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September 17, 2001

VIA OVERNIGHT MAIL

Blanco S. Bayó  
Director, Division of Records & Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Re: Docket No. 001109-TI

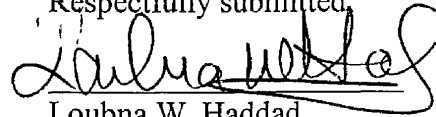
Dear Ms. Bayó:

On behalf of WebNet Communications, Inc. ("WNC"), enclosed please find the Rebuttal Testimony and Exhibits of Mark Lewis in the above referenced matter.

Pursuant to the schedule outlined in this matter, this documentation was due to be filed on September 17, 2001. On September 12<sup>th</sup>, WNC sent a Motion for Extension of time to the Commission via Federal Express and via facsimile, seeking up to and including September 18<sup>th</sup> within which to file these pleadings. On September 14<sup>th</sup>, undersigned spoke with Wayne Knight, Staff Counsel, who indicated that WNC's motion had not yet been ruled on, but that Staff would not, in fact, object to the extension of time. Based on this understanding, WNC hereby files its testimony and asks that the Commission consider it timely filed as of September 17, 2001.

Please date stamp and return the extra copy in the enclosed envelope. In the meantime, should you have any questions, please do not hesitate to contact me.

Respectfully submitted,



Loubna W. Haddad  
Regulatory Counsel for WNC

Enclosure

DOCUMENT NUMBER-DATE

11580 SEP 18 01

FPSC-COMMISSION CLERK

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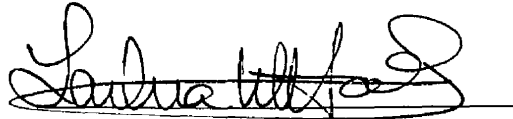
BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of show case ) DOCKET NO. 001109-TI  
Proceedings against WebNet ) FILED: September 17, 2001  
Communications, Inc. for apparent )  
Violation of Rule 25-4.118, F.A.C., )  
Local, Local Toll and Toll Provider )  
Selection. )

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the Rebuttal Testimony and Exhibits of Mark Lewis has been furnished by United States Mail this 17<sup>th</sup> day of September, 2001 to the following:

Wayne D. Knight  
Staff Counsel  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850



Loubna W. Haddad

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**WEBNET COMMUNICATIONS, INC.**

**PREPARED REBUTTAL TESTIMONY**

**and**

**EXHIBITS**

**of**

**MARK LEWIS, on behalf of  
WEBNET COMMUNICATIONS, INC.**

**Docket No. 001109-TI**

**September 17, 2001**

DOCUMENT NUMBER-DATE  
11580 SEP 18 2001  
FPSC-COMMISSION CLERK

1 Q: Please state your name and business address.

2 A: My name is Mark Lewis and my business address is 8260 Greensboro  
3 Drive, Suite 240, McLean, Virginia, 22102.

4 Q: In what capacity are you giving testimony in this matter?

5 A: As President and sole officer/director/shareholder of WebNet  
6 Communications, Inc. (WNC).

7 Q: Have you reviewed the testimony prepared by Melinda Watts and filed on  
8 behalf of the Florida Public Service Commission (FPSC)?

9 A: Yes, I have.

10 Q: For what purpose do you offer your testimony in this matter?

11 A: To rebut Ms. Watt's testimony and to explain WNC's procedures for  
12 soliciting customers, obtaining verifications and responding to complaints.

13 Q: Does WNC solicit new customers through in-house or outside  
14 telemarketers?

15 A: The company has an internal telemarketing department.

16 Q: What procedure does the company and its telemarketing department  
17 utilize for soliciting new customers.

18 A: Our telemarketers are provided a script which they must follow. A copy  
19 of the script provided to the telemarketers is attached as WNC Exhibit 1.  
20 The script identifies the name of the company, the purpose of the call, the  
21 rate to be provided and any promotional plans, assures that the individual  
22 is authorized to make the change, verifies the customer's name, address  
23 and billing number, inquiries about additional phone lines, advises the

1 customer of the fee to be charged by the local carrier and notifies the  
2 customer of the independent verification process that will follow.

3 Q: Is it clear in the marketing scripts that must be followed who is making the  
4 call?

5 A: Yes. The script requires the telemarketer to state his/her name and  
6 indicate that he/she is with WebNet Communications, Inc.

7 Q: In your opinion, it is likely that a potential customer receiving a  
8 telemarketing call would be misled or deceived about the purpose of the  
9 call and that that WNC is soliciting the customer for the purpose of  
10 providing long distance telecommunications services?

11 A: No, I don't believe so. The script clearly indicates the name of the  
12 company and that by accepting the promotional offers and WNC's  
13 services, the customer will obtain long distance at a specific rate.  
14 Moreover, in discussing the upcoming verification process, the script  
15 directs the telemarketer to state that "you will be asked to personally  
16 confirm your selection of WebNet as your telecommunications service  
17 provider for all of your long distance communication needs."

18 Q: Does the company utilize any methods for monitoring its telemarketers to  
19 ensure that they are complying with the scripts and not misleading or  
20 deceiving potential customers?

21 A: Yes. The company has an internal monitoring system that randomly  
22 monitors sales associates on a continuous basis. Typically, there will be  
23 two to three individual monitors each day who are listening in on random

1 calls all day long. The employees do not know who is being monitored  
2 and when.

3 Q: Is there a procedure in place should the monitors determine that a  
4 particular telemarketer is not following the script or is in any other way  
5 attempting to mislead or deceive the potential customer?

6 A: The company policy is to either give that telemarketer a warning or to  
7 immediately fire the telemarketer, depending on the circumstances and the  
8 gravity of the telemarketer's conduct.

9 Q: In the past six months, for example, has WNC disciplined or terminated  
10 any telemarketers?

11 A: Yes, but we do not have exact figures readily available. As a percentage,  
12 the number of employees that need to be disciplined or terminated is very  
13 low compared to total employment. This is due to the high turnover rate  
14 that's endemic to this type of job, to the difficulty of obtaining substantial  
15 evidence of violations of corporate policy, and to the fact that a first  
16 offense, if suspected, incurs a warning. Many times after a warning, the  
17 employee will quit his or her job.

