

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Mr. Stump, Inc.

v.

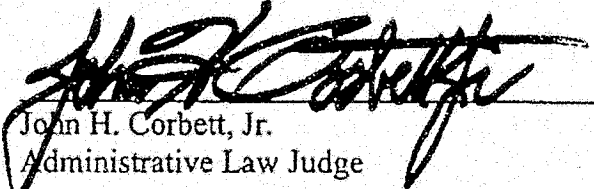
Verizon Pennsylvania Inc.

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C-20066082

**INTERIM ORDER  
DENYING MOTION FOR  
A MORE SPECIFIC PLEADING**

AND NOW, to wit, this 19<sup>th</sup> day of July, 2006, upon careful consideration of the motion for a more specific pleading filed by the Complainant, Mr. Stump, Inc., on June 2, 2006 pursuant to 52 Pa. Code §5.101(a)(4) and the answer thereto filed by the Respondent, Verizon Pennsylvania Inc., on June 12, 2006 and after thorough review of the complaint and answer thereto filed in this case, IT IS HEREBY ORDERED that the said motion for a more specific pleading is denied.

  
John H. Corbett, Jr.  
Administrative Law Judge

DOCUMENT  
FOLDER

**DOCKETED**  
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C-20066082

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CHRISTOPHER PAUL DERBY  
Attorney at Law



November 14, 2006

VIA EXPRESS MAIL

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street - Filing Room (2 North)  
P.O. Box 3265  
Harrisburg, PA 17105-3265

DOCUMENT  
FOLDER

Re: Mr. Stump Inc. v. Verizon Pennsylvania, Inc.  
Docket No. C-20066082

Dear Mr. McNulty:

Enclosed are the original and nine copies of Mr. Stump, Inc.'s Main Brief for the above captioned case.

Respectfully,

Christopher Paul Derby  
Attorney for Mr. Stump, Inc.

RECEIVED

NOV 14 2006

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

BTL

271 Phoenixville Pike; Malvern, PA 19355

610-640-9434

59



## STATEMENT OF THE CASE

Since the year 2003 Mr. Stump, Inc's customers and potential customers have been unable to locate our basic white page and "free" yellow page listings in the Verizon directories. This has caused many hundreds of thousands of dollars in damages. With each attempt to correct the problems Verizon and its white page agent, Verizon Information Services ("VIS"), only make matters worse as these two Verizon groups blame each other and each refuses to take responsibility for their ongoing failures. Therefore the formal complaint.

This refusal to take responsibility continues in the realm of these formal complaint proceedings as Verizon PA refuses to answer this Commission-served complaint on behalf of VIS. The result is that Verizon PA handed in an answer that is worthless. Worse yet, Verizon's documentary filings in this case have been intentionally orchestrated to defraud the Court and the Commission into believing that VIS only provides paid advertising, that VIS has no involvement in providing the public service, and that regardless the Commission is not entitled to an answer from Verizon PA that includes VIS. Senior executives at Verizon corporate in New York and at VIS headquarters as well as other states' PUC's all disagree with Verizon PA's assertions - the assertions are a complete fraud. Yet Verizon's fraud has resulted in Mr. Stump being denied the due process of obtaining an answer and discovery from Verizon PA that includes VIS, and resulted in a hearing that was both premature and unfair as the court entertained and rewarded Verizon's fraud.

## SUMMARY OF THE ARGUMENT

1. These proceedings have been a sham. Verizon PA has defrauded the Court and the Commission from the beginning. This fraud has resulted in a denial of due process. As a result, the court's "findings of fact" can not be confused with a search for the truth.

2. Mr. Stump, Inc. herein demands once again that Verizon PA answer the complaint on behalf of Verizon Information Services ("VIS"), the company that is responsible for destroying Mr. Stump's white page and "free" yellow page listings over the past three years. Verizon PA refuses to do so and has lied to the Court and Commission about VIS from the beginning. Verizon fraudulently avers that VIS does only paid advertising and that a public utility commission is not entitled to an answer that includes VIS.

3. Happily, with this filing we now have new and conclusive evidence that was unpublished as of the dates of my other 6 filings in this case. The attached court document labeled "Complainant Exhibit #2" was published by the Virginia Public Utility Commission on September 7, 2006, one day after I sent the Commission a brief requesting interlocutory review. This document is absolute proof of what I have stated all along; (1) that VIS is intimately involved in providing the public service, (2) that a public utility commission can and must compel answers that include VIS, and (3) that there is not a shred of truth to Verizon PA's assertions that VIS does only paid advertising and that a PUC is not entitled to an answer. VIS plays a crucial role in providing the directory white page and "free" yellow page listings public service nationwide and is critical and indispensable to any

discussion or answer regarding directory white page complaints. According to senior executives from Verizon corporate in New York and from VIS headquarters as well as the Virginia PUC, VIS is the "golden source" of directory listings, maintains the directory database, and is responsible for the directory errors and omissions. Finally, this report proves that any answer to directory white page complaints that excludes VIS would therefore be worthless and any attempt to obtain equitable relief would be fruitless without VIS being intimately involved in the discussions.

4. Yet Verizon PA intentionally defrauds the Court and the Commission by alleging that VIS does only paid advertising, is not involved in the white pages, and that therefore the Commission is not entitled to an answer. Apparently what is good for the PUC of Virginia and other states is no good for the Pennsylvania Public Utility Commission and Pennsylvania subscribers, at least according to counsel for Verizon PA. This renders Pennsylvania to having the only Commission in the nation that can not regulate the directory. Nationwide Verizon has delegated its tariffed duties and responsibilities to VIS, its white page agent. If the Commission and the Commission-served complaints are not entitled to an answer that includes VIS then the Commission can not exercise its subject matter jurisdiction.

5. The Court accepted Verizon PA's fraudulent assertions without discussion - twice. The Court continued with the scheduled hearing despite my claims of fraud and motions to regain due process by compelling a

nonfraudulent answer. In addition to having been denied an answer that includes VIS (and the discovery that would have then followed) Mr Stump was denied a fair hearing. One can not get a fair hearing on the substance of the complaint without an answer and discovery. Therefore the "findings of fact" can not be confused with a search for the truth, and the court rewards rather than prosecute the fraud.

6. Accordingly, Mr. Stump herein requests that the Commission compel Verizon PA to provide an answer to the complaint that includes VIS so that we can continue these proceedings with constitutional due process and fair play to be followed by a rehearing that seeks the truth and addresses the requests for relief as detailed in the original complaint.

## ARGUMENT

1. Mr. Stump, Inc. herein requests that the PUC compel Verizon PA to provide an answer to the complaint that includes VIS, Verizon's white page-controlling agent. VIS is critical to the directory white pages and their associated listings and the business "free" yellow pages, and is indispensable for answering complaints and requests for relief.

2. Due to the denial of due process this brief will be brief. There is no basis upon which to delve into the substance of the complaint including its detailed requests for relief. Nor is there any basis upon which to discuss the details of the transcript or findings of fact as the hearing was hopelessly tainted by Verizon's ongoing fraud. Not having an answer or discovery, Verizon's false testimony went uncontested by necessity. (Transcript pgs. 61, 68). Mr. Stump's testimony and requests for relief were similarly handicapped. Once Verizon PA is instructed to cease its fraud and tell the truth about VIS, starting with the Answer, then we can discuss the details of this public service complaint and seek the truth via a fair rehearing.

3. Therefore this brief is about jurisdiction, denial of due process, and fraud. The argument will be limited to providing additional information on some of the topics stressed in the above Summary Of Argument including jurisdiction, VIS involvement in the public service, and a few notes on the hearing.

4. And there is little value in going into great detail in this brief. This is now the

7th document that I have filed over the course of 7 months of this fraudulent Verizon garbage. Each document pleads for an answer from Verizon that includes VIS, the company whose ongoing directory listings public service fiascoes are destroying my business. Either the Commission has jurisdiction over the white pages including Verizon's agents or it doesn't. The principal answers for its agents

5. Happily, with today's filing we now have new and conclusive evidence that was unpublished as of the dates of my other 6 filings in this case. The attached court document labeled "Complainant Exhibit #2" was published by the Virginia Public Utility Commission on September 7, 2006, the day after I sent the Commission a brief requesting interlocutory review. This new document is absolute proof of what I have stated all along; (1) that VIS is intimately involved in providing the public service, (2) that a public utility commission can and must compel answers that include VIS, and (3) that there is not a shred of truth to Verizon PA's assertions that VIS does only paid advertising and that a PUC is not entitled to an answer.

#### Jurisdiction

6. The Commission has subject matter jurisdiction over the Verizon directory white pages and their associated listings and the business "free" yellow page listings (collectively the "public service"). In order to exercise this subject matter jurisdiction the Commission must have personal jurisdiction over those involved in providing the public service,

Verizon PA and its affiliates. Verizon PA filed the tariff but has delegated directory public service responsibilities and duties to VIS. This agency relationship is duplicated nationwide. In order to regulate the public service all states must require that Commission inquiries and Commission-served complaints be responded to by Verizon and VIS, its white page agent. Exhibit #2 is absolute proof that VIS is indispensable in providing the public service and that all public utility commissions can and must compel Verizon to answer on behalf of VIS. The Virginia PUC has done all of the work for us.

7. Verizon PA tells us that the Pennsylvania Public Utility Commission does not have jurisdiction over VIS and that Verizon PA will refuse to answer Commission inquiries on behalf of VIS. (see e.g. Verizon's Answer and New Matter dated 5-31-06, pg. #28, para. #4; and Verizon's Answer to Motion dated 6-12-06, pg. #3, both incorporated by reference.) Counsel's contention is that a utility can file a tariff, immediately delegate tariff duties and responsibilities to an agent, and then the very next day refuse to answer Commission inquiries on behalf of the agent. Verizon PA would thereby deny the Commission its ability to regulate the public service. This is nonsense. Verizon PA can and must answer tariff-based, Commission-served complaints on behalf of its white page agent VIS.

#### VIS Involvement

8. Mr. Stump, Inc. has stated from the beginning that VIS is intimately involved in providing the public service. (See e.g. Complaint Exhibit A, pg #1, para. #1,

incorporated by reference). Note that the allegations and the demand for an answer from VIS were made prior to anyone having any inkling that Verizon PA would deny VIS involvement and refuse to answer on behalf of VIS. Having since filed six more documents to date all demanding an answer that includes VIS, I now find myself relying instead on the Virginia PUC report labeled Exhibit #2 which is conclusive, just in case those reading my other six documents questioned my credibility or allowed Verizon's fraudulent denials to outweigh my valid assertions.

9. Note however that even the Virginia PUC report does not cover the full scope of VIS involvement in the public service. There is a whole additional layer of VIS involvement in providing the public service that impacts only business subscribers who advertise in the yellow pages that the Virginia PUC report does not cover. The VIS yellow pages sales reps involve themselves in all phases of the basic white page and "free" yellow page listings, the public service. They take new listings orders, make changes and corrections, make errors and omissions, switch "main listings" for "additional listings" to take advantage of "free listings", etc..

10. This additional layer of VIS involvement that impacts only business advertisers is discussed at length in the complaint. And as the complaint makes clear, the VIS sales organization known as "TCC" (The Customer Center) in Irving, TX is a dysfunctional disaster that not only fails to place the advertising but destroys Mr. Stump's basic white page and "free" yellow page listings as well.

(See Complaint Exhibit A, e.g. pg. #1, para. #1).

11. Counsel for Verizon PA likes to use my complaints about the TCC to defraud the Commission. My complaint speaks to the TCC destruction of my public service basic listings, yet throughout its Answer Verizon says "Verizon PA is without sufficient information or knowledge to respond to the Complainant's allegations regarding paid advertising or contact with VIS personnel; therefore these allegations are DENIED". (see e.g. Verizon Answer pg. #6, para. #13). The fraud continues dozens of times throughout the Answer. Counsel likes to hoodwink the Commission into believing that because VIS also does paid advertising it somehow exempts Verizon PA from answering the Commission as to VIS's extensive involvement in the public service white page and "free" yellow page listings.

