, Washington, D.C. 20036), where Hawa was employed during 2003-2004. His deposition also may be sought.

3. Dana Frix, Esq.: Chadbourne & Parke, LLP, 1200 New Hampshire Ave., NW, Suite 300, Washington, D.C. 20036, (202) 974-5691. Attorney Frix represented Defendant Business Options, Inc., in the 2003 Enforcement Bureau proceeding (EB Docket No. 03-85) which led to the 2004 Consent Decree. Frix may have assisted in negotiating the Consent Decree on behalf of Defendants.

4. James W. Shook, Esq.: Federal Communications Commission, Enforcement Bureau, 445 12th Street, S.W., Washington, D.C. 20054. Attorney Shook was one of the Bureau attorneys who prosecuted the case against Defendant Business Options, Inc., in the 2003 Enforcement Bureau proceeding (EB Docket No. 03-85). Shook may have conducted negotiation and/or drafting of the Consent Decree on behalf of the Bureau.

5. Trent B. Harkrader, Esq.: Federal Communications Commission, Enforcement Bureau, 445 12th Street, S.W., Washington, D.C. 20054. Attorney Harkrader was one of the Bureau attorneys who prosecuted the case against Defendant Business Options, Inc., in the 2003 Enforcement Bureau proceeding (EB Docket No. 03-85). Harkrader may have conducted negotiation and/or drafting of the Consent Decree on behalf of the Bureau.

6. Peter G. Wolfe, Esq.: Federal Communications Commission, Enforcement Bureau, 445 12th Street, S.W., Washington, D.C. 20054. Attorney Wolfe was one of the Bureau attorneys who prosecuted the case against Defendant Business Options, Inc., in the 2003 Enforcement Bureau proceeding (EB Docket No. 03-85). Wolfe may have conducted negotiation and/or drafting of the Consent Decree on behalf of the Bureau.

7. Morgan Fagerman: The Verification Company, 1059 Broadway, Suite G, Dunedin, FL 34698. Fagerman is owner of The Verification Company, which contracted with Defendants to collect verifications. The verifications for the 10 slamming complaints specified in the Order to Show Cause may be in Fagerman's possession.

8. Larry Trainor: Owner of Trainor Printing. His firm handled Buzz Telecom Corp.'s November 2006 invoices. Trainer Printing was contracted to handle direct billing for Buzz Telecom Corp., and he can attest to Buzz Telecom's switch from LEC billing to direct billing. His testimony would be useful to understanding that Buzz Telecom Corp. had no desire to be out of business with its customers shut off. May also be able to attest to Scott Wilson's actions and character.

Interrogatory No. 3:

Identify the individual(s) responsible for preparing, reviewing, editing and/or approving the January 17, 2007 response to the December 20, 2006 letter from Trent B. Harkrader, Deputy Chief, Investigations & Hearings Division, Enforcement Bureau, Federal Communications Commission, to Keanan Kintzel, Business Options, Inc.

Answer:

Defendants object to this interrogatory as vague and ambiguous, inter alia, as to the term "responsible," in this context, therefore the interrogatory is not fully capable of being answered. Notwithstanding the foregoing, and without waiving any objections, Defendants answer as follows: Kurtis J. Kintzel.

Interrogatory No. 4:

Identify all current employees of the Companies.

Answer:

Buzz Telecom Corp., Business Options, Inc., U.S. Bell, Inc., and Avatar Enterprises, Inc., have no employees.

Interrogatory No. 5:

Provide the last known business and residential addresses and telephone numbers for

Elizabeth Ontiveros-Rosas.

Answer:

Last known business address: Buzz Telecom Corp., 1443 E. 84th Place, Merillville, IN 46410 (former address of Buzz Telecom Corp.). Last known residential address and phone number: 6703 New Hampshire Ave., Hammond, IN 46323, (219) 844-3705.

Interrogatory No. 6:

Identify all meetings of the Boards of Directors of the Companies, including the date(s) on which such meetings were held, the locations of all such meetings and the names of all attendees at each such meeting.

