

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

In the Matter of)
)
Toll Free Service Access Codes) CC Docket No. 95-155
)
Request of **Robert Liff** for a declaratory)
ruling and extraordinary relief regarding the)
actions of **PrimeTel Communications, Inc.,**)
Yorkshire Telecom, Inc., and Verizon)
Communications, Inc., involving the)
unlawful transfer of the toll free telephone)
number 888-776-4737 directly between)
unrelated toll free service subscribers)

To: Chief, Wireline Competition Bureau

**PETITION FOR DECLARATORY RULING
AND REQUEST FOR SPECIAL RELIEF**

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Dated: September 30, 2011

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SUMMARY

By this pleading Robert Liff seeks relief from violations of the Commission's regulations and policies for the administration of toll free telephone numbers. Liff was deprived of his right to a first-come, first-served opportunity to reserve a particular number after the former toll free service subscriber terminated service. The number was initially placed into disconnect status, but was then ported to a different RespOrg, transferred to a new, unrelated subscriber, and returned to active service, in violation of express provisions in the FCC regulations. In addition, in response to an informal complaint regarding the matter, the RespOrgs involved made false statements to and withheld relevant information from the Commission. Liff seeks a declaratory ruling that these actions were unlawful, asks that the number be transferred to him, and requests other appropriate remedies and sanctions.

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Mr. Robert Liff (“Liff”), by his attorney and pursuant to Section 5(d) of the Administrative Procedure Act, 5 U.S.C. § 554, and Section 1.2 of the Commission’s Rules and Regulations, 47 C.F.R § 1.2 (2010), hereby requests a declaratory ruling that the actions described herein constitute violations of the Commission’s Rules and Regulations for the provisioning and administration of toll free telephone numbers, Title 47 C.F.R., Section 52, Subpart D, 47 C.F.R. § 52.101 *et seq.*; the toll free number policies and requirements enunciated in CC Docket No. 86-10 and 95-155; related provisions in the applicable federal tariff, *Tariff F.C.C. No. 1, 800 Service Management System (SMS/800) Functions*, of The Bell Operating Companies (hereinafter cited as the “*SMS/800 Tariff*”); and Section 251(e)(1) of the Communications Act of 1934, as amended, 47 U.S.C. § 251(e). Further, pursuant to Section 1.41 of the Commission’s Rules, 47 C.F.R § 1.41, Liff seeks special relief to remedy these violations. In support of these requests, the following is respectfully shown:

I. INTRODUCTION

1. This pleading describes various actions of PrimeTel Communications, Inc. (“PrimeTel”), Yorkshire Telecom, Inc. (“Yorkshire”), and Verizon Communications, Inc. (“Verizon”) with respect to the toll free telephone number 888-776-4737 (the “Number”).¹ Verizon was the Responsible Organization (“RespOrg”) for the Number prior to January 24, 2011, and Yorkshire has been the RespOrg since that date. Liff, who was interested in obtaining the Number, had been monitoring its status. In early October 2010 the Number was placed in “disconnect” status and, in accordance with applicable regulations, was scheduled to be released into the “spare” pool of numbers available for reservation on a first-come, first-serve basis on February 5, 2011. However, on January 24, 2011, the Number was ported from Verizon to Yorkshire, and returned to “active” status without ever having been placed in the spare pool.

2. The January 24, 2011, transfer was unlawful, because the purpose and effect of the transaction was to move the number from one toll free service subscriber to another unrelated user without first making the number available to all potentially interested users on a first-come, first-served basis.² The Commission has made it clear that “RespOrgs ... may *not* transfer toll free numbers directly from one entity to another unrelated subscriber, absent a specific directive by the Commission.”³ This unlawful conduct deprived Liff of the opportunity, guaranteed by Commission regulation and policy, for first-come, first-serve access to the Number.

¹ Liff earlier submitted an informal complaint regarding this matter (File No. 11-C00278162-1), and he reserves the right to submit a formal complaint prior to the expiration of any applicable statute of limitations. In the meantime, however, after consultation with Commission staff, Liff is submitting this request for declaratory ruling and special relief.

² On information and belief, PrimeTel is affiliated with Yorkshire and was involved in the transfer of the Number. Moreover, in response to an informal complaint filed by Liff, both Verizon and PrimeTel made false statements and/or failed to disclose relevant information to the Commission regarding their involvement with the number.

³ *Transaction Network Services, Inc.*, 26 FCC Rcd 2109, 2109 (2011).

3. Section II of this pleading sets forth specific and detailed factual allegations concerning this matter. Various exhibits attached hereto support, document, and verify the allegations. Section III, below, is a legal analysis demonstrating that the actions of PrimeTel, Yorkshire, and Verizon constitute violations of applicable statutes, regulations, policies, and tariff provisions. Finally, Section IV requests special relief and other appropriate remedies and sanctions for such violations.

II. SPECIFIC ALLEGATIONS OF FACT

4. Liff is an individual, residing and doing business in the state of New Jersey. He is engaged in the business of marketing and advertising.⁴

5. PrimeTel is a Delaware corporation engaged in providing communications services. It is registered in the FCC's CORES system under FRN 0007539521, and its USAC 499 Filer ID Number is 824616. Among other things, PrimeTel, directly and/or through one or more affiliated companies, is a Responsible Organization or RespOrg within the meaning of 47 C.F.R. § 101(b).

6. Yorkshire is a Pennsylvania corporation engaged in the communications business, including acting as a Responsible Organization or RespOrg within the meaning of 47 C.F.R. § 101(b), under SMS/800 RespOrg Code YLC01. On information and belief, Yorkshire is an affiliate of or under common ownership and/or control with PrimeTel.

7. Verizon is a Delaware corporation that is directly and/or through one or more subsidiaries or affiliated entities engaged in the provision of telecommunications services. Either directly or through one of its affiliates or subsidiaries, Verizon acts as a Responsible

⁴ Exhibit No. 9. See ¶ 22, below, for a descriptive listing of the attached exhibits that document, verify, and support these allegations of fact.

Organization or RespOrg within the meaning of 47 C.F.R. § 101(b), under SMS/800 RespOrg Code VZW01.