18 Q: Once the telemarketer determines that the potential customer wants WNC  
19 services, how does WNC receive authorization from the customer to serve  
20 as its long distance service provider?

21 A: WNC utilizes the independent third party verifier - Federal  
22 Communications Group, Inc. (FCG) for all of its customer authorizations.  
23 WNC Exhibit 2 is a agreement by which FCG verifies customer orders.

1 Q: Where is FCG located?

2 A: It is located at P.O. Box 6367 in Bellevue, Washington.

3 Q: Is FCG separate and independent from WNC?

4 A: Completely. FCG is located in Washington State and the extent of our  
5 relationship with them is the independent services contract we entered into  
6 for verification services.

7 Q: Can you please explain how the third party verification process works?

8 A: The third party verifier speaks to the customer immediately following the  
9 telemarketing call to ensure that the change is indeed voluntary and is  
10 authorized by the consumer. WNC provides the third party verifier with a  
11 basic script designed to confirm that the consumer has knowingly  
12 authorized the switching of his long distance telephone services to WNC.  
13 A copy of this script is provided as WNC Exhibit 3. It is then the  
14 obligation of the third party verifier to record this process and obtain  
15 verification in conformity with the law of each state.

16 Q: Did FCG represent to WNC that its third party verification systems were  
17 consistent with all state regulations, including those of Florida, and did  
18 WNC rely on this representation in selecting FCG as its third party  
19 verifier?

20 A: Yes. In fact, attached as WNC Exhibit 4 is a copy of a page printed out  
21 from FCG's website in December of last year where it clearly states that  
22 FCG's third party verification system "meets all Federal & State  
23 Regulatory Anti-Slamming Requirements."

1 Q: Based on your above explanation of the verification process, is it true that  
2 the telemarketing call and the verification occur during the same phone  
3 call?

4 A: Yes, this is standard industry procedure. Once the prospective customer  
5 agrees to accept WNC service, FCG's number must be dialed and the  
6 automated process begins.

7 Q: You stated that FCG records the verification process?

8 A: Yes.

9 Q: Who maintains these recordings?

10 A: FCG.

11 Q: Where does it maintain these recordings?

12 A: In one of its databases.

13 Q: For how long are the recordings maintained?

14 A: The recordings are maintained for a minimum of 1 year.

15 Q: Why for that designated period of time?

16 A: Pursuant to Rule 25-4.118, F.A.C., verification information must be  
17 maintained for one year.

18 Q: After the designated period of time elapses, what happens?

19 A: We wouldn't know that for certain, but because we know the expense of  
20 maintaining databases, we assume FCG deletes old verifications.

21 Q: How does WNC retrieve the recorded verifications from FCG?

22 A: FCG has a phone number that we can call that connects us to an automated  
23 system. Once we are connected to that system we type in our customer



1 identification number provided to us by ILD. A computerized message  
2 then asks for the telephone number of the customer. After entering the  
3 telephone number, the verification is played back to us over the phone.

4 Q: When asked, how do you produce those verifications?

5 A: Either we directly ask FCG to forward a copy of the requested verification  
6 to us or we record the verification over the phone.

7 Q: How did you request copies of the verifications for the complaints  
8 involved in this proceeding?

9 A: Because of the limited amount of time with which we typically have to  
10 forward the verifications to Commissions, it was probably a combination  
11 of both ways.

12 Q: Why?

13 A: Recording the individual verifications over the phone becomes very time  
14 consuming for my employees. Oftentimes it is more efficient to simply  
15 send a request directly to FCG. It is not unusual for the FCG phone  
16 number that we call to ring busy. We are not the only carrier using FCG's  
17 services so things can be slow and frustrating at times. FCG is usually  
18 very good about getting the verifications back to us within a reasonable  
19 amount of time after we submit a request. Unfortunately, we are not  
20 always successful in obtaining all verifications requested from FCG.

21 Q: Once the verification process begins, does WNC or any of its employees  
22 have any control over the verifications or the content of the verifications?

23 A: No.

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Q: Why not?

A: FCG is the custodian of the verifications for the year that they are maintained. They record the verification and maintain that verification in their database. WNC's only access is on a "listen only" basis.

Q: Does WNC have any way of monitoring the verification system provided by FCG.

A: No. However, it is standard company practice to listen to a reasonable sampling of verifications to confirm that authorizations are in fact being obtained before orders are processed.

Q: What does WNC consider a reasonable sampling?

A: It varies between 10 and 15 percent.

Q: And if the company determines that authorization was not provided what, if anything, does it do?

A: If we determine that a verification does not reflect a clear authorization by the consumer, we do not PIC that consumer and the switch over is not processed.

Q: How does WNC bill its customers?

A: WNC bills its customers via local exchange carrier (LEC) billing – using an intermediary acting as a billing aggregate. We have a contract with ILD Telecommunications, Inc. (ILD), which acts as WNC's billing aggregate.

Q: Where is ILD located?

A: It is located at 14651 Dallas Parkway, Suite 905, Dallas, Texas.

1 Q: Can you please explain how the concept of LEC billing works?

2 A: It is industry practice for telephone service providers to assign contracts  
3 established with customers to a billing aggregator, such as ILD, which acts  
4 as a billing clearinghouse. The billing aggregator purchases the accounts  
5 receivables, calculates the rates individual customers should be charged  
6 based on information provided to it by the long distance reseller, pays the  
7 long distance reseller a percentage of the potential collection amount—  
8 usually 70%, and then submits the charges to the local exchange telephone  
9 provider. The local exchange telephone provider - in Florida this would  
10 most likely be BellSouth or Verizon (GTE) - receives this information  
11 from the billing aggregator and actually purchases the accounts from that  
12 aggregator, just as the aggregator purchased the accounts from WNC. The  
13 LEC then bills the customer and retains the customer's payments as it  
14 owns those billings at that time. If the LEC collects more or less than the  
15 anticipated percentage, then a true-up occurs and the additional amounts  
16 collected are passed back to the reseller through the billing aggregator or  
17 the recourse for the shortfall is passed through the billing aggregator. In  
18 this method of billing, known as LEC billing, the long distance reseller  
19 only has direct communication with the billing aggregator. The billing  
20 aggregator in turn is the only one with direct contact with the LEC. The  
21 LEC in turn then has the final direct communication with the customer on  
22 all matters of billing and collection. All information that appears on a  
23 customer's telephone bill is placed there solely by the LEC in form and

1 content in the LEC's sole and absolute discretion. This is required by the  
2 contract the LEC has with ILD.

