

**Evidence 9 Insurability**  
**9.0 Insurance and Liability of Wireless Communication Carriers**

This category contains information about whether wireless companies can get insurance for claims made based on adverse effects on users' health caused by their devices. The evidence is strong enough that the WHO, which tends to be a conservative organization, placed RF/EMF in the "possibly carcinogenic" category. And plaintiffs claiming their health was harmed by exposure have won recent court cases. In addition, awareness about the issue of RF from cell phones causing adverse health effects is getting better, so insurance companies are watching. Of course, as more people have adverse effects and identify them, awareness will naturally be increased. The 2011 categorization of RF as a possible carcinogen increases the concern as well.

In this category, we present documents from insurance companies, court cases that have awarded compensation for RF radiation adverse health effects, industry defense attorneys, actuaries, and from the news and web media. One telecom company, Airtel-Vodafone does not mince words. They claim *limits of liability for any adverse RF health effects* in their contract with the user, and maintain that they do not have to carry tort or liability insurance. We have provided the entire Terms and Conditions from Airtel-Vodafone. In filing 9.21 Intervenor provides a brief on this category.

9.01 Lloyds of London, ***Lloyds of London Risk Assessment 2011***. This document is a report on a global survey of 500 Board level executives in 2011. The report assesses what the executives believe are the top 50 risks to their businesses. Only 12.4% of those surveyed represented IT, Technology or Telecom companies. Yet, the "harmful effects of new technology" was named as a new risk (as compared to 2009) in the top 50. In North America, it ranked 38. EMF was listed as a concern. In addition, 80% of companies lose more than 20% of their value at least once in a 5-year period because of a major reputational event such as when tobacco or asbestos companies and their associates were found to be liable for not providing information. This presents a huge risk. [Copy filed in Docket 2/15/12 Item 250]

9.02.1 Braumer, Christian, ***SwissRe, Electrosmog –A Phantom Risk*** Article; This article, written by a worldwide insurer of telecoms and other businesses comes to the conclusion that the electrical engineering and power industries can be held liable even if science never provides conclusive proof. It must be expected that plaintiffs will win suits dealing with this issue. The article details why it is not possible to answer with certainty the questions posed about RF/EMF. "Perhaps" is the answer. The expectation that any certainty will ever be answered is erroneous, the author concludes, because it is based on the mistaken assumption that the relationships between EMF exposure and

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diseases such as immune deficiency, Alzheimer's, Parkinson's and cancer are merely complicated. It explains that instead, we are dealing with complex relationships, which cannot even be identified, let alone understood, using the research methods presently available. The last paragraph in the introduction is fantastic in explaining the dilemma. Very significant to the wireless smart meter case and RF is that on page 11, this document says "***sensitive individuals perceive*** (a change from a direct current field to an alternating-current field) ***this as a slight vibration of their body hairs***". This supports that there are individuals (EHS) that are differentially affected by RF and electricity in general.

(This was numbered incorrectly as 9.2 in the filing; it was suppose to be 9.2.1; actually should be 9.02.1)[Copy filed in Docket 2/26/13 Item 291]

9.02.2 Foley-Ferguson, Suzanne A. ***Brief about the Austrian Worker's Compensation Board Decision*** and why it is so important. The brief also contains the entire abstract. Gerner, C, V Haudek, U Schandl, E Bayer, N Gundacker, HP Hutter, W. Mosgoeller *Increased protein synthesis by cells exposed to a 1800 MHZ radio-frequency mobile phone electromagnetic field, detected by proteome profiling.* Int Arch Occup Environ Health, 2010 Aug;83(6) ***Austrian Worker's Compensation Board.*** The Peer Reviewed Journal (PRJ) study was commissioned by the Austrian Workers Compensation Board (which is partly private, partly public) in order to make a determination regarding whether RF from mobile phones is harmful. The Board did not want to rely on industry studies that were provided to them, so they hired independent researchers. This peer-reviewed article is presented below as document 9.23, however, 9.32 does not contain the comments of Suzanne A. Foley-Ferguson or the assertion that: ***Their findings opened the door for health claims in Austria in 2010.*** Therefore it is not duplicative. [Copy filed in Docket 3/4/13 Item 388; re-filed 3/12/13 with header]