Answer:

Defendants object to this interrogatory as vague and ambiguous, inter alia, as to the term "meetings," in this context. Notwithstanding the foregoing, and without waiving any objections, Defendants answer as follows: Informal Board meetings were held in the fall of 2005 and 2006. Kurtis J. Kintzel and Keanan Kintzel are the Board members of Buzz Telecom Corp., Business Options, Inc., and Avatar Enterprises, Inc., and spoke often in person and over the telephone as to corporate affairs. U.S. Bell, Inc. (Link Technologies, Corp.) was dissolved as a corporate entity on October 16, 2002.

Interrogatory No. 7:

Describe the services offered and provided by each of the Companies.

Answer:

Defendants object to this interrogatory as vague and ambiguous, inter alia, as to the term

"services" and as to the meaning of "offered and provided," in this context, especially since Defendants never owned carrier facilities. Notwithstanding the foregoing, and without waiving any objections, Defendants answer as follows: Buzz Telecom Corp. and Business Options, Inc., resold interstate and intrastate long-distance services as well as calling cards, toll free and directory assistance. U.S. Bell, Inc., solicited customers as a telemarketer for Business Options, Inc. Avatar Enterprises, Inc., acted as a management company.

Interrogatory No. 8:

State whether any of the Companies have been subject to regulation by the Commission.

Answer:

Defendants object to this interrogatory as vague and ambiguous in its entirety, therefore not fully capable of being answered. The interrogatory could be construed as asking whether the Commission has, in the proper exercise of its federal subject matter jurisdiction, subjected Defendants to "regulation"—a term that, in such context, could refer to regulatory action, regulatory oversight, enforcement jurisdiction, or any number of things. Defendants cannot answer this interrogatory without further guidance on the term "regulation," and clarification as to what question is actually being posed.

Interrogatory No. 9:

Identify the individual(s) responsible for ensuring the Companies' compliance with the terms of the Consent Decree.

Answer:

Defendants object to this interrogatory on the ground that it sets forth a compound

statement, i.e., in assuming without establishing any foundation that, along with Business Options, Inc., the other entities (Buzz Telecom Corp., U.S. Bell, Inc., and Avatar Enterprises, Inc.) had any obligations of compliance with respect to the Consent Decree. Only "parties" to proceedings may negotiate a Consent Order with the Commission, under 47 C.F.R. § 1.93 and § 1.94. Only Business Options, Inc., was a party in the proceeding leading up to the Consent Decree. Only Business Options, Inc., is named as a party in the Consent Order dated February 18, 2004 (FCC 04M-08). Thus, whether Buzz Telecom Corp., U.S. Bell, Inc., and Avatar Enterprises, Inc., had any obligations of compliance with respect to the Consent Decree presents a genuine, disputed issue for trial. Defendants also object to the interrogatory as vague and ambiguous, inter alia, as to the term "responsible," in this context. Notwithstanding the foregoing, and without waiving any objections, Defendants answer as follows: Kurtis J. Kintzel and Keanan Kintzel took charge of ensuring the compliance of Business Options, Inc., with the terms of the Consent Decree.

Interrogatory No. 10:

Identify the individual(s) responsible for ensuring the Companies' compliance with their federal regulatory obligations regarding the provision of telecommunications services.

Answer:

Defendants object to this interrogatory on the ground that it sets forth a compound statement, i.e., in assuming without establishing any foundation that Buzz Telecom Corp., Business Options, Inc., U.S. Bell, Inc., and Avatar Enterprises, Inc., all had federal regulatory obligations regarding the provision of telecommunications services. U.S. Bell was a telemarketer, and, Avatar Enterprises, Inc., a management company; thus whether either had any

federal regulatory compliance obligations presents a genuine, disputed issue for trial. Defendants also object to the interrogatory as vague and ambiguous, inter alia, as to the term "responsible," in this context. Notwithstanding the foregoing, and without waiving any objections, Defendants answer as follows: Kurtis J. Kintzel and Keanan Kintzel took charge of ensuring the compliance of Buzz Telecom Corp. and Business Options, Inc., with federal regulatory obligations regarding the provision of telecommunications services to the extent that such federal regulatory obligations can be permissibly chargeable to Buzz Telecom Corp. and/or Business Options, Inc.

