

COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION

ORIGINAL

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Hubert Font FS-4731 vs. Verizon Select :Docket No.
Services, Inc. Billing dispute :C-20055445
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Initial telephonic hearing.

Pages 1 through 26

Hearing Room 2
State Office Building
Pittsburgh, Pennsylvania

Tuesday, January 17, 2006

Met, pursuant to notice, at 10:00 a.m.

BEFORE:

JOHN H. CORBETT, Administrative Law Judge

APPEARANCES:

HUBERT FONT
SCI-Albion
10745 Route 18
Unit D-B-17
Albion, Pennsylvania 16475-0002
(Pro se)

WILLIAM E. LEHMAN, Esquire
100 North 10th Street
PO Box 1778
Harrisburg, Pennsylvania 17105-1778
(For Verizon Select Services, Inc.)

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APPEARANCES: (Continuing)

N. BRUCE KAZEE, Esquire
P.O. Box 152092
Irving, Texas 75038
(For Verizon Select Services, Inc.)

* * *

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NUMBER FOR IDENTIFICATION IN EVIDENCE

NONE

P R O C E E D I N G S

1
2 ADMINISTRATIVE LAW JUDGE JOHN H. CORBETT, JR.: We'll
3 go on the Record at this time. This is the time and place
4 scheduled for a telephonic hearing on the complaint of
5 Hubert Font, prison identification No. FS-4731 versus
6 Verizon Select Services, Incorporated. This complaint was
7 docketed with the Pennsylvania Public Utility Commission at
8 No. C-20055445. I am Administrative Law Judge John Corbett
9 and I have been assigned to hear this case and to render an
10 initial decision.

11 We have on the telephone this morning Hubert Font
12 representing himself, William layman representing Verizon
13 Select Services, Incorporated, and N. Bruce Kazee
14 representing the same utility, together with a witness for
15 Verizon by the name of Denise Breslin.

16 I should note for the benefit of the parties and for
17 the Record that I'm sitting in a hearing room in Pittsburgh
18 with a Court Reporter. The Court Reporter is taking down
19 stenographically everything that we say while we're on the
20 Record. I would ask the parties to get as close to the
21 speaker on the phone as they can, speak up loudly and
22 clearly and try to let only one party at a time talk. In
23 that way we'll get a clear Record of what transpires here
24 this morning.

25 If on the other hand you don't hear something that is

1 said, please feel free to interrupt and ask the Reporter to
2 repeat whatever you missed.

3 Also for the benefit of the Court Reporter, I ask
4 that the parties identify themselves before they speak so
5 that -- unless its obvious who is speaking -- so that the
6 Court Reporter can take down the conversation accurately.

7 With those preliminary remarks out of the way, then
8 we'll turn to the matter at hand. Mr. Font, I have read the
9 complaint and the answer filed by Verizon. Before we go any
10 further this morning, are there any preliminary matters that
11 we need to address? Okay. Hearing none then we'll turn to
12 you again.

13 Mr. Font, will you be testifying on your own behalf,
14 sir?

15 MR. FONT: Yes, sir.

16 JUDGE CORBETT: Raise your right hand and be
17 sworn, please.

18 HUBERT FONT,
19 having been duly cautioned and sworn, testified as follows:

20 DIRECT TESTIMONY

21 BY JUDGE CORBETT:

22 Q Mr. Font, would you begin by giving us your full
23 name, please.

24 A Hubert Lynel Font, Jr.

25 Q All right. And, Mr. Font, you are currently a

1 resident of the State Correctional Institution at Albion?

2 A I am, sir.

3 Q How long have you been there, sir?

4 A I have been at this state correctional facility since
5 August 25th, I believe, of 2004.

6 Q If there's a delay between the time that you answer
7 the question and I ask you the next question its because I'm
8 taking some notes as we go along.

9 A Yes, sir.

10 Q I'm going to ask you some questions about your
11 complaint to try to draw out some of the information that I
12 believe may be important for the Record and if there's
13 something that I miss, you'll certainly have an opportunity
14 to supply that information after I finish with my
15 questioning.

16 Now, Mr. Font, you filed a complaint against Verizon
17 Select Services, Incorporated, apparently because you are
18 using the phone system provided by Verizon at that location.