3 Q: Upon the receipt of a telephone bill, how likely is it that a consumer would  
4 not know that WNC was billing them?

5 A: Unlikely.

6 Q: Why?

7 A: Although WNC's long distance charges are itemized under the heading  
8 "ILD TELESERVICES BASIC SERVICE", on the first page of the long  
9 distance portion of every telephone bill, the phrase "Billing on behalf of  
10 WNC, Billing Questions call 1-800-433-4518" also appears. This can be  
11 seen in the documents provided by Ms. Watts in Exhibit No. MW-2.

12 Q: How does the phrase "Billing on behalf of WNC, Billing Questions call 1-  
13 800-433-4518" appear on the bill?

14 A: It is in a box directly under the heading ILD TELESERVICES BASIC  
15 SERVICE.

16 Q: How likely would it be for someone who sees the heading ILD  
17 TELESERVICES BASIC SERVICE to not see the box containing the  
18 words "Billed on behalf of WNC" while reviewing a telephone bill?

19 A: Because the box is directly under the heading ILD TELESERVICES  
20 BASIC SERVICE, I think it is very unlikely that a reasonable person  
21 would not see the phrase "Billing on behalf of WNC".

22 Q: If a customer were to call 1-800-433-4518 as indicated on the telephone  
23 bill, who would answer the call?

1 A: That telephone number belongs to ILD.

2 Q: Why does WNC's toll-free number not appear on the bill?

3 A: What does and does not appear on the telephone bill is entirely up to the  
4 LEC because it is the entity that bills and collects from the customer. As I  
5 previously explained, the LEC actually owns these receivables at the time  
6 of billing.

7 Q: How can WNC address customer concerns if the customer calls ILD?

8 A: ILD is supposed to either give the customer WNC's toll-free number or get  
9 the customer information and forward it to WNC for resolution but,  
10 unfortunately, that does not always happen.

11 Q: What is the effect when ILD does not forward WNC the information?

12 A: More normal and routine complaints grow into irate consumer complaints  
13 against WNC and often come to this Commission or the FCC.

14 Q: Why then does WNC tolerate such a system?

15 A: These are the rules by which resellers are forced to operate. We have no  
16 say in the matter. The relationships that exist between resellers and billing  
17 aggregators, and billing aggregators and the local exchange carrier are  
18 dictated by contract. These contracts are not negotiable. The reseller is  
19 forced into a "take it or leave it" situation if it is to use LEC billing.

20 Q: Why not use another type of billing?

21 A: The residential market is particularly punishing and unforgiving,  
22 particularly on small businesses like WNC. If we tried to bill directly, too  
23 many consumers believe they do not have to pay us and we cannot do

1 anything about it. This attitude has actually been fostered by regulatory  
2 decisions that require a notice be put on bills that local service cannot be  
3 turned off for failure to pay a long distance bill. Even if we try and use  
4 disconnection of long distance services as a means to recover our charges,  
5 ironically a duty we have as a regulated common carrier, the consumer  
6 does not care. It can move to another carrier without paying outstanding  
7 balances. If payment is demanded and legal action threatened to recover  
8 the charges, again actions expected of a carrier, the consumer claims to be  
9 slammed or misbilled. We do not have the resources to fight such a losing  
10 battle. So, some consumers get a free ride and the honest ones wind up in  
11 effect subsidizing the less scrupulous.

12 Q: Even so, why not sue to recover?

13 A: The individual billing amounts are usually small, making the cost of legal  
14 action prohibitive. Since we have learned that the consumer will claim a  
15 slam or other billing irregularity, bringing an action is simply not  
16 reasonable business policy. For small businesses like WNC, it is a no-win  
17 situation.

18 Q: Why then is WNC in this business?

19 A: We often ask ourselves that. But the reality is that we have a right to  
20 compete. As long as the balance between the kind of problem we face  
21 here and the opportunity to provide decent service and obtain a reasonable  
22 return exists, why should we abandon the field. But there are  
23 contradictions that we face. The number of unscrupulous consumers is

1 small compared to the number of honest consumers we serve who are  
2 happy with our service and rates. And we recognize that not all  
3 consumers who complain are unscrupulous. But the balance is terribly  
4 uneven. No attention or consideration is given to the comparative number  
5 of complaints to the much larger number of uncomplaining customers.  
6 Not only that, but we face accusations that require no proof, but rather on  
7 uncharacteristic presumptions of guilt until proven innocent. We are told  
8 that while the number of complaints may be comparatively small, there are  
9 many more complaints that people just haven't taken the time to file.  
10 There's no defense to this "guilt by extrapolation."

11 Q: Do you think that a change in these regulatory attitudes would be helpful  
12 to your business?

13 A: Yes, but the answer is more complicated.

14 Q: How so?

15 A: Thus far, we have survived in a hostile environment to small businesses.  
16 The truth is that others have not. We have a right to be in this business,  
17 having been encouraged to be in this business by the very entities that now  
18 are making it more difficult to stay in this business. Official policy favors  
19 competition. WNC wants to compete in all areas. That is, we want and  
20 need to compete in other industry segments to grow and to diversify our  
21 offers and services, but the truth is we cannot. We cannot resell local  
22 service. Despite the last five years, the local markets remain under  
23 monopoly control. Worse, although these markets are under monopoly

1 domination, these huge companies are being allowed to expand into our  
2 single product industry, long distance. We cannot resell wireless service  
3 or Internet access, at least not very effectively. Hence we are forced to  
4 remain a one product company and that means we must re-canvas  
5 unrelentingly the same market segments with the same service and are  
6 limited to competing on price alone. These problems, as they affect a  
7 small business like ours, get little to no meaningful attention from  
8 Congress or the FCC. Yet, when it comes to consumer complaints we  
9 receive a lot of regulatory attention. WNC faces a ceiling, a ceiling that is  
10 keeping it out of broadening its service offerings and distinguishing itself  
11 in the marketplace and thereby building a solid core of loyal customers.  
12 To stay in business so that we can take advantage of new opportunities in  
13 these foreclosed markets when they do eventuate, we must continue to  
14 market, market and market to a tired consumer constituency. But we have  
15 no choice. Either we do it or we exit and with us another slice of  
16 competition is lost.