9.03 SwissRE Insurance PowerPoint ***Electrosmog; Why are electromagnetic fields (EMF) on the radar screen of insurance companies for more than a decade?*** This 2009 Power Point (ppt) from a re-insurance company indicates that EMF has been on the insurance company's radar since 1989 because of links to childhood leukemia and high voltage power lines and their interest in the INTERPHONE study results. Mentions contradictory study results and predicting risk / loss and the law. For insurance companies, it outlines EMF as three problems: medical, socio-legal, and underwriting. Covers (CGL) commercial general liability and product liability and gives definitions of each. Presents models of costs of insurance and reinsurer's liabilities. SwissRE, because of the model is may be more at risk than others. Gives their method of "triage". Discusses that EMF, as an "emerging risk", is hard to predict. Location of PowerPoint for SwissRe: accessed February 2013.

<http://www.docstoc.com/docs/133893736/Commercial-comprehensive-general-liability-serec> We have also provided a Canadian Broadcast Company news video where the newscaster says that she spoke with SwissRE and that they will no longer insure wireless against adverse health claims.

[Copy filed in Docket 2/26/12 Item 292]

9.04 Vodafone, Vodafone Limits of Liability; Power ***to You, Airtel-Vodafone Pay-as-You-Go Services Terms and conditions***. This document is the Terms and Conditions of the contract between the user and the phone company. At least three parts of this contract are relevant. In section 14.1 Airtel-Vodafone states that, "Notwithstanding anything to the contrary in this Agreement and to the full extent permitted by any applicable law that Airtel-Vodafone is not liable for 14.1.1, in any way to the Customer whether in contract, tort (including negligence or breach of statutory duty) or otherwise for any losses, claims, damages, liabilities and the like howsoever caused or arising." and that they are not liable for " 14.1.3.9 **Any health issues arising from propagation of and/or exposure of harmful radiofrequency radiation**"; (emphasis mine) and 14.1.4 Airtel-Vodafone is not responsible for maintaining any insurance cover of any kind to cover any losses, damages or liabilities and the like suffered by the Customer or any third party howsoever arising in respect of the provision of the Service.

[Copy filed in Docket 2/26/13 Item 293]

9.05 Ryle, Sarah, ***Lloyds of London refuses to underwrite cell phones; Insurers balk at risks of phones***. The London Observer April 11, 2011. Article describes how a leading Lloyd's underwriter refuses to insure phone manufacturers against the risk of damage to users' health. John Fenn of the underwriting group Stirling said that there are people in the insurance market whom "close their eyes to the issue" ....but he notes that if you go

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back to asbestos, it “wasn’t a problem” either. Asbestos claims helped bring the Lloyd’s market to its knees in the early 1990’s.

[Copy filed in Docket 2/26/12 Item 294]

9.06 Insure.com Article: ***Zurich Insurance Won’t Pay for Liability Insurance for Wireless Companies*** Actual Title: ***Zurich says it won’t pay for cell phone brain-cancer lawsuits.*** June 15, 2006. This article describes the tension between insurers and cell phone companies that are scrambling for cover under the fire of lawsuits claiming that the high frequency radiation emanating from cell phones harms their users. Cell phone companies believe that they should be covered, but insurers disagree. Two court cases have absolved the insurers from the responsibility. In April 2001 three class action lawsuits over cell phone risks were filed in the US.

[Copy filed in Docket 2/26/13 Item 295]

9.07 Ryle, Sarah, The Guardian, ***Article in The Guardian RE: Insurer’s Balking***; Actual title: ***Insurers balk at risks of phones.*** April 10, 1999. This article is similar to 9.5, but the author notes that until now, the vast majority of research has been funded by the industry. She knows of 78 industry-sponsored studies under way worldwide, while governments are only funding 15. The article quotes an elected representative to parliament, “ I have asked three network operators if they will give insurance against future health risk, and they have all said they cannot.”

