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November 29, 2005

Carole J. Washburn, Secretary  
Washington Utilities and Transportation Commission  
1300 S. Evergreen Park Dr. SW  
P. O. Box 47250  
Olympia, Washington 98504-7250

Re: *Verizon/MCI Merger*  
Docket No. UT-050814

Dear Ms. Washburn:

Enclosed for filing in the above-referenced docket are the original and 17 copies of Commission Staff's Motion for Leave to File Answer and Answering Brief, and Certificate of Service.

Sincerely,

JONATHAN C. THOMPSON  
Assistant Attorney General

JCT:tmw  
Enclosures  
cc: parties



BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Joint Petition of  
VERIZON COMMUNICATIONS, INC. and  
MCI, INC.

For a Declaratory Order Disclaiming  
Jurisdiction Over or, in the Alternative, a  
Joint Application for Approval of  
Agreement and Plan of Merger

DOCKET NO. UT-050814

COMMISSION STAFF'S MOTION  
FOR LEAVE TO ANSWER AND  
ANSWERING BRIEF

**I. MOTION FOR LEAVE TO ANSWER**

1 Commission Staff hereby moves for leave to file an answering brief, and sets out  
below its argument in answer to an unanticipated argument raised in Public Counsel's Post  
Hearing Brief.

2 In its October 25, 2005, Prehearing Conference Order, the Commission stated:

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.

3 At paragraph 13 of its post hearing brief, Public Counsel argues that "the 'two year  
stay out' provides only 13 or 14 months of rate stability at best." This is not an argument that  
was raised at hearing or in pre-filed testimony. It is important because it goes to the meaning  
of a key provision in the settlement agreement. Staff believes that Public Counsel's argument  
is incorrect and that it is important to clear up the record on this point, not only in defense of

the Multiparty Settlement Agreement, but also to clear up any possible future uncertainty about its meaning, should the Commission choose to accept it.

## II. ARGUMENT

4 Public Counsel first points out that the general rate case settlement precludes Verizon from filing for another increase prior to July 1, 2007. Public Counsel then assumes, based on the ten month statutory suspension period and the thirty day notice period for rate change filings, that Verizon “would not normally expect to obtain a new rate increase until April or May of 2008.” Public Counsel then concludes, apparently based on the fact that the Multiparty Settlement Agreement states that Verizon “will not raise its rates . . . until June 30, 2009,” that proposed two year extension of the stay out would really only delay a rate increase for 13 to 14 months, “*at best.*”

5 Public Counsel’s analysis is wrong.

6 It was Staff’s intention to extend the general rate case’s stay out period for an additional two years. That was the company’s understanding as well. *See* Verizon’s Post Hearing Brief at paragraph 27 (“Under this term Verizon NW agrees not to *seek* an increase in its basic service rates . . . until July 30, 2009 [emphasis added].”)

7 The fault in Public Counsel’s logic is that he fails to apply the same period for a contested rate case to the date provided in the Multiparty Settlement Agreement that he applies to the date in the general rate case settlement.

8 When a telecommunications company wishes to change any rate filed and published in its tariff, it must provide notice to the commission at least thirty days prior to the effective date of the proposed amendment. RCW 80.36.110(1)(a). If the Commission decides to

suspend the filing and set the matter for hearing, it may do so at any point prior to the effective date. *Id.*

9 RCW 80.04.130(1) provides that, “[p]ending such hearing and the decision thereon, the commission may suspend the operation of such rate, charge, rental, or toll for a period not exceeding ten months *from the time the same would otherwise go into effect*” [emphasis added].

10 Public Counsel's argument assumes that Verizon could anticipate the 10-month suspension period by filing a tariff change with an effective date 10 months before June 30, 2009. It could not make such a tariff filing. A tariff filing with an effective date before June 30, 2009, would violate the terms of the settlement, because in that filing Verizon would be seeking to increase rates on that earlier effective date.

11 Thus, even accepting Public Counsel’s argument that the Multiparty Settlement Agreement would allow the company to file for a rate increase prior to June 30, 2009, with an effective date of June 30, 2009, the Commission would still have the option, as under Public Counsel’s July 2007 stay out scenario, to suspend the rate increase and take ten months from the time the requested increase would otherwise go into effect to decide the matter. Thus, even under Public Counsel’s theory, the Multiparty Settlement Agreement in fact extends the time that a rate increase could go into effect for 23 months, not 13.

DATED this 29<sup>th</sup> day of November 2005.

ROB MCKENNA  
Attorney General

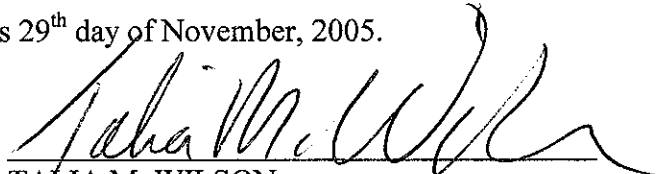


JONATHAN C. THOMPSON  
Assistant Attorney General

Docket No. UT-050814  
CERTIFICATE OF SERVICE

I hereby certify that I have this day served the attached documents upon the persons and entities listed on the Service List below by depositing a copy of said document in the United States mail, addressed as shown on said Service List, with first class postage prepaid.

DATED at Olympia, Washington this 29<sup>th</sup> day of November, 2005.

  
TALIA M. WILSON

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