17 Q: Do proceedings like this hurt your ability to compete?

18 A: Yes and no. Yes, in the sense that 58 complaints out of thousands of  
19 solicitations and orders have compelled this proceeding or the agreement  
20 to pay hefty fines to avoid this proceeding. These costs are hurtful to a  
21 small business like ours. In addition, we seem to have little or no equities  
22 compared to the absolute right of consumers to have their interests  
23 protected.



1 Q: Would you explain that last statement?

2 A: Yes. If a consumer complains, the carrier is guilty and is made to defend  
3 and then to pay. There's no need for the consumer to verify his or her  
4 complaint. If there's a complaint, the carrier is responsible. It's views  
5 while solicited are seldom taken seriously. And even where the  
6 verification system may break down from time to time, and not at the fault  
7 of the carrier, because verification is not and, by law, cannot be under the  
8 carrier's control, the carrier's lack of control is ignored and the carrier  
9 made responsible not only to the consumer but in a sense for subsidizing  
10 the mistakes or failures of the verification company. As I've said, we are  
11 presumed guilty and worse, are not given much consideration even when  
12 we offer proof of innocence.

13 Q: You testified also that these proceedings on the other hand do not hurt  
14 your ability to compete. Would you explain?

15 A: Yes. We realize that consumer complaints, however legally or factually  
16 meritless, or both, must be addressed and that in the general scheme of  
17 things, consumers are going to get the nod. We do understand and  
18 appreciate the delicate balance regulators must face and that in trying to be  
19 fair to both sides, they can be and are accused at times of "coddling" the  
20 industry. But while we accept these facts of life, we think more balance is  
21 needed in the process.

22 Q: How would you put more balance in the process?

1 A: WNC's corporate policy is to make the consumer whole. In nearly all  
2 cases, WNC immediately credits its customer and assists them to change  
3 carriers. In short, the consumer loses nothing. His/her calls are completed  
4 with the same quality and timeliness as if another carrier had provided the  
5 service. In some cases the rates may be lower than the purported preferred  
6 carrier, so an advantage was actually obtained by having paid less for the  
7 same service. Even so, WNC will credit the entire charges and return the  
8 customer to the higher price carrier. If WNC's rates are higher, then the  
9 full credit still provides free service and a return to the lower priced  
10 carrier. But in short, the public interest it seems to us is served. The  
11 customer is made whole and its freedom of selection preserved. We think  
12 that such corporate policies deserve greater regulatory recognition, that  
13 they self-police the industry at lower industry and regulatory costs. What  
14 we do not think is fair is the loading on of large settlements or costly  
15 proceedings. We don't think these are necessary.

16 Q: If the approach you suggest were taken, isn't the rebuttal that this would  
17 only encourage carriers to play loose with the rules and then say, "Oh,  
18 sorry we got caught, here's your money back."

19 A: Certainly with some companies that would be a possibility. But I do not  
20 advocate such a total hands off policy. Some balance must be struck. I  
21 am no lawyer, but have been advised that when fines are imposed or  
22 conditions on operational authority are required, such as suspension of  
23 certain activities, these measures have similarities to criminal sanctions.

1 Persons accused of such conduct have certain rights, a fundamental one  
2 being that their guilt cannot be presumed, but must be proved. Again not  
3 being a lawyer I cannot get too deep here, but I can offer that our legal  
4 counsel can submit a fuller analysis of this for consideration. In broad  
5 terms, all that is being suggested is that (1) if the company policy and its  
6 adherence to it demonstrates that consumers who complain are being made  
7 whole; (2) there is no evidence of deliberate violations of regulatory  
8 restrictions; and (3) the instances of complaints is not so numerous as to  
9 demonstrate a wanton disregard for regulatory compliance, then  
10 demonstrating that all complainants have been made whole should settle  
11 the matter without assessments of fines, formal proceedings and the like.

12 Q: What about the cost to the agency to administer this more balanced  
13 approach. Won't there be argument that the agency is not being  
14 compensated for its oversight duties?

15 A: The FCC assesses regulatory fees to cover some of its costs. The  
16 taxpayers pay for the rest. Nonetheless, reasonable proposals for some  
17 industry contribution may be considered. It seems that no carrier is  
18 immune from complaints, so there does not seem any unfairness in making  
19 an across the board assessment if needed. I have no ready answer other  
20 than the idea is worth exploring if it also means getting rid of the onerous  
21 system we now have.

22 Q: Mr. Lewis, Rule 25-4.118(13)(b) states: "In determining whether fines or  
23 other remedies are appropriate for an unauthorized carrier change

1 infraction, the Commission shall consider the actions taken by the  
2 company to mitigate or undo the effects of the [alleged] unauthorized  
3 change.” These actions include complying with credit procedures and  
4 taking prompt action in response to unauthorized change. How has WNC  
5 responded to the 58 complaints it received from consumers for alleged  
6 unauthorized switching of their service?

7 A: WNC has followed its standard procedure to promptly disconnect the  
8 customer’s account, re-rate the bill to the old carrier’s rate, and pay for  
9 any fees associated with changing the customer to another carrier. First  
10 and foremost, our focus is on satisfying the customer quickly once we are  
11 made aware of a problem, irrespective of whether we believe we have a  
12 valid verification.

13 Q: Of the 58 complaints at issue in this proceeding for alleged unauthorized  
14 provider change, how many complaints did WNC respond to?