[Copy filed in Docket 2/26/13 Item 296]

9.08a. Wendy Mesley, ***Cell Phones and Insurance companies***, Canadian Broadcast Company, The National Report, September 21, 2010. Posted by Citizens for Safe Tech and Eon3EMFblog.net EMF Video Digest. ***States that 60% of Underwriters will not cover companies for claims made for adverse health effects.*** We provided two links to the same video. 9.08.b, 9.08.c and 9.08.d are a **Brief and Arguments** written by Suzanne A. Foley-Ferguson talking about how these videos relate to a previous motion to Compel CMP to answer insurance questions and the brief gives the dates that those arguments were posted in this case.

[Copy filed in Docket 2/26/13 Item 298]

9.08b. Foley-Ferguson, Suzanne A. ***Motion to Compel an Answer from CMP***; filed 10/15/2012 Item 114; all of 9.8 documents are in support of the possibility that CMP does not have, or cannot get liability coverage, or that CMP’s insurer will not insure future claims due to adverse health effects of their chosen AMI wireless system.

[Filed in Docket 10/15/12 Item 114]

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9.08c. Foley-Ferguson, Suzanne A. ***Arguments supporting Motion to Compel***

This was arguments made by Foley-Ferguson et al to support the motion to compel CMP to provide evidence that they are insured against toxic tort claims and claims against adverse health effects of their chosen wireless AMI system.

[Filed in Docket 11/1/2012 Item 141]

9.08d. Foley-Ferguson, Suzanne A. ***Additional Arguments made***

[Filed in Docket 11/6/2012 Item 145]

9.09 Worker's Compensation blogspot.com, ***Italian Supreme Court Awards disability to Executive for tumor from cell phone used for work.*** Actual title: *Italy's Supreme Court Rules Cell Phone Brain Cancer Work Related*, October 19, 2012. Published by an attorney Jon L. Gelman, this is a blog on Worker's Compensation issues, and An analysis of Trends and Developments in Workers' compensation Law Throughout the United States. Mr. Gelman is nationally recognized as an author, lecturer, and skilled trial attorney in the filed of worker's compensation law and occupational/environmental disease litigation. He has been involved with his clients in challenging asbestos, tobacco, and lead paint. His qualifications can be found at:

<https://plus.google.com/117382914866291149173/about>

The article is presented because the Italian court documents are not translated to English. Summary: Italy's Supreme Court upheld a work-related brain cancer claim for an executive who was required to use a cell phone on the job; benefits were awarded. The Court relied upon scientific studies by the Hardell group (one of Complainant's experts). Dan DeRight at jurist.org wrote that the decision finds that "Italy High court finds causal link between mobile phones and cancer. " Smart meter emissions are in the same frequency ranges as cell phones and are not voluntary.

[Copy filed in Docket 2/28/13 Item 310]

9.10 Emily, Electromagnetic Health.org. ***Labor court in Spain Declares College Professor Permanently Incapacitated from Environmental and Electromagnetic Hypersensitivity.*** June 9, 2011. This is the English version of the article published on Legal Medical Group website: ***Spanish High Court awards compensation for professor for disability for Electro hypersensitivity (EHS) despite that SSI panel denied it.*** September, 2011. The article talks about the verdict and the compensation, which was 100% of his base salary. The SSI Disability Team denied him even though they recognized a clinical diagnosis of: chronic fatigue, celiac disease, fibromyalgia and environmental EHS. The case sets precedent for future claims.

[Copy filed in Docket 2/28/13 Item 310]

9.11 Hill, Peter ***“What have we as Underwriters been considering?”*** – A PowerPoint (ppt) presentation to a workshop of UK insurance underwriters, 2003. The ppt starts with a short review of the topics over the last 10 years: Some relevant ones were: 1994 (Torts, An unfair System of Compensation; 1995 Environmental Impairment, Insurance Cover for the Long Tail and Unforeseeable, 1997 More Long Tail Pollution EMF’s and other problems”; 1996 Faults in Liability Wordings for Long Tail and Environmental Exposures; In 1999 “EMF”; 2001 Toxic torts; Conclusion: Get out of the class, or change the structure of the class—1993 premiums are not enough to cover 2003 liabilities. EMF is considered Long Tail Pollution because exposures that are long term are not necessarily addressed by short-term “events” insurance. This goes to the question of is CMP properly insured for adverse health claims due to its wireless AMI infrastructure? Are the ratepayers at risk because CMP/Iberdrola is at risk? Are wireless service providers covered by liability insurance against adverse health effects claims? The reason the PowerPoint is entered in the docket is that the Interveners wanted to show that even back in 1994, insuring for EMF was considered an upcoming “issue”.

