

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

In the Matter of the Joint Application)	DOCKET NO. UT-050814
of)	
)	
VERIZON COMMUNICATIONS)	ORDER NO.01
INC. AND MCI, INC.)	
)	PREHEARING CONFERENCE
For Approval of Agreement and Plan)	ORDER
of Merger)	
)	
.....)	

- 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 June 22, 2005, before Administrative Law Judge C. Robert Wallis.

- 3 **APPEARANCES.** Judith Endejan, attorney, Seattle, represents petitioner Verizon Northwest, Inc. Also representing Verizon are Charles H. Carrathers, general counsel, Irving, TX and Sherry F. Bellamy, Arlington, VA. Arthur A. Butler, attorney, Seattle, represents petitioner MCI, Inc. Also representing MCI is Michel Singer Nelson, attorney, Denver, CO. Gregory J. Kopta, attorney, Seattle, represents intervenor XO Communications Services, Inc.; Jay Nusbaum, attorney, Portland, OR, represents 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; Director John O'Rourke represented it on the petition. Simon ffitch, Assistant Attorney General, Seattle, WA, represents the Public Counsel Section of the Washington Office of the Attorney General.

Jonathan C. Thompson, Assistant Attorney General, Olympia, Washington, represents the Commission's regulatory staff ("Commission Staff" or "Staff").¹ Contact information provided at the conference for the parties' representatives is attached as Appendix A to this order.

- 4 **PETITIONS FOR INTERVENTION.** XO Communications Services, Inc.; Integra Telecom of Washington, Inc.; Citizens Utility Alliance of Washington; and Covad Communications Company petitioned in writing to intervene in the docket. All petitioners except Citizens Utility Alliance appeared at the conference. Verizon voiced no objection to any petition for intervention, provided no intervenor broadened the issues in the hearing. No petitioner indicated that it would broaden issues. All petitions were granted.
- 5 **PROTECTIVE ORDER.** A protective order will be entered in this docket. The parties will propose amendments to the standard protective order, based on other recent orders, and present a draft to the presiding administrative law judge for approval by the Commissioners.
- 6 **DISCOVERY.** The parties asked that the discovery rules be invoked in this docket, pursuant to WAC 480-07-400. The matter is one that qualifies for discovery, and the rules are hereby invoked. The parties agreed to a response time no longer than 7 business days, which is hereby required.
- 7 **PROCEDURAL SCHEDULE.** Public Counsel and Commission Staff proposed alternative schedules for completion of the docket. Staff's proposal began with a Company evidentiary filing by June 28, provided for hearings in late September, and concluded with a Commission order in mid-December; Public Counsel's

¹ In formal proceedings, such as this case, the Commission's regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as any other party to the proceeding. There is an "*ex parte* wall" separating the Commissioners, the presiding Administrative Law Judge, and the Commissioners' policy and accounting advisors from all parties, including Staff. RCW 34.05.455.

proposal began with the filing of Company evidence on or before July 11, provided for hearings in early November, and would conclude with a commission order in January.

8 While there was little time difference between the two proposals, Verizon and MCI argued strenuously that the difference in timing was significant and that it mattered greatly to the companies. Most parties expected to be able to meet the schedule; Public Counsel's reservations were contingent possibilities, rather than certainties. On balance, the Staff proposal is preferable. If a critical situation arises that would render the schedule difficult or impossible, parties are free to request a change. We make minor additions and changes to the proposed Staff schedule.

9 Parties were relatively confident that the proposed hearing length of 2-1/2 days would be adequate to cover the anticipated volume of cross-examination. To assure sufficient time for the hearing, we have blocked off the two weekdays prior to the scheduled hearing, September 22 and 23. We will hold those until August 26, a week after the responding parties' testimony. If no party indicates a need for more than the 2-1/2 days scheduled, the hold will be dropped.

10 The Commission adopts the following procedural schedule (all dates in 2005):

Verizon exhibits filed	June 28
Others' exhibits filed	August 19
Rebuttal, cross-rebuttal	September 2
Exhibits on cross are filed	September 19
Prehearing conference ²	September 21
Reserved dates, if needed	September 22-23
Scheduled dates for hearing	September 26-28

² This conference will address marking of exhibits on cross and any procedural issues that may arise. It will be cancelled if it is determined to be unnecessary.

Simultaneous opening briefs October 19
Simultaneous answering briefs November 10³

- 11 **ISSUES LISTS.** Verizon proposed discussion of an issues list, to define the scope of the hearing. It identifies two issues: whether the Commission has jurisdiction over the proposed merger, and whether the evidence demonstrates that the merger will cause no harm to the public interest. The latter proposed issue contains six sub-parts: impact on the development of competitive markets; impact on the provision of local residential service by MCI after the merger; impact on the merging parties' service quality; impact on the merging parties' employee bases; impact on the enterprise market in Washington; and financial impact on both companies from a financial viability standpoint.
- 12 Commission Staff parsed the issues slightly differently, identifying four principal areas. Financial issues, in its view, are whether the stock transfer will affect the operating companies' ability to maintain low rates, and how the cost of capital may be affected. Service quality issues include the impact of the merger on the quality of service to Washington customers, including whether existing call centers will continue to be available. Operations issues include whether there will be any reduction in force or consolidation of services. Finally, issues relating to competition include the effect of increasing the concentration customers in local exchange companies and long distance companies.
- 13 No decision was asked or provided regarding the issues in the proceeding, which will be more clearly defined by the parties' subsequent presentations of evidence and argument.

