

BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Joint Petition of

VERIZON COMMUNICATIONS, INC. and
MCI, INC.

Joint Petition for Declaratory Order
disclaiming jurisdiction over, or in the
alternative, a joint application, for approval
of agreement and plan of merger

DOCKET NO. UT-050814

STAFF RECITATION OF AREAS
OF AGREEMENT; SEPARATE
STAFF STATEMENT ON PUBLIC
PURPOSE FUND

STAFF RECITATION OF AREAS OF AGREEMENT

1 In its Order Accepting Settlement, on Condition; Approving Merger, on Condition (Order No. 07) in Docket UT-050814, the commission required Verizon to make \$1.25 million available as a fund for projects to “mitigate merger effects, improve telecommunications services, make services more readily available to the public, or for other purposes benefiting a broad range of Verizon customers.”

2 On January 31, 2006, the commission convened a post-hearing conference for the purpose of discussing how a fund could be established and administered. Judge Wallis asked Staff, Verizon and Public Counsel (the parties) to confer and present an agreed upon plan for the fund by February 28, 2006.¹

¹ Judge Wallis also asked parties to consider whether the Commission itself should solicit and administer grants. The parties discussed this matter and agreed that using an entity outside of the commission represented the most efficient and effective means of reaching potential grant recipients and administering the funds.

3 The parties did confer and were able to agree on a number of matters related to the
establishment and administration of the fund. Staff is providing below, a recitation of the
areas of agreement.

4 1. The parties have agreed that the best use can be made of the funds by using a
grant administrator to solicit applications for project proposals and administer grants to
approved projects.

5 2. The parties have identified two candidates for the role of grant administrator:
the United Way of Snohomish County and the Greater Everett Community Foundation. The
parties anticipate that the commission will select one of these two entities. Parties will make
separate filings explaining their different preferences as between the two. Attached to this
filing are the materials provided by the potential grant administrators.

6 3. The parties have agreed on eligibility requirements for applicants. The parties
agree that the following criteria should apply to applicants for grants from the fund:

 a. Applicants are limited to 501(c)(3) (non-profit) entities or local
government agencies.

 b. Grant-funded activities are limited to Washington State, and
applicants are limited to organizations with a presence in Washington.

 c. Applicants must certify they have no relationship to
telecommunications providers (except as recipients of charitable contributions and as
customers for telecommunications services).

 d. Applicants must be able to demonstrate the ability to properly account
for funds and for the use of funds.

e. Preference will be given to applicants with a track record of successful receipt and use of grant monies for similar projects to those they propose.

f. Recipients must be able to present a final report regarding use of the funds.

7 4. The parties have partly agreed to criteria for use by the grant administrator regarding eligible project proposals. Because the parties are not in complete agreement, each party will make a separate submission on this issue.

8 5. The parties have also agreed that, if the commission agrees to use a grant administrator, the commission would need to provide further guidance in two areas.

9 First, the parties request the commission's guidance as to whether the commission wishes to have the foundation forward a list of eligible projects to the commission for approval or whether the foundation would choose the projects to be funded. The parties do not know the extent to which the commission desires to participate in the process of selecting which proposed projects would be funded with the grants. The commission can choose to allow the grant administrator to select and award projects as was done in the case of the U S WEST refund. Alternatively, the grant administrator could screen the project proposals and provide the commission with a slate of eligible proposals from which the commission could select the projects to be funded.

10 Second, the parties request the commission's guidance as to whether Verizon should continue to hold the funds and write checks to the grantees or whether Verizon should turn over the funds to the foundation for disbursement. The parties have agreed to seek guidance from the commission regarding which entity (grant administrator or Verizon) should hold

the funds during the life of the grant program and will provide separate statements regarding the matter.

11 In summary, the parties have set forth a viable process for the commission to use in awarding and administering the Verizon funds. However, parties were not able to agree on all details of a plan. As a result, the parties have agreed to provide separate statements regarding unresolved issues. The unresolved areas include the criteria for determining the scope of eligible projects, the choice of a grant administrator and who should disburse funds once projects are awarded.