8. From June 18, 2009, to January 24, 2011, Verizon or an affiliate of Verizon was the RespOrg for the “Number. From June 18, 2009, to October 6, 2010, the status of the Number in the SMS/800 database was ACTIVE. From October 6, 2010, to January 24, 2011, the status of the Number in the SMS/800 database was DISCONNECT.⁵

9. As of October 6, 2010, the toll free service subscriber for the Number was Progress, Inc., an entity doing business in Pipestone, Minnesota, and/or an affiliate or owner thereof (“Progress”). On or before January 24, 2011, PrimeTel and/or Yorkshire, or persons or entities acting at their direction and/or on their behalf, approached Ms. Sylvia Newell, the principal of Progress, seeking a signed letter of authorization (“LOA”) for the porting of the Number to Yorkshire. Newell was advised that another person or entity had inadvertently used the Number in advertising, marketing, and/or promotional materials and was now attempting to secure the Number to mitigate the costs associated with the error. On January 24, 2011, Newell signed an LOA on behalf of Progress for the porting of the Number to Yorkshire.⁶

10. On January 24, 2011, Yorkshire presented the LOA to Verizon, whereupon the number was ported to Yorkshire.⁷ On January 24, 2011, Yorkshire became the RespOrg for the Number. Yorkshire has been the RespOrg for the Number from January 24, 2011, to the present. On January 24, 2011, the status of the Number in the SMS/800 database was changed to

⁵ Exhibit No. 5.

⁶ Exhibit No. 8. Counsel for Liff has in his custody a copy of what purports to be the signed letter of authorization. The document was provided by counsel for PrimeTel under certain conditions that might preclude its being included as an exhibit to this filing. Accordingly, the document is not being further described nor is a copy being attached hereto. Counsel hereby represents that the identity of Progress, Inc., and Ms. Newell as the previous subscriber was learned independently of and prior to the receipt of the letter from PrimeTel.

⁷ Exhibit No. 7.

RESERVED.⁸ Yorkshire did not reserve the Number on behalf of Progress, any principal or affiliate of Progress, or any person or entity associated with Progress.⁹ On January 24, 2011, the status of the Number in the SMS/800 database was changed to ACTIVE. The Number has been in ACTIVE status since that time.¹⁰

11. In the middle to late part of 2010, Liff became interested in obtaining the Number for use in one or more business ventures. Upon inquiry, he learned that the number was in ACTIVE status and that Verizon was the RespOrg. On or shortly after October 6, 2010, Liff learned that the SMS/800 status of the Number changed to DISCONNECTED status. He knew that, pursuant to the applicable toll free number administration procedures, the SMS/800 status of the Number would be changed to SPARE on February 5, 2011, unless the disconnected subscriber reclaimed the number and resumed service prior to that date. The Number would then go into the “spare pool” of numbers available for reservation and assignment to new subscribers on a first -come, first-serve basis.¹¹

12. Liff made arrangements to have the status of the Number monitored and to be reserved for him as soon as it became available for reservation and assignment. Sometime between January 24 and February 4, 2011, Liff discovered that the status of the Number had changed to ACTIVE, and that the Number had been ported to RespOrg Code YLC01, which Liff believed to be PrimeTel or a subsidiary or affiliate of PrimeTel.¹²

13. On Friday, February 4, 2011, Liff called 888-PRIMETEL (888-774-6383) and left a message asserting his belief that PrimeTel had unlawfully acquired the Number. He stated that

⁸ Exhibit No. 5.

⁹ Exhibit No. 8.

¹⁰ Exhibit No. 5.

¹¹ Exhibit No. 9.

¹² *Id.*

he would complain to the FCC unless PrimeTel contacted him by Monday, February 7. On Monday, February 7, 2011, Mr. Gary Hertigan called Liff. Liff had talked with Hertigan on one or more prior occasions, and believed him to be an employee or representative of PrimeTel. It appears that Hertigan is in fact an employee of PrimeTel and/or one or more PrimeTel affiliates or subsidiaries. At no time during the February 7, 2011, telephone conversation did Hertigan deny that he was speaking on behalf of PrimeTel, nor did he mention the name of Yorkshire. Hertigan advised Liff that PrimeTel had obtained a letter of authorization from the customer, and either stated or implied that the transfer of the number was legal and proper. The two men thereafter briefly discussed other toll free numbers and possible business arrangements.¹³

14. Unsatisfied with Hertigan's response, Liff filed his informal complaint against PrimeTel and Verizon on February 7, 2011, shortly after the phone conversation with Hertigan. In his informal complaint, Liff alleged, inter alia, that Verizon illegally transferred the Number to PrimeTel before expiration of the applicable grace period and without the Number having been placed in the spare pool.¹⁴

15. On March 23, 2011, PrimeTel filed its response to the informal complaint with the FCC (the "PrimeTel Report"). The PrimeTel Report stated that PrimeTel had never been the RespOrg for the Number. The PrimeTel Report did not disclose that a representative of PrimeTel had discussed the matter with Liff prior to the filing of the informal complaint. The PrimeTel Report was signed by Ms. Jennifer Luna, who is also the contact listed with the SMS/800 Help Desk as the contact for Yorkshire. The PrimeTel Report did not disclose that Yorkshire was then the RespOrg for the Number.¹⁵

¹³ *Id.*

¹⁴ Exhibit Nos. 1 & 9.

¹⁵ Exhibit No. 2.

16. On April 8, 2011, Verizon filed its response to the informal complaint with the FCC (the “Verizon Report”). The Verizon Report stated: “After careful review ... the toll free number in question was never owned by Verizon.” The Verizon Report did not disclose that Verizon had been the RespOrg for the Number from June 18, 2009, to January 24, 2011, or that Verizon had ported the Number to another RespOrg on January 24, 2011.¹⁶

17. On March 31, 2011, at 1:55 PM EST, Hertigan left a message asking Liff to call him. Shortly thereafter Liff and Hertigan met for lunch in Philadelphia, at a restaurant one block from PrimeTel’s offices. Hertigan paid for the lunch by credit card. Hertigan stated that PrimeTel had received and answered the informal complaint. He suggested that PrimeTel and Liff might be able to “do business” if the informal complaint were withdrawn.¹⁷

18. On April 14, 2011, Liff retained FCC regulatory counsel to review the matter and advise him. On April 26, 2011, Liff’s FCC counsel sent an email message to Hertigan stating his opinion that the Number had been unlawfully transferred between two unrelated toll free service subscribers without first having gone into the spare pool and made available to other potential users on a first-come, first-serve basis. Hertigan never responded directly to the email message from Liff’s FCC counsel.¹⁸

19. On April 28, 2011, Liff contacted Hertigan to inquire about the status of the matter. Hertigan advised Liff that the email message had been referred to PrimeTel’s FCC counsel who would be contacting FCC counsel for Liff.¹⁹

¹⁶ Exhibit No. 3.

¹⁷ Exhibit No. 9.

¹⁸ Exhibit No. 4.

¹⁹ Exhibit No. 9.