[Copy filed in Docket 3/4/13 Item 369]

9.12 DRI’s –The Voice of the Defense Bar - Product Liability Committee, ***Product Liability Conference Program includes “Emerging Product Liability Exposures for Cell Phones and Accessories”*** DRI is the leading organization of defense attorneys and in-house counsel. They provide access to resources and tools to grow a practice of defense law. Members can search databases of more than 65,000 experts, and network with others in their area of expertise. They provide top of the line conferences and varying topics. Actual Conference Title: ***Product Liability Conference-It’s Not Easy Being Green: Navigating the New Landscape of Product Liability Law***, April 15-17, 2009 San Diego, CA. In 2009, this conference brochure shows that one of the workshops was entitled: Can You Hear Me Now? Emerging Product Liability Exposure from Cell Phones and Accessories. This conference was prior to the WHO’s reclassification of RF from cell phones and WiFi. It provides evidence of concern about liability. Who will be liable for claims made of adverse health effects due to RF radiation from smart meters? CMP/Iberdrola, or the ratepayers? Or both?

[Copy filed in Docket 3/5/13 Item 369]

9.13 Burnheimer, Richard J., RISC Report. Actual Title: ***Why NLC-RISC Members Should Be Concerned About Wireless RF Radiation***. This is a document directed at elected officials as members of the National League of Cities (NLC) The NLC presents national conferences for municipal and state employees and elected officials. It was presented at a conference held October 2012. The NLC-RISC group is kept apprised of issues on local liability. Mr. Burnheimer is Executive Vice President of Risk Management and EH&S for RFCHECK Inc. RFcheck is dedicated to protecting all workers from radio

frequency (RF) radiation exposure and serving the interests of all participants in the thriving wireless telecommunications industry. Mr. Burnheimer has a company experience in wireless and risk management. His report, presented at a conference discusses that member pools should help make their members aware of this hidden risk, which have potentially significant liability ramifications. Burnheimer, who is an industry specialist, said “Decades of research shows that excessive RF exposure is harmful to humans.” He argues in the article that litigation of wireless antenna exposure will easily prove that FCC RF exposure limits are exceeded thousands of times across our nation each day in violation of the law. Though this article specifically speaks to RF from wireless antennae affixed to buildings, he talks about the massive proliferation of unprotected antennae; co-location of antenna, no warning signs, etc. He calls this a “new and rich vein---the wireless ecosystem that could be tapped for liability class actions. Burnheimer also talks about the ADA, Americans With Disability Act as a potential source of loss. Of note: the second photo in this document shows antennae that are similar to the CMP/Iberdrola AMI infrastructure, and how painters could be inadvertently exposed without consent. A brief on the author is included in the document. He has a patent on an RF safety system...similar to DIG Safe. From [www.nlc.org](http://www.nlc.org), Actual link to article: <http://www.nlc.org/Documents/NLC-RISC/2012-10-RISC%20Report-RF%20RADIATION.pdf>

[Copy filed in Docket 3/4/12 Item 369]

9.14 Gordon, Leonore, Alaska Supreme Court Decision; Title: ***Alaska Supreme Court Awards 100% Disability***. Published by EMR Policy.org, (Janet Newton) August 22, 2007; updated August 26, 2007. This article describes the decision upheld by the court of the Alaska Worker’s Compensation Board against an AT&T. An equipment installer will receive 100% disability as a result of his EMF exposure at levels slightly above the FCC RF safety limit. This decision is significant because the FCC RF limit protects people from heating, yet his award was based on cognitive effects of RF radiation over-exposure. According to the article, the exposure level in question was well below the FCC’s recognized level of “thermal” harm. The board decision agrees with the medical experts who found adverse health effects below the thermal threshold regardless of FCC safety guideline limits. The article notes where the court decision can be found, but could not be accessed by Intervenor.