19 First of all, sir, can you tell me what are your
20 phone privileges there, sir?

21 A My phone privileges at this time are three calls per
22 week at 15 minute intervals.

23 Q Okay. And do you usually call three times a week?

24 A I usually call at least once, usually twice a week.

25 Q Who do you usually call?

1 A I usually call my mother.

2 Q Okay. And do you use the full 15 minutes?

3 A Yes, sir, I do.

4 Q All right. And if I'm reading your complaint
5 correctly, you indicate in your complaint that there's a
6 recorded message that comes on during your conversation that
7 comes on over your conversation and you're concerned that
8 you're paying for the recorded message during your 15
9 minutes; is that right?

10 A Yes, sir, that's correct.

11 Q Now, are your calls -- are you paying for the calls,
12 sir, or are your calls being made collect?

13 A I pay for my calls.

14 Q Okay. And how do you pay for those calls, sir?

15 A I purchase minutes at the commissary here.

16 Q Okay.

17 A And its akin to purchasing a calling card.

18 Q All right. Why don't you explain to me how your
19 conversations go and what your concerns are with regard to
20 these messages.

21 A Okay. When you place a call here at the institution,
22 you know, obviously there's a recording that let's everyone
23 know what's going on and then once the call is accepted on
24 that end, there's a recording that takes place prior to any
25 talking able -- prior to any conversation being possible

1 that says thank you for using Verizon Select Services,
2 Incorporated, then you can start speaking.

3 Shortly thereafter, you will get another recorded
4 message that says the call is being recorded and like that.
5 There's a brief pause before they start the recording,
6 there's a brief pause after the recording announcement is
7 completed. This happens roughly four times per call.

8 During this time you cannot be heard or hear the
9 person that you're talking to. However, this time is
10 charged at the per minute rate of 22 cents a minute for me.

11 Q Okay. You say its 22 cents a minute, sir?

12 A Yes, sir.

13 Q I just want to check that because in your complaint
14 you indicate 27 cents per minute.

15 A Okay.

16 Q Which one is it?

17 A The 22 cents a minute is correct.

18 Q Okay.

19 A The calling card feature gives you the rate of 22
20 cents a minute.

21 Q Okay.

22 A \$2.47 for the connect and 22 cents a minute for every
23 minute thereafter.

24 Q All right. Okay. What is it about the announcements
25 that you find are inappropriate or unreasonable?

1 A Well, the unreasonableness comes in in the fact that
2 from the time the announcement starts until it ends, I can't
3 hear or be heard by the person that I'm talking to and I'm
4 charged for it. Deputy Shaffer, Deputy Secretary John
5 Shaffer told the Pennsylvania Prison Coalition that the
6 announcements were to be in the background and should be
7 able to be talked over. He said he was going to look into
8 it and correct it and he never did.

9 MR. LEHMAN: Your Honor, I would object to
10 that testimony as hearsay.

11 JUDGE CORBETT: Well, I understand the
12 objection. I think that -- yes, we'll sustain it on the
13 basis of hearsay. I think we can accept it as to what the
14 caller's understanding is of how the system should work. So
15 I think to that extent we'll allow it.

16 BY JUDGE CORBETT:

17 Q And how long are these announcements, sir?

18 A To the best of my calculations, they eat up roughly
19 like three minutes a call.

20 Q Can you tell me how long each announcement is?

21 A I want to say they're like between 20 and 30 seconds
22 a piece.

23 Q Okay. All right. Is there anything else about the
24 calls that you want me to know?

25 A The only other thing about the calls is that

1 occasionally they will drop your call in the middle of your
2 conversation in which case you have to dial again if you
3 want to continue with your call at the cost of \$2.47.

4 Q Okay. Have you placed any type of -- have you made
5 any type of complaint to Verizon about this?

6 A No, not about the dropped calls, no, sir.

7 Q Have you made any complaint to Verizon about the
8 length of the announcement or the volume of the
9 announcement?

10 A Well, no, sir. I was going through the DOC, who said
11 -- you know, I mean, they're -- the Department of
12 Corrections statement was that this is not their phone
13 system and that they were not responsible for any of that.