³ **NOTE:** This date is one week earlier than proposed in the schedule. Because the briefs in question are answering briefs, and need respond only to issues not raised in the opening briefs, we believe that the three weeks provided are sufficient.

- 14 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file with the Commission an original plus nine (9) copies of all pleadings, motions, briefs, and other prefiled materials. Paper copies of these materials are required to conform to the format and publication guidelines set forth in WAC 480-07-395 and 480-07-460, and must be three-hole punched with *oversized* holes to allow easy handling. The Commission may require a party to refile any document that fails to conform to these standards.
- 15 All filings must be mailed to the Commission Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive, S.W. Olympia, Washington 98504-7250, or delivered by hand to the Commission Secretary at the Commission's Records Center at the Washington Utilities and Transportation Commission, 1300 S. Evergreen Park Drive, S.W., Olympia, Washington, 98504. Both the post office box and street address are required to expedite deliveries by the U.S. Postal Service.
- 16 An electronic copy of all filings must be provided by e-mail delivery to <records@wutc.wa.gov>. Alternatively, Parties may furnish an electronic copy by delivering with each filing a 3.5-inch IBM-formatted high-density diskette including the filed document(s). The Commission prefers that parties furnish electronic copies in .pdf (Adobe Acrobat) format, supplemented by a separate file in MS Word 6.0 (or later), or WordPerfect 5.1 (or later) format. Parties are required to organize and identify electronic files as specified in WAC 480-07-140(5).
- 17 **ELECTRONIC FILING.** Parties may only file documents electronically with the Commission in this proceeding with the specific permission of the administrative law judge. Under WAC 480-07-145(6), electronic filing of documents provides a one-day extension of the paper-filing requirement. If, at any time during this proceeding, parties are authorized to file documents with the Commission electronically under WAC 480-07-145(6), parties must submit the document to

records@wutc.wa.gov, and file an original, plus nine (9) copies, of the document with the Commission by the following business day.

18 **ELECTRONIC SERVICE.** The parties present all indicated that they would accept electronic service of documents, with hard copies delivered on the following business day.

19 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally.

20 The parties indicated a tentative willingness to engage in settlement discussions. Verizon asked for a date by which it could indicate a willingness to engage in discussions; instead, we provide a date for such discussions with any party given the option to cancel its participation.

21 The Commission does have limited ability to provide dispute resolution services; if you wish to explore those services, please call the Director, Administrative Law Division, at (360) 664-1142.

22 **NOTICE TO PARTIES: Any objection to the provisions of this Order must be filed within ten (10) days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.**

Dated at Olympia, Washington, and effective this 23rd day of June, 2005.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

C. ROBERT WALLIS
Administrative Law Judge

APPENDIX A

PARTIES' REPRESENTATIVES
DOCKET NO. UT-050814

PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
Verizon Northwest Inc.	Judith Endejan Graham & Dunn PC Pier 70 2801 Alaskan Way Suite 300 Seattle, WA 98121-1128	(206) 340-9694	(206) 340-9599	jendejan@grahamdunn.com
	Charles H. Carrathers Vice Pres. & Gen. Counsel 600 Hidden Ridge Irving, TX 75038	(972) 718-2415	(972) 718-0936	chuck.carrathers@verizon.com
	Sherry F. Bellamy Vice Pres. & Assoc. General Counsel 1515 N. Courthouse Rd Suite 500 Arlington, VA 22201	(703) 351-3011	(703) 351-3655	sherry.f.bellamy@verizon.com
MCI, Inc.	Arthur Butler Ater Wynne 601 Union Street Seattle, WA 98101-2327	(206) 623-4711	(206) 467-8406	aab@aterwynne.com
	Michel Singer Nelson Senior Attorney MCI, Inc. 707 17 th Street Denver, CO 80202	(303) 390-6106	(303) 390-6333	michel.singer_nelson@mci.com
XO Communications Services, Inc.	Gregory J. Kopta Davis Wright Tremaine LLP 2600 Century Square 1501 Fourth Avenue Seattle, WA 98101-1688	(206) 628-7692	(206) 628-7699	gregkopta@dwt.com

PARTIES' REPRESENTATIVES (cont.)
DOCKET NO. UT-050814

PARTY	REPRESENTATIVE	PHONE	FACSIMILE	E-MAIL
Integra Telecom of Washington, Inc.	John P. (Jay) Nusbaum 1201 NE Lloyd Blvd. Suite 500 Portland, OR 97232	(503) 453-8054	(503) 453-8221	jay.nusbaum@integratelecom.com
Covad Communications Company	Gregory T. Diamond Senior Counsel 7901 Lowry Blvd. Denver, CO 80230	(720) 670-1069	(720) 670-3350	gdiamond@covad.com
Citizens Utility Alliance	John O'Rourke, Director 212 W. 2 nd Ave., Suite 100 Spokane, WA 99201	(509) 744-3370 (ext) 247	(509) 744-3374	orourke@snapwa.org
Public Counsel	Simon ffitich Assist. Attorney General Office of the Atty. Gen. 900 Fourth Avenue Suite 2000 Seattle, WA 98164	(206) 389-2055	(206) 389-2079	simonf@atg.wa.gov
Commission Staff	Jonathan C. Thompson Assist. Attorney General 1400 S. Evergreen Park Drive S.W. P.O. Box 40128 Olympia, WA 98504-0128	(360) 664-1225	(360) 586-5522	jthomps@wutc.wa.gov