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UNITED STATES DISTRICT COURT  
DISTRICT OF VERMONT

JOHN E. RAHL, and d/b/a THE WALLKILL VALLEY  
RAILROAD COMPANY, and JOHN E. RAHL, 95%  
STOCKHOLDER OF THE WALLKILL VALLEY  
RAILROAD COMPANY (1866)

No. 1:09-cv-126

Plaintiff,

v.

NEW YORK TELEPHONE COMPANY,  
d/b/a VERIZON, NYNEX and BELL ATLANTIC  
TELEPHONES COMPANIES

Defendant

**VERIFIED COMPLAINT  
and VERIFIED PETITION  
FOR PRELIMINARY  
INJUNCTION**

John E. Rahl, Plaintiff, under penalty of perjury, allege the following:

**PARTIES**

1. Plaintiff, John E. Rahl is a natural person residing at 6 Fairview Ave., P.O. Box 460 Rosendale, New York 12472. Mr. Rahl is 95% stockholder of The Wallkill Valley Railroad Company and President.
2. The Wallkill Valley Railroad Company was duly incorporated under the laws of New York State pursuant to the General Railroad Law of 1850, Chapter 140; revised 1858 and being the version in force at the time of incorporation in 1866. **EXHIBIT 1**
3. Upon information and belief Defendant, New York Telephone Company was a duly organized telecommunication company pursuant to New York State Laws in force at that time.
4. Upon information and belief Defendant Verizon, et al. operates New York Telephone Company and all exchanges included in former NYNEX, Bell Atlantic, and others.

## JURISDICTION

5. This Court has jurisdiction pursuant to 28 U.S.C. 1331 and 1337(a) and FRCP 65.
6. Defendant is believed to operate or to have operated in the State of Vermont when the trespass hereinafter set forth first took place.

## VENUE

7. Plaintiff believe venue is proper pursuant to 28 U.S.C. 1391 (b) and (c).

## BACKGROUND

8. Plaintiff Rahl purchased The Wallkill Valley Railroad Company, 10.98 miles in the County of Ulster, State of New York, from Conrail on or about June 1986 with all rights, titles, and interest. **EXHIBIT 2**

9. Plaintiff Rahl is 95% stockholder of The Wallkill Valley Railroad Company, originally chartered in 1866 and serves as its President.

10. Defendant entered into contract, hereinafter "Agreement" with Plaintiff Rahl dated 7 February 1992 for line crossings and known as "Facilities" as set forth in Schedule "A".

## EXHIBIT 3

11. Appendix "A" in the Agreement identifies "Facilities" as copper wire, guy wire and buried conduit for copper wire at; **"NOW, THEREFORE, WITNESSETH...The location and construction plans set forth in Appendix "A" shall continue to apply to the Facilities, ..."**

12. On or about 31 September 1998, Defendant's counsel Mr. Patrick Lee negotiated an additional line crossing in the form of a fiber optic cable under Plaintiff's railroad trestle in the

Town of Rosendale, Ulster County, State of New York, for in house (Verizon) non commercial use only and under the same terms and condition as set forth in the Agreement. **EXHIBIT 4**

13. Plaintiff and Defendant=s right of way expert Mr. William Strecker, conducted the last field survey of the Agreement Facilities on or about 14 June 2002. **EXHIBIT 5**

14. Plaintiff observed additional lines at a location identified in Schedule “A” of the Agreement as Perox No. 210094 line crossing and hereinafter referred to as “Rt. 32 Crossing”.

15. In 2007 Mr. Strecker was deposed in Plaintiff Rahl’s Case No. 03-CV-941 and provided additional information on line crossings by Defendant and third parties. **EXHIBIT 6**

#### **FIRST CAUSE OF ACTION**

16. Plaintiff re-alleges each of the allegations in paragraphs 1 through 15 and incorporated them herein.

17. Plaintiff received a letter dated 18 October 2007 from Defendant’s Ms. Meg Milroy, Assistant General Counsel, Finance Services and Compliance located at 1515 North Courthouse Road, Suite 500, Arlington, Va. 22201, demanding payment of a purported pass due amount owned. **EXHIBIT 7**

18. Plaintiff responded on 3 December 2007 indicating that there were accounts where Defendant was delinquent in amounts far greater than those requested. Plaintiff notified Defendant that the amount indicated by them was being setoff against their delinquent accounts. **EXHIBIT 8**

19. Plaintiff gave notice to Defendant in the 3 December 2007 letter that they were in breach of the Agreement for all line crossings.

20. Defendant terminated Plaintiffs' telephone and internet service causing great humiliation and stress disrupting Plaintiff's business causing damage.

21. Defendant's failure to keep the terms of the Agreement for their line crossings and be responsible and liable for damages of third party attachments has caused damage to Plaintiff's property.

22. Plaintiff has no other adequate remedy at law.

## **SECOND CAUSE OF ACTION**

23. Plaintiff re-alleges each of the allegations in paragraphs 1-15, and 16 through 22 and incorporated them herein.

24. Plaintiff at all times believed, as negotiated with Mr. Patrick Lee and set forth hereinabove at number 12 of this complaint, that the fiber optic cable under the railroad trestle was for Defendant's in house noncommercial use.

25. Upon information and belief Defendant is now using the fiber optic cable under the railroad trestle for commercial use serving their customers.