20. On May 2, 2011, Liff's FCC counsel sent formal demand letters to the registered agents for service for both PrimeTel and Verizon.²⁰ Verizon responded by letter dated May 19, 2011 (the "Verizon Response").²¹

21. PrimeTel's response to the demand letter took the form of a series of telephone conversations and email exchanges between PrimeTel's and Liff's respective FCC counsel. PrimeTel initially denied having any relationship to the Number, stating it was with Yorkshire, a RespOrg with which PrimeTel denied having any corporate connection. Counsel for PrimeTel acknowledged the connection between PrimeTel and Yorkshire only after being advised that there indeed appeared to be a corporate connection between PrimeTel and Yorkshire (i.e., common officers, directors, or owners), and upon being reminded that (a) Ms. Jennifer Luna, the SMS/800-listed contact for Yorkshire, signed PrimeTel's response to the informal complaint, and (b) Hertigan did not deny, and indeed seemed to assume, PrimeTel's involvement with the Number in his communications with Liff. PrimeTel nonetheless continued to maintain that neither it nor Yorkshire had done anything wrong, but provided nothing to dispute Liff's factual assertions or to counter his legal contentions.²²

22. The following is a listing of the exhibits, copies of which are attached hereto, that document, support, and verify the foregoing factual allegations, as follows:

Exhibit No. 1: The informal complaint (File No. 11-C00278162-1), dated February 10, 2011, filed by Liff against PrimeTel and Verizon.

Exhibit No. 2: Letter, dated March 23, 2011, from Jennifer Luna, PrimeTel Communications, to FCC, responding to the informal complaint.

²⁰ Exhibit No. 6.

²¹ Exhibit No. 7.

²² Undersigned counsel, by executing this pleading, hereby certifies that the statements in paragraph 21, above, are an accurate summary of the email and telephonic communications between him and FCC regulatory counsel for PrimeTel.

Exhibit No. 3: Letter, dated April 8, 2011, from Mrs. E. Goode, Verizon, to the FCC, responding to the informal complaint.

Exhibit No. 4: April 26, 2011, email message from Robert J. Keller, counsel for Liff, to Mr. Gary Hertigan.

Exhibit No. 5: Reports, dated May 2, 2011, and September 21, 2011, respectively, providing historical status of the Number in the SMS/800 database.

Exhibit No. 6: May 2, 2011, demand letter from Robert J. Keller, counsel for Liff, to PrimeTel and Verizon.

Exhibit No. 7: Letter, dated May 19, 2011, from Ms. Susan Dujack, Verizon, to Robert J. Keller, counsel for Liff, in response to May 2, 2011, demand letter.

Exhibit No. 8: Declaration of Sylvia Newell, Progress, Inc.

Exhibit No. 9: Declaration of Robert Liff.

III. LEGAL ANALYSIS & ARGUMENT

A. The Applicable Legal Standards and Regulatory Requirements

23. Section 251(e)(1) of the Communications Act confers upon the Commission exclusive jurisdiction over "those portions of the North American Numbering Plan that pertain to the United States."²³ It is well established that telephone numbers, including toll free numbers, are a public resource—they are not “owned” by either the telecommunications carriers or the subscribers.²⁴ The Commission has established a regulatory structure for the provisioning, administration, and portability of toll free telephone numbers on an equitable basis.²⁵ This field is

²³ 47 U.S.C. § 251(e)(1).

²⁴ *Administration of the North American Numbering Plan*, CC Docket No. 92-237, *Report and Order*, 11 FCC Rcd 2588, 2591 (1995); *Toll Free Service Access Codes*, CC Docket No. 95-155: *Notice of Proposed Rulemaking*, 10 FCC Rcd 13692, 13702 (1995), *Fourth Report and Order and Memorandum Opinion and Order*, 13 FCC Rcd 9058, 9061, n.14 (1998), *Order*, 20 FCC Rcd 15089, 15090-15091 (2005), *Order*, 21 FCC Rcd 9925, 9927 (2006), *Order*, 22 FCC Rcd 651, 653 (2007), *Order*, 24 FCC Rcd 13022, 13029 12 (2009).

²⁵ Part 52, Subpart D (Toll Free Numbers) of the FCC Regulations, 47 C.F.R. §§ 52.101–52.111 (2010).

also governed by the SMS/800 Tariff setting for the rules and regulations pursuant to which RespOrgs²⁶ have access to the centralized database for toll free number management.²⁷ The SMS/800 Tariff has the force of law.²⁸

24. The Section 52.111 of the Commission's rules provides: "Toll free numbers shall be made available on a first-come, first-served basis unless the Commission directs otherwise."²⁹ The SMS/800 Tariff similarly provides: "Specific toll-free number requests are honored based upon availability, on a first-come first-served basis."³⁰ The numbers available for such reservation and assignment are said to be in SPARE status in the SMS/800 database, or in the

²⁶ A "RespOrg" or "Responsible Organization" is "[t]he entity chosen by a toll free subscriber to manage and administer the appropriate records in the toll free Service Management System for the toll free subscriber. 47 C.F.R. § 52.101(b). The RespOrg is often the toll free service provider, but need not be. The subscriber is free to designate an entity other than the carrier to service as its RespOrg.

²⁷ Toll free numbers, along with associated electronic records, are contained in a centralized service management system (or SMS) database. Operation of the SMS/800 Database is performed by Data Services Management, Inc. *Provision of Access for 800 Service*, CC Docket No. 86-10, *Order*, 19 FCC Rcd 1423, 1425 (1993); *Toll Free Service Access Codes*, CC Docket No. 95-155, *Order on Reconsideration*, 22 FCC Rcd 22188, 22188-22189 (2007). RespOrgs gain access to the database pursuant to special tariff of the Bell Operating Companies. SMS/800 Functions, Tariff FCC No. 1 (hereinafter, the "SMS/800 Tariff").

²⁸ "A tariff filed with a federal agency is the equivalent of a federal regulation." *Cushman v. Sprint Corp.*, 133 F. 3d 484, 488 (7th Cir. 1998). "[A] tariff, required by law to be filed, is not a mere contract. It is the law." *Carter v. AT&T*, 365 F. 2d 486, 496 (5th Cir. 1966), *cert. denied*, 385 U.S. 1008 (1967); *see also MCI Telecommunications Corp. v. Teleconcepts, Inc.*, 71 F. 3d 1086, 1095 (3rd Cir. 1995).

²⁹ 47 C.F.R. § 52.111.

³⁰ *SMS/800 Tariff* at § 2.3.1(A)(2). The reservation of a number without having an identified subscriber is *prima facie* evidence of "warehousing," an expressly prohibited practice, an unreasonable practice under Section 201(b) of the Communications Act, and inconsistent with the mandate of Section 251(e) of the Act that numbers be made available on an equitable basis. *Toll Free Service Access Codes*, CC Docket No. 95-155, *Second Report and Order and Further Notice of Proposed Rulemaking*, 12 FCC Rcd 11162, 11178-11179 (1997); 47 C.F.R. § 52.105(b)(1); *SMS/800 Tariff* at § 2.2.2(A).