[Copy filed in Docket 3/4/13 Item 369]

9.15 Custance, Tom. ***More Long Tails, Pollution, EMF’s and Other Problems***, Insurance Market Conferences (IMC); September 9, 1997 [www.imc-seminars.com](http://www.imc-seminars.com). This paper is taken from a 1997 insurance seminar, and discusses US EPA and court cases and relating UK issues. It starts by pointing out that the last few years have seen some frightening statistics for insurers’ liabilities due to environmental claims. It notes that one of the

main issues in US courts is which insurance policies are triggered by long-tail environmental liabilities or toxic torts where property or human damage is progressive and is likely to have occurred over periods of time. The author speaks about the history of exclusions for gradual pollution, and that the US courts still have to decide what “sudden” means. On page 12 a discussion of EMF begins. Also discusses property damage from RF/EMF claims based on “fear” that have actually been upheld by the court because of decreasing value of property. Court of Appeals have held that the critical test was whether it is reasonable to have “foreseen a risk” of some injury. Intervenor provide this document to show that if the risk of adverse health effects from smart meters is a “foreseeable” risk, courts could rule that companies (and/or PUC’s) are liable for decisions made when the risks are “foreseeable”. Particularly interesting is that courts have already upheld claims based on fear and RF/EMF in devaluing their properties. There were signs as early as 1994 in the US that US courts were going to uphold emotional distress claims related to EMF actionable without the need to establish any underlying cause or connection. This often happens as scientific evidence begins to mount on environmental causation. (Asbestos, breast implants, mass tort exposures)

[Copy filed in Docket 3/4/12 Item 370]

9.16 Wilson, Elser, Moskowitz, Edelman & Dicker LLP, WilsonElser Attorneys Newsletter: December 2012. Title: ***Scientific Studies and Current Law Surrounding the Possible Carcinogenic Effects of Cell Phone Radiation***. The article discusses the Italian Supreme Court Case of Cassation that upheld a lower court ruling that an Italian Man’s cranial nerve tumor was *causally linked* to his cell phone use required by his employer. The “causal” link decision, between a tumor and heavy cell phone use has the potential for personal-injury and class-action lawsuits against cell phone companies around the world. This article says such lawsuits have been unsuccessful, however, George Carlo’s article in the Funding Effect category indicates that while court cases have typically ended in settlements. The DC Superior court is hearing a general causation claim in 2013. At least 6 personal injury cases are currently in US courts in various states.

[Copy filed in Docket 3/4/12 Item 370]

9.17 Begich, Dr. Nick, ***Cell Phone Radiation, an Interview with Dr. Nick Begich***. Newsletter: Esoteric Truth-seeker, September 19, 2012. Dr. Nick Begich talks in the interview about a different kind of regulatory environment that encourages industry to be honest and upfront, where when once info starts to arise, we take appropriate actions. He talks about the Swiss being very leading edge because they acknowledge the uncertainty and concern by taking a precautionary approach. He discusses why SwissRe and other insurers are becoming wary of providing insurance to wireless companies. Dr. Begich is the eldest son of a former senator from Alaska. He is an



author and lecturer who has focused on the United State's research project, the High Frequency Active Auroral Research Program, known by its acronym HAARP. He was formerly the President of the Alaska Federation of Teachers and the Anchorage Council of Education. He has served as an expert witness and speaker before the European Parliament. He co-authored the book *Angels Don't Play This HAARP; Advances in Tesla Technology*. <http://esoterictruth-seeker-edgeba.blogspot.com/2012/09/cell-phone-radiation.html>

[Copy filed in Docket 3/4/13 Item 370]