14 Q Okay. During the time that you have been there at
15 Albion, how many times have your phone calls been dropped?

16 A Three times.

17 Q Three times?

18 A Yeah.

19 Q Okay. And these would all be calls to your mother?

20 A Yes, sir.

21 Q What area code does your mother live in?

22 A My mother's area code is 570.

23 Q What area would be that, sir?

24 A Its West Hazelton.

25 Q That's in Pennsylvania?

1 A Yes, sir.

2 Q Is there anything else you want me to know about
3 these calls?

4 A No, sir, that's about the -- that's about the gist of
5 it, sir.

6 Q What would you like the Public Utility Commission to
7 do for you?

8 A Well, I mean, I would like to see that -- I'm not
9 trying to be unreasonable and, you know, I'm not trying to
10 ask for anything that any other consumer wouldn't be
11 entitled to. I'm just -- you know, and if my calculations
12 are incorrect, adjust them and reimburse me the correct
13 amount and fix the recordings on the telephone service so
14 that we might be able to talk over them and, you know, hear
15 and be heard.

16 Q Okay. Have we covered everything that you wanted me
17 to hear in your complaint?

18 A Yes, sir

19 JUDGE CORBETT: Okay. Then I'll ask Mr.
20 Lehman if he has any Cross-Examination for you. Mr. Laymen
21 or Mr. Kazee, which one will do the Cross-Examination?

22 MR. LEHMAN: I will, Your Honor, Mr. Lehman.

23 JUDGE CORBETT: All right. Mr. Lehman, do you
24 have any Cross-Examination?

25 MR. LEHMAN: Your Honor, I have no questions

1 at this time for Mr. Font. However, his direct testimony
2 regarding dropped calls, there is nothing in his complaint
3 regarding dropped calls at all. His complaint specifically
4 is about the messages, the overlay or the interruptive
5 messages. We are not prepared at this time to respond to
6 any allegations regarding dropped calls at the prison
7 system.

8 JUDGE CORBETT: All right.

9 MR. LEHMAN: Regarding him.

10 JUDGE CORBETT: All right.

11 MR. LEHMAN: I would like that stricken from
12 the Record as far as his testimony goes, Your Honor.

13 JUDGE CORBETT: All right. I'll take that
14 under advisement at this point.

15 MR. LEHMAN: Thank you.

16 JUDGE CORBETT: All right. Mr. Font, do you
17 have any witnesses or anything else that you want to present
18 to my attention at this point?

19 MR. FONT: No, sir, I don't have any witnesses
20 at all.

21 JUDGE CORBETT: Okay. Mr. Lehman, do you have
22 a witness to present?

23 MR. LEHMAN: Yes, I do, Your Honor, Dennis
24 Breslin.

25 JUDGE CORBETT: Ms. Breslin, would you rise

1 your right hand to be sworn.

2 DENISE BRESLIN,

3 having been duly sworn, testified as follows:

4 JUDGE CORBETT: All right. If you can, Ms.
5 Breslin, try to keep your voice up a little bit for the
6 Court Reporter's benefit.

7 MR. FONT: Your Honor, I did not get her last
8 name and the spelling, please.

9 JUDGE CORBETT: Sure. Breslin is
10 B-r-e-s-l-i-n.

11 MR. FONT: Thank you, sir.

12 JUDGE CORBETT: Denise Breslin. Would you
13 begin please by giving us your full name.

14 THE WITNESS: Denise Breslin, B-r-e-s-l-i-n.

15 JUDGE CORBETT: Mr. Lehman, you may proceed.

16 MR. LEHMAN: Thank you.

17 DIRECT EXAMINATION

18 BY MR. LEHMAN:

19 Q By whom are you employed and in what capacity?

20 A Verizon Pennsylvania, Incorporated. I formerly was,
21 through December 19th, 2005, the Corrections Product Line
22 Manager.

23 Q Could you please briefly describe the nature and
24 scope of your job responsibility.

25 A Formerly as the Manager of Corrections Product Line

1 Management Team, my team was responsible for the product
2 management, vendor relations, marketing, our financial
3 results, planning and requests for proposal planning.