15 A: WNC responded to all 58 complaints.

16 Q: And of those 58 complaints, did WNC provide refunds to any of the  
17 complainants?

18 A: Yes. Of the 58 customers named in this proceeding, WNC provided  
19 refunds to all. These refunds are reflected in WNC Ex. 5 and can also be  
20 verified by Exhibit MW-2.

21 Q: Approximately how much money did WNC pay out to the 58  
22 complainants in terms of refunds.

23 A: In total, we refunded the 58 complaintants approximately \$4,700.

1 Q: Has WNC instituted any remedial measures during this past year in an  
2 effort to improve the procedures over which it can exert some control and  
3 to mitigate the possibility of future unauthorized changes?

4 A: Yes.

5 Q: Can you explain these measures?

6 A: We have taken the following measures:

- 7
- 8 1) WNC has ceased its telemarketing efforts in Florida upon learning  
9 of the complaints underlying these proceedings and does not intend  
10 on resuming telemarketing there until it has had the opportunity to  
11 further investigate the verification issues and work with the FPSC  
12 and FCG to amend the verification to ensure that it complies with  
13 Rule 25-4.118, F.A.C.
  - 14
  - 15 2) As noted above, WNC has followed a consistent policy of  
16 reprimanding telemarketers where deficiencies in their marketing  
17 methods have been observed. In addition, WNC has taken steps to  
18 warn its telemarketers of the gravity of the complaints received by  
19 the Commission. Telemarketers were instructed to follow strictly  
20 the telemarketing script and were informed that suspension would  
21 result anytime a telemarketing supervisor overheard a telemarketer  
22 stray from this script, if they were impolite with a potential  
23 customer, or in any other way appeared to be trying to mislead or  
24 deceive the customer.
  - 25
  - 26 3) WNC's management will now routinely conduct investigations  
27 based on the telephone numbers of complainants and will  
28 terminate telemarketing employees responsible for those numbers  
29 if they have not already been identified through other monitoring  
30 procedures.
  - 31
  - 32 4) When WNC resumes telemarketing it will implement a program to  
33 train telemarketers who have been with the company for some time  
34 to reemphasize what should and should not be said during a  
35 conversation with a potential customer and to reemphasize WNC's  
36 policies governing telemarketing. Of course, all new telemarketers  
37 will also receive this training.
  - 38
  - 39 5) When WNC resumes telemarketing, it will increase the amount of  
40 monitoring employed to ensure that the telemarketers understand  
41 and follow proper procedures. WNC will use three types of

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monitoring: 1) continued random monitoring of conversations between potential customers and telemarketers on a third line; 2) patrolling of the telemarketing department to overhear their conversations; and 3) investigation of complaints received to determine which, if any, telemarketer is causing the complaints.

Q: Does this conclude your testimony?

A: Yes it does.

## WebNet Script

Hello, Mr. / Mrs. \_\_\_\_\_.

My name is \_\_\_\_\_ and I work for WebNet Communications, Inc., a telecommunications service provider certified and regulated by the FCC and the various state commissions. Are you the person authorized to make changes to and /or incur charges on this telephone account? (If the answer is "No". Tell the person you'll call back and terminate the call).

This call is to notified you of WebNet's new rate:

All your state-to-state calls 7¢ a minute for prime time and 14¢ all other times, every day. For your instate long distance and local long distance service your rate is a flat 21¢ per minute rate all day, everyday based on the same plan. WebNet also has competitive rates for calling card and international services as well.

WebNet is currently offering a \$100.00 promotional check after 180 days of service with us.

This great rate with only a small monthly fee of \$3 and a one time setup fee of \$3.

Our charges will be listed in your local phone bill that you receive from your local phone company, but we are not affiliated with your local phone company, it just does our billing for us to make it easier for our customers. Our customers use the same network that many other companies use. Should you have any questions or want to cancel the service just call WebNet's Customer Service toll free number 1-877-880-0166.

If you're interested in any of these offers, we will quickly get some basic information from you so that we can transfer your service and have you try WebNet low plan.

May I have your full name \_\_\_\_\_? Your Mailing address is \_\_\_\_\_.  
Your main billing telephone number is \_\_\_\_\_.  
Your fax line, if any is \_\_\_\_\_.

The line you use for Internet access or computer use is \_\_\_\_\_.

There may be a small fee of approximately \$5 from your local carrier for switching your services. Also, your local carrier will have an additional small feed of approximately \$5 for each line you switch, just call our customer service department and we will refund any fee you incurred by choosing our services.

For verification purposes could I have your date of birth \_\_\_\_\_?

(If date of birth indicates person to be younger than 18, terminate the call. Do not continue with verification).

To comply with federal and state regulations, I'm going to have your information verified. An independent verification service, which uses automated means to speed the process, will confirm our discussion. When you're connected, you will be asked to personally confirm your selection of WebNet, as your telecommunications service provider for all of your long distance communications needs. No change will be made to your local services. Just follow the prompts.

Before I connect you for verification, thank you for your patience and interest in WebNet. We will work hard to please you.

**FCG, INC.**  
**CUSTOMER SALES AND SERVICE Agreement**

THIS Agreement is entered into as of this 25<sup>th</sup> Day of August 1998, by and between FEDERAL COMMUNICATIONS GROUP, INC a Washington corporation, having its principle place of business at: 14040 NE 8<sup>th</sup> Suite 313 Bellevue, WA 98007 P.O. Box 6367, Bellevue, Washington 98008 ("FCG") and WebNet Corp., a Delaware corporation, having its principle place of business at: 8260 Greensboro Dr., Suite 240, McLean VA 22102 ("Customer") (collectively, referred to as the "Parties").

In consideration for the premises, mutual covenants and Agreement set forth herein, FCO and CUSTOMER agree as follows.

**1) PURCHASE AND SALE**

The CUSTOMER agrees to purchase and FCG agrees to provide third-party verification ("TPV") of long distance telephone service orders at the price set forth in Paragraph 2, following.