9.18 MerisMeris, Author/Editor, ***Swiss RE Does Not RE-insure Mobile Phones for Health Risks***, Towards Better Health Article; December 30, 2011. This is a summary article regarding the SwissRe Electrosmog document (filed in docket as Category 9 as 9.02) The author quotes from a SwissRe document "Electro-smog" that was filed in full with this docket. This author's summary serves as a "brief" for the Intervenor on the Electrosmog Report because it pulls directly from the document summarizing relevant parts. **Excerpt:** The rating of 33 is the most dangerous and highest risk rating possible for re-insurance with Swiss Re. Were the table divided up into grades that we received in school, it would like something like this...1-6 is an A; 7-12 = B; 13-19 = C; 20-26 = D; 27-33 = F. Asbestos, endocrine disrupters, nanotechnology and fuel additives are considered to be more "insurable" than cell phones and EMF related products and infrastructure. On a totally separate note, beef is almost as uninsurable as cell phones since the US prohibits testing of its cattle for mad cow disease. Softeners (endocrine disrupting chemicals (EDC) 20.0; Asbestos (re-emerging risk) 21.0; Resistance to antibiotics 21.5; Methyl Tertiary-Butyl Ether (MTBE additives to fuel) 22.0; Nano Technology 23.0; Genetically Modified Crops 24.0; Unintentional/accidental mixing and blending of GM crops 24.0' Animals or animal products and feedstuffs infected with Bovine Spongiform; Encephalopathy (Mad Cow Disease) 26.5; **Electromagnetic Fields (EMF), Electro-smog 27.0.**

[http://mieuxprevenir.blogspot.com/2011\\_12\\_01\\_archive.html](http://mieuxprevenir.blogspot.com/2011_12_01_archive.html)

[Copy filed in Docket 3/4/13 Item 370]

9.19 Science and Public Policy Institute, Project Description: This document discusses an ***Illinois Court Settlement agreement that created the Mobile Telephone Registry*** and a public information website attached to the registry. The project was initiated in January 2001 as a part of ongoing cell phone health effects litigation. The article explains why the government is not doing enough work on RF and why the industry is not doing the work. The article is presented for historical reference, and to ascertain that lawsuits against cell phone companies have been settled in favor of plaintiffs. Typically, settlements are sealed, however. The story of Dr. Carlo is also relevant to this case. The bottom line is that industry gave funds (25 million dollars) to an "independent group",

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the Wireless Technology Research, LLC group (WTR) to satisfy concerns by the United States government. Led by Dr. George Carlo, an epidemiologist and attorney. At the time he was working for the FDA. His group did its own research and reviewed others from 1993-1999. In 1999, Carlo's group presented his findings: genetic damage (micronuclei in blood), increase in brain cancer, tumor correlation with how phones were used, increase in acoustic neuroma's and special concern for children. Carlo and his scientists alerted the industry to take precautions. Not surprisingly, industry did not like the results he was coming up with and thus the program was shut down. Dr. Carlo has since written a book about how industry shut real research down. This registry was one of the suggestions of Dr. Carlo, and initial \$250,000 funding was offered to him as a result of a cell phone class action lawsuit. The registry is located at: [www.health-concerns.org](http://www.health-concerns.org). If you go to the registry, you will see all kinds of links, and lots of advertisements. It doesn't appear to be acting as a registry any more, although you can link to some decent information. We did not find out whether this registry is active and/or who is still funding it. [Copy filed in Docket 3/4/13 Item 371]

9.20 Hendricks, Gary, ***Reserving for Asbestos, Pollution and Other Mass Tort Liabilities, A Report on Recent Surveys of Chief Financial Officers, Consulting Actuaries, and State Regulators***. American Academy of Actuaries, Environmental Liabilities Work Group, Public Policy Monograph, March 1997, A report on a survey. Question 32 asks them to rank the effect of a mass tort on their company. It is interesting to note that EMF's are listed along with breast implants, lead paint, tainted blood, and tobacco. What is apparent is that actuaries are looking at EMF and the likelihood of mass tort claims winning. The relevancy to this docket is that Interveners wish to establish that actuaries look at statistics in very different ways than do scientists and public policy makers. Some might argue that actuaries take into consideration issues that "risk analysis" in public health policy don't always consider, but should. If public policy maker's used the precautionary approach in circumstances of irreversible health consequences they would be looking at the issue with the clarity of actuaries. We assert that more would already have been done on EMF's, and now is a good time to do so. [Copy filed in Docket 3/4/13 Item 371]