12. Please read Exhibit #2, the new Virginia PUC report. It is absolute proof that VIS is extensively involved in the public service, that a public utility commission can and must compel Verizon to answer on behalf of VIS, and that Verizon PA's filings to this case are a total fraud. I will quote just a few of the more salient findings from this report:

"The staff held multiple investigative meetings with Verizon and VIS" (bottom of page #1) (obviously a PUC can compel Verizon to answer for VIS.)

"VIS as the 'golden source' for directory listing information. The golden source directory data is then incorporated into VIS' primary database.." (bottom of page #4)

"The majority of the directory errors and omissions occurred primarily because of discrepancies between the contents of the Verizon and VIS databases." (top of page #6)

"The respective responsibilities of Verizon, VIS or other Verizon affiliates in the directory process and how issues are coordinated and resolved in a timely matter were not clear." (top of page #8)

"Finally, there appears to have been little financial incentive for Verizon to fix its directory related problems." (bottom of page #8)

"Senior executives (from both Verizon and VIS) provide the LQI with guidance and oversight." (bottom of page #10)

13. Wow! And counsel for Verizon PA has the gall to tell the Pennsylvania Public Utility Commission that VIS is not at all involved in the public service. Verizon PA's ongoing frauds on the Court and this Commission have brought us to where we are today - still at square #1. I still do not have an answer to my public service complaint, an answer that by necessity must include VIS. I certainly would also not get any answers to interrogatories from VIS so I have no discovery either. And of course we went headlong into the scheduled hearing without these most basic procedural due process requirements. Any "findings of fact" are worthless, hopelessly tainted by Verizon's never-ending fraud. 7 months and 7 filings later and we still do not have an answer. The costs to Mr. Stump, Inc. in terms of time, distraction, expense, and attorney fees are astronomical and Mr. Stump expects an award of compensation for these costs incurred as a result of Verizon's ongoing intentional fraud.

#### The Hearing

14. The rules say that if a party fails to participate in the initial telephonic hearing they may lose. Having been denied the basic due process requirements of a nonfraudulent answer followed by discovery that includes VIS, I lose either way. I will not attempt to carry my burden without an answer and discovery nor am I even required to. The law does not require one denied constitutional due process to even attempt to carry a burden of proof, rather, the law grants a rehearing once due process is reinstated. My

sole reason for agreeing to participate in the scheduled hearing was to present to the Court the brand new Exhibit #2 as proof of Verizon's fraud and thereby remotion the court to compel Verizon PA to answer the complaint on behalf of VIS.

15. Mr. Stump initially motioned the court on May 31st (incorporated by reference). I told the court that Verizon PA's answer to the complaint required a more specific pleading, one that included VIS as Verizon PA's indispensable white page agent. Verizon had initially claimed in its Answer that VIS only did paid advertising. At this juncture Verizon PA was forced to admit the agency but still lied saying that VIS "merely publishes" the directory and once again claiming that the Commission therefore could not compel any answers from Verizon PA regarding VIS. (Answer to Motion dated 6-12-06 and incorporated by reference.) And this time Counsel had a Verizon lobbyist execute a false Affidavit subject to the penalties of 18 Pa. C.S. §4904. In July the Court subscribed to these fraudulent statements, denying Mr. Stump's motion without discussion. On September 7th the Virginia PUC issued their final report. It is conclusive but was published too late to send to the Commission for interlocutory review which was requested via brief one day earlier, September 6th. On September 20th, armed with the brand new Exhibit #2 that proves Verizon's fraud, I participated in the hearing for the sole purpose of remotioning and regaining due process.

"Your honor, if I might, Counsel hinges on the motion (of May 31st) and the motion having been denied. Exhibit #2 shows that Counsel's reply to the motion has not a shred of truth, and therefore I motion the Court to once again compel Verizon and its affiliates to answer the complaint fully and truthfully..." (Transcript pg. #42).

16. The court refused to reconsider the motion in light of the proven fraud telling me to take the error to the Commission. And the court cut off my attempt to prove the fraud via Exhibit #2 (transcript pg. #28, line #s 20-25). Subsequent to this second denial of the motion I had nothing to say for the rest of the hearing. Verizon's false testimony went uncontested with no cross-exam (transcript pg. #s 61, 68). Again, I can not be expected to cross or carry any burden having been denied an answer, discovery, and now an unfair hearing. Towards the end of the hearing the court inquired as to Mr. Stump's requests for relief but by this time I was too disillusioned with the court's having rewarded Verizon's fraud to detail the relief sought. (Mr. Stump seeks the relief detailed in Exhibit B to the Complaint and will address each of these requests one at a time once there is a fair hearing.)

"I'm asking for the Commission to compel Verizon and Verizon Pennsylvania to answer my complaint fully and completely on behalf of Verizon Pennsylvania and its affiliates and subsidiaries, including Verizon Information Services as it relates to the public service, the white pages and the free yellow pages, so that the Public Utility Commission can have the jurisdictional ability to regulate this public service and so that I can get on with the substance of the complaint and corrective action..." (Transcript pg #31)

17. Counsel for Verizon will undoubtedly fully subscribe to the hearing transcript as the fraud is almost completed and has now been rewarded. Of course any "findings of fact" cannot be confused with a search for the truth.

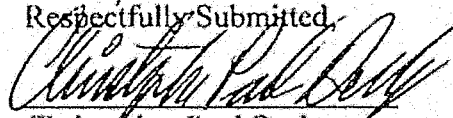
### Conclusion

18. Mr. Stump requests that the Commission compel Verizon PA to provide an answer to the complaint that includes its white page agent VIS. Verizon PA has defrauded the Commission and the Court throughout these proceedings stating that VIS is not involved

in the public service and that the Commission is not entitled to an answer. The new Virginia PUC report on the directory problems proves that Verizon knows otherwise. VIS's involvement in the white pages is both critical and omnipresent and all public utility commissions can and must compel Verizon to answer on behalf of VIS. Only then can Mr. Stump get a fair rehearing and equitable relief.

19. Verizon's ongoing intentional fraud over the past seven months has cost Mr. Stump an immense amount of time and money. Accordingly, Mr. Stump demands that Verizon compensate our attorneys fees and expenses, and Mr. Stump requests that the Court and the Commission conduct an investigation into the falsified affidavit dated June 12, 2006.

Respectfully Submitted,



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271 Phoenixville Pike  
Malvern, PA 19355  
Telephone: (610) 640-9434  
E-mail: [chrispalaw@earthlink.net](mailto:chrispalaw@earthlink.net)

Counsel for Mr. Stump, Inc.

DATED: November 14, 2006

## CERTIFICATE OF SERVICE

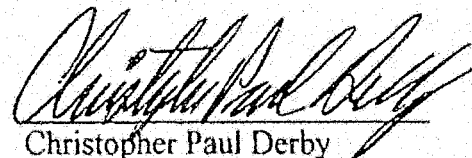
I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of §1.54 (relating to service by a party).

Service via first class mail:

William E. Lehman  
Hawke McKeon Sniscak & Kennard LLP  
Harrisburg Energy Center  
100 North Tenth Street  
P.O. Box 1778  
Harrisburg, PA 17105

John H. Corbett, Jr.  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
1103 Pittsburgh State Office Building  
300 Liberty Avenue  
Pittsburgh, PA 15222-1210

Dated this 14th day of November, 2006.

  
Christopher Paul Derby  
Counsel for Mr. Stump, Inc.

Complainant Exhibit #2

COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION

REPORT OF  
DIVISION OF COMMUNICATIONS

RECEIVED

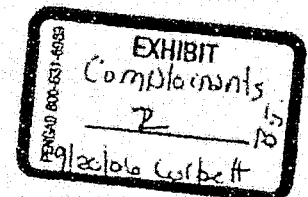
NOV 14 2006

PA PUBLIC UTILITY COMMISSION  
SECRETARY'S BUREAU

CASE NO. PUC-2005-00007

IN THE MATTER OF INVESTIGATING DIRECTORY ERRORS AND  
OMISSIONS OF VERIZON VIRGINIA INC. AND VERIZON SOUTH INC.

September 7, 2006



STAFF REPORT  
VERIZON DIRECTORY INVESTIGATION  
CASE NO. PUC-2005-00007

INTRODUCTION

On January 21, 2005, the State Corporation Commission issued an Order Establishing Investigation in this proceeding in which the Commission noted significant incidences of errors and omissions in the Verizon directories and expressed concern that these problems, the effect of which are costly to both the customers and Verizon, be adequately addressed. During the 2004 directory period, directory complaints concerning Verizon Virginia Inc. and Verizon South Inc. ("Verizon" or "Telco") filed with the Commission increased ten-fold from 33 and 32 in 2002 and 2003 respectively, to 354 in 2004. The Commission directed the Staff "to investigate and review the directory listing processes of Verizon and its affiliates from the time listings are established until the listings are published in directories." The Staff was further directed "to identify the source or sources of the continuing publication errors and omissions," and then report its findings and recommendations to the Commission.

The focus of the Staff investigation was on errors and omissions, directly attributable to Verizon, in directory listings included as part of a subscription to regulated local exchange telecommunications services. This examination included yellow page listings that come with the purchase of business telephone service and the "blue" page listings used for government.

The Staff held multiple investigative meetings with Verizon and Verizon Information Services ("VIS"), a subsidiary of Verizon Communications Inc. responsible

for publishing the directories in Virginia and other states. We analyzed retail and wholesale directory processes, consulted with other telephone companies responsible for directory publications, and interviewed customers and competitive local exchange carriers ("CLECs"). We also reviewed approximately 400,000 pages of documents provided by Verizon in response to Staff interrogatories and requests for production of documents.

On August 31, 2005, the Staff issued a Status Report<sup>1</sup> that found that the primary causes of the errors and omissions in Verizon's directories appeared to be attributable to several interrelated problems, including the merger of directory operations; converting directory related computer systems; unnecessarily cumbersome processes for both wholesale and retail listings; and human error.

During the course of our investigation, Verizon and the Staff discussed the events leading to the directory errors and omissions, identified the primary causes of the errors and omissions, and considered actions that could be undertaken to resolve the problem. As a result of these discussions, the Staff and Verizon have reached an agreement on an Offer of Settlement for Commission consideration. The Offer of Settlement seeks to address many of the issues discovered during the Staff investigation, and proposes a corrective action plan designed to reduce the errors and omissions in Verizon directories.

The proposed Offer of Settlement is attached hereto and contains the following agreed upon terms:

- A corrective action plan to compensate customers affected by past errors and omissions;

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<sup>1</sup> Case No. PUC-2005-00007, *Status Report of Division of Communications*, August 31, 2005, DCN 361248.

- An incentive plan under which Verizon will be required to meet a directory listing accuracy metric;
- Tariff revisions to expand the relief available to future customers who experience errors and omissions;
- Payments for multi-year business listing errors;
- New processes for customer verification of directory listings;
- Clarification that the Telco is in command and control with regard to decisions on republishing or supplementing a directory;
- Reporting requirements; and
- A directory hotline so customers can verify and correct errors and omissions before a directory is published.

The Staff believes that the terms of the Offer of Settlement will address and help correct past and any future problems, as well as improve the quality of Verizon directories. This Report provides a summary of the major findings of the Staff's investigation.