**2) UNIT OF PURCHASE**

CUSTOMER shall pay \$0.49 per TPV unit, with a maximum of five minutes duration per verification. A TPV unit is defined as the action wherein the WebNet agent establishes a connection to FCG's verification system and enters the billing telephone number. Additional minutes per TPV unit shall be billed at \$7.9 per minute. Customer-requested changes in FCG's verification, programming and design shall incur charges of \$150.00 per hour when implemented. FCG's transmission of verification information to Customer's site, including any download/upload of such information, shall be billed at \$7.9 per minute of transmission.

**3) PAYMENT FACTORS**

- a. Upon execution of this Agreement, Customer shall pay FCG a deposit of \$12,250 for the first two (2) weeks for FCG's verification service at a run rate not less than 2,500 TPVs per day during the first two (2) week period.
- b. FCG shall fax regular invoices for its TPVs weekly, on Monday of each week for the activity of the previous week. WebNet will wire funds to FCG's account on the next business day.
- c. CUSTOMER shall maintain its deposit with FCG during the term of this Agreement equal to two (2) weeks estimated volume based upon the latest billing.
- d. CUSTOMER requested facsimile of TPV reports shall be billed at \$2.00 per page.



- e. CUSTOMER'S monthly commitment is the larger of: \$5,000 or the actual monthly billing of TPV and excess minutes. If the monthly billing falls below \$5,000, the shortfall shall be billed on the 4<sup>th</sup> week.

#### **4) SECURITY**

CUSTOMER agrees to keep TPV system, and related customer identification numbers and codes, reasonably secure, and will be responsible for any abuse of the system by TPV, its agents or related individuals.

#### **5) RELATIONSHIP OF PARTIES**

- a. The CUSTOMER is not an employee, agent or franchisee of FCG or of any company providing services or products to FCG. The CUSTOMER agrees that the CUSTOMER will make no representations with respect to its relationship to FCG except that it has signed this Agreement as a Customer of FCG.
- b. CUSTOMER agrees to comply with all federal, state and local tariffs, laws and ordinances, regulations and rules now and thereafter in effect, relating to CUSTOMER'S recall sales activities and those of CUSTOMER'S agents, or employees. CUSTOMER is solely responsible for collection, remissions and reporting any applicable federal, state or local taxes to the applicable taxing agency.

#### **6) DUTIES**

CUSTOMER agrees to comply with and abide by all federal, state and local laws governing the sale or solicitation of the services and products offered by FCG, including but not limited to occupational licenses, solicitation licenses, merchants licenses, resale licenses, and shall be responsible for collection and payment of any appropriate sales or use taxes or permits as may be required for CUSTOMER to perform under this Agreement.

#### **7) AUTHORITY**

CUSTOMER is authorized to receive FCG's TPV services and related benefits upon satisfying the deposit requirements of Paragraph 3.

#### **8) LIMITATION OF AUTHORITY**

CUSTOMER shall not make any representations, or alter, amend or discharge any contracts or Agreements, waive any forfeiture or incur obligation or liability for which FCG shall be responsible except as are contained in this Agreement.

#### **9) TERMINATION**

- a. FCG may terminate this Agreement without notice immediately for any of the following reasons:

- i. Customer's inability to perform its duties under this Agreement, including, but not limited to, death, insolvency, transfer for the benefit of creditors, bankruptcy of Customer, or the interruption of business operation by Customer.
  - ii. Any illegal activity, fraud or misrepresentations by CUSTOMER concerning FCG, FCG's products, services or vendors or CUSTOMER'S relationship with FCG.
  - iii. Any claims, arbitration or litigation brought against FCG, its officers or directors, or against any independent representative as a result of the acts or conduct of CUSTOMER.
  - iv. Any assignment or attempted assignment of the Agreement by CUSTOMER.
  - v. Any material breach of this Agreement.
- b. CUSTOMER may terminate this Agreement without notice immediately for any of the following reasons:
- i. The failure or inability to routinely provide proper verifications and/or evidence of same for ten (10) or more orders in any given week.
  - ii. The failure or inability to provide proper verifications and/or evidence of same when requested by CUSTOMER for five (5) or more orders in any given week, which failure or inability is not cured to CUSTOMER'S satisfaction within thirty (30) days of CUSTOMER'S request.
  - iii. The failure or inability to provide proper verifications and/or evidence of same when requested by CUSTOMER for any one (1) order for which a complaint has been filed with a federal or state agency by an end user, which failure or inability is not cured to Customer's satisfaction within thirty (30) days of Customer's request.
  - iv. Converting or attempting to convert CUSTOMER'S end users to FCG's, any of its affiliates' or another carrier's competing long distance or other communication services.
  - v. FCG's insolvency, making an assignment for the benefit of the creditors or filing for bankruptcy.
  - vi. FCG's being named as a party or respondent in any litigation, investigation or proceeding of any nature based on the TPV services provided under this Agreement or any other Agreement, understanding or arrangement.
  - vii. Any material breach of this Agreement.

## 10) ASSIGNMENT

No assignment of any rights under Agreement shall be effective without the prior written consent of FCG.

## **11) CUSTOMIZATION**

Custom voice greeting and related programming enhancements requested by Customer will be provided at the \$150.00 hourly charge set forth in Paragraph 2, proceeding.

## **12) INDEMNIFICATION**

CUSTOMER agrees to indemnify, defend and hold FCG harmless from any and all claims, demands, losses, damages, expenses (including attorney's fees) in any manner caused by, arising from or connected with the performance of this Agreement.