“spare pool” of available numbers.³¹ The reservation of a number without having an identified subscriber is prima facie evidence of “warehousing,” an expressly prohibited practice, an unreasonable practice under Section 201(b) of the Communications Act, and inconsistent with the mandate of Section 251(e) of the Act that numbers be made available on an equitable basis.³²

25. “RespOrgs ... may *not* transfer toll free numbers directly from one entity to another unrelated subscriber, absent a specific directive by the Commission.³³ When a subscriber discontinues toll free service, the number is to be placed into DISCONNECT status for a period of 120 days,³⁴ a kind of “grace period” during which the subscriber may seek to reclaim the number. Unless the same subscriber resumes toll free service and reclaims the number within that time, however, the number must be released back into the spare pool and once again be available for reservation on behalf of other subscribers on a first-come, first-served basis: The applicable regulation expressly provides:

All toll free numbers in disconnect status must go directly into the spare category upon expiration of the 4-month disconnect interval. Responsible Organizations shall not retrieve a toll free number from disconnect status and return that number directly to working status at the expiration of the 4-month disconnect interval.³⁵

B. The Actions of PrimeTel and/or Yorkshire

26. In the matter at hand these regulations, policies, and requirements were clearly violated. The prior user terminated its toll free service on October 6, 2010. Verizon thereupon changed the SMS/800 status of the Number from ACTIVE to DISCONNECT. The prior user

³¹ 47 C.F.R. § 52.103(a)(6). *Industry Guidelines for Toll Free Number Administration* (ATIS/OBF, Issue 13, June 2003) at § 2.4.1.

³² *Transaction Network Services, Inc.*, 26 FCC Rcd 2109, 2111-2112 (2011); 47 C.F.R. § 52.105(b)(1); *SMS/800 Tariff* at § 2.2.2(A).

³³ *Transaction Network Services, Inc.*, 26 FCC Rcd at 2109.

³⁴ 47 C.F.R. § 52.103(d); *Industry Guidelines for Toll Free Number Administration* at § 2.4.5.

³⁵ *Id.*

had until October 5, 2011, to reclaim the Number to be used with either a reactivated or new toll free service with the same or a different carrier. But that is not what happened.

27. Yorkshire and/or PrimeTel secured the prior subscriber's signature on the LOA by claiming that another entity had mistakenly used the number in advertising and marketing materials, and now wished to secure use of the number in order to avoid the expenditure of recalling and revising those materials. This appears to have been a false representation, but even had it been true, the purpose of securing the LOA was not to have the former subscriber reclaim the number and reestablish toll free service, which would have been the subscriber's right under FCC requirements, but rather to transfer from the number directly from the prior subscriber to a new subscriber, bypassing the spare pool, a clear contravention of the first-come, first served scheme that is fundamental to the Commission's toll free number administration policy.³⁶

C. The Actions of Verizon

28. Verizon asserts that it acted properly. It placed the number in DISCONNECT status when the subscriber terminated service and was prepared to release the Number into the spare pool on February 5, 2011, after the 120 day period had run. Verizon argues that when it was presented with a signed LOA in the name of the prior subscriber, it had not alternative other than to port the number to Yorkshire. That might be credible, were it not for the fact that this convenient story contradicts Verizon's previous story. If Verizon's actions were as innocent and blameless as claimed in the May 19, 2011, Verizon Report, one would expect it to have recited those actions in the April 8, 2011, Verizon Response.

³⁶ This is assuming, of course, that the number was in fact reserved for a bona fide subscriber to toll free service. Liff, undersigned counsel, and several other people have, for the past few months, dialed the number from various different area codes, and there has never been an answer or a diversion to any sort of recording. The number just rings with no answer. If the Number is being held with no toll free service subscriber (or if it is being held with PrimeTel or some other affiliate of Yorkshire acting as a shell), this would also violate the rules against hoarding of toll free numbers by RespOrgs. 47 C.F.R. § 52.107.

29. Verizon claimed, in response to Liff's informal complaint, to have made a "careful review of this telephone number," whereupon it allegedly "discovered that the toll free number in question was never owned by Verizon." It is inconceivable that Verizon could have carefully reviewed the matter without having discovered that it was responsible for the very porting of the number being complained of. This leaves only two possible conclusions: (a) Verizon was being less than candid when it claimed to have made a "careful review" of the number; or (b) Verizon intentionally misrepresented when it claimed to have no involvement with the number. Had this been an innocent mistake, one would have expected Verizon to have acknowledged and explained it in the Verizon Response. Upon recognizing the error, moreover, Verizon had a duty to correct the false statement it had made to the Commission in the Verizon Report.³⁷

30. At the informal complaint stage, when Verizon thought it could summarily dismiss Liff as a mere nuisance, the defense was, "We didn't do it." In response to the threat of a formal complaint, however, Verizon changed its plea to, "We did it, but it wasn't wrong." It is respectfully submitted that Verizon's credibility account is overdrawn.

V. PROPOSED REMEDIES AND REQUEST FOR SPECIAL RELIEF

31. The direct transfer from the Number from one subscriber to another unrelated subscriber, without the number first having been placed in the spare pool, was clearly a violation of applicable provisions of the Communications Act, Commission regulations and policy, and the SMS/800 tariff. These same legal provisions afforded Liff the right to a first-come, first-serve

³⁷ It is no answer for Verizon to claim that its statement was technically correct, i.e., it indeed did not "own" the number. Verizon knows that nobody "owns" numbers, and it therefore knew or should have known that this statement would be construed as a disclaimer of any involvement with the number, including RespOrg status.

opportunity to reserve the Number, a right of which he was deprived by the unlawful actions described herein. Liff therefore respectfully seeks redress and remedy, as follows.

A. Transfer of the Number to Liff

32. It is requested that the Commission enter an order directing Yorkshire to transfer the Number to Liff. Section 52.111 of the Rules expressly acknowledges the Commission's authority to authorized exceptions to the usual first-come, first-served protocol in certain cases.³⁸ The Commission has in fact ordered transfers of toll free numbers to specified users where there were important public interest reasons for so doing.³⁹ Liff respectfully submits that there are sufficient public interest grounds for granting such special relief in this case. Unless there is hope for some form of remedy or redress when members of the public have been wrongfully deprived of first-come, first-served access to toll free numbers, they will have no incentive to present complaints to the Commission. But such complaints must be encouraged, for at least two important reasons. First, absent complaints, the Commission will never be made aware of such violations. The nature of toll free number administration is such that the Commission cannot adequately monitor and police the conduct of RespOrgs; indeed, often the subscribers and potential subscribers involved are unable to learn all the behind-the-scenes maneuvering

³⁸ 47 C.F.R. § 52.111 (directing assignment of toll free numbers on a “first-come, first-served basis unless the Commission directs otherwise”).