#### **THE DIRECTORY PROCESS**

Verizon's obligation to publish directory listings stems from several sources including the Telco's tariffs,<sup>2</sup> the Commission's service quality standards,<sup>3</sup> and

<sup>2</sup> Verizon South Inc. Virginia, General Customer Services Tariff, S2.3.9. Provision and Ownership of Directories – *The Company will furnish to its customers without charge, a minimum of one directory per access line. Verizon Virginia Inc., General Regulations Tariff, S.C.C.-Va.-No. 201, C. 10. Provision and Ownership of Directories – Directories are furnished by the Telephone Company to customers as an aid to the use of the service*

<sup>3</sup> 20VAC5-427-120. B., *Rules For Local Exchange Telecommunications Company Service Quality Standards. A LEC shall publish directories or cause its customers' listing information to be published in directories at yearly intervals.*

interconnection agreements with CLECs. Directory listings consist of residential, business, professional, and organizational listings in white, yellow, and blue pages. White page listings come from the retail customer service records or the local service requests ("LSR") from wholesale customers. Yellow page listings are derived from the primary, or main, white page listings. Yellow page listings are grouped with other similar businesses under a heading of the customer's choice (e.g., "Lawyers"). Yellow page classified advertising falls under the purview of a commercial contract and is not a tariffed service. The blue page listings are reserved for government listings.

The structure of each listing is either straight line or complex. Straight-line listings are printed directory listings that typically take one line in the white pages of the printed book. A straight line listing normally consists of the customer's last name, first name or initial, street address, city, and the 7 or 10 digit telephone number. At the customer's request, certain modifications to the content of the listing are allowed.

Complex listings take more than one line in the printed white pages. Complex listings may include information found in straight-line listings, but also allow for other information as well, i.e., locations, department names, and so forth. Most complex listings are for business customers, although there are some residential complex listings, e.g., a second telephone number listed as "children's phone."

Verizon customer service representatives use service orders to create or update directory listings. At the wholesale level, CLECs provide directory listings to Verizon via the LSR. The directory listing data is compiled from Verizon's customer service record database and is eventually forwarded to VIS as the "golden source" for directory listing information. The golden source directory data is then incorporated into VIS'

primary database known as "VAST," which stands for Verizon Advertising System for Tomorrow. VAST is the directory listing system used for Verizon directory publications in Virginia and other states.

For each directory publication cycle, VIS extracts data from VAST and transfers specific portions of the directory listing data for publication. Verizon publishes 39 directories in Virginia containing approximately 2,700,000 residential listings and over 500,000 business, professional and government listings. Each book is designed to include the directory listings for a specific community of interest.

Most Virginia directories are a single book combining both white and yellow pages. The larger metropolitan areas (Northern Virginia, Richmond, and South Hampton Roads) receive separate white and yellow page directories. Once the data is selected and extracted from the publication database, VIS sends the data to R. R. Donnelly & Sons, the contractor that is responsible for the actual publication of the printed directory.

#### WHAT WENT WRONG

The causes of Verizon's directory listing problems date back to 1997 when a decision was made to begin modernizing Bell Atlantic Corporation's ("Bell Atlantic") major database systems, a process scheduled to last seven years ending in 2004. Things became more complicated with the merger of Bell Atlantic and GTE Corporation ("GTE") in 2000.<sup>4</sup> This merger necessitated additional system conversions as the merged company, Verizon, began to merge Bell Atlantic and GTE's directory listing systems into a common Verizon automated database. The Verizon system conversion required manual "work arounds" to correct the errors that occurred when merging the databases.

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<sup>4</sup> Joint Petition of Bell Atlantic Corporation and GTE Corporation, for approval of agreement and plan of merger, Case No. PUC-1999-00100, 1999 S.C.C. Ann. Rept. 321.

In addition to problems experienced with converting and merging the existing database systems, the Verizon database also needed to be synchronized with the separate VAST database maintained by VIS for directory publications. The majority of the directory errors and omissions occurred primarily because of discrepancies between the contents of the Verizon and VIS databases. These synchronization problems caused, in some cases, tens of thousands of listings to be rejected by VAST and required Verizon and VIS to correct manually erroneous listing information housed in their respective directory listing systems.

Errors and omissions also arose due to other factors unrelated to the system conversions, merger, and synchronization problems. Frequently, an error occurred as a result of human error in keying in the directory listing information. Errors also occurred when information provided by the customer was not verified or there was a misunderstanding on how a listing should appear in the directory. In addition, problems arose when procedures designed to ensure the accuracy of directories were not followed properly.

Moreover, service orders generated by Verizon or LSRs generated by CLECs may not have updated the VAST database correctly or the listings rejected by VAST may have been worked incorrectly. The fact that these databases were not synchronized allowed changes to be made in one database without matching entries being made in the other databases. Normal processing of service orders or LSRs in the Verizon golden source database should have caused data to update automatically to VAST. However, some service orders were rejected (i.e., did not automatically update the VIS database) and, therefore, required manual intervention by Telco Directory Support Centers ("DSCs"),

which were responsible for processing all retail complex directory listings and for correcting all straight-line listings that did not correctly update to the VIS publishing systems database. There were also problems with the parameters defined for extracting the data for the publication of a particular directory.

According to Verizon, there is no one measure of minimum accuracy by which the directories are judged. Verizon measures the quality of the directory process in numerous and varied ways, including, but not limited to, complaints, listing rejects, sales adjustments, LVRs, wholesale trouble tickets, and published errors per 1,000 listings. Verizon indicated to the Staff that it has a 4% rejection rate for listings with the target of clearing/correcting 98% of the rejections prior to publication.

Furthermore, there is no one method for handling directory errors and omissions. For example, one-of-a-kind individual errors are handled by Verizon or the CLECs. Where errors occur that may affect an entire directory, "PRIDE" teams, consisting of cross functional specialists, identify the root cause of the errors, facilitate "fixes," and determine what corrective action should be taken.

The decision to reprint or supplement a directory, or to take no action at all, appears not to be based on any one factor. Customer reaction, expense, setting precedents, the relative importance of the missing listings, as well as media, regulatory, political, and competitive factors apparently all play a role. A supplement may be ordered rather than a full reprint because it is faster and less expensive to produce and distribute, may cause less customer confusion, and has fewer environmental impacts. Moreover, a supplement may be issued in lieu of a reprint depending upon the volume of affected

customers, the nature of the problems, and whether discrepancies and errors could be identified and corrected quickly and easily.

The Staff was also unable to determine who actually controls the decision making process when determinations are made to issue a new directory, supplement a directory, or do nothing at all. The respective responsibilities of Verizon, VIS or other Verizon affiliates in the directory process and how issues are coordinated and resolved in a timely manner were not clear. It was also unclear to the Staff whether Verizon or VIS made the decision on the required accuracy level for directories.

Additionally, it appeared to the Staff that directory errors and omissions increased because there may have not been enough human resources devoted to the conversion and synchronization process. The Staff learned that the erroneous and duplicative listings resulting from the database conversion eventually required Verizon to hire temporary employees as well as former Verizon employees to review and correct manually the directories pending clean up and synchronization of the database. Verizon employees also had to be reallocated from other positions in order to make corrections manually, verify, proof check, and otherwise clean up the listings.

Finally, there appears to have been little financial incentive for Verizon to fix its directory related problems. Verizon's liability for errors and omissions in directory listings is limited to one-half of the amount of the fixed monthly charges applicable to local exchange services. Accordingly, the only financial consequence that would result from an error or omission in a directory was a small credit to the customer's bill.

## CUSTOMER IMPACT

In this docket, 483 comments were filed by parties representing a broad spectrum of interests, including government officials, businesses and residential customers, and CLECs. Of the 483 comments, 236 reported errors in directory listings; 150 reported that listings had been omitted from the directory; and 149 commented that directory problems occurred for more than one year.

In addition to comments that unlisted telephone numbers were published, that incorrect listings were published, that listings were omitted, and that these problems occurred over multiple years, other comments, Commission complaints, and customer interviews yielded that:

- A major newspaper's circulation and classified listings were omitted from the directory.
- The owner of a lawn care company stated that he derived approximately 33 percent of his business from the yellow pages and that being listed under the wrong heading was extremely costly to his business.
- The owner of a franchised business home inspection service claimed that his business failed largely as a result of the thousands of dollars lost because of consecutive directory omissions.
- One health system considered mailing its own directory of listings to consumers when its local directory was published with some 400 errors.
- A dentist said that he was left out of the directory for three consecutive years and that, in addition to the missed opportunities for new clients, existing customers had to resort to calling him at home.

- One town's listings were left out of the directory altogether, with the exception of its main number that was listed under a local rescue squad.
- A major state university lost 75 out of its 78 listings because of a system conversion error.

### CORRECTIVE ACTION

The Commission Staff became aware of the significant increase in errors and omissions and, in 2004, initiated an informal investigation. Verizon then reported to the Staff that it was taking corrective action to fix the problem. These corrective actions appeared to the Staff to increase after the Commission launched its formal investigation in early 2005.

Specifically, in 2004 Verizon organized an internal working group to find solutions to listing errors and omissions. This working group, named the Listing Quality Initiative ("LQI") Team, was formed with members from Wholesale, Retail, Information Technology, LiveSource (directory assistance) divisions of the Company, and members from VIS. The LQI Team examined the end-to-end process of listings and identified and implemented initiatives to improve the quality of the listing process. The LQI Team met weekly and continues to do so to identify any additional initiatives necessary to improve the quality of Verizon's directory publications. Senior executives (from both Verizon and VIS) provide the LQI with ongoing guidance and oversight.

As indicated above, as a result various system conversions in the former Bell Atlantic and GTE companies and in the VIS systems, several databases were used to produce directory listings. After examining the end-to-end process for the creation of directory listings, the LQI team identified the lack of synchronization between the

databases of the telephone and directory companies to be the most significant source of potential directory listing errors.

The LQI Team also determined that the manual process employed to reconcile inconsistencies between the systems and process complex listings post-merger potentially added to listings discrepancies. Without a single master database, any listings corrected in one database were subject to subsequent errors introduced by this manual process.

Thus, Verizon concluded that the designation of a single database as the master repository of directory listings information was necessary, and that a significant effort would be required to ensure that the master database's records were correct. Once confidence in the accuracy of the master database was established, the publishing database could then be synchronized to it.

Based on the recommendations of the LQI, Verizon established a single database (eListings) as its master database for directory listings. As part of this initiative, Verizon retired its legacy systems, and eliminated manual processing of caption listings. The conversion of all caption listings in the eListings database has been completed, and errors resulting from this conversion process have been identified, reviewed and corrected.

Following this conversion and cleanup process, Verizon then began synchronizing its publishing database with the master eListings database. This was accomplished by reviewing all previously used manual documents for accuracy, as well as manually comparing 2004 and 2005 directories for discrepancies. All discrepancies between the databases were investigated, and the master eListings database was corrected as needed. The publishing database was then synchronized with eListings.

In order to prevent future directory errors, Verizon has created an ongoing, mechanized process to compare the eListings and publishing databases and ensure that the databases remained synchronized. This mechanized process identifies potential discrepancies for review and correction if needed; and then the publishing database is synchronized to the master eListing database. This process is utilized for each directory to increase the accuracy of listings in the eListing database, and to provide increased assurance that "do not publish" and "do not list" numbers are not inadvertently published or listed.

In addition, Verizon is implementing an enhancement to transmit all lines of caption listings to the publishing database when changes are made to a customer's caption listing, not just the caption lines that are being updated. This permits the entire caption to be viewed for analysis and comparison, keeping the databases in synch and reducing the risk of publishing incorrect information.

Verizon has advised the Staff that it has invested \$8 million to resolve the problems causing past errors, and to prevent future errors in the system used to produce directory listings in Virginia. The LQI team continues to meet on a regular basis to identify opportunities to further enhance the quality of Verizon's directories. Verizon has represented that it is committed to producing high quality directories. The Staff will continue to monitor Verizon's progress under the terms of the incentive plan contained in the proposed Offer of Settlement.<sup>3</sup>

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<sup>3</sup> For 2005, directory listing related complaints against Verizon were still at an unusually high volume of 157. Directory complaints have dropped significantly in 2006, however, coming in year-to-date at 35.

## CONCLUSION

Verizon has cooperated with the Commission Staff during the course of this investigation and has responded in a positive fashion in an effort to improve the quality of its directories. The corrective actions undertaken by Verizon to date, the implementation of the corrective action plan in the proposed Offer of Settlement, and continued monitoring of the quality of Verizon directories should lead to better quality and accuracy in directory listings in Virginia. With the proper measures - including financial incentives, a specific required accuracy metric, tariff revisions, opportunities for customer verification of listing prior to publication, Verizon having command and control of the decision of whether to republish or supplement a directory, reporting, and a dedicated avenue for complaints - the Commission's objective is to ensure that Verizon directories are reasonably free of errors and omissions and that Verizon responds to any future problems that may occur in a timely fashion.