Interrogatory No. 11:

Identify all companies owned and/or controlled by Kurtis Kintzel and/or Keanan Kintzel that currently are an applicant for or hold a license, permit, certificate or other authorization issued by the Commission or otherwise are subject to regulation by the Commission.

Answer:

Defendants object to this interrogatory as overbroad, vague, and ambiguous, inter alia, as to the phrase "otherwise are subject to regulation by the Commission." Defendants could place themselves at risk of submitting an incorrect answer, simply by not being aware that certain activities may fall within the purview of Commission regulations. The interrogatory also seems calculated to elicit evidence that may be wholly unrelated to the issues described in the Order to Show Cause, thus is overbroad on that ground. Notwithstanding the foregoing, and without waiving any objections, Defendants answer as follows: Buzz Telecom Corp. and/or Business Options, Inc., may or may not hold an active 214 authorization.

Interrogatory No. 12:

Identify all companies of which Kurtis Kintzel and/or Keanan Kintzel are officers and/or directors that currently are an applicant for or hold a license, permit, certificate or other authorization issued by the Commission or otherwise are subject to regulation by the Commission.

Answer:

Defendants object to this interrogatory as overbroad, vague, and ambiguous, inter alia, as to the phrase "otherwise are subject to regulation by the Commission." Defendants could place themselves at risk of submitting an incorrect answer, simply by not being aware that certain activities may fall within the purview of Commission regulations. The interrogatory also seems calculated to elicit evidence that may be wholly unrelated to the issues described in the Order to Show Cause, thus is overbroad on that ground. Notwithstanding the foregoing, and without waiving any objections, Defendants answer as follows: Buzz Telecom Corp. and/or Business Options, Inc., may or may not hold an active 214 authorization.

Interrogatory No. 13:

Identify all accounts with financial institutions of each of the Companies, including, for each account: (1) name of the financial institution where the account is held; (2) the name(s) on the account; (3) account number; and (4) authorized signatory(ies) on the account.

Answer:

Buzz Telecom Corp., Business Options, Inc., and U.S. Bell, Inc., have no bank accounts. Bank account information for Avatar Enterprises, Inc., is as follows:

(1) Name of financial institution: Chase Bank

(2) Name on the account: Avatar Enterprises

(3) Account Number: 735216749

(4) Authorized Signatory: Kurtis J. Kintzel

Interrogatory No. 14:

Identify all states in which the Companies provided telecommunications services during the period February 11, 2004 through November 30, 2006.

Answer:

Defendants object to this interrogatory as overbroad, vague and ambiguous, inter alia, as to the term "telecommunications services," therefore the interrogatory is not fully capable of being answered. Notwithstanding the foregoing, and without waiving any objections, Defendants answer as follows: Every state except Alaska and Hawaii (and perhaps Arizona, Connecticut, Utah, and Vermont). A more definite answer is not available yet, at this stage of discovery.

Interrogatory No. 15:

Identify all billing agents used by the Companies during the period February 11, 2004 through November 30, 2006.

Answer:

Defendants object to this interrogatory as vague and ambiguous, inter alia, as to the term "billing agents" and the phrase "used by the Companies," in this context. Notwithstanding the foregoing, and without waiving any objections, Defendants answer as follows: BSG Clearing Solutions.

Interrogatory No. 16:

Identify, by state, all local exchange carriers through whom the Companies billed their customers for long distance telecommunications services during the period February 11, 2004 through November 30, 2006.

