

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Joint Application)	DOCKET NO. UT-050814
of)	
)	ORDER NO. 05
VERIZON COMMUNICATIONS)	
INC. AND MCI, INC.)	PREHEARING CONFERENCE
)	ORDER; MODIFYING HEARING
For Approval of Agreement and Plan)	SCHEDULE
of Merger)	(Set for November 1, 2005, 9:15
)	a.m.)
)	
.....)	

1 **NATURE OF PROCEEDING.** Docket No. UT-050814 involves an Agreement and Plan of Merger between Verizon Communications and MCI, Inc.

2 **CONFERENCE.** The Washington Utilities and Transportation Commission (Commission) convened a prehearing conference in this docket at Olympia, Washington on October 24, 2005, before Administrative Law Judge C. Robert Wallis.

3 **APPEARANCES.** Charles H. Carrathers, general counsel, Irving, TX, represented petitioner Verizon Northwest, Inc. Michel Singer Nelson, attorney, Denver, CO. represented petitioner MCI, Inc. Also representing MCI was Arthur A. Butler, attorney, Seattle. Gregory J. Kopta, attorney, Seattle, represented intervenor XO Communications Services, Inc.; Jay Nusbaum, attorney, Portland, OR, represented Integra Telecom of Washington, Inc.; and Gregory T. Diamond, attorney, Denver, CO, represents intervenor Covad Communications Company. Intervenor Citizens Utility Alliance of Washington was not represented at the conference. Simon ffitth, Assistant Attorney General, Seattle, WA, represented the Public Counsel Section of the Washington Office of the Attorney General. Jonathan C. Thompson, Assistant Attorney General,

Olympia, Washington, represented the Commission's regulatory staff ("Commission Staff" or "Staff").

4 **PETITION TO WITHDRAW.** Covad Communications Company sought leave on October 20, 2005, to withdraw its intervention in the docket. At the conference, it disclosed that its withdrawal is based on an understanding with Verizon. It supplemented the conference statement with a letter stating that the withdrawal was the result of the commencement of discussions between Covad and Verizon aimed at improving several aspects of their business relationship and not the entry into a specific agreement negotiated for the purpose of securing withdrawal from this docket. A decision on the petition is deferred until any documents setting forth the understanding, including any amended interconnection agreement, are filed with the Commission in this docket.

5 Covad indicated its intention to withdraw its witness and its witness's prefiled testimony. XO indicated that to the extent its witness incorporated by reference the testimony or evidence of the Covad witness, it would ask its witness to sponsor such portions. Parties stated subsequent to the conference that Verizon, MCI and XO have agreed that if XO intends to do so, it will file a motion by close of business Wednesday and identify the precise portions of Gillan's testimony. Verizon and MCI can then respond to XO's motion on Thursday. The matter may then be resolved prior to the start of the hearing on Tuesday, November 1, 2005.

6 **PROCEDURAL SCHEDULE.** The parties agreed that it will be preferable to begin the hearings on November 1 at 9:30 a.m. rather than October 31, as previously noted. Parties voiced a preference to extend the hearing length each day if necessary to complete the hearing in three days. Decisions on the daily schedule will be made as the hearing progresses.