COMMONWEALTH OF VIRGINIA  
BEFORE THE  
STATE CORPORATION COMMISSION

COMMONWEALTH OF VIRGINIA, ex rel

STATE CORPORATION COMMISSION

CASE NO. PUC-2005-00007

Ex Parte: In the Matter of Investigating  
Directory Errors and Omissions of Verizon  
Virginia Inc. and Verizon South Inc.

OFFER OF SETTLEMENT

This Offer of Settlement represents the agreement between Verizon Virginia Inc. and Verizon South Inc. (collectively "Verizon") and the Staff of the State Corporation Commission ("Staff") as to the most appropriate resolution of this proceeding. Verizon and Staff therefore agree to, and request that the State Corporation Commission ("Commission") enter an order accepting, without change or condition, the following stipulated terms:

**I. Corrective Action Plan.** Verizon agrees to place an upfront payment of \$2 million in an escrow account for the benefit of affected customers. Further, Verizon will make disbursements to affected customers in accordance with the terms of the corrective action plan to be developed by the Commission Staff, who will establish the parameters for inclusion in the affected customer group and payment amount(s) to each such affected customer, subject to approval by the Commission. Any amount of the \$2,000,000 payment not paid to affected customers at the end of the sunset period, as provided in Section IX, will be paid to the Treasurer of Virginia. Verizon also will pay up to \$4 million in incentive payments for future directory quality as outlined in Section II.

**II. Incentive Plan.** Verizon agrees to a directory listing accuracy rate of 99% (10 service affecting errors out of 1000 listings is the lowest acceptable accuracy rate). Within three years from the date the Commission approves this settlement proposal, the Staff will audit 80 directories of its choosing and measure service affecting errors proven to be Verizon's responsibility. Directories subject to audit are those published after the Commission approves the settlement proposal.

For each audited directory that fails to meet the metric, based on service affecting errors or omissions, Verizon will pay to the Treasurer of Virginia \$50,000. Based on the Staff's audit of 80 directories, Verizon's liability shall not exceed \$4 million under this incentive plan (80 x \$50,000 = \$4 million). Verizon will make

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Office of General Counsel  
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the total payment for the directories that fail the metric at the end of the three-year audit period.

Service affecting errors for both white and yellow page tariffed listings are determined by the following criteria:

- Complete omission of a listing that was published in the Telco records
- Publication of a listing that was either non-listed, non-published, or no longer in service in Telco records
- Reversal of first/last name
- Misspelling of the listed name, incorrect telephone number, or any other error so as to make it unlikely that a user of the printed book could locate the listing in the expected alphabetical location or locate the correct number for the listing, including, but not limited to, the appearance of a listing under the appropriate yellow pages captioned heading

**III. Tariff Revisions.** No later than thirty (30) days after the Commission approves this settlement proposal, Verizon will modify its relevant tariffs pertaining to business listings to allow for an automatic customer credit of 12 months of the fixed monthly charges for Local Exchange Service for any service affecting directory listing error or omission. Verizon will modify its tariffs pertaining to residential service to allow for an automatic customer credit of 6 months of the fixed monthly charges for Local Exchange Service for any service affecting directory listing error or omission for residential listings.

**IV. Multi-year Business Listing Errors.** Failure to correct a previously reported service affecting business directory listing error or omission for the 2<sup>nd</sup> consecutive publication will result in a separate payment of \$7,500 to the Treasurer of Virginia. Failure to correct for the 3<sup>rd</sup> and following consecutive publication will result in a payment of \$10,000. Alternatively, Verizon may choose to negotiate with the customer to provide a resolution acceptable to the customer in lieu of such payments.

**V. Customer Verification of Directory Listings.** All end user customers, including those of CLECs with blanket written permission from their CLEC, will be provided the opportunity to contact Verizon directly to preview their directory listings prior to publication. A CLEC choosing not to grant written permission for its customers to contact Verizon directly may continue to contact Verizon on their customers' behalf. Showbook or its equivalent is sufficient for caption listings. Whether contacted by retail or wholesale end-users, or the CLEC itself, Verizon will verify that Telco records and those of the directory publisher are synchronized.

**VI. Command and Control.** Verizon local telephone companies will, or cause an entity publishing directories on their behalf to, re-publish or supplement a

directory when, in the local telephone companies' sole discretion, they determine there are an excessive amount of errors and omissions. This provision does not preclude the Commission from exercising any authority granted by the Constitution and Code of Virginia.

VII. Reporting. Verizon shall provide monthly reports to the Staff detailing all customer complaints, whether retail or wholesale, for all directory listing errors and omissions. The reports will include:

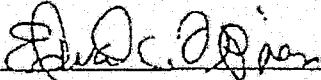
- The number of complaints for errors and omissions reported to the hotline outlined in Section VIII and/or to Verizon's Customer Relations Group
- Cause/analysis of each complaint
- When and how each complaint was resolved, including any credits issued to the customer
- For complaints/concerns regarding Directory listings received by the Verizon business offices, Verizon will provide the total number of complaints logged

VIII. Directory Hotline. Verizon shall establish a separate toll-free directory hotline and e-mail address for directory listing related complaints, inquiries, etc.; make Verizon retail, CLEC end-users, and CLECs, aware of the new hotline; and ensure that wait times during normal business hours are reasonable, i.e. no more than 3 minutes on average for calls before a "live" person is connected to handle all complaints and other inquiries.

IX. Sunset. The requirements imposed herein will automatically sunset in three years after the Commission enters an order approving this settlement proposal, with the exception of Section II, which will expire at the earlier of three years after the Commission enters an order approving this settlement proposal or the conclusion of the Staff's 80<sup>th</sup> directory audit.

Agreed upon this 10<sup>th</sup> day of August 2006.

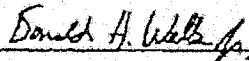
VERIZON VIRGINIA INC.  
VERIZON SOUTH INC.

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COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION  
AT RICHMOND, JANUARY 21, 2005

COMMONWEALTH OF VIRGINIA, ex rel  
STATE CORPORATION COMMISSION

CASE NO. PUC-2005-00007

Ex Parte: In the Matter of Investigating  
Directory Errors and Omissions of Verizon  
Virginia Inc. and Verizon South Inc.

ORDER ESTABLISHING INVESTIGATION

The State Corporation Commission ("Commission"), pursuant to Article IX of the Constitution of Virginia and Title 56 of the Code of Virginia, is charged with the duty of supervising, regulating, and controlling all public service companies doing business in the Commonwealth of Virginia relating to the performance of their public duties and correcting any abuses committed by such companies.

The Commission is aware of significant ongoing incidences of directory errors and omissions in the White Page directory listings of Verizon Virginia Inc. and Verizon South Inc. (collectively, "Verizon"), and we are concerned that these problems, the effects of which are costly to both the public and to Verizon, be adequately addressed. Recent directory listing problems in the Hampton Roads, Richmond, Roanoke, and Northern Virginia areas have been the source of complaints to the Commission.

Our Division of Communications ("Staff") has been conducting an ongoing informal investigation in an effort to resolve and reverse the increasing trend of errors and omissions contained in Verizon directories. Despite Staff efforts and efforts by Verizon, there appears to be inadequate improvement in the quality of White Page directory listings of Verizon. Indeed, the recent directory problems experienced by customers in Chesapeake and Virginia Beach

resulted in a complete reprinting of approximately 83,000 directories. Corrective actions promised by Verizon as the result of ongoing informal discussions with the Staff have not, apparently, resulted in sufficient improvements in the quality of White Page directory listings.

Numerous complaints have been filed with the Commission concerning the errors and omissions in Verizon directories. These complaints have been filed by private individuals, businesses, and several competitive local exchange carriers. Those who have filed complaints are encouraged to participate in this investigation in an effort to identify the source or sources of the problems causing the errors and omissions. We direct our Staff, with appropriate input from Verizon, the public, and other interested persons, to investigate and review the directory listing processes of Verizon and its affiliates from the time listings are established until the listings are published in directories. We expect our Staff to identify the source or sources of the continuing publication errors and omissions and direct the Staff to file a Report ("Report") containing its findings and recommendations

Verizon and its affiliates are further directed to cooperate fully with the Commission Staff during the course of its investigation and to respond to all requests for information, reports, or other data in a timely and efficient manner so all listings and publication problems can be resolved forthwith. No persons other than the Staff and the Office of the Attorney General shall have discovery rights pending further order of the Commission.

Finally, depending on the nature of the Staff's Report and the findings and recommendations therein, we anticipate issuing future orders in this proceeding to resolve the problems, including possible provisions for a hearing, if necessary.

NOW THE COMMISSION is of the opinion and finds that an investigation into the continuing problem of omissions and errors in the directories of Verizon should be commenced,

and we direct the Staff, pursuant to Va. Code §§ 56-35, 56-36, 56-234.4, 56-247, and 56-249, to investigate the matter and file a Report regarding Verizon's directory errors and omissions.

Additionally, we invite and will accept comments from the public regarding this matter.

Accordingly, IT IS ORDERED THAT:

(1) This case is docketed and assigned Case No. PUC-2005-00007.

(2) The Staff shall investigate the errors and omissions contained in the White Page listings of the directories of Verizon and file a Report containing the Staff's findings and recommendations.

(3) Verizon may respond to the Staff Report and to public comments no later than thirty (30) days after the filing of the Staff Report.

(4) On or before February 11, 2005, the Commission's Division of Information Resources shall complete publication of the following notice to be published on one (1) occasion as display advertising in newspapers having general circulation throughout the Company's service territory:

NOTICE TO THE PUBLIC OF AN INVESTIGATION BY THE  
STATE CORPORATION COMMISSION OF VERIZON'S  
TELEPHONE DIRECTORY ERRORS AND OMISSIONS  
CASE NO. PUC-2005-00007

Due to the rising number of complaints and problems associated with the publication of Verizon Virginia Inc.'s and Verizon South Inc.'s ("Verizon") White Page directory listings, the State Corporation Commission ("Commission") issued an Order Establishing Investigation, directing the Staff of the Commission to investigate this matter and file a report. The Commission invites public comments on Verizon's directory problems.

On or before March 25, 2005, any person desiring to comment on the quality of Verizon's White Page directory listings may do so by directing such comments in writing to the Clerk of the Commission at the address set forth below. Interested persons desiring to submit comments electronically may do so by

following the instructions found on the Commission's website:  
<http://www.scc.virginia.gov/caseinfo.htm>

All written communications to the Commission concerning this matter shall be directed to Joel H. Peck, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218, and shall refer to Case No. PUC-2005-00007.

(5) Any person desiring to comment on this matter may do so by directing such comments in writing on or before March 25, 2005, to Joel H. Peck, Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Interested persons desiring to submit comments electronically may do so by following the instructions found on the Commission's website: <http://www.scc.virginia.gov/caseinfo.htm>. Comments must refer to Case No. PUC-2005-00007.

(6) Staff may convene a workgroup of interested parties to assist in gathering data for use in its Staff Report.

(7) This matter is continued generally pending further order of the Commission.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: Lydia R. Pulley, Vice President, Secretary, and General Counsel, Verizon Virginia Inc., 600 East Main Street, Suite 1100, Richmond, Virginia 23219-2441; C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of Attorney General, 900 East Main Street, Second Floor, Richmond, Virginia 23219; and the Commission's Office of General Counsel and Division of Communications.

**H**awke  
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November 15, 2006

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street - Filing Room (2 North)  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**DOCUMENT  
FOLDER**

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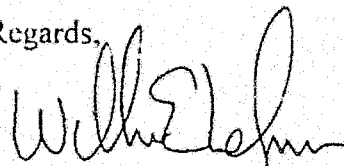
RE: Mr. Stump, Inc. v. Verizon Pennsylvania Inc.; Docket No. C-20066082; MAIN BRIEF OF VERIZON PENNSYLVANIA INC.