Answer:

Defendants object to this interrogatory as overbroad, not reasonably calculated to lead to the discovery of admissible evidence, and unduly burdensome, therefore not fully capable of being answered. The Bureau has not demonstrated how obtaining a list of LECS, by state, would assist in an understanding of the issues described in the Order to Show Cause. As it seems likely that a great deal of irrelevant, unrelated evidence would be produced, the interrogatory is overbroad. The interrogatory is also unduly burdensome, as Defendant companies billed customers through BSG Clearing Solutions until October/November of 2006. The most direct path to obtaining the information would be to seek the information from BSG Clearing Solutions via subpoena. Notwithstanding the foregoing, and without waiving any objections, Defendants answer as follows: A complete list of LECs is not readily accessible by Defendants at this stage of discovery, but RBOC LECs and most other LECs were used. The accompanying Response to Enforcement Bureau's First Set of Requests for Production of Documents contains a list of LECs, which may or may not be complete.

Interrogatory No. 17:

Identify all communications between Buzz or any of the Companies and Qwest in 2006 regarding allegations of unethical business practices by Buzz or any of the Companies.

Answer:

Defendants object to this interrogatory as overbroad, vague and ambiguous, inter alia, as to the phrase "allegations of unethical business practices." The interrogatory gives no indication what is meant by "unethical," "business practices," or who is supposed to have made such purported "allegations," in this context. Notwithstanding the foregoing, and without waiving any objections, Defendants answer as follows: A letter dated September 29, 2006 was sent to Kurtis J. Kintzel by Steven Hansen, VP, Carrier Relations, Qwest, threatening suspension of services due to apparent customer complaints. Kurtis J. Kintzel spoke with Steven Hansen by telephone about the letter, and the letter was rescinded. On October 2, 2006, Kurtis J. Kintzel communicated via email with Cindy Bell, Qwest Wholesale Sales, informing her that Steven Hansen had rescinded the letter and that services should not be disrupted. Cindy Bell responded via email on October 2, 2006 stating that "the trigger was not pulled on that" and that, since Steven Hansen had rescinded the notice, "it should not happen." On October 6, 2006, an "Alicia Gigaroa" from Qwest apparently sent an email to Qwest Staff Paralegal Terri Dunnington informing Dunnington that a customer named "Charles Scholpp" (BTN 9703779823) had complained about being sold services by "Buzz telecom" claiming to be Qwest. Dunnington forwarded the information to Kurtis J. Kintzel. Subsequently, Dunnington and Kurtis J. Kintzel conducted a three-way phone call with "Charles Scholpp," and it turned out that *another company*—not Buzz Telecom Corp.—was the culprit. "Charles Scholpp" was never sold or provisioned telecom services by Buzz Telecom Corp. Buzz Telecom Corp. had been falsely accused.

Defendants submit that the "Charles Scholpp" scenario illustrates how a customer complaint can cause allegations of "unethical business practices" to be made against an innocent

reseller, yet prove to be wildly unjustified. It is not enough for the Bureau to seek verification tapes—because if the customer was never provisioned or sold by the accused reseller, the verification tape would not exist. The Bureau's approach to the evidence seems to assume that, if the verification tape does not exist, the verification was not obtained pursuant to 47 C.F.R. § 64.1120 and the reseller must be found guilty. However, if the customer has identified the wrong reseller, that may be another reason why the verification tape does not exist. The Bureau must prove that the customer's BTN was actually sold by and switched to the accused reseller's service, and billed (directly or indirectly) by the accused reseller. The mere absence of a verification tape does not prove that unauthorized switching occurred. In other words, if the Bureau has established no foundation other than the complainant's mere assertion, the allegations require more investigation, and are not ripe for prosecution.

Interrogatory No. 18:

Identify the individuals responsible for communicating with Qwest on behalf of the Companies and state those individuals' job duties within the Companies.

Answer:

Defendants object to this interrogatory as vague and ambiguous, inter alia, as to the term "responsible," in this context. Notwithstanding the foregoing, and without waiving any objections, Defendants answer as follows:

Kurtis J. Kintzel ensured that the Qwest bill was paid, and dealt with escalated Qwest matters.

Elizabeth Ontiveros-Rosas sent the monthly payments to Qwest.

Amy Dixon assisted with customer inquiries.