4 Q Are you authorized to testify on behalf of Verizon
5 Pa. in this proceeding?

6 A Yes, I am.

7 Q Have you reviewed the complaint filed in this matter?

8 A Yes.

9 Q And were you present during the testimony of the
10 Complainant today?

11 A Yes.

12 Q Now, please, could you as background please describe
13 the arrangement for the provision of inmate telephone
14 services for the Department of Corrections.

15 A Certainly. I would be glad to. Verizon Pennsylvania
16 provides the inmate telephone services, both local and
17 interlata telephone services to the Pennsylvania Department
18 of Corrections, which is subject to the rules and
19 regulations of the DOC and the laws of Pennsylvania.

20 Our affiliate, Verizon's Pennsylvania affiliate,
21 Verizon Select Services, Incorporated, otherwise known as
22 VSSI, provides the interlata telephone service and the
23 remaining traffic at all the other Department of Corrections
24 facilities that are not within Verizon's territory.

25 We also have a subcontractor named Securus, which

1 provides the inmate call control system and the software and
2 we also have one additional subcontractor, Shawntech, they
3 provide the site administrators.

4 JUDGE CORBETT: All right. Can you, for the
5 benefit of the Court Reporter, can you give us the spellings
6 of those two names, please.

7 THE WITNESS: Certainly. Securus is spelled
8 S-e-c-u-r-u-s, and Shawntech is spelled S-h-a-w-n-t-e-c-h.

9 JUDGE CORBETT: Okay. Thank you.

10 THE WITNESS: Sure.

11 BY MR. LEHMAN:

12 Q Could you please briefly describe the general
13 operation of the inmate call system and some of the
14 requirements that are placed on Verizon by the DOC?

15 A Yes. Inmates in the state correctional facilities in
16 Pennsylvania are given the privilege to make phone calls
17 which are subject to certain restrictions placed on them by
18 state law and Department of Corrections requirements.

19 Generally speaking, depending on their security
20 status, they are allowed to make 15 minutes of calls a day.
21 They use the phones at the facilities and are only allowed
22 to either make the call collect or prepaid.

23 JUDGE CORBETT: One moment, please.

24 THE WITNESS: Sure.

25 JUDGE CORBETT: Okay.

1 A (Continuing) For prepaid calling, the inmate would
2 deposit money through a commissary transaction at the
3 facility into their telephone account. They register
4 numbers that they want to call with the Department of
5 Corrections and the DOC approves them. Once they are
6 approved they can only call those numbers that are on their
7 approved calling list.

8 All the calls have an announcement which plays to the
9 called party that the call is being made from a correctional
10 facility and that its subject to monitoring and recording.
11 If the call is accepted by the called party, a smaller
12 message is replayed every few minutes. Its state law and
13 Department of Corrections contract requires those messages.

14 Q Now, Mr. Font has raised an issue regarding the tape
15 overlay during the calls. Please explain what these
16 overlays are and why they are there.

17 A Sure. The overlay taped messages that appear in the
18 beginning of the call and repeat during the call, they
19 appear between the second and third minute and every five to
20 six minutes thereafter.

21 The message is approximately 15 seconds long, so
22 during a 15 minute call approximately 15 seconds would be
23 used for those recordings. State law and the Department of
24 Corrections contract requires those messages be played. Its
25 to inform the callers that the call is originating from a

1 correctional facility and that its subject to monitoring and
2 recording.

3 Q Thank you. You did state, however, that the message
4 is approximately 15 seconds long, each individual message
5 that plays after the original one; is that correct?

6 A The original -- the initial message is 15 seconds
7 long, its played before the call is actually initiated. The
8 timing of the call does not start during that. This message
9 is played to the called party.

10 The subsequent messages, once the called party
11 accepts the call, the voice path is open and they begin
12 speaking, the subsequent messages are five seconds in
13 duration. What it says is that the call is from a
14 correctional institution and subject to monitoring and
15 recording. Its a shorter message that's played during the
16 call when the call timing is being counted.

17 Q So they are not charged for that original message,
18 the original 15 second message, they are not charged for
19 that, they are only charged once the party accepts the call?

20 A Correct.

21 Q And so out of the total 15 minute call, there would
22 be approximately 15 seconds of interruption during that call
23 that they are unable to speak?

24 A Correct.

25 Q Is Mr. Font charged while these remaining messages

1 are played?