Dear Mr. McNulty:

Enclosed, for filing with the Commission, are the original and nine (9) copies of the Main Brief of Verizon Pennsylvania Inc. in connection with the above-captioned matter. A copy of this Brief has been served as indicated on the attached Certificate of Service.

If you have any questions with regard to this filing, please direct them to me. Thank you for your attention to this matter.

Regards,



William E. Lehman  
Counsel for Verizon Pennsylvania Inc.

WFI/kmg  
Enclosures  
cc: Christopher Paul Derby, Owner

**BTL**

MAILING ADDRESS: P.O. BOX 1778 HARRISBURG, PA 17105

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## I. STATEMENT OF THE CASE

### A. Procedural History

On or about April 3, 2006, the Complainant filed a 74-page (including attachments) 124 paragraph Formal Complaint ("Complaint") against Verizon Pennsylvania Inc. ("Verizon PA"). Although extremely long and verbose, the gravamen of Mr. Derby's ("Complainant" or "Mr. Derby") complaint is his dissatisfaction with his White Pages directory listings and paid directory advertising.

On May 11, 2006, Verizon PA filed an Answer denying the material allegations regarding services provided by Verizon PA and averred that it was without specific information or knowledge to respond to allegations regarding paid directory advertising provided by Verizon Information Services, Inc. ("VIS") because VIS is a separate and distinct company from Verizon PA.

On May 31, 2006, the Complainant filed a Preliminary Motion for a More Specific Pleading in response to Verizon PA's Answer to the Complaint, to which Verizon PA filed a response on June 12, 2006.

By Order dated July 17, 2006, the Commission scheduled the instant Complaint for an initial telephonic hearing to be held on Wednesday, September 20, 2006. By Order dated July 19, 2006, the Presiding Administrative Law Judge ("ALJ") John H. Corbett, Jr. denied the Complainant's Motion for a More Specific Pleading. ALJ Corbett stated that the Order was issued only after "thorough review of the Complaint and Answer filed in this case . . ."

By Order dated October 16, 2006, ALJ Corbett ordered main briefs be filed on or before November 15, 2006. This Main Brief of Verizon PA is submitted in accordance with that Order.

## B. Factual History

In 1998, the Complainant called Verizon PA complaining that when he established service in 1996, he was never given a choice as to where his paid additional business listing of "Mr. Stump" would appear. (Tr. 51) At that time, as a courtesy, Verizon PA agreed to suppress the charges for this listing and provided a "place listing as" indicator on the "Mr. Stump" listing so that Complainant's "Mr. Stump" listing would appear in the directory under the M-I-S-T-E-R section (i.e. as if spelled out in full) (Tr. 51) This indicator remains in place unless removed. (Tr. 51, 66) Because of the "place listing as" indicator, the "Mr. Stump" listing always appeared where it should have in the white pages, in the M-I-S-T-E-R section. (Tr. 51)

The Complainant did not complain about the "Mr. Stump" listing appearing in the M-I-S-T-E-R section until VIS decided, in 2003, to remove the cross-reference listing in the Mr section of the book that read, "MR - See also Mister." (Tr. 12, 51) This was a business decision and done because surveys of VIS's customers indicated that these cross-reference indicators were not helpful to its customers. (Tr. 67) This heading, as well as other non-useful headings, were dropped from the books to save space. (Tr. 67)

In the 2004 editions of the Complainant's telephone books, all the "Mr." businesses appeared in the Mr section but the Complainant's "Mr. Stump" listing still appeared in the M-I-S-T-E-R section. (Tr. 13) These businesses appeared in the Mr section of the 2004 books due to conversion of the indexing system by VIS into a standard publishing system for the entire Verizon footprint. (Tr. 66) The Complainant's "Mr. Stump" listing remained in the M-I-S-T-E-R section of those same books, where it should have, because of the "place listing as" indicator that was placed on this listing in 1998 and never removed. (Tr. 53, 66)

In January 2005, after viewing the 2004 books described above, Mr. Derby called Verizon PA's business office and requested that the "place listing as" indicator be removed from

the "Mr. Stump" listing. (Tr. 54) This was done immediately and allowed his listing to default to the alphabetical position where the other "Mr." businesses would appear in subsequent issues. (Tr. 54) The Complainant's "Mr. Stump" listing has appeared, with one exception, with all the other "Mr." businesses in subsequent books (Tr. 59-60).

The Complainant's "Mr. Stump" listing always appeared properly and where it should have except for one occurrence in 2005 where the Complainant's "Mr. Stump" listing was omitted from his secondary telephone books. (Tr. 55) Verizon PA took adequate and reasonable steps to rectify this situation by fully crediting Mr. Derby for ½ his telephone charges for the year 2005, which is in accordance with its tariff. (Tr. 55) As a courtesy, Verizon PA also credited him ½ of his telephone charges for the year 2004 as well. (Tr. 55) This was only done as a customer service courtesy, because, as explained earlier, his name appeared in the M-I-S-T-E-R section because of the "place listing as" indicator that he had requested. (Tr. 55) The total credits he received amounted to \$220.16. (Tr. 55) The omission was corrected and the "Mr. Stump" listing has appeared correctly in all subsequent telephone books. (Tr. 59 -60)

## II. SUMMARY OF THE ARGUMENT

The narrow issue in this case is whether Verizon PA provided unreasonable service to the Complainant with regard to the placement of his free White Page and Single-Line Yellow Page listings ("free listings"), specifically, the Complainant's "Mr. Stump" listing, in the directories in which the Complainant's business listings appear. The Public Utility Code does not require perfect service (though Verizon PA strives to do so), but rather adequate and reasonably continuous service. When a utility does not provide perfect service, the question then becomes did the utility take reasonable and adequate steps to correct the situation.

The evidence clearly shows that the Complainant's unresolved free listings at issue always appeared in the telephone directories where they should have been, except for one occurrence in 2005, under the alphabetizing rules of VIS and the complainant's requests to Verizon PA's business office. In addition, Verizon PA took adequate and reasonable steps to correct the one omission and provides reasonable listing alternatives that allow the Complainant numerous ways of having his listings appear in the telephone books.

Complainant's entire case is based on his unsubstantiated opinion or belief that Verizon PA's telephone books are incorrectly alphabetized which causes his "Mr. Stump" listing to appear in the directory in an alphabetical position that is different from where Complainant believes it should be. Contrary to Complainant's view, the evidence clearly shows, the "Mr. Stump" listing always appeared in the telephone books properly under the alphabetizing guidelines and was consistent with the Complainant's requests. The one omission that did occur, in 2005, was settled by Verizon PA fully compensating the complainant under the provisions of its tariff and therefore is barred by the doctrine of accord and satisfaction and the Public utility Code. In addition, Verizon PA offers numerous listing services that adequately and reasonably

address the Complainant's concerns about the appearance or placement of his listings in the white pages.

### III. ARGUMENT

#### A. Applicable Legal Standards

As the proponent of a rule or order, the Complainant bears the burden of proof. 66 Pa. C.S. §332(a). The term "burden of proof" means a duty to establish a fact by a preponderance of the evidence. *Se-Ling Hostery v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1954); and *Feinstein v. Philadelphia Suburban Water Company*, 50 Pa. P.U.C. 300 (1976). The term "preponderance of the evidence" means one party must present evidence that is more convincing, by even the smallest amount, than the evidence presented by the other party. *Id.* Accordingly, one must review the record in this case to determine whether the Complainant has satisfied his burden of proof. If the review indicates the burden has been satisfied, one must then determine whether the Respondent has submitted evidence of co-equal value or weight to refute the Complainant's evidence. If this has occurred, the burden of proof cannot be satisfied, unless the party bearing the burden of proof presents additional evidence. *Morrissey v. Pa. Dept. of Highways*, 424 Pa. 87, 225 A.2d 895 (1967); and *Burleson v. Pa. P.U.C.*, 443 A.2d 1373 (Pa. Cmwlth. 1982), *affirmed*, 501 Pa. 443, 461 A.2d 1234 (1983).

Pursuant to Section 501 of the Public Utility Code ("Code"), 66 Pa. C.S. §501, the Commission must "enforce, execute and carry out, by its regulations, orders or otherwise" all the provisions of the Code. Section 701 of the Code, 66 Pa. C.S. §701, allows any person, having an interest in the subject matter, to file a formal complaint in writing with the Commission setting forth any act or thing done or omitted to be done by any public utility in violation, or claimed violation, of any law which the Commission has jurisdiction to administer. *See also*, 52 Pa. Code §5.21(a). Here, the complainant must demonstrate Verizon PA violated some provision of

the Code, a Commission regulation or a Commission Order. 66 Pa. C.S. §332(a). Neither the law nor the facts provide any support for the relief that he requests.

The Public Utility Code does not require perfect service but rather adequate and reasonably continuous service.<sup>1</sup> When a utility does not provide perfect service, the question then becomes did the utility take reasonable and adequate steps to correct the situation.<sup>2</sup>

**B. The Complainant Has Failed To Sustain His Burden Of Proof That Verizon PA Violated The Public Utility Code, A Commission Regulation, Or Order With Regard To The Complainant's Free White Page And Single-Line Yellow Page Listings.**

The narrow issue in this case is whether Verizon PA provided unreasonable service to the Complainant with regard to the placement of his free White Page and Single-Line Yellow Page listings ("free listings")<sup>3</sup> in the directories in which the Complainant's business listing appears.<sup>4</sup> In other words, were the Complainant's free listings listed adequately and reasonably in the Complainant's directories? The answer is yes.

As stated above, the Public Utility Code does not require perfect service (though Verizon PA strives to do so), but rather adequate and reasonably continuous service.<sup>5</sup> When a utility does not provide perfect service, the question then becomes did the utility take reasonable and

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<sup>1</sup> 66 Pa.C.S. §1501. See also *Moser v. PECO Energy Co.*, 2003 WL 22860199 (Pa. PUC) (citing *Maldonado v. Pocono Water Co.*, 1994 Pa. PUC Lexis 93 and *Answerphone, Inc. v. Bell Telephone Co. of PA*, 1993 Pa. PUC Lexis 70; *Trautman v. Verizon Pennsylvania, Inc.*, PUC Docket No. C-20065809 (Initial Decision dated April 21, 2006; adopted as Commission final decision by Order entered June 2, 2006).

<sup>2</sup> See *n 1 (supra)*

<sup>3</sup> The "free" single-line or straight-line listing in the directory, in both the White and Yellow Pages is subject to the Commission's jurisdiction. *Donald L. Williams v. Verizon Pennsylvania Inc.*, Docket No. C-20043753. Final Order entered July 11, 2006. Although the original Complaint also alleged facts associated with the Complainant's paid directory advertising, ALJ Corbett, at the hearing, narrowed the issue by affirming that the Commission does not have jurisdiction over claims involving paid directory advertising. (Tr. 20) *Felix v. Pennsylvania Public Utility Commission*, 146 A 2d 347 (1959); *John Cardone v. Bell Telephone Co. of Pennsylvania*, 76 Pa. P.U.C. 371 (1992).

<sup>4</sup> Mr. Derby's primary directory for the main business listing is Delaware County Main Line, with Western Main Line Yellow Pages. His main and additional listings also appear in other White Page issues, the Delaware County Main Line, Western Main Line, Eastern Main Line, Western Delaware County, Chester, Southern Delaware County, Eastern Delaware County, West Chester, Southern Chester County, and Coatesville. (Tr. 46)

<sup>5</sup> See *n 1 (supra)*

adequate steps to correct the situation.<sup>6</sup> As described below, the evidence clearly shows that the Complainant's unresolved free listings at issue always<sup>7</sup> appeared in the telephone directories where they should have been under the alphabetizing rules of VIS<sup>8</sup> and the Complainant's requests to Verizon PA's business office. In addition, Verizon PA took adequate and reasonable steps to correct the one omission and provides reasonable listing alternatives that allow the Complainant numerous ways of having his listings appear in the telephone books.