Interrogatory No. 19:

Identify all communications between any of the Defendants and Qwest in 2006 regarding the status of Buzz's or BOI's account with Qwest, including but not limited to communications regarding the past due status of Buzz's or BOI's account. Such identification should include the dates of such communications, all participants in the communications and a brief description of the subject matter of the communications.

Answer:

Defendants object to this interrogatory as overbroad, irrelevant, not reasonably calculated to lead to the discovery of admissible evidence, and unduly burdensome. Defendants also object to the interrogatory as vague and ambiguous, inter alia, as to the phrase "the status of Buzz's or BOI's account with Qwest," in this context. The interrogatory, because not limited in scope to the issues described in the Order to Show Cause, seems likely to lead to the production of a great deal of irrelevant, inadmissible evidence. Furthermore, discovery is ongoing and evidence is still being tracked down. Notwithstanding the foregoing, and without waiving any objections, Defendants answer as follows:

Communications between Defendants and Qwest in 2006 regarding the resale of Qwest telecommunications service by Defendants consist of the following, described by category:

a. Payment of Qwest invoices: Emails from July 11, 2006 through December 7, 2006 have been located. The emails consist of electronic invoices, computer-generated email notices about late payment, emails exchanged with Kay Smith (Qwest Accounts Receivable Analyst) requesting extension of time for payment from Qwest Upper Management.

b. Qwest inquiries regarding alleged customer complaints: A letter from Steven Hansen, VP, Carrier Relations Qwest, dated September 29, 2006, threatening suspension of carrier services. Phone conversation between Kurtis J. Kintzel and Steven Hansen led to the rescinding of the September 29, 2006 letter. Emails dated October 2, 2006 between Kurtis J. Kintzel and Cindy Bell,

Qwest Wholesale Sales Representative, discussing the rescinding of Steven Hansen's letter. Emails dated October 6th and October 10th, 2006, with Qwest's legal department about allegations of customer complaints, including alleged complainant "Charles Scholpp" (BTN 9703779823), which turned out to be a false accusation against Buzz Telecom Corp. Three-way phone call between Qwest Staff Paralegal Terri Dunnington and Kurtis J. Kintzel, in which it was discovered that "Charles Scholpp" had made a false accusation against Buzz Telecom Corp.

c. Qwest's discontinuation of service to Buzz Telecom Corp. customers on November 30, 2006: Buzz Telecom Corp. made numerous phone calls and sent emails to Qwest offering to pay bill in full within 30 days of invoice date. Payment arrangements had been made and approved before (see paragraph a., above). [The contract between Buzz Telecom Corp. and Qwest required payment 30 days from invoice receipt date. A later Addendum created a net-10 timeframe for payment, but there is uncertainty whether the Addendum was ever fully executed. The 30-day due date (rather than net-10) would have given Buzz Telecom Corp. until December 12, 2006 to pay the invoice.] In emails dated November 30, 2006, Cindy Bell, Qwest Wholesale Sales Representative, contacted Kurtis J. Kintzel to inquire whether he would be interested in selling the customer base, and informing him that Qwest's suspension of service to Buzz Telecom Corp. customers was proceeding.

d. Cindy Bell Meeting: Email dated July 13, 2006 from Kurtis J. Kintzel to Buzz Telecom Corp. employee (Mark Krajewski) informing him that Cindy Bell, Qwest Wholesale Sales Representative, had requested a meeting with Buzz Telecom Corp.

Interrogatory No. 20:

Identify all employees or agents of the Companies who communicated with Qwest regarding: (i) Buzz's or BOI's account status with Qwest; (ii) any complaints regarding Buzz's or BOI's business practices; (iii) the suspension and/or discontinuance of service to Buzz or BOI long distance customers: or (iv) the transfer of Buzz or BOI long distance customers to another switchless reseller.

Answer:

Kurtis J. Kintzel, Amy Dixon, and Elizabeth Ontiveros-Rosas.

Interrogatory No. 21:

Identify when Buzz and/or BOI first began having difficulties paying invoices received from Qwest.