³⁹ *Toll Free Access Codes*, 20 FCC Rcd 15089 (2005) (800-RED-CROSS temporary reassignment order); *Toll Free Access Codes*, 21 FCC Rcd 9925 (WCB 2006) (800-RED-CROSS permanent reassignment order)” case); *Toll Free Access Codes*, 22 FCC Rcd 651 (WCB 2007) (800/888-SUICIDE temporary reassignment order); *Toll Free Access Codes*, 24 FCC Rcd 13022 (2009) (800/888-SUICIDE permanent reassignment order), *vacated and remanded sub nom. Kristin Brooks Hope Center v. FCC*, 626 F.3d 393 (D.C. Cir. 2010). The court's remand order in the case of 800/888 SUICIDE was based on insufficiency of the record underlying the factual basis for the determination, but did not disturb the fundamental principle, *i.e.*, that sufficient public interest reasons do justify assignment of a number. Since the remand, the Commission has repeatedly extended the temporary reassignment of the number pending further development and evaluation of the factual record. *Toll Free Access Codes*, 26 FCC Rcd 327 (WCB 2011), 26 FCC Rcd 1395 (WCB 2011), 26 FCC Rcd 8454 (2011), and 2011 FCC Lexis 3661 (DA 11-1512; WCB rel. Sept. 7, 2011).

involved. Second, the threat of such complaints can serve to deter RespOrgs from committing such violations. But unless there is a realistic hope of obtaining the sought-after number, a wronged party would have little incentive to expend the time and financial resources necessary to present a complaint to the Commission.

B. Referral to Enforcement Bureau for Investigation

33. Liff further asks that this matter be referred to the Enforcement Bureau for a full investigation, focusing particularly on the practices and actions of PrimeTel and Yorkshire, including, but not limited to, the practice of soliciting letters of authorizations from existing toll free subscribers for the purpose of transferring numbers to other unrelated subscribers; and the use of multiple affiliated RespOrgs to circumvent the Commission's toll free number regulations and policies. As to both PrimeTel and Verizon, the Commission should also investigate the facts and circumstances surrounding their false denials of knowledge of or involvement with the Number in response to the informal complaint. Irrespective of Liff's legal rights, getting to the bottom of these questions is essential to the Commission's ability to enforce its toll free number policies in the public interest.

C. Regulatory Sanctions

34. Finally, it is respectfully requested that the Commission impose such sanctions on the Defendants as it may determine is appropriate, for the violations of the toll free number regulations and policies, for the false statements and lack of candor in the carriers' responses to the informal complaint, and for any further violations found in the course of addressing this complaint or in the investigation proposed in the preceding paragraph. Possible sanctions should include, without limitation, cease and desist orders, monetary forfeitures, and decertification as RespOrgs.

WHEREFORE, good cause having been shown, and it appearing to be in the public interest, it is respectfully requested that the foregoing relief be granted.

Respectfully Submitted,

ROBERT LIFF



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Dated: September 30, 2011

Certificate of Service

I, Robert J. Keller, counsel for Robert Liff in the above-captioned matter, hereby certify that on this 30th day of September 2011, I caused copies of this pleading be served on the following via first class U.S.P.S., postage prepaid:

Charles H. Helein, Esq.
Helein & Marashlian, LLC
1420 Spring Hill Road – Suite 205
McLean , Virginia 22102

Kathleen Grillo, Esq.
Verizon
1300 I Street NW, Suite 400 West
Washington, D.C. 20005

PrimeTel Communications, Inc.
106 South Seventh Street
Philadelphia, PA 19106

Verizon Communications, Inc.
140 West Street
29th Floor
New York NY 10007

Yorkshire Telecom, Inc.
721 Chestnut Street
Philadelphia, PA 19106



Robert J. Keller



**Federal Communications Commission
Consumer & Governmental Affairs Bureau
Consumer Inquiries and Complaints Division
445 12th Street, SW., Room 5-A847
Washington, DC 20554**

Date:02/10/2011

**ROBERT LIFF
11 SAUPE DRIVE
MANALAPAN, NJ 07726**

Dear Consumer:

Re: Complaint # **11-C00278162-1**

This letter is in response to your complaint filed with the Federal Communications Commission (FCC). We are reviewing your complaint and will contact you if any further information is needed. Thank you for filing.

For your convenience, a copy of your complaint information has been attached for your records. Please note that if your complaint was transferred to a different form, other than the one on which it was originally captured, copies of both forms will be attached. Please use the complaint number referenced above in lieu of any previously provided complaint number.

If you have further questions please feel free to visit the Consumer & Governmental Affairs Bureau's website at www.fcc.gov/cgb or call us at 1-888-CALL-FCC (1-888-225-5322) voice; 1-888-TELL-FCC (1-888-835-5322) TTY.

Sincerely,


Sharon C. Bowers, Acting Division Chief
Consumer Inquiries & Complaints Division
Consumer & Governmental Affairs Bureau

Form 2000B - Billing, Privacy, or Service Quality Complaint

***** ANSWER EACH QUESTION THAT APPLIES TO YOUR SPECIFIC COMPLAINT *****

5. For billing and non-billing complaints (including privacy and service quality issues) please provide the details of your complaint or any additional information below:
 I have been trying to get 888-776-4737 for over 6 months. I have been in contact with Verizon and their reseller and was told I had to wait the proper time until they can get me that number. I even had a outside company tell me the same. If you check the history of the number you will see that Verizon illegally transferred that number to Prime Tel. They did not wait the proper grace period and the number never went spare. I have proof (e-mails) that I have spoken to Verizon and their reseller months ago. The reseller even told me I could have the number but they no longer had control over it and I had to go back to Verizon and they told me talk to the reseller. All I wanted was a equal and fair opportunity to get this number and that didnt happen.

You may submit this form over the Internet at <http://www.fcc.gov/cgb/complaints.html>, by e-mail to fccinfo@fcc.gov, by fax to 1-866-418-0232, or by postal mail to:

Federal Communications Commission
 Consumer & Governmental Affairs Bureau
 Consumer Complaints
 445 12th Street, SW
 Washington, D.C. 20554

In addition, you may submit your complaint over the telephone by calling 1-888-CALL-FCC or 1-888-TELL-FCC (TTY). If you choose to submit your complaint over the telephone, an FCC customer service representative will fill out an electronic version of the form for you during your conversation. If you have any questions, feel free to contact the FCC at 1-888-CALL-FCC or 1-888-TELL-FCC (TTY).

FCC NOTICE REQUIRED BY THE PAPERWORK REDUCTION ACT AND THE PRIVACY ACT

The Federal Communications Commission is authorized under the Communications Act of 1934, as amended, to collect the personal information that we request in this form. This form is used for complaints that involve billing, privacy, or service quality. The public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the required data, and completing and reviewing the collection of information. If you have any comments on this burden

Exhibit No. 1, page 3 of 5

User Complaint Key: 11-C00278162-1

Form 2000B - Billing, Privacy, or Service Quality Complaint

***** ANSWER EACH QUESTION THAT APPLIES TO YOUR SPECIFIC COMPLAINT *****

In each of these cases, the FCC will determine whether disclosure of the information in this system of records notice is compatible with the purpose for which the records were collected. Furthermore, information in this system of records notice is available for public inspection after redaction of information that could identify the complainant or correspondent, i.e., name, address and/or telephone number.