- I. **The Complainant's "Mr. Stump" listing always appeared in the telephone directories where it should have been under the alphabetizing rules of VIS and the Complainant's requests to Verizon PA's business office.**

The single listing at the heart of the Complaint is the White Page listing of "Mr. Stump"<sup>9</sup> in Complainant's 2003-2005 telephone directories. Complainant's entire case is based on his unsubstantiated opinion or belief that Verizon PA's telephone books are incorrectly alphabetized which causes his "Mr. Stump" listing to appear in the directory in an alphabetical position that is different from where Complainant believes it should be. Contrary to Complainant's view, the evidence clearly shows, the "Mr. Stump" listing always appeared in the telephone books properly under the alphabetizing guidelines and was consistent with the Complainant's requests.

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<sup>6</sup> See n. 1 (*supra*).

<sup>7</sup> As explained below, there was an omission in 2005, for which the Complainant was not only fully compensated and resolved under the provisions of Verizon PA's tariff, but was given relief as a courtesy in excess of the tariff. (Tr. 55). That matter is concluded under the Public Utility Code and the doctrine of accord and satisfaction given that the Complainant accepted that relief.

<sup>8</sup> VIS is an affiliate of Verizon Services Corp. contracted to fulfill the directory regulatory requirements for Verizon PA by publishing the white pages and the free listings in the yellow pages. (Tr. 63) For purposes of this proceeding, VIS publishes the directory for Verizon PA, but Verizon PA is ultimately responsible for the free listings as they appear in the directory. (Tr. 63)

<sup>9</sup> Through the years, the Complainant has had numerous iterations of his main and additional listings appearing in his telephone directories. (Tr. 47, 50-51, 53-54, 56-57) Currently his main listing is Mr. Stump Grinding. He also has charged additional listings, which are AAA Stump Grinding, Stumps Inc.; Derby, Christopher, Attorney; and Mr. Driveseal. (Tr. 47)

Verizon PA's records show that the Complainant called Verizon PA's business office in 1998<sup>10</sup> complaining that when he established service in 1996, he was never given a choice as to where his paid additional business listing of "Mr. Stump" would appear.<sup>11</sup> (Tr. 51) At that time, as a courtesy, Verizon PA agreed to suppress the charges for this listing and provided a "place listing as" indicator<sup>12</sup> on the "Mr. Stump" listing so that Complainant's "Mr. Stump" listing would appear in the directory under the M-I-S-T-E-R section (i.e. as if spelled out in full.)<sup>13</sup> (Tr. 51) This indicator remains in place unless removed. (Tr. 51, 66) Because of the "place listing as" indicator, the "Mr. Stump" listing always appeared where it should have in the white pages, according to the Complainant's request, in the M-I-S-T-E-R section.<sup>14</sup> (Tr. 51)

The Complainant did not complain about the "Mr. Stump" listing appearing in the M-I-S-T-E-R section until VIS decided, in 2003, to remove the cross-reference listing in the Mr section of the book that read, "MR -- See also Mister." (Tr. 12, 51) This was a business decision and was done because surveys of VIS's customers indicated that these cross-reference indicators were not helpful to its customers. (Tr. 67) This heading, as well as other non-useful headings,<sup>15</sup> were dropped from the books to save space. (Tr. 67) There is no evidence in the record to suggest that removing these headings had any effect on the Complainant's business. Likewise, there is no evidence in the record that any other business complained, or was otherwise negatively affected by this decision. (Tr. 58, 67)

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<sup>10</sup> Verizon PA's records do not go back beyond that point.

<sup>11</sup> Verizon PA's business customers get one free main listing in the white and yellow pages but can have additional listings for a flat fee monthly charge of \$3.25 each. (Tr. 47)

<sup>12</sup> A "place listing as" indicator is an exception instruction that lets the publisher know to place the listing in a specific section of the white pages. (Tr. 51, 66)

<sup>13</sup> Throughout this brief, reference to the M-I-S-T-E-R section means Mr. as if spelled out in full, and the Mr section means Mr. as if an abbreviation.

<sup>14</sup> Under VIS's alphabetizing guidelines, abbreviations such as Mr. are placed in the book as if spelled out in full, such as M-I-S-T-E-R. (Tr. 64) Listing abbreviations as if spelled out in full is historical industry practice. There is a whole list of such abbreviations, i.e. St for Saint is listed as Saint. (Tr. 64)

<sup>15</sup> For example, "See also Saint." (Tr. 67)

The Complainant also takes issue with a 2004 occurrence where all the "Mr." businesses appeared in the telephone books in the Mr section but his "Mr. Stump" listing still appeared in the M-I-S-T-E-R section. (Tr. 13) The record is clear that these businesses appeared in the Mr section of the 2004 books due to conversion of the indexing system by VIS into a standard publishing system for the entire Verizon footprint. (Tr. 66) The Complainant's "Mr. Stump" listing remained in the M-I-S-T-E-R section of those same books, where it should have, because the "place listing as" indicator was placed on this listing in 1998 at his request and was never removed.<sup>16</sup> (Tr. 53, 66) Accordingly, and contrary to Complainant's speculation, his listing was not left where it was in retaliation because of any complaints he might have made to Verizon PA. (Tr. 54, 66) The Complainant's suggestion that Verizon PA re-positioned all the "Mr." businesses, except for his, because of his complaints, is unfounded and simply untrue.

In January 2005, after viewing the 2004 books described above, Mr. Derby called Verizon PA's business office and requested that the "place listing as" indicator be removed from the "Mr. Stump" listing. (Tr. 54) This was done immediately and allowed his listing to default to the alphabetical position where the other "Mr." businesses would appear in subsequent issues. (Tr. 54) The Complainant's "Mr. Stump" listing has appeared, with one exception, with all the other "Mr." businesses in subsequent books. (Tr. 59-60)

Verizon PA has provided clear and convincing evidence that its handling of the Complainant's "Mr. Stump" listing was adequate and reasonable. The listing always appeared properly under the alphabetizing guidelines and the Complainant's requests. Therefore, the Complainant has not carried his burden of proof that Verizon PA provided him with unreasonable service with respect to his "Mr. Stump" listing.

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<sup>16</sup> This indicator will only be removed if requested by the customer.

2. For the 2005 omission of "Mr Stump" in the 2005 secondary phone books, Verizon PA gave Complainant the substantial relief provided under Verizon PA's Commission-approved tariff as well as additional courtesy relief, which Complainant accepted and, consequently, accord and satisfaction and adherence to tariff requirements bars further litigation of this claim.

As stated above, the Complainant's Mr. Stump listing always appeared properly and where it should have except for one occurrence in 2005 where the Complainant's "Mr. Stump" listing was omitted from his secondary telephone books.<sup>17</sup> (Tr. 55) Verizon PA took adequate and reasonable steps to rectify this situation by fully crediting Mr. Derby for ½ his telephone charges for the year 2005, which is in accordance with Verizon PA's tariff.<sup>18</sup> (Tr. 55) As a courtesy, Verizon PA also credited him ½ of his telephone charges for the year 2004 as well. (Tr. 55) This was only done as a customer service courtesy, because, as explained earlier, his name appeared in the M-I-S-I-E-R section because of the "place listing as" indicator that he had requested. (Tr. 55) The total credits he received amounted to \$220.16. (Tr. 55) The omission was corrected and the "Mr. Stump" listing has appeared correctly in all subsequent telephone books. (Tr. 59 -60)

The Complainant therefore has received the full relief available under Verizon's tariff and any additional relief Complainant requests here should be rejected. He is barred not only by the longstanding doctrine of accord and satisfaction<sup>19</sup> from demanding any additional damages, but also by the tariff remedy, which has been approved—and is therefore tantamount to law—in Verizon PA's tariff.<sup>20</sup>

As stated earlier, Verizon PA is not required to provide perfect service.<sup>21</sup> When a utility does not provide perfect service, the question then becomes did the utility take reasonable and

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<sup>17</sup> West Chester, Southern Chester County, and Coatesville books.

<sup>18</sup> PA PUC No. 500, Section 1, 1<sup>st</sup> revised sheet 13

<sup>19</sup> *Luchacher v. Kerson et al.*, 335 Pa. 79, 48 A.2d 857 (1946), *Hayden v. Coddington*, 82 A.2d 285 (Pa. Super. 1951)

<sup>20</sup> 66 Pa. C. S. §3303

<sup>21</sup> *See n.1(supra)*

adequate steps to correct the situation. Here it is clear that it did – it gave him the tariff-prescribed (and therefore Commission-approved) remedy and more for the one isolated non-listing and also assured that his “Mr. Stump” listing appeared correctly in subsequent books.

**3. Verizon PA provides reasonable alternative listing services that would allow the Complainant numerous ways of having his listings appear in the telephone books.**

At the threshold, Complainant has not shown that he is entitled to any relief. However, because Verizon PA provides alternative listing services that would alleviate any of his concerns regarding the placement of his listings, no Commission action is required for Complainant to get what he wants.

As Verizon PA witness, Mary Van Wert, testified, Verizon PA offers numerous alternative listings services that allow a customer to have their listings placed almost anywhere they want in the white pages. (Tr. 58 – 59) For example, the default placement of the listing can be overridden by using a “place listing as” indicator as described above. (Tr. 58) A “place listing as” indicator is an exception instruction that lets the publisher know to place the listing in a specific section of the white pages. (Tr. 51) This indicator would place his listing anywhere he wanted in the book. (Tr. 58) The Complainant used this same placement option for his “Mr. Stump” listing from 1998 to 2005. (Tr. 58)

The Complainant is also permitted as many additional listings as he wants. (Tr. 59) Verizon Pa’s business customers get one free main listing in the white and yellow pages but can have additional listings for a tariffed monthly charge of \$3.25. (Tr. 47, 58) He’s had many additional listings over the years and has taken advantage of this service. (Tr. 47, 50-51, 53-54, 56-57)

Finally, there is also a listing option called a cross reference listing which would appear in the book as "See Mr. Stump" (Tr. 59) This cross reference can be placed anywhere the customer wants, such as under the Mr section of the book, and refers the customer to the main listing. (Tr. 59)

These are all adequate and reasonable alternatives for the Complainant's concerns about the appearance or placement of his listings in the white pages. For the Complainant to suggest that Verizon PA completely change the way the books are alphabetized or published, when alternatives are available that would accomplish his unique desires, is unreasonable.

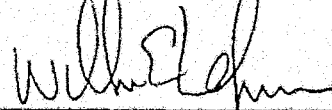
In sum, the Complainant has demanded that Verizon PA completely change the way its telephone books are prepared and the way in which listings of other customers appear, because he doesn't like the way it's done. Mr. Derby has offered no evidence that other customers are concerned, much less that anyone is harmed by the way the current directories are alphabetized, and he has offered no evidence, other than his singular opinion, that the current method is incorrect. Just because the Complainant believes that the book should be alphabetized differently neither makes such listings wrong nor misfiled, nor does it constitute unreasonable or inadequate service.

Similarly, his verbose advocacy, exaggeration and wild speculation that listings occurred based upon retaliation has no support in the record, and is clearly a ploy by the Complainant in an attempt to gain sympathy. As discussed above, Verizon PA has rebutted each and every allegation by the Complainant. Mr. Derby's subjective opinion as to how Verizon PA should conduct its business, standing alone, cannot meet his burden of proving that Verizon PA provided him with unreasonable service. For these reasons, the Complaint should be dismissed.

#### IV. CONCLUSION

Complainant has produced no evidence to substantiate any of the allegations leveled against Verizon PA in this proceeding and accordingly has failed to carry his burden of proving that Verizon PA provided unreasonable or inadequate service to him, or that Verizon PA otherwise violated the Public Utility Code, the Commission's regulations or Orders. Consequently, this Complaint should be dismissed in its entirety.