Answer:

Defendants object to this interrogatory as vague and ambiguous, inter alia, as to the phrase "having difficulties," thus the interrogatory is not fully capable of being answered. Notwithstanding the foregoing, and without waiving any objections, Defendants answer as follows: Paying the carrier bill became more of a struggle in October 2006 when Buzz Telecom Corp. and Business Options, Inc. changed from LEC billing to direct billing.

Interrogatory No. 22:

Identify the individual(s) responsible for making or authorizing payments by Buzz and BOI to Qwest.

Answer:

Defendants object to this interrogatory as vague and ambiguous, inter alia, as to the term "responsible," in this context. Notwithstanding the foregoing, and without waiving any objections, Defendants answer as follows: Kurtis J. Kintzel authorized payments to be made to Qwest. Elizabeth Ontiveros-Rosas performed the wire transactions until she went on maternity leave in the late summer of 2006.

Interrogatory No. 23:

Identify when Buzz and/or BOI first learned that Qwest might suspend and/or discontinue service to Buzz and BOI long distance customers.

Answer:

Defendants object to this interrogatory as overbroad, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. The fact that Qwest ever communicated intent to "suspend and/or discontinue service to Buzz and BOI long distance customers" does not prove that Qwest was justified in seeking to suspend/discontinue service, and does not prove that Qwest ever had a reasonable legal basis under the Communications Act of 1934 for threatening to do so, or for carrying out such threat. Notwithstanding the foregoing, and without waiving any objections, Defendants answer as follows: Qwest's practice was to email computer-generated notices threatening suspension of services whenever payment was a day or two late. Such form notices were received as early as August 21, 2006, but payment became more of a struggle only in October 2006, when Buzz Telecom Corp. and Business Options, Inc. changed from LEC billing to direct billing.

Interrogatory No. 24:

Identify all steps taken by Buzz and BOI to ensure the continuation of long distance telecommunications service to its customers.

Answer:

Defendants object to this interrogatory on the ground that it sets forth a compound statement, i.e., in assuming without establishing any foundation that Buzz Telecom Corp. and Business Options, Inc., *rather than Qwest*, had the obligation to ensure the continuation of long distance service to its customers. In view of the foregoing, Defendants further object to the interrogatory as overbroad, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. Defendants also object to the interrogatory as vague and ambiguous, inter

alia, as to the phrase "to ensure the continuation of long distance telecommunications service to its customers," which is not defined in this context, therefore the interrogatory is not fully capable of being answered. Notwithstanding the foregoing, and without waiving any objections, Defendants answer as follows: Defendants Buzz Telecom Corp. and Business Options, Inc. were resellers without physical access to any carrier facilities, thus it was not the responsibility of aforementioned Defendants to maintain redundant lines, to ensure that the main facilities were in good working order, etc.

Interrogatory No. 25:

Identify all steps taken by Buzz and BOI to notify any regulatory authorities of the possible discontinuance of long distance service to its customers in any state during the period September 2006 through December 2006.

Answer:

Defendants object to this interrogatory on the ground that it sets forth a compound statement, i.e., in assuming without establishing any foundation that Buzz Telecom Corp. or Business Options, Inc., *rather than Qwest*, had the responsibility to notify regulatory authorities of a "possible discontinuance of long distance service to its customers during the period September 2006 through December 2006." Qwest controlled the carrier facilities, made the decision to discontinue service, and always held the power to continue or discontinue service. Therefore, if Qwest was considering discontinuing service "during the period September 2006 through December 2006," Qwest should have alerted the regulatory authorities. It is Defendants' position that Qwest's actions in discontinuing service to a reseller's customers due to the reseller's purported non-payment of one month's invoice was legal error—and legal error that

resulted in the loss of Defendants' business (because Defendant was pressured by the actions of Qwest to enter into a hurried sale of its major assets, including the sacrifice of unpaid accounts receivable, to another Qwest reseller, UMCC Holdings. Buzz Telecom Corp. had been a loyal, paying customer of Qwest for many years, and, in view whereof, Buzz Telecom Corp. had no reasonable expectation that Qwest would discontinue service to the reseller's customers, in the process breaching its own third-party duties to those customers. The Bureau might consider investigating whether Qwest sought to broker a deal (through the actions of Cindy Bell) between Buzz Telecom Corp. and UMCC Holdings. Whether the brokering was done intentionally or unintentionally, whether it was premeditated or not premeditated, Qwest breached its third-party duties to those disconnected customers, and may carry principal liability.