THE FOREGOING NOTICE IS REQUIRED BY THE PAPERWORK REDUCTION ACT OF 1995, PUBLIC LAW 104-13, OCTOBER 1, 1995, 44 U.S.C. SECTION 3507 AND THE PRIVACY ACT OF 1974, PUBLIC LAW 93-579, DECEMBER 31, 1974, 5 U.S.C. SECTION 552a(e)(3).

Form 2000B – Billing, Privacy, or Service Quality Complaint

Consumer's Information:First Name: **Robert** Last Name: **Liff**Company Name:
(Complete only if you are filing this complaint on behalf of a company or an organization.)Post Office Box Number:
(Official Post Office box Number Only)Address 1: **11 Saube Drive** Address 2:
Mailing Address (where mail is delivered)City: **Manalapan** State: **NJ** Zip Code: **07726**Telephone Number (Residential or Business): **Phone:(917) 941 - 4286**E-mail Address: **rs1711@aol.com******* ANSWER EACH QUESTION THAT APPLIES TO YOUR SPECIFIC COMPLAINT *****

1. Telephone number(s) involved (including area code): **Phone:(888) 776 - 4737**
2. What is the name of the telephone company, wireless carrier, or other company that is the subject of your complaint?: **Prime Tel and Verizon**
3. What is the account number that is the subject of your complaint?:
4. If you are disputing charges on a telephone bill, complete the following:
 - a. Disputed amount: **\$ 0.00**
 - b. Have you paid any of the disputed charges?:
 - c. Did the billing company adjust or refund the disputed charges?:
 - d. If yes, what was the amount of the adjustment or refund?: **\$ 0.00**
 - e. Are the disputed charges related to additional services?:
If yes, please explain:

User Complaint Key: 11-C00278162-1**Form 2000B – Billing, Privacy, or Service Quality Complaint******* ANSWER EACH QUESTION THAT APPLIES TO YOUR SPECIFIC COMPLAINT *****

estimate, or how we can improve the collection and reduce the burden it causes you, please write to the Federal Communications Commission, OMD-PER, Paperwork Reduction Project (3060-0874), Washington, DC 20554. We will also accept your comments regarding the Paperwork Reduction Act aspects of this collection via the Internet if you send them to PRA@fcc.gov. PLEASE DO NOT SEND YOUR COMPLETED FORMS TO THIS ADDRESS.

Remember - You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0874.

In addition, the information that consumers provide when filling out FCC Form 2000 is covered by the system of records notice, FCC/CGB-1, Informal Complaints and Inquiries File (Broadcast, Common Carrier, and Wireless Telecommunications Bureau Radio Services). The Commission is authorized to request this information from consumers under 47 U.S.C. 206, 208, 301, 303, 309(e), 312, 362, 364, 386, 507, and 51; and 47 CFR 1.711 et seq.

Under this system of records notice, FCC/CGB-1, the FCC may disclose information that consumers provide as follows: when a record in this system involves a complaint against a common carrier, the complaint is forwarded to the defendant carrier who must, within a prescribed time frame, either satisfy the complaint or explain to the Commission and the complainant its time frame, either satisfy the complaint or explain to the Commission and the complainant its failure to do so; where there is an indication of a violation or potential violation of a statute, regulation, rule, or order, records from this system may be referred to the appropriate Federal, state, or local agency responsible for investigating or prosecuting a violation or for enforcing or implementing the statute, rule, regulation, or order; a record from this system may be disclosed to a Federal agency, state, or local agency responsible for investigating or prosecuting a violation or for enforcing or implementing the statute, rule, regulation, or order; a record from this system may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit; a record on an individual in this system of records may be disclosed, where pertinent, in any legal proceeding to which the Commission is a party before a court or administrative body; a record from this system of records may be disclosed to the Department of Justice or in a proceeding before a court or adjudicative body when: (a) the United States, the Commission, a component of the Commission, or, when represented by the government, an employee of the Commission is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Commission determines that the disclosure is relevant or necessary to the litigation; a record on an individual in this system of records may be disclosed to a Congressional office in response to an inquiry the individual has made to the Congressional office; a record from this system of records may be disclosed to GSA and NARA for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall not be used to make a determination about individuals.

PRIMETEL COMMUNICATIONS

106 South 7th Street 2nd Floor
Philadelphia, PA 19106
Phone - 888-774-6383
Fax - 888-329-1122

March 23, 2011

Federal Communications Commission
Consumer & Governmental Affairs Bureau
Consumer Inquiries and Consumer Complaints
445 12th Street, SW 5-A847
Washington, D.C. 20554

Re: PrimeTel Communications, Inc., IC Number 11-C00278162

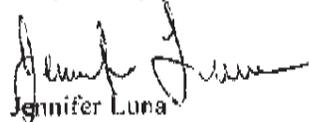
Attention Federal Communications Commission:

PrimeTel Communications, Inc. (PrimeTel) hereby responds to the above actioned informal complaint.

PrimeTel has never been the resporg of the toll free telephone number 888-776-4737.

If we may provide any further information or if there are any questions regarding this matter, kindly contact the undersigned at 888-774-6383.

Respectfully submitted,



Jennifer Luna
PrimeTel Communications

Cc: Robert Liff



1717 Arch Street
Philadelphia, Pa 19103

April 8, 2011

Complaint
Sharon Bowers
Division Chief
Consumer Inquiries and Complaints Division
Consumer & Governmental Affairs Bureau
Federal Communications Commission
445 12 St., SW
Washington, DC 20554

RE: Robert Liff
11 Saupe Drive
Manalapan, NJ 07726
Telephone: 888 776-4737
IC Number: 11-C00278162-1
Received: March 23, 2011

Thank you for referring the complaint of Mr. Liff to our office for review. We appreciate him bringing this matter to our attention. Mr. Liff expressed concern about not being able to obtain a toll free number.

After careful review of this telephone number we discovered that the toll free number in question was never owned by Verizon. We advised Mr. Liff that unfortunately we would have no jurisdiction over the number. We also advised him that he may have to go back to the FCC if he feels the number was obtained illegally.

We thank you again for bringing this matter to our attention. I trust the information provided enables you to close your inquiry.

Sincerely,
Mrs. E. Goode
Customer Advocacy
800-447-3420

cc: Robert Liff

Bob Keller

From: Robert J. Keller <rjk@telcomlaw.com>
Sent: Tuesday, April 26, 2011 1:36 PM
To: 'ghertigan@guesswho.com'
Cc: 'RSL711@aol.com'
Subject: RE: Hey

Mr. Hertigan,

Robert Liff has retained my services as FCC regulatory counsel in connection with a dispute regarding the toll free telephone number 888-776-4737. Accordingly, he referred your email message to me. I apologize for not having contacted you sooner.