2 A Yes, he is. Verizon is carrying the call and
3 incurring the expense to process the call. It includes the
4 time that these messages are played, so its a Department of
5 Corrections requirement. They are only five seconds long,
6 so approximately the total time would be charged would be 15
7 seconds.

8 Q Now, could Verizon remove these messages even if it
9 wanted to?

10 A No. As I stated, the overlay messages are a
11 requirement of Pennsylvania state law and the Department of
12 Corrections contract. They cannot be removed. In fact, in
13 2004 Verizon made an inquiry to the DOC regarding the policy
14 regarding these overlays and they responded back to Verizon
15 in December of 2004 that under no circumstances would the
16 Department of Corrections change their policy regarding the
17 playing of these overlays.

18 MR. LEHMAN: Thank you. That's all I have at
19 this time, Your Honor.

20 JUDGE CORBETT: All right. Mr. Font, do you
21 have any Cross-Examination of this witness?

22 MR. FONT: Yes, sir. Just a couple questions.

23 CROSS-EXAMINATION

24 BY MR. FONT:

25 Q Ms. Breslin, I do understand that the Department of

1 Corrections requires Verizon to place these overlays on the
2 calls; does -- is it the Department of Corrections policy
3 that they completely block all conversation or is there the
4 possibility that it could have been run in the background in
5 order to not interrupt or be charging the inmate for that
6 time?

7 MR. LEHMAN: Your Honor, this is Mr. Lehman.
8 If I may, I would like to present an option here regarding
9 that question. We have a hearing -- I have a hearing
10 tomorrow in front of Judge Caldwell, prisoner hearing
11 regarding the exact same issue, the call overlays. In that
12 hearing the complainant requested that John Shaffer be
13 subpoenaed, the gentleman that Mr. Font referred to -- he's
14 the Assistant Deputy Secretary for the Department of
15 Corrections -- to testify about these recordings and about
16 the possibility that they should be in the background.

17 Judge Caldwell denied that Subpoena stating that Mr.
18 Shaffer had testified regarding this exact same issue in a
19 previous case that would be before the Commission, that one
20 is John E. Yount, Y-o-u-n-t, inmate No. 8297 et al.
21 T-Netic, Incorporated.

22 At page 518 of the transcript, Mr. Shaffer testified
23 that its technologically impossible to avoid interrupting
24 the call and Judge Caldwell made that a part of the hearing,
25 incorporated that testimony pursuant to 52 Pa. Code Section

1 5.407, which allows transcripts -- testimony of other
2 procedures to be incorporated into present procedures.

3 Ms. Breslin is not an expert on this subject. I
4 would suggest or I would recommend that in answer to that
5 question that this be incorporated the same way, that it is
6 technologically impossible to avoid interrupting the call.

7 JUDGE CORBETT: All right. Do you -- I have a
8 question or two for you, Mr. Lehman.

9 MR. LEHMAN: Yes.

10 JUDGE CORBETT: Do you know if this transcript
11 that you are referring to is it one page or how long is this
12 segment of the testimony from Mr. Shaffer?

13 MR. LEHMAN: I did not view the transcript,
14 Your Honor. I'm sorry. Judge Caldwell indicated that it
15 was at page 518 of the transcript of his testimony regarding
16 -- his answer to this question.

17 JUDGE CORBETT: Okay.

18 MR. LEHMAN: I'm sorry, I don't know the
19 answer to that fully.

20 JUDGE CORBETT: All right.

21 MR. FONT: Your Honor.

22 JUDGE CORBETT: Yes, sir.

23 MR. FONT: I would like to object to that
24 being allowed in.

25 JUDGE CORBETT: Okay.

1 MR. FONT: It was not forwarded to me in any
2 form, according to the administrative law rules that I have
3 before me. If they were going to introduce any
4 documentation into evidence, I should at least have had a
5 copy to review.

6 JUDGE CORBETT: Yes, I think you may be right
7 on that, Mr. Font. I think you do have the right to be
8 confronted with it and cross-examine on it, present evidence
9 in connection to that, so I'll grant your objection.

10 All right. I think that leaves an open question to
11 Ms. Breslin and I think Mr. Lehman has indicated that Ms.
12 Breslin does not have the expertise at this point to respond
13 to that question, so we'll leave it at that and we'll move
14 on to the next question.