Interrogatory No. 26:

Identify all communications between any of the Defendants and Qwest in 2006 regarding the transfer of Buzz and/or BOI long distance customers to another switchless reseller.

Answer:

Either immediately before or immediately after Qwest's discontinuance of service to customers of Buzz Telecom Corp. for allegedly being late with payment of one month's invoice, Cindy Bell, a Qwest Wholesale Sales Representative, contacted Kurtis J. Kintzel via email on November 30, 2006, inquiring whether Kurtis J. Kintzel would "be interested in selling [his] base of customers." About four or five hours later, Cindy Bell sent another email to Kurtis J. Kintzel. Kurtis J. Kintzel had a phone conversation with Bell at that stage about the possibility of selling customers, during which Bell communicated the contact information for two Qwest resellers located in Indiana (one of which was UMCC Holdings). A letter written by Barbara

Brohl, Qwest Senior Attorney, Regulatory Law, dated August 3, 2007, states that Bell also gave contact information for Kurtis J. Kintzel to Scott Wilson of UMCC Holdings.

Interrogatory No. 27:

State whether the Companies earned any revenues from interstate and international telecommunications services during the period February 11, 2004 through November 30, 2006 and, if so, identify the amounts of such revenues disaggregated by Company and month.

Answer:

Defendants object to this interrogatory as vague and ambiguous, inter alia, as to the phrase "revenues from interstate and international telecommunications services," in this context. Defendants also object because the interrogatory is overbroad and unduly burdensome, as it requests that Defendants create a financial analysis chart that is not required for privately-held companies under the tax and securities laws. The Bureau should remain cognizant that Defendant companies are not publicly-held companies with quarterly reporting responsibilities as to revenues, broken down by market sector. Notwithstanding the foregoing, and without waiving any objections, Defendants answer as follows: Buzz Telecom Corp. and Business Options, Inc. earned revenues from interstate and international telecommunications services from February 11, 2004 through November 30, 2006. Information on revenues by company and month is not available at this stage of discovery, but efforts are being made to obtain the information.

Interrogatory No. 28:

State whether the Companies filed annual and quarterly FCC Form 499

Telecommunications Reporting Worksheets ("Worksheets") with the Universal Service Administrative Company ("USAC") since February 11, 2004. If any of the Companies filed such forms, identify: (i) which Company(ies); (ii) which form; and (iii) the date the form was filed. If any of the Companies did not file such forms, identify: (i) which Company(ies); (ii) which form(s) were not filed; and (iii) why.

Answer:

Defendants object to this interrogatory as unduly burdensome, given that the FCC should already possess the requested information. Defendants also object to the interrogatory as vague and ambiguous, inter alia, as to the term "filed," in this context. Notwithstanding the foregoing, and without waiving any objections, Defendants answer as follows: Buzz Telecom Corp. filed 499-A's and 499-Qs for 2004, 2005, 2006, and its final 499-A for 2007. Discovery is ongoing as to Business Options, Inc. So far, Defendants have discovered that Business Options, Inc. filed almost all of the 499 forms for 2004, 2005, 2006, and filed its final 499-A for 2007. Only the following forms for Business Options, Inc., seem to be missing: 2004 (499-A, Q2), and 2006 (Q3). Efforts are being made to locate those forms.

Interrogatory No. 29:

Describe the process used by the Companies to prepare the Companies' Worksheets since February 11, 2004. Such description must include identification of all employees or agents of the Companies who prepared, reviewed, edited, approved and executed the Worksheets and identification of all documents used to prepare the Worksheets.

Answer:

Defendants object to this interrogatory as vague and ambiguous, inter alia, as to the term