I have reviewed this matter carefully, including an investigation into the SMS status history for the number, and have determined that the number appears to have been unlawfully transitioned from disconnected to working status without having first been released to the spare pool, in violation of FCC regulations and policies regarding administration of toll free numbers. Given the inadequate responses of PrimeTel and Verizon to the informal complaint filed by Mr. Liff, I have advised him to follow up with formal complaint. He is prepared to do so.

Within the next few days I will be serving a formal demand letter—a preliminary stage in the formal complaint process—one the agents for service of PrimeTel and Verizon. If you feel there is a way to resolve this matter without having to proceed to the formal complaint stage, I am certainly willing to hear your ideas and advise Mr. Liff accordingly. My contact information is set forth below.

Thank you.

—

Bob Keller <rjk@telcomlaw.com>
Law Offices of Robert J. Keller, P.C.
PO Box 33428, Washington DC 20033
www.telcomlaw.com | 202.656.8490

From: RSL711@aol.com [mailto:RSL711@aol.com]
Sent: Tuesday, April 19, 2011 2:25 PM
To: rjk@telcomlaw.com
Subject: Fwd: Hey

From: ghertigan@guesswho.com
To: RSL711@aol.com
Sent: 4/13/2011 4:35:53 P.M. Eastern Daylight Time
Subj: Hey

Robert,

I hope you enjoyed your time in San Diego. I appreciate you taking the time out of your schedule to meet with me.

Please call me tomorrow or Friday, to let me know where things stand.

Regards,
Gary



Phone: (888) 767-3300 Option 1

Email: amer.bis.sms800.sms800hd@sykes.com

May 2, 2011

Name: Robert J. Keller
 Company: Law Offices of Robert J. Keller, P.C.

Dear Robert J. Keller,

SMS/800® non-proprietary information of a toll free number consists of the current service provider, current status and the trouble referral number of the current service provider. SMS/800 does not contain information for numbers other than toll-free (800, 888, 877, 866, & 855). Please note that customer information is not maintained by SMS/800 and must be obtained from the current toll free service provider.

Below is the non-proprietary information on the toll free numbers submitted:

Dial Number	Service Provider	Status	Service Provider Contact #
(888) 776-4737	VERIZON BUSINESS		800-624-5677
	6-18-09 to 10-6-10	ACTIVE	
	10-6-10 to 1-24-11	DISCONNECT	
	1/24/2011	RESERVED	
	Ported to		
	YORKSHIRE TELECOM		800-967-5744
	1/24/2011	Reserved	
	1-24-11 to Current	Active	

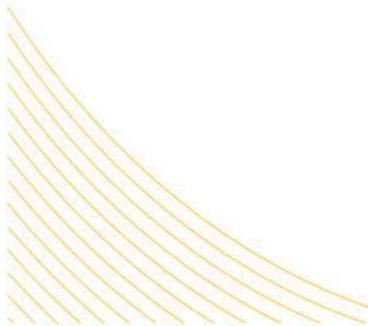
If you have any questions regarding the information you have received, please contact the SMS/800 Help Desk at (888) SMS-3300, option 1.

Sincerely,





Mark Ohlhauser
Analyst
SMS/800 Help Desk





Phone: (888) 767-3300 Option 1
 Email: amer.bis.sms800.sms800hd@sykes.com

May 2, 2011

Name: Robert J. Keller
 Company: Law Offices of Robert J. Keller, P.C.

Dear Robert J. Keller,

SMS/800® non-proprietary information of a toll free number consists of the current service provider, current status and the trouble referral number of the current service provider. SMS/800 does not contain information for numbers other than toll-free (800, 888, 877, 866, & 855). Please note that customer information is not maintained by SMS/800 and must be obtained from the current toll free service provider.

Below is the non-proprietary information on the toll free numbers submitted:

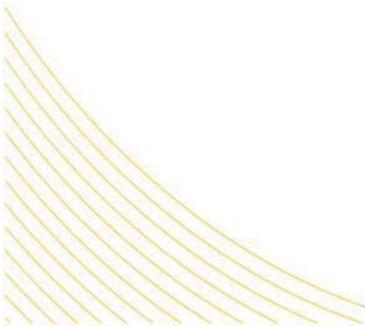
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	Ported to		
	YORKSHIRE TELECOM		800-967-5744
	1/24/2011	Reserved	
	1-24-11 to Current	Active	

If you have any questions regarding the information you have received, please contact the SMS/800 Help Desk at (888) SMS-3300, option 1.

Sincerely,



Mark Ohlhauser
Analyst
SMS/800 Help Desk



LAW OFFICES
ROBERT J. KELLER, P.C.
P.O. Box 33428 – Farragut Station
Washington, D.C. 20033-0428

Tel: 202.656.8490
 Fax: 202.223-2121
 Email: rjk@telcomlaw.com

Of Counsel to:
Shainis & Peltzman, Chartered
 1850 M Street, N.W. – Suite 240
 Washington, D.C. 20036-5803

May 2, 2011

VIA CERTIFIED MAIL
 (courtesy electronic copies sent via email)

Charles H. Helein, Esq.
 Helein & Marshlian, LLC
 1420 Spring Hill Road – Suite 205
 McLean, Virginia 22102

Kathleen Grillo, Esq.
 Verizon
 1300 I Street, N.W. – Suite 400 West
 Washington, D.C. 20005



Notice of Intent to File Formal FCC Complaint
(re: IC Number 11-C00278162)

Dear Mr. Helein and Ms. Grillo:

You are listed in Federal Communications Commission records as the agents for service for PrimeTel Communications, Inc., and Verizon, respectively. Pursuant to Section 1.721(a)(8) of the FCC Rules and Regulations, 47 C.F.R. § 1.721(a)(8) (2010), I am sending this letter to give notice that my client, Mr. Robert Liff, is prepared to file an FCC formal complaint against PrimeTel and Verizon, the substance of which is summarized herein. While I am hopeful this can be averted, Liff will move forward with the formal complain unless this matter can be satisfactorily resolved within twenty (20) days from the date of this letter.

The subject matter of the complaint was previously stated in an informal complaint filed by Liff and served by the FCC under IC Number 11-C00278162. A copy of the informal complaint and the responses submitted by PrimeTel on March 23, 2011, and by Verizon on April 8, 2011, are attached to this letter for your reference.