## **13) DISPUTES**

Any dispute or claim between the Parties to this Agreement must be submitted to the following mediation procedure before a party files any complaint or seeks a judicial resolution to a dispute other than a temporary restraining order or preliminary injunction. Mediation is the sole alternative dispute resolution procedure to be used prior to the commencement of a judicial proceeding. No arbitration may be instituted to resolve a dispute arising from this Agreement. Any court action filed before the mediation procedure is completed shall be subject to immediate dismissal. The complaining Party must submit a mediation request in writing to the opposing Party seeking a mediated resolution for any dispute arising out of the terms or requirements of this Agreement. Within 5 days after the receipt of this notice, each Party shall provide the name of a "Designated Officer" with authority to negotiate on the Party's behalf. These Designated Officers must try to resolve the dispute via telephone conference. If a settlement is not reached after 30 days, each Designated Officer must choose a neutral mediator within 10 days after exploration of the initial 30-day period. The mediators chosen for the second stage of mediation shall have 5 days from the latest appointment date to choose a third neutral mediator. These mediators will work with the Designated Officers from each Party in resolving the dispute. If there is no resolution to the dispute 60 days after the appointment of the third mediator, either of the parties may file an action with a court. Any action arising out of this Agreement shall be instituted and maintained under the jurisdiction of the State of Washington. The Parties hereby consent to the jurisdiction of such court and waive any objections to such jurisdiction. In any action or proceeding arising out of this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs.

## **14) CONFIDENTIALITY AND NONCIRCUMVENTION**

As each Party will be receiving proprietary information relating to the other and their respective businesses, each Party agrees to hold all such information, whether written or verbal, strictly confidential and agrees not to disclose such information, directly or indirectly to any third party without the prior written consent of the other Party. As breach of this provision would result in substantial damage, it may be enforced by suit for injunctive relief.

## 15) LIABILITY UPON EXPIRATION OR TERMINATION

Neither CUSTOMER nor FCG shall, by reason of expiration or termination of this Agreement, be liable to the other for compensation, reimbursement or damage of any kind on account of lost profits on anticipated sales or on account of expenditures, investments, leases or commitments of any kind in connection with the business goodwill of the CUSTOMER, FCG or otherwise.

## 16) NOTICES

Any demand, notice, request or other communication required or permitted under this Agreement, shall be in writing and shall be deemed properly given when delivered by facsimile, in person, or deposited in the United States mail postage prepaid, sent by certified or registered mail, return receipt requested, addressed as follows:

If to FCG:     **P.O. Box 6367**  
                  **Bellevue, WA 98008**  
                  **ATTN: Legal Department**

If to CUSTOMER:

**WebNet Corporation**  
**8260 Greensboro Dr., Suite 240**  
**McLean, VA 22102**

Or to such other address as FCG or CUSTOMER may designate in writing.

## 17) NON-WAIVER

No failure to exercise or delay in exercising any rights, power, or privilege under this Agreement on the part of either party shall operate as a waiver of any rights, power or privilege hereunder. No single or partial exercise of any right, power or privilege under this Agreement shall preclude further exercise thereof.

## 18) PROPRIETARY RIGHTS AND MATERIALS

- a. The FCG name and logo are the property of FCG. FCG solely reserves the right to the use of such property. FCG's name, logo and trademark shall not be affixed to or advertised in connection with any product or service other than is contemplated by this Agreement. CUSTOMER is specifically prohibited from using the FCG name, logo or trademark except in advertising literature or other promotional materials which have been approved in writing by FCG prior to its use. Upon termination of this Agreement, CUSTOMER shall cease all use of FCG's name, logo and trademark and shall deliver to FCG any logotype representations thereof or any promotional material containing FCG's name, logo and trademark.

- b. CUSTOMER'S name and logo are the property of CUSTOMER. CUSTOMER solely reserves the right to the use of such property. CUSTOMER'S name, logo and trademark shall not be affixed to or advertised in connection with any product or service other than is contemplated by this Agreement. FCG is specifically prohibited from using CUSTOMER'S name, logo or trademark, except in advertising literature or other promotion materials which have been approved in writing by CUSTOMER prior to its use. Upon termination of this Agreement, FCG shall cease all use of CUSTOMER'S name, logo and trademark and shall deliver to CUSTOMER any logotype representations thereof or any promotional material containing CUSTOMER'S name, logo and trademark.

#### **19) ATTORNEY'S FEES**

Neither Party assumes any liability or financial obligation to defend the other in any litigation arising from this Agreement. If any legal action between the Parties is necessary in connection with this Agreement, the prevailing Party shall be entitled to reasonable attorney's fees in addition to all other relief to which the Party may be entitled.

#### **20) GOVERNING LAW**

This Agreement shall be deemed to have been made in and shall be construed pursuant to, the laws of the State of Washington

#### **21) ENTIRE Agreement**

This Agreement, including the exhibits attached hereto, is the complete and exclusive statement of mutual understandings of the Parties, and supersedes and cancels all previous written and oral negotiations, Agreements and communications relating to the subject matter of this Agreement.

#### **22) SEVERABILITY**

If any part of this Agreement is found or deemed by a court of competent jurisdiction to be invalid or unenforceable, that part shall be severable from the remainder of this Agreement and shall not cause the invalidity or unenforceability of the remainder of this Agreement.

#### **23) AMENDMENTS**

This Agreement may be modified or amended only by a written Agreement duly executed by persons authorized to execute Agreements on behalf of FCG and CUSTOMER.

#### **24) FORCE MAJEURE**

If the performance by either Party of any of its obligations or undertaking in the delivery of the telecommunication products or services under this Agreement is interrupted or delayed by any occurrence or factor outside the control of the Parties to this Agreement, or other causes beyond the control of either Party, then said Party shall be excused from any further performance

for whatever period of time after the occurrence is reasonably necessary to remedy the effects of that occurrence.

**25) REPRESENTATIONS AND WARRANTIES**

Each Party represents and warrants that each Party has the right, power, legal capacity and authority to enter into and perform its obligations under this Agreement. The execution, delivery and performance by each Party of the Agreement has been duly authorized by all necessary corporate action or any other type of action required by law or statute on the part of each Party; the persons executing this Agreement are duly authorized to do so; and this Agreement constitutes a valid and binding obligation of each Party enforceable against each Party in accordance with its terms (subject to normal equitable principles), except as enforceability may be limited by bankruptcy, insolvency, reorganization, debtor relief, or similar laws affecting the rights of creditors generally.

**26) LIABILITY**

FCG's liability for loss or damage to files resulting from customer verification recorded by FCG for storage or processing is strictly limited to the economic value of the verification as described in Paragraph 2.