Respectfully submitted,



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Harrisburg, PA 17105-1778  
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Telephone: (717) 236-1300  
Facsimile: (717) 236-4841

DATED: November 15, 2006

Counsel for  
Verizon Pennsylvania Inc.

## V. PROPOSED FINDINGS OF FACTS

1. Mr. Christopher Derby is a business customer of Verizon PA and currently receives service under account number 601-640-9434, billing to Mr. Stump, Inc., at 271 North Phoenixville Pike, Malvern, PA. (Tr. 46)

2. Mr. Derby's primary directory for the main business listing is Delaware County Main Line, with Western Main Line Yellow Pages. His main and additional listings also appear in other White Page issues, the Delaware County Main Line, Western Main Line, Eastern Main Line, Western Delaware County, Chester, Southern Delaware County, Eastern Delaware County, West Chester, Southern Chester County, and Coatesville. (Tr. 46)

3. A business customer gets one free single-line listing in the White and Yellow Pages. (Tr. 47)

4. A business customer can have additional listings for a tariffed monthly rate charge of \$3.25. (Tr. 47)

5. Currently, the Complainant's free main listing is Mr. Stump Grinding. He also has charged additional listings, which are AAA Stump Grinding; Stumps, Inc.; Derby, Christopher, Attorney; and Mr. Driveseal. (Tr. 47)

6. VIS is an affiliate of Verizon Services Corp. contracted to fulfill the directory regulatory requirements for Verizon PA by publishing the White Pages and free listings in the Yellow Pages. (Tr. 63)

7. Up until June of 2004, Mr. Derby's free main listing in the White and Yellow Pages was Stumps, Inc. (Tr. 50)

8. The listing of "Mr. Stump" was actually a charged additional listing he had along with a few others. (Tr. 50-51)

9. In 1998, as a courtesy, Verizon PA suppressed the charges for his additional paid listing of "Mr. Stump." (Tr. 51)

10. Also in 1998, Verizon PA, at the request of the Complainant, placed a "place listing as" indicator on his "Mr. Stump" listing to place the listing in the telephone book in the M-I-S-T-E-R section as if spelled out in full. (Tr. 51)

11. In his 2003 directory, Mr Derby's free main listing of "Stumps, Inc." appeared where it should have, under Stump. (Tr. 51)

12. In his 2003 directory, Mr. Derby's additional listing of "Mr. Stump" appeared in the M-I-S-T-E-R section where it should have. (Tr. 51)

13. In 2003, VIS removed the cross-reference listing in the "Mr" section of the book that read "MR. - See also Mister." (Tr. 12-51)

14. This cross-reference listing, as well as other non-useful headings, was removed because surveys of VIS' customers indicated that these cross-reference indicators were not helpful to its customers. (Tr. 67)

15. Under VIS' alphabetizing guidelines, abbreviations such as Mr. are placed in the book as if spelled out in full, such as M-I-S-T-E-R. (Tr. 64)

16. Listing abbreviations as if spelled out in full is historical industry practice. (Tr. 64)

17. In the Complainant's 2004 telephone books, all the "Mr." businesses appeared in the telephone books in the Mr section, but the Complainant's "Mr. Stump" listing still appeared in the M-I-S-T-E-R section. (Tr. 13) These businesses appeared in the Mr section of the 2004 books due to conversion of the indexing system by VIS into a standard publishing system for the entire Verizon footprint. (Tr. 66)

18. The Complainant's "Mr. Stump" listing remained in the M-I-S-T-E-R section of those same books, where it should have, because of the "place listing as" indicator that was placed on this listing in 1998 and never removed. (Tr. 53, 66)

19. In January 2005, after viewing the 2004 books described above, Mr. Derby called Verizon PA's business office and requested that the "place listing as" indicator be removed from the "Mr. Stump" listing. (Tr. 54) This was done immediately and allowed his listing to default to the alphabetical position where the other "Mr" businesses would appear in subsequent issues. (Tr. 54)

20. The Complainant's "Mr. Stump" listing has appeared, with one exception, with all the other "Mr." businesses in subsequent books. (Tr. 59-60)

21. In 2005, the Complainant's "Mr. Stump" listing was omitted from his secondary telephone books. (Tr. 55)

22. Per its tariff at Pa. PUC No. 500, Section 1, First Revised Sheet 13, Verizon PA credited the Complainant for one-half of his telephone charges for the year 2005. (Tr. 55)

23. As a courtesy, Verizon PA also credited the Complainant for one-half of its telephone charges for the year 2004 as well. (Tr. 55)

24. The total credits the Complainant received amounted to \$220.16. (Tr. 55)
25. The 2005 omission was corrected and the "Mr. Stump" listing has appeared correctly in all subsequent telephone books. (Tr. 59-60)
26. Verizon PA offers numerous alternative listing services that allow a customer to have their listings placed almost anywhere they want in the White Pages. (Tr. 58-59)
27. The default placement of a listing can be overridden by using a "place listing as" indicator. (Tr. 58) This indicator would place the listing anywhere the customer wanted in the book. (Tr. 58)
28. A customer is also permitted as many additional listings as they want for a tariffed monthly charge of \$3.25 each. (Tr. 47-58)
29. Verizon PA also provides a cross-reference listing which would appear in the book as "See Mr. Stump." This cross-reference can be placed anywhere the customer wants, such as under the "Mr" section of the book and refers the customer to the main listing. (Tr. 59)

**VI. PROPOSED CONCLUSIONS OF LAW**

1. The Commission has jurisdiction over the parties and the subject matter of this proceeding. 66 Pa. C.S. §701
2. The Complainant has the burden of proof. 66 Pa.C.S. § 332(a).
3. The Complainant failed to meet his burden of proof.
4. The Complainant did not show that Respondent violated any provisions of the Public Utility Code, Commission regulations or any Commission order.

**VII. PROPOSED ORDERING PARAGRAPHS**

THEREFORE:

IT IS ORDERED:

1. That the Complaint filed by Christopher Paul Derby, Owner of Mr. Stump, Inc. against Verizon PA at Docket No. C-20066082 is dismissed.
2. That this case be marked closed

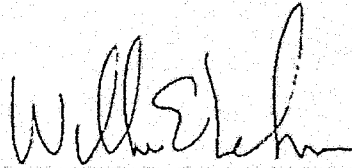
CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of §1.54 (relating to service by a party).

Service via first class mail:

Christopher Paul Derby, Owner  
Mr. Stump, Inc.  
271 Phoenixville Pike  
Malvern, PA 19355  
(2 copies)

Dated this 15<sup>th</sup> day of November, 2006.



---

William E. Lehman  
Counsel for Verizon Pennsylvania Inc.

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SECRETARY'S BUREAU

CHRISTOPHER PAUL DERBY  
Attorney at Law

ORIGINAL



November 29, 2006

VIA EXPRESS MAIL

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street - Filing Room (2 North)  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Re: Mr. Stump Inc. v. Verizon Pennsylvania, Inc.  
Docket No. C-20066082

Dear Mr. McNulty:

Enclosed are the original and nine copies of Mr. Stump, Inc.'s Reply Brief for the above captioned case.

Respectfully,

Christopher Paul Derby  
Attorney for Mr. Stump, Inc.

DOCUMENT  
FOLDER

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BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

ORIGINAL

MR. STUMP, INC.,

Complainant

v.

VERIZON PENNSYLVANIA INC.,

Respondent

Docket No. C-20066082

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REPLY BRIEF FOR COMPLAINANT

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Christopher Paul Derby  
Attorney For Complainant

DOCUMENT  
FOLDER

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REPLY BRIEF FOR MR. STUMP, INC.

1. Verizon's Proposed Findings Of Fact #6 contains the following partial admission;  
"Verizon Information Services is an affiliate of Verizon Services Corp. contracted to fulfill the directory regulatory requirements for Verizon PA by publishing the White Pages and free listings in the "Yellow Pages."

2. Yet five months ago Verizon PA told this court that it can not be compelled to respond to the Pennsylvania PUC on behalf of VIS (Verizon's Answer To Motion dated June 12, 2006), and in its Answer to the Complaint told the Commission that VIS does only paid advertising.

3. Quandry. How is the Pennsylvania Public Utility Commission to exercise its subject matter jurisdiction in overseeing whether Verizon is "fulfilling the directory regulatory requirements" if this court sets the precedent, as requested by Verizon, that Verizon PA cannot be compelled to respond to the PUC regarding VIS and its Verizon Services Corp. affiliate? The Virginia PUC can compel Verizon (Exhibit #2). Other states' Commissions do too. I strongly urge that the court certify this jurisdictional quandry to the PUC prior to making any recommendations on Mr. Stump, Inc. vs. Verizon PA. And of course we do not have any truth yet anyway in the case at hand due to the denial of due process.

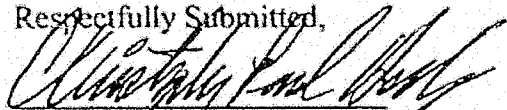
4. This Verizon partial admission, this Proposed Finding Of Fact #6, comes as a result of my having presented Exhibit #2 (published September 7th just prior to the hearing but too late for interlocutory review). Clearly, Verizon PA had been lying to the Court and

the Commission all along. They told the Commission that VIS does only paid advertising so therefore Verizon cannot be compelled to respond to the PUC. Upon Mr. Stump's motion Verizon took one baby step towards the truth in hoodwinking the court with a signed affidavit stating that VIS "merely publishes" and still insisting that the PA PUC cannot compel Verizon PA to answer the PUC regarding VIS. Exhibit #2 proves the fraud. What is the PA PUC to do now if it finds itself with directories having thousands of botched listings as happened in Virginia? The court is about to set a dangerous precedent in agreeing with Verizon PA that the PA PUC cannot compel Verizon PA to answer the Commission on behalf of VIS. Senior executives at Verizon Corporate headquarters in New York admit that VIS is critical to the directory but this court is about to divest the Commission of its jurisdiction by sanctioning the denial of due process in these proceedings brought about by Verizon's fraud. One more time...the Commission has subject matter jurisdiction over the white pages and the free yellow page listings and therefore must have personal jurisdiction over Verizon PA *and its affiliates and subsidiaries including VIS* to the extent that they are involved in providing the public service.

5. And Verizon's main brief now relies heavily on VIS/VSC testimony and evidence for both the argument and the proposed findings of fact. All of this reliance on VIS and its Verizon Services Corp. affiliate after denying me an answer then discovery from VIS and its affiliates. Not having the due process of an answer and discovery the hearing was a sham. Verizon's testimony went uncontested by necessity as I will not even attempt to carry the burden of proof without first having the most basic

procedural due process of an answer and discovery that includes VIS, the affiliate responsible for destroying my public service for three years in a row. And, as promised in my main brief, much of the testimony and averments are false resulting in both the argument and the findings of fact being replete with errors and outright lies. What Verizon told the court about 1998 is a lie. Same with 2003, 2004, and 2005. But I will not address the details just as I would not cross examine without an answer and discovery. As promised in my main brief, due to the denial of due process the "findings of fact" cannot be confused with a search for the truth. And there is no possibility of the equitable relief as requested in detail in my complaint because the court does not even know the facts. Verizon and VIS have destroyed my business through three years of unacceptable public service failures that only compound from year to year and there is no hope for the future until the Commission and the Court have the truth. The truth is detailed in my Complaint filed 8 months ago and we still do not have an Answer. I will not be railroaded, will not be cheated, and do not appreciate being the victim of fraud as a result of this denial of due process.

Respectfully Submitted,



Christopher Paul Derby - Attorney ID #93368  
271 Phoenixville Pike  
Malvern, PA 19355  
Telephone: (610) 640-9434  
E-mail: [chriscalaw@earthlink.net](mailto:chriscalaw@earthlink.net)

Counsel for Mr. Stump, Inc.