Charles H. Helein & Kathleen M. Grillo
May 2, 2011
Page 2

Liff will show the following in his formal complaint:

- Liff attempted to have his RespOrg secure a particular toll free number: 888-776-4737. The RespOrg advised that the number was not then available for assignment, but had gone into “disconnect” status on or about October 6, 2010. The listed RespOrg for the number at that time was Verizon or a Verizon affiliate (RespOrg code VZW01). Liff contacted the toll free service provider for the number, a reseller of Verizon service, and learned that the number had gone into disconnect status because the toll free service subscriber had terminated service and, apparently, gone out of business.
- Relevant FCC regulations require that, with very limited exceptions, toll free numbers be released back into the spare pool four (4) months after going into disconnect status, whereupon they are to be available for all potential subscribers equally on a first-come, first-served basis. The number in question therefore should have been released to the spare pool on or about February 6, 2011. Liff directed his RespOrg to attempt to reserve the number as soon as possible upon its going spare.
- On January 24, 2011—prior to expiration of the specified four month period—the number was placed in “reserved” status, and PrimeTel or a PrimeTel affiliate (RespOrg code YLC01) became the RespOrg for the number. On January 26, 2011, the status of the number was changed first to “assigned” and then to “working.” On good faith belief, and based on information learned from the previous toll free service provider, the number was not reserved for or on behalf of the entity that was the toll free service subscriber at the time the number went into disconnect status.
- In their responses to the informal complaint, defendants were misleading and lacking in candor. PrimeTel stated that it has “never been the RespOrg of the ... number.” In fact PrimeTel or a PrimeTel affiliate has been the RespOrg for the number since January 24, 2011.* Similarly, Verizon stated that the number “was never owned by Verizon.” But Verizon is well aware that, under established FCC policy, toll free numbers are a public resource that are not “owned” by anyone—not the carrier, RespOrg, or the subscriber. The statement was therefore at best a meaningless tautology and at worst an exercise in deceit. Verizon or a Verizon affiliate was the RespOrg for the number at the time it went from working to disconnect status. Verizon is therefore either responsible (in whole or in part) for the number not having been returned to the spare pool or it may have relevant knowledge regarding that failure. It was disingenuous for Verizon to have withheld from the FCC its role as the former RespOrg for the number.

You are both familiar with the applicable FCC regulations, policy statements, SMS tariff provisions, and other toll free number administration authorities and provisions, so I will not rehearse the full legal argument here. Suffice it to say that (a) the number was improperly withheld from the spare pool; (b) Verizon and PrimeTel were the successive RespOrg at the time the number was transitioned

* RespOrg Code YLC01 refers either to PrimeTel, a PrimeTel affiliate, or an entity acting on behalf of PrimeTel. We also have information that PrimeTel is using multiple RespOrg entities to circumvent applicable FCC toll free number administration regulations and policies, including rationing procedures for 855 numbers. This will be developed in the formal complaint.

from disconnect to working status without having gone spare; and (c) because of defendants' misconduct, Liff was deprived of a right guaranteed by the FCC's toll free number administration scheme, namely, a fair and equitable first-come, first-serve opportunity to reserve a number after the prior subscriber terminated toll free service.

I look forward to discussing this matter with you in the hope that it can be resolved without further litigation. Failing a satisfactory resolution, however, we will submit a formal complaint on or shortly after May 23, 2011.

Very truly yours,

A handwritten signature in black ink that reads "Robert J. Keller". The signature is written in a cursive, flowing style.

Robert J. Keller
FCC Counsel for Complainant

cc (via email): chh@commlawgroup.com
kathleen.m.grillo@verizon.com

Susan M. Dujack
Assistant General Counsel
Verizon Business Services



1320 North Court House Road
9th Floor
Arlington, Virginia 22201

Phone 703 351-3126
Fax 703 351-3667
susan.dujack@verizon.com

VIA OVERNIGHT MAIL

May 19, 2011

Robert J. Keller, Esq., P.C.
P.O. Box 33428—Farragut Station
Washington, DC 20033-0428

Dear Mr. Keller:

RE: Toll Free Number 888 776-4737

Verizon has reviewed your May 2, 2011 letter to Kathleen Grillo on behalf of your client Robert Liff. In that letter, you claim that Verizon provided a toll free number (888-776-4737) that Mr. Liff had earlier tried to reserve for himself to another party in violation of the FCC's rules relating to the assignment and reassignment of toll free numbers. As explained below, Verizon's actions are fully consistent with all applicable FCC provisions.

Verizon was previously the RespOrg for the number at issue. On or about October 6, 2010, the subscriber canceled service, and Verizon placed the number into disconnect status. A number may remain in disconnect status for up to four months. 47 C.F.R. § 52.103(d). A number can be reclaimed from disconnect status by the original party to whom the number was assigned.

On January 24, 2011 – i.e., prior to the expiration of the four month period (which would have occurred on or about February 5, 2011) – Verizon received a Letter of Authorization ("LOA") from Yorkshire Telecom requesting that Verizon port the number on behalf of the original subscriber. The subscriber's name appears on the LOA and matches the name in Verizon's records of the subscriber to whom this toll free number was previously assigned. Consistent with these instructions, Verizon did port the toll free number back to the original subscriber.

Please feel free to contact me if you have any further questions about this matter.

Very truly yours,

A handwritten signature in black ink that reads "Susan Dujack".
Susan Dujack

DECLARATION OF SYLVIA NEWELL

I, Sylvia Newell, hereby state the following:

1. I am the principal of Progress, Inc., located at 101 Fourth Avenue NE, Pipestone MN.
2. Until October of 2010, Progress, Inc., had been a subscriber to toll free service, using the toll free telephone number 888-776-4737 (or 888-PROGRESS).
3. On or about October 6, 2010, I terminated service.
4. Sometime in late January 2011, I was contacted by a gentleman who said he was an advertising or marketing agent of some sort. He stated that he had printed advertising material that mistakenly used the telephone number 888-776-4737. He asked if I would sign a document releasing my rights as former subscriber to the number so that the advertising materials would not have to be redone. Because I had terminated service and had no intention of using the number again, I agreed to do so. On or about January 24, 2011, I signed a form provided to me, believing that was its purpose.
5. Neither I, Progress, Inc., nor any person or company affiliated with either us has reactivated any toll free service using the number 888-776-4737.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this 22 day of September, 2011.



Sylvia Newell

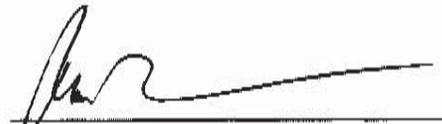
DECLARATION OF ROBERT LIFF

I, Robert Liff, hereby state the following:

1. I assisted in preparation of and reviewed a final draft of the pleading, *Petition for Declaratory Ruling and Request for Special Relief*, regarding the toll free telephone number 888-776-4737, to be filed with the Federal Communications Commission on my behalf. I am personally familiar with the factual allegations contained therein.
2. The allegations specifically referenced to this declaration (Exhibit No. 9 to the pleading) are true and correct of my personal knowledge. All other factual allegations are believed to me to be true and are either supported by separate documentation or declaration or are matters of which official notice may be taken. All allegations are offered in good faith.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this 30 day of September, 2011.



Robert Liff