9.21 Foley-Ferguson, Suzanne A. ***Insurability and Liability***, Interveners provide a brief about this category that discusses recent product liability law and tort cases. The brief outlines the evidence provided in the entire category. [Copy filed in Docket labeled as 19.21; should have been 9.21; filed on 3/4/13 Item 371]

9.22 Mislabeled; file empty

9.23 Gerner, Christopher, Verena Haudek, Ulla Schandl, Editha Bayer, Nina Gundacker, Hans Peter Hutter, and Wilhelm Mosgoeller, ***Increased protein synthesis by cells exposed to a 1800 MHz radio-frequency mobile phone electromagnetic field, detected by proteome profiling***. Int Arch Occup Environ Health (83) 691-702, 2010. A peer reviewed study commissioned by the Austrian Workers' Compensation Board Results: While short-term RF-EME did not significantly alter the proteome, an 8-h exposure caused a significant increase in protein synthesis in Jurkat T-cells and human fibroblasts, and to a lesser extent in activated primary human mononuclear cells. Quiescent (metabolically inactive) mononuclear cells, did not detectably respond to RF- EME. Since RF exposure induced a temperature increase of less than 0.15°C, we suggest that the observed cellular response is a so called "athermal" effect of RF-EME. Conclusion: Our finding of an association between metabolic activity and the observed cellular reaction to low intensity RF-EME may reconcile conflicting results of previous studies. We further postulate that the observed increased protein synthesis reflects an increased rate of protein turnover stemming from protein folding problems caused by the interference of radio-frequency electromagnetic fields with hydrogen bonds. Our observations do not directly imply a health risk. However, vis-a-vis a synopsis of reports on cells stress and DNA breaks, after short and longer exposure, on active and inactive cells, our findings may contribute to the re-evaluation of previous reports.

[Copy filed in Docket 3/4/13 Item 388]

9.24 ***Israeli Court Case Summary***- This document is a combination of two articles and two interviews regarding the Israeli Court Case from March 2012. The court did not accept this case, however, the Orange network operator in Israel, Partner, will pay 400,000 shekels to an attorney who says he got cancer from two cell phones he purchased from the company. The article is in Israeli, but the summaries provided are in English. <http://www.ynet.co.il/articles/1,7340,L-4351091,00.html> This case is significant because most of the time, when settlement deals are made, they are private, particularly in the US (see George Carlo's article under Funding Effects) and payout amounts are often sealed. This document is a series of interviews with attorneys and a research scientist familiar with the case. This is also important to point out that 'causal relationships' in the court of law, can be weighed differently than in science, when the evidence begins to move in the negative/adverse direction. For example, it discusses that in court there are cases in which science did not find causal relationships, such as asbestos, and the court still assumed a causal relationship. In effect, they know that people go sick so there is no need for causal association. They were exposed. They got sick. One attorney stated in response to a question as to why would a phone company pay, "it is possible that there are studies in the piping, that point to relationship between cell phone use and cancer, and maybe the cell phone companies know about developments in this issue, that the public is not aware of." He speculates that cell

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phone companies may know about these studies. It is possible that this sets a precedent because it was a settlement that was public and was not a “nuisance” amount. (Approx. 100,000-180K US dollars) But the insurance company calls the award an exception, as a human gesture, and therefore this settlement may have no proof value. One attorney did believe that the case does provide a “crack” from which decisions might be derived.

<http://www.globes.co.il/news/article.aspx?did=1000826820>

[Copy filed in Docket 3/4/13 Item 388]

9.25 ***Telstra Annual Report 2004 Risk Factors*** This is a summary of Telstra’s 2004 Annual Report where it says that “***the establishment of a link between adverse health effects and electromagnetic energy (EME) could expose us to liability or negatively affect our operations.***” This report statement was made PRIOR to the WHO’s classification of RF as a possible human carcinogen. Even though WHO’s classification doesn’t establish a link in itself, if it is considered in conjunction with other research, it could lead to litigation and the rate of growth of sales. Telstra is an Australian phone company. It is 9.25)

[Copy filed in Docket 3/4/13 Item 388; Mislabeled as 9.24; Corrected filing April 8, 2013 details the report with more clarity;]