**27) TERM OF CONTRACT**

a. Contract to commence with date of wire transfer of funds into FCG's account, and to run for a period of 12 months, with automatic renewal for an additional 12 months unless notice is received in writing from either party 60 days prior to termination.

b. Trial Period. Customer has option to terminate the contract within the first two weeks for any reason. Notice of termination must be received in writing. Customer's liability is limited to the value of services provided up to date of termination, including 15 hours of programming at \$150.00 per hour.

IN WITNESS WHEREOF, this Agreement has been executed as of the date first above written.

FEDERAL COMMUNICATIONS GROUP, INC.  
a Washington Corporation.

CUSTOMER

By: \_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print or type full name)

\_\_\_\_\_  
(Print or type full name)

Title: \_\_\_\_\_

Title: \_\_\_\_\_

### **Automated TPV Recording**

Thank you for choosing WebNet Communications Corp. as your long distance and local long distance provider. In addition to the \$100.00 check, you have been selected to receive a free bonus gift...a 100 minute pre-paid calling card! Please answer the following. When finished with each of your responses, press one to continue or nine to re-record.

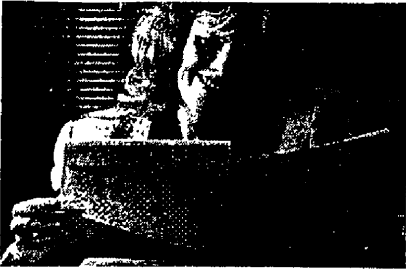
At the tone, state your name as you would like it to appear on your \$100.00 check. Spell if necessary.

To receive your free gift of a 100 minute pre-paid calling card, state your address at the tone.

Are you authorized to make decisions for your telephone? Please say "YES" at the tone.

To confirm your identity, at the tone please state your Date of Birth.

Thank you, your order has been processed.



**fcg** Advanced Telephony  
INCORPORATED Services and Network

## Third Party Verification

FCG's state-of-the-art TPV Program is the  
easiest and  
most cost effective way to verify your  
customer's order.

Our system is fully automated, and provide  
your sales representatives with a simple  
means of meeting TPV regulations. Our TP  
application allows you to increase agent call  
rates  
as well as multiply your earnings per call.

### FCG's TPV System:

- Meets all Federal & State Regulatory Anti-Slamming Requirements.
- Fully automated.
- Simple to use - minimum staff training time
- Immediate Connection through our toll-free



## WEBNET COMMUNICATIONS, INC.

## FLORIDA COMPLAINTS

COMPLAINANT	PHONE NUMBER	REFUND AMOUNT
Paula Rice	904-824-3352	\$ 29.89
Betty Perkins	321-264-7359	\$ 79.72
Glen Gittings	941-739-2049	\$ 10.00
Phillip Snowwhite	561-747-1632	\$ 30.25
Doug Palmeter	904-278-4986	\$ 108.29
Emily Lepper	727-867-8829	\$ 110.00
Bruce Den	904-935-0521	\$ 90.16
Holmer Sheppard	863-967-5900	\$ 154.04
Kermit Nelson	863-984-2017	\$ 101.68
Mary Ann Ahato	941-792-9159	\$ 81.91
Michelle Pierce	561-963-6372	\$ 76.10
Theresa Ash	863-682-7370	\$ 391.90
Richard Voehringer	561-369-5471	\$ 61.14
Wilmer Pierson	561-626-6965	\$ 10.00
Rhonda Mantis	407-499-1683	\$ 156.68
Ann Throgmorton	561-286-3344	\$ 221.38
Joseph Silvestro	904-345-1499	\$ 75.81
Abraham Slomak	561-495-8044	\$ 41.14
Richard Goodwin	561-335-0012	\$ 43.43
Fred Seligman	850-438-3934	\$ 17.68
Dana Becker	727-781-4111	\$ 10.63
Blanch Ingber	561-375-9486	\$ 155.64
Theresa Laycock	561-567-5430	\$ 56.94
Mark Shelton	305-887-6818	\$ 13.61
Carmen Feta	727-784-3574	\$ 19.84
Sally Jacobs	561-220-3391	\$ 214.00
Susan Giveon	561-483-2254	\$ 138.28
Bill Phillips	850-265-8690	\$ 23.10
Darlene Lott	813-754-3956	\$ 94.49
Lawrence Wolman	561-790-4581	\$ 57.13
Anthony Bumbaca	954-566-7025	\$ 175.86
Dale Thompson	904-446-4718	\$ 20.94
Donald Buckley	863-859-3045	\$ 9.66
John Forslund	727-725-2080	\$ 68.73
Irwin Glick	561-496-4673	\$ 0.00
Stanley Pickeling	727-531-5266	\$ 48.50
Olive Kelley	305-652-6525	\$ 7.74
Richard Hahn	954-923-7596	\$ 66.07
Celine Berman	305-576-3241	\$ 6.56

<b>COMPLAINANT</b>	<b>PHONE NUMBER</b>	<b>AMOUNT REFUNDED</b>
Marilyn King	904-437-3448	\$ 20.56
Howard Pfeffer	954-370-8770	\$ 34.20
Walter/Marily Carr	352-688-4706	\$ 24.17
Colleen Dively	727-869-8238	\$ 6.88
Marta Bowling	904-778-9425	\$ 30.18
Gerald Heller	561-477-2560	\$ 15.13
Suzanne Engelmann	561-747-7676	\$ 17.50
Corinne Bethea	561-996-2679	\$ 509.77
William Dubberly	904-261-4494	\$ 12.88
Lewis Specland	561-738-8029	\$ 25.91
Jerry Martin	904-445-1231	\$ 174.30
W.W. Higginbotham	904-266-4691	\$ 6.88
Elma Whipple	850-539-6167	\$ 15.75
Selma Glass	954-970-3541	\$ 3.60
John Toro	561-336-9102	\$ 165.39
Lorry Werner	321-639-2928	\$ 9.20
Michael Posey	561-996-2380	\$ 132.73
Jack Pfister	305-758-6152	\$ 7.62
Donna Williams	954-726-9918	\$ 340.19
<b>Total</b>		<b>\$4,681.76</b>