26. The use negotiated for the fiber optic cable under the railroad trestle was a scheme to defraud Plaintiff in preparation for commercial use.

27. Defendant's use of the fiber optic cable under the railroad trestle, as negotiated with Mr. Lee in September 1998, is a trespass to Plaintiff's property and franchise causing damage to his business.

28. Plaintiff has no other adequate remedy at law.

### **THIRD CAUSE OF ACTION**

29. Plaintiff re-alleges each of the allegations in paragraphs 1-15, 16-22, and 23 through 28 and incorporated them herein.

30. Upon information and belief Defendant illegally and unlawfully installed a fiber optic cable across Plaintiff's property a location hereinabove described at number 12 of this complaint.

31. Defendant's fiber optic cable at the Rt. 32 location is a trespass, violates the Agreement, and has caused damage to Plaintiff's business.

32. Plaintiff has no other adequate remedy at law.

### **FOURTH CAUSE OF ACTION**

33. Plaintiff re-alleges each of the allegations in paragraphs 1-15, 16-22, 23-28 and 29 through 32 and incorporated them herein.

34. Pursuant to the Agreement there is a charge for locating, relocating, and removal of Facilities. Defendant has removed, relocated and constructed new Facilities without payment at what is referred to and known by the parties as the Albert Street Crossing in the City of Kingston, New York.

35. Defendant's removal, relocation and construction of new Facilities were in conjunction with Ulster County, New York, new jail complex in and around the Albert Street location.

36. Defendant's removal, relocation and construction of new Facilities violates the Agreement and caused damage to the Plaintiff's property.

37. Plaintiff has no other adequate remedy at law.

**FIFTH CAUSE OF ACTION  
(Petition for Injunctive relief)**

38. Plaintiff re-alleges each of the allegations in paragraphs 1-15, 16-22, 23-28, 29-32 and 33 through 37 and incorporated them herein.

39. Unless ordered to do otherwise, Defendant will not negotiate for all of their line crossings of Plaintiff's franchise and property. The 1992 Agreement as hereinabove described at number 10 has been breached and is now void. Notice was issued to the Defendant as set forth at number 19 of this complaint.

40. Plaintiff's property rights include but are not limited to a franchise fee for the use of a paramount utility, pursuant to the protections found in the U.S. Constitution, Article 1, section 8, clause 3; Due Process 5<sup>th</sup> Amendment; and New York State Constitution, Due Process Article 1, section 6, and section 32, [1857, Ch 444, sec.2] and sec. 53 & 54 (treble damages and remedy) of Title 13 of NY Railroad Law amended from the General Railroad Law Chapter 140 of 1850. A

41. Plaintiff has and will suffer great and irreparable harm unless Defendant is enjoined from further use of Plaintiff's franchise and property unless Defendant is licensed for their line crossings.

42. Plaintiff has no other adequate remedy at law.

**SPECIAL STATEMENT**

43. Plaintiff reserves all rights, claims, causes of action, and discoveries.

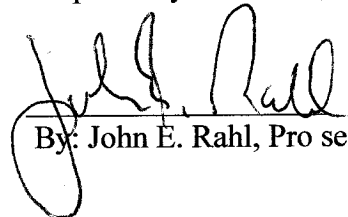
44. In view of the factual matter that the Defendant owns Plaintiff a substantial amount of money for breach of the 1992 Agreement, trespass, and damages caused therefrom, any issue or bond requirement for the Preliminary Injunction by the Plaintiff should be waived.

**WHEREFORE, PLAINTIFF PRAYS FOR RELIEF AS FOLLOWS:**

1. This Court Order, at minimum, 5% of the gross revenue generated from all line crossings for treble damages and franchises fees owed the Plaintiff for all past breaches of the Agreement prior to notice on 3 December 2007 and from notice of breach forward in the form of a bond.
2. This Court Order Defendant to be licensed for all of their line crossings over Plaintiff's franchise and property.
3. That this Court grant Plaintiff cost and fees together with and other relief this Court deems just and appropriate.

DATED: ROSENDALE, NY  
16 May 2009

Respectfully submitted,

  
By: John E. Rahl, Pro se

**VERIFICATION**

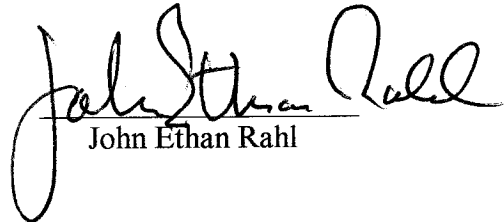
I, John Ethan Rahl, declare as follows:

I am the Plaintiff and Petitioner herein and make this verification because I represent myself individually, as d/b/a The Wallkill Valley Railroad Company, and as 95% stockholder of The Wallkill Valley Railroad Company (1866), and serve as its President.

I have read the forging VERIFIED COMPLAINT and VERIFIED PETITION for PRELIMINARY INJUNCTION and know the contents thereof. I certify that the same is true and of my own personal knowledge, information, and belief.

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

Executed on 16 May 2009 at Rosendale, New York.

  
John Ethan Rahl

Sworn to before me this  
16<sup>th</sup> Day of May 2009

  
NOTARY PUBLIC

LOUISA DUFFY  
Notary Public, State of New York  
Qualified in Ulster County  
Commission Expires October 9, 2010