List of Attachments

Attachment 1a - letter to Greater Everett Community Foundation
Attachment 1b - Response of Greater Everett Community Foundation
Attachment 1c - 2005 Annual Report of the Greater Everett Community Foundation

Attachment 2a - letter to United Way of Snohomish County
Attachment 2b - initial response of United Way of Snohomish County
Attachment 2c - Supplemental response of United Way
Attachment 2d - Additional materials on United Way

SEPARATE STAFF STATEMENT ON PUBLIC PURPOSE FUND

1. Draft Funding criteria

12 The parties began developing funding criteria by focusing on the language of the commission's order where it stated that the purpose of the fund was to "mitigate merger effects, improve telecommunications services, make services more readily available to the public, or for other purposes benefiting a broad range of Verizon customers." Using this language, a draft of criteria was developed for discussion among the parties which is shown below:

Projects selected for funding must be targeted in Verizon's Washington service territory for local exchange service and must address at least one of the following areas:

- Provide consumer education, outreach, or advocacy on telecommunications services and/or policy issues affecting residential or small business consumers in Washington State. Services and/or policy issues include: rates, services, service quality, competitive choices, marketing and consumer protection, consumer rights, and participation in and understanding of state telecommunications policy making proceedings.
- Improve access to telecommunications services, such as efforts to provide or improve telecommunications services to a community or specific population (e.g. elderly, low income, Native American, homeless).
- Make services more readily available to the public, such as conducting training or other educational efforts targeted to a community or specific population.
- Other purposes benefiting a broad range of telecommunications consumers.

Preference will be given to projects that provide a broad telecommunications related consumer benefit and advance a broad public interest.

Ineligible activities include: advocacy on behalf of candidates for public office and/or advocacy for state or congressional legislation, initiatives or referenda; projects that would supplant Verizon's own investments or expenses to replace or maintain a modern and efficient network; projects that would supplant Verizon's own charitable activities.

13 In discussing the above criteria, Verizon expressed a concern regarding the use of funds for advocacy purposes. Verizon cited RCW 42.17.190(2), which says that unless "otherwise expressly authorized by law, no public funds may be used directly or indirectly for lobbying." RCW 42.17.020 defines "lobbying" to include "attempting to influence . . . the adoption or rejection of any rule, standard, rate, or other legislative enactment of any state agency under the state Administrative Procedure Act". Although Staff is not convinced that these statutory provision literally apply here (because the funds probably would not be regarded as public funds), Staff was willing to accommodate a limitation proposed by Verizon to avoid the controversy. Staff proposed, and Verizon agreed to additional

language clarifying that an organization that does advocacy is not precluded from receiving funds for a non-advocacy project. The revised criteria are shown below and represent Staff's view of what the funding criteria should be:

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Projects selected for funding must be targeted in Verizon's Washington service territory for local exchange service and must address at least one of the following areas:

- a. Provide consumer education and outreach on telecommunications services such as raising consumer awareness by providing information on competitive telecommunications services, prices and availability.
- b. Improve access to telecommunications services, such as efforts to provide or improve telecommunications services to a community or specific population (e.g. elderly, low income, Native American, homeless).
- c. Make services more readily available to the public, such as conducting training or other educational efforts targeted to a community or specific population.
- d. Other purposes which benefit a broad range of telecommunications consumers.

Preference will be given to projects that provide a broad telecommunications related consumer benefit and advance a broad public interest.

Ineligible activities include: lobbying, advocacy on behalf of candidates for public office and/or advocacy for state or congressional legislation, initiatives or referenda and/or advocacy in administrative or judicial proceeding; projects that would supplant Verizon's own investments or expenses to replace or maintain a modern and efficient network; projects that would supplant Verizon's own charitable activities. Projects submitted by otherwise eligible applicants will not be ineligible under these criteria merely because the applicant has previously been or is engaged in lobbying or advocacy activities, so long as the project for which it seeks funding is not a lobbying or advocacy activity.

2. Disbursements from the Verizon Fund

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The parties request the commission's guidance as to whether Verizon should continue to hold the funds and write checks to the grantees or whether Verizon should turn over the funds to the foundation for disbursement. Verizon wishes to continue holding and

disburse the funds for approved projects. Both potential grant administrators have indicated their preference to receive the funds in total at the start of the process. Staff believes a more efficient use of the funds will result if the Commission directs Verizon to give the \$1.25 million in funds to the grant administrator. The reason it would be more efficient is that the foundation can make short-term investments with the money while it is soliciting and awarding grants. The interest earned on the principle can then be used to offset administrative costs and perhaps even result in more money being awarded than initially provided for grants. This was the case in the U S WEST refund case where the Seattle Foundation had custody of the \$2 million dollars and was able to cover both its own administrative expenses and award more than \$2 million in grants because of the interest earned.

Dated: February 28, 2006

Respectfully submitted,

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