DATED: November 29, 2006

CERTIFICATE OF SERVICE

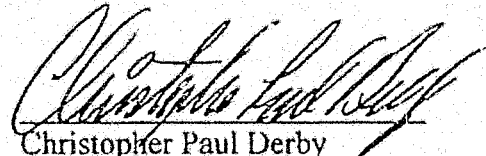
I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of §1.54 (relating to service by a party).

Service via first class mail:

William E. Lehman  
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Harrisburg Energy Center  
100 North Tenth Street  
P.O. Box 1778  
Harrisburg, PA 17105

John H. Corbett, Jr.  
Administrative Law Judge  
Pennsylvania Public Utility Commission  
1103 Pittsburgh State Office Building  
300 Liberty Avenue  
Pittsburgh, PA 15222-1210

Dated this 29th day of November, 2006.

  
Christopher Paul Derby  
Counsel for Mr. Stump, Inc.

NOV 29 2006  
10:01 AM

ORIGINAL

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November 30, 2006

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street - Filing Room (2 North)  
P.O. Box 3265  
Harrisburg, PA 17105-3265

DOCUMENT  
FOLDER

SECRETARY'S BUREAU  
November 30, 2006

RE: Mr. Stump, Inc. v. Verizon Pennsylvania Inc.; Docket No. C-20066082; REPLY  
BRIEF OF VERIZON PENNSYLVANIA INC.

Dear Mr. McNulty:

Enclosed, for filing with the Commission, are the original and nine (9) copies of the Reply Brief of Verizon Pennsylvania Inc. in connection with the above-captioned matter. A copy of this Brief has been served as indicated on the attached Certificate of Service.

If you have any questions with regard to this filing, please direct them to me. Thank you for your attention to this matter.

Regards

William E. Lehman  
Counsel for Verizon Pennsylvania Inc.

WEL/kmg  
Enclosures

cc: Honorable John H. Corbett, Jr. (w/ diskette)  
Christopher Paul Derby, Owner

MAILING ADDRESS: P.O. BOX 1778 HARRISBURG, PA 17105

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

\_\_\_\_\_  
Administrative Law Judge  
John H. Corbett, Jr.  
\_\_\_\_\_

**ORIGINAL**

MR. STUMP, INC.,

Complainant

v.

Docket No. C-20066082

VERIZON PENNSYLVANIA INC.,

Respondent

**DOCUMENT  
FOLDER**

\_\_\_\_\_  
**REPLY BRIEF OF  
VERIZON PENNSYLVANIA INC.**  
\_\_\_\_\_

**DOCKETED**  
DEC 06 2006

William E. Lehman, Attorney I.D. #83936  
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DATED: November 30, 2006

Counsel for  
Verizon Pennsylvania Inc.

## I. INTRODUCTION AND SUMMARY OF ARGUMENT

As set forth in Verizon Pennsylvania Inc 's Main Brief, Complainant bears the burden of proof in this matter. By refusing to address any substantive issue or facts of record in his Main Brief, the Complainant has failed to carry his burden of proving that Verizon PA violated the Public Utility Code ("Code").<sup>2</sup> the Pennsylvania Public Utility Commission's ("Commission") regulations,<sup>3</sup> or Orders.

Notwithstanding the Complainant's complete failure to carry his burden of proof on the substantive issues, he has also failed to show that he was denied due process at any part of this proceeding, and his attempt to deflect attention from the facts in this case - that clearly show Verizon PA provided him reasonable service with respect to his free, single-line white page and yellow page listings -- and cry due process foul at this stage of the proceedings should be rejected.

All of the Complainant's specious due process arguments in his Main Brief have been previously argued before Your Honor, both by pleading and at the hearing, and rejected.<sup>4</sup> Verizon PA strongly suggests that these same issues were implicitly rejected by the Commission by declining the Complainant's Petition for Interlocutory Review and Answer to a Material Question.<sup>5</sup> The same result should occur here.

The Complaint's main contention in his brief is that Verizon PA did not answer his 74 page, 124 paragraph, rambling, disjointed complaint to his liking. As Your Honor previously

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<sup>1</sup> 66 Pa. C.S.A. §332(a).

<sup>2</sup> 66 Pa. C.S.A. §§101 *et seq.*

<sup>3</sup> 52 Pa. Code §§ 1.1 *et seq.*

<sup>4</sup> See Complainant's Preliminary Motion for a More Specific Pleading and Reply to New Matter and Affirmative Defenses *and* Interim Order Denying Motion for a More Specific Pleading (Order issued July 19, 2006) (Tr. 25,26)

<sup>5</sup> The Commission's regulation at 52 Pa. Code §5.303(b) states that "the Commission will act promptly on petitions. Petitions for Commission review and answer which are not granted within thirty (30) days of filing will be deemed to be denied." 52 Pa. Code §5.303(b).

held, after careful review and consideration of the Complaint and Answer, Verizon PA's Answer was sufficient.<sup>6</sup> Indeed, Verizon PA's Answer is detailed and is itself 28 pages.

The Complainant's other claim in this brief is that he was denied discovery and that this violates due process. That is clearly not true. He had ample opportunity to conduct discovery – *which he failed to do* – and he fully participated in an evidentiary hearing, where witnesses from Verizon PA and Verizon Services Corp. testified and were available for cross-examination. The Complainant's complete and utter failure to prosecute this complaint, and his waiver of discovery, does not entitle him to another bite at the apple no matter how many times he repeats the phrase "due process" in his brief. His request to start this proceeding all over again is a complete waste of the Commission's time and resources, as well as Verizon PA's, and should be rejected.

Finally, Complainant's brief misstates Verizon PA's position regarding Verizon Information Services' ("VIS") involvement in this case and the jurisdiction of the Commission over the Complainant's free listings. These erroneous statements are also addressed below.<sup>7</sup>

## II. ARGUMENT

### A. Verizon PA Has Answered Sufficiently The Complaint With Respect To The Complainant's Free Listings.

The Complainant's allegations that Verizon PA has not fully answered the Complaint with regard to his free listings lacks merit and should be rejected. His sole contention is that Verizon PA did not fully answer the Complaint with regard to VIS's involvement in the publishing and placement of his free listings. To prove his point he even goes to the extent of

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<sup>6</sup> Interim Order Denying Motion for a More Specific Pleading (Order issued July 19, 2006).

<sup>7</sup> In addition, his reliance on a document from the Virginia Corporations Commission is without merit and should be rejected.

completely misstating and mischaracterizing<sup>8</sup> Verizon PA's statements about the involvement of VIS with his free listings. To the contrary, Verizon PA has fully answered the Complaint with regard to the only issue in this Complaint that the Commission has jurisdiction to adjudicate – that being whether his free listings appeared reasonably in the directories.<sup>9</sup>

With respect to that issue, VIS<sup>10</sup> is an affiliate of Verizon Service Corp. and is contracted to fulfill the directory regulatory requirements for Verizon PA by publishing the white pages and free listings in the yellow pages. (Tr. 63) The Commission has jurisdiction to decide whether the Complainant's free listings appeared reasonably in Verizon PA's telephone directories.<sup>11</sup> Likewise, Verizon PA is responsible for the way the Complainant's free listings appear in the telephone book and, accordingly, has fully answered the Complainant's allegations regarding his free listings.

**B. The Complainant Has Not Been Denied Due Process.**

**I. Discovery**

The Complainant's due process arguments should be rejected. Specifically, the Complainant's assertion that because Verizon PA's Answer was not to his liking he was unable to conduct discovery lacks merit. (Complainant's Main Brief, P. 6, ¶ 13,14) The Complainant is an attorney and is fully aware of the discovery process to learn facts and information that he needs to litigate the Complaint.<sup>12</sup> Yet the Complainant clearly waived his right to discovery by

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<sup>8</sup> See Complainant's Main Brief ¶¶ 7, 11, 18.

<sup>9</sup> The "free" single-line or straight-line listing in the directory, in both the White and Yellow Pages is subject to the Commission's jurisdiction. *Donald L. Williams v. Verizon Pennsylvania Inc.*, Docket No. C-20043753, Final Order entered July 11, 2006. Although the original Complaint also alleged facts associated with the Complainant's paid directory advertising, ALJ Corbett, at the hearing, narrowed the issue by affirming that the Commission does not have jurisdiction over claims involving paid directory advertising. (Tr. 20) *Felix v. Pennsylvania Public Utility Commission*, 146 A.2d 347 (1959); *John Cardone v. Bell Telephone Co. of Pennsylvania*, 76 Pa. P.U.C. 371 (1992).

<sup>10</sup> Verizon PA utilizes VIS to prepare its directories. VIS is not regulated by the Commission.

<sup>11</sup> *Id.*

<sup>12</sup> Discovery procedures were also outlined in Your Honor's Prehearing Order at ¶9.

failing to propound even one discovery question, neither formally nor informally; thus, he cannot bootstrap a due process violation when he caused the situation of which he complains by failing to exercise discovery rights.

## 2. Hearing participation

Similarly, the Complainant's contention that he was denied due process fails because he participated fully in an evidentiary hearing before an ALJ. The Complainant testified at the hearing and Verizon PA presented two witnesses in response to his testimony. One witness was from Verizon PA's business office who testified to the business office's practices regarding the Complainant's contacts and free listings (Tr. 44-60) and the second witness was from Verizon Directory Services, who testified regarding practices regarding the publishing of his free listings and the Complainant's contacts with VIS regarding his free listings. (Tr. 61-67) These witnesses were fully available for cross-examination regarding any issue involving his free listings. (Tr. 60, 68), but the Complainant declined that opportunity. The fact that the Complainant declined to cross-examine these witnesses, or believes he was unprepared to cross-examine these witnesses because he wanted more information, is not a denial of due process.

### **C. The Complainant's Reliance On A Report Of The Commonwealth Of Virginia's State Corporation Commission is Irrelevant And Has No Bearing On This Proceeding.**

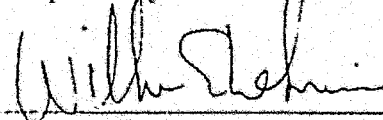
The Complainant's reliance on "Complainant's Exhibit #2" to further his assertion that Verizon PA refuses to answer allegations about VIS is completely misplaced. The issue in this case is whether Verizon PA provided reasonable service regarding his free listings. Verizon PA has never denied VIS's involvement in the process of printing the Complainant's free listings in the directory. Verizon PA, through its Answer and testimony of two witnesses, addressed that

issue. Instead of focusing on that issue, the Complainant instead injects a completely irrelevant document involving Verizon Virginia Inc. Because there is no foundation in fact or law showing how it is relevant here, that document cannot support his complaint.<sup>13</sup>

## II. CONCLUSION

For all of the reasons set forth above, and in its Main Brief, Verizon PA respectfully requests that the Formal Complaint of Mr. Stump, Inc be dismissed or denied in its entirety for failure of the Complainant to sustain his burden of proof.

Respectfully submitted,



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Facsimile: (717) 236-4841

DATED: November 30, 2006

Counsel for  
Verizon Pennsylvania Inc.

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<sup>13</sup> This Exhibit is a Report of the Virginia State Corporation Commission and was properly objected to on hearsay and relevance grounds by counsel for Verizon PA and was only admitted into the record by the ALJ for legal argument purposes and not as evidence or proof of any fact in this proceeding. (Tr 38,39)

CERTIFICATE OF SERVICE

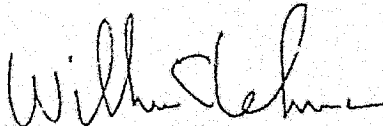
I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of §1.54 (relating to service by a party).

Service via first class mail:

Honorable John H. Corbett, Jr.  
Office of Administrative Law Judges  
Pennsylvania Public Utility Commission  
1103 Pittsburgh State Office Building  
300 Liberty Avenue  
Pittsburgh, PA 15222  
(w/diskette)

Christopher Paul Derby, Owner  
Mr. Stump, Inc.  
271 Phoenixville Pike  
Malvern, PA 19355  
(2 copies)

Dated this 30<sup>th</sup> day of November, 2006.



William E. Lehman  
Counsel for Verizon Pennsylvania Inc.

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11:11