- 7 **ALL PARTIES PLEASE TAKE NOTICE** That the hearing in this matter previously scheduled to begin at 1:30 p.m. on October 31, 2005, is hereby **rescheduled** and will begin at 9:30 a.m. on November 1, 2005, in the Commission's Hearing Room, Room 206, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.
- 8 **ALL PARTIES PLEASE TAKE NOTICE** That a prehearing conference will be convened at **9:15 a.m., November 1, 2005**, at the place identified above for the purpose of confirming procedural aspects of the hearing and to identify and resolve any other procedural matter that the parties may present.
- 9 **POST HEARING PROCESS.** Mr. ffitich noted that the schedules in both this docket and the pending Avista rate proceeding call for the presentation of briefs on November 14, 2005. To accommodate the conflict, the briefing date in this docket is extended to November 22, 2005, for the presentation of electronic documents and November 23, 2005, for the presentation of paper documents.
- 10 To ensure that the parties present parallel arguments on brief, the bench asked the parties to prepare a briefing outline. The parties agreed, and further agreed that counsel for Staff, Mr. Thompson, would take the laboring oar in preparing the outline. The purpose is not to engage in discussions about the phrasing of issues, but to present issues in neutral language that facilitates identification of the issue and affords parties the leeway to present the arguments they think best support their positions. Parties are asked to present a proposed outline no later than November 8; the Commission will review the proposal and notify the parties if it believes it would benefit from additional or different briefing from the parties.
- 11 Answering briefs are not contemplated, particularly in light of the availability of testimony and the preparation of a briefing outline. In the event that a party believes a truly original and unanticipated argument is presented, that requires a

response, the party may file a response of no more than three pages, with a request for leave to respond that identifies the argument and explains why it requires a dispensation to respond. The Commission will rule on any such requests in its order in the docket.

- 12 **WITNESS EXCUSE.** Parties asked to excuse the appearance of witnesses Koenders and Canny. Witness Canny is excused. Mr. Koenders is asked to appear with a brief statement in support of the settlement agreement. If there are questions from the bench for him, they may be asked before the panel presentation ends.
- 13 **HEARING PROCEDURE; ORDER OF WITNESSES.** As a contested multiparty settlement proposal has been presented, WAC 480-07-740 governs the review process. The hearing will open with presentations by a panel with one representative from each of the settling parties (including Integra). The panel presentation will conclude; then we will take up with examination of the witnesses. If there are few questions from the bench for the Integra witness, they may be asked at that time and the witness excused. We will proceed to cross-examination of the witnesses' statements in support of the settlement and their prefiled testimony, beginning with company witnesses. Examination will proceed through company and staff witnesses until they are concluded or public counsel witnesses must begin. Parties agree that public counsel witnesses will appear on Wednesday. We will attempt to minimize disruptions to the integrity of parties' presentations and examination. If witnesses on cross examination address new matters, other parties may seek the opportunity to rebut such information.
- 14 **EXHIBITS ON CROSS EXAMINATION AND ESTIMATES OF TIME ON CROSS EXAMINATION.** Parties agreed to submit this information to the ALJ on Wednesday and to circulate the information to other parties on Thursday.

- 15 **REFILING OF CERTAIN EXHIBITS.** Certain exhibits containing revisions or confidential information were filed without full compliance with Commission rules for such documents. The ALJ directed that the documents be refiled prior to the beginning of the hearing, pursuant to Prehearing Order No. 01, in the original only, for substitution and inclusion in the official record. The affected parties agreed to do so.
- 16 **CUA PARTICIPATION.** Intervenor Citizens Utility Alliance sought intervention by written petition, which the Commission granted. It has not appeared in any prehearing conference and has not participated in any activity in the proceeding. It is not obligated to do so, but if it does not appear and participate, the Commission order in the docket may dismiss it from the proceeding.
- 17 **OCTOBER 27 PREHEARING CONFERENCE IS CANCELLED.** The prehearing conference previously set for October 27, 2005, at 1:30 p.m. will be unnecessary, if parties file materials as they have indicated, and the conference is hereby cancelled. The bench will circulate an updated exhibit list. Parties should review that list on receipt and notify the bench of any corrections or changes.
- 18 **NOTICE TO PARTIES: Any objection to the provisions of this Order must be filed or presented orally to the Commission in open hearing session no later than the commencement of the evidentiary hearing in this docket. Absent any such objection, this Order will control further proceedings in this matter, subject to Commission review.**

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Dated at Olympia, Washington, and effective this 25th day of October, 2005.

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C. ROBERT WALLIS
Administrative Law Judge