15 Mr. Font, do you have a next question for Ms.
16 Breslin?

17 MR. FONT: No, sir, not at this time.

18 JUDGE CORBETT: Okay. Ms. Breslin, let me
19 just check my notes here one second.

20 THE WITNESS: Sure.

21 JUDGE CORBETT: Okay. I have no questions of
22 Ms. Breslin. Thank you very much. Anything further, Mr.
23 Lehman?

24 MR. LEHMAN: No, I have nothing further, Your
25 Honor.

1 JUDGE CORBETT: Okay. Any further testimony
2 then, Mr. Lehman?

3 MR. LEHMAN: No, Your Honor.

4 JUDGE CORBETT: Okay. Mr. Font, do you have
5 any rebuttal testimony to give?

6 MR. FONT: I guess basically, Your Honor, if
7 you were to make a long distance phone call and it were
8 interrupted by a recorded message, not just once but
9 multiple times, and it wasn't just that one call but every
10 call you made, wouldn't you, Your Honor, expect and be
11 entitled to reimbursement?

12 I think, Your Honor, that is the heart of this case,
13 that Verizon Select Services, Incorporated, a public utility
14 company, is charging me, the consumer, for minutes that I
15 can't use because of their recording and I'm not asking you
16 for anything other than what would be entitled to any other
17 consumer.

18 Like I said, Your Honor, if I'm wrong in my
19 calculations, please correct them.

20 JUDGE CORBETT: Okay. All right. It seems to
21 me that that was more in the nature of closing argument, but
22 that's fine.

23 Mr. Lehman, do you have any final remarks to make?

24 MR. LEHMAN: Just in response to that, with
25 all due respect, Mr. Font is not a normal consumer. The

1 question to Your Honor wouldn't be relevant here. He is a
2 prisoner within the State of Pennsylvania and as such is
3 subject to numerous restrictions regarding, you know, many
4 of his acts that he does and one of those being the
5 telephone service and this is simply one of his restrictions
6 that has been placed upon inmates.

7 JUDGE CORBETT: Okay. All right. Anything
8 further then, Mr. Font?

9 MR. FONT: I just wanted to clarify that last
10 part from Mr. Lehman.

11 JUDGE CORBETT: All right.

12 MR. FONT: That was Mr. Lehman; correct?

13 JUDGE CORBETT: Yes.

14 MR. FONT: Is he suggesting that I am in some
15 way a second class consumer?

16 JUDGE CORBETT: Well, that's a question and
17 you can make your statement if you wish, Mr. Font.

18 MR. FONT: No, that's fine, Your Honor.

19 JUDGE CORBETT: All right. So the parties
20 understand the procedure from this point forward, I will
21 wait to receive a transcript from this morning's hearing, I
22 will then sit down and review that transcript. That
23 transcript should arrive in this office within the next
24 three or four weeks and as my schedule permits, I will then
25 sit down and review that transcript and draft a decision in

1 this case. That decision will be filed with the Commission
2 in Harrisburg within 90 days after receipt of the
3 transcript.

4 After I file the decision with the Commission in
5 Harrisburg, you can expect to receive a copy of that
6 decision directly from the Commission in Harrisburg. If you
7 disagree with anything that is stated in the decision, you
8 have a right to file what are called exceptions. There will
9 be an instructional letter that outlines the procedure if
10 you wish to file the exception. Please note the exceptions
11 must be filed within the deadline specified in the
12 instruction letter otherwise the Commission will not review
13 any late filed exception.

14 Does either party have any questions with regard to
15 the procedure from this point forward? No response.

16 I thank the parties for their participation and
17 cooperation, particularly due to the fact that we had a
18 little problem setting up the conference call this morning,
19 I appreciate your cooperation and the hearing is now
20 adjourned.


21 (Thereupon, at 10:40 o'clock a.m., the Hearing
22 was adjourned).

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C E R T I F I C A T E

I hereby certify, as the stenographic reporter, that the foregoing proceedings were taken stenographically by me and thereafter reduced to typewriting by me or under my direction; and that this transcript is a true and accurate record to the best of my ability.

COMMONWEALTH REPORTING COMPANY, INC.

By: 
Cathy R. Mull

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END