

**BEFORE THE WASHINGTON STATE  
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of the Joint Application of	)	DOCKET NO. UT-050814
VERIZON COMMUNICATIONS INC., and	)	<b>RESPONSE OF VERIZON</b>
MCI, INC.	)	<b>COMMUNICATIONS INC. TO</b>
For Approval of Agreement and Plan of Merger	)	<b>INTEGRA TELECOM'S MOTION TO</b>
_____	)	<b>COMPEL</b>

**I. INTRODUCTION**

Verizon Communications Inc. (“Verizon”) opposes Integra Telecom’s (“Integra”) Motion to Compel responses to 65 of 77 Data Requests submitted in this docket.<sup>1</sup> Verizon submitted timely and proper objections to these 65 Integra Data Requests and Verizon should not be compelled to further respond to them. First and foremost, Integra’s Data Requests do not request information relevant to the issues in this case, which relate to a merger between two parent corporations, Verizon and MCI, Inc. Rather, these Data Requests relate, if at all, to issues raised by Integra in its private complaint action against Verizon Northwest Inc. pending in Docket No. UT-053038. None of the Data Requests tie to any prefiled testimony of Verizon or MCI in this docket.

Second, if Integra’s alleged justification for propounding these Data Requests was accepted, then the issues in this merger proceeding would be expanded to include the adoption of “wholesale service standards.” Neither Integra, nor any other competitive local exchange carrier, that sought intervention status in this docket, ever raised the issue of “wholesale service standards” when seeking to intervene. Integra should be held to its commitment to not broaden the issues in this proceeding as stated in its Petition to Intervene.

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<sup>1</sup> Verizon was properly responsive to Data Request Nos. 1, 2, 3, 4, 5, 7, 8, 15, 16, 46, 64 and 77.

Integra's data requests and motion are nothing but a blatant attempt to game the administrative process by using the merger proceeding to obtain leverage (not to mention early discovery) in its related complaint proceeding. The bottom line is that Integra is not interested in the public interest in this docket but in promoting its own private commercial, competitive strategies in another docket.

## II. ARGUMENT

In its motion to compel, Integra makes the remarkable claim that it "continually" has problems with Verizon's wholesale performance and that Verizon has repeatedly violated federal law and its interconnection agreement.<sup>2</sup> This claim, however, is belied by Integra's actions: Integra has filed only one complaint against Verizon Northwest Inc., and that complaint alleges provisioning problem with a total of eight customers. In that case, Integra filed discovery before the pre-hearing conference, and Verizon Northwest Inc. properly objected to this unlawful procedure. In response, Integra has now bootstrapped its complaint case into this case.

Integra's procedural gamesmanship must be rejected. Integra has ample opportunity to pursue its claims – indeed, the pre-hearing conference in its complaint case is set for August 10 – and it should not be allowed to expand the scope of this proceeding.

### A. Integra's Wholesale Service Problems With Verizon Northwest Inc. Are Not Relevant to the Verizon/MCI Merger.

Integra's alleged problems with the wholesale performance of Verizon Northwest Inc. have no relationship to the issue of whether that local exchange company's corporate parent should be allowed to merge with the MCI parent company. None of the contested Integra Data Requests seek information about the merger's potential impact on the wholesale service performance of Verizon Northwest Inc.

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<sup>2</sup> Verizon disputes the factual assertions contained throughout Integra's Motion to Compel regarding Verizon Northwest Inc.'s wholesale performance. These assertions are not verified and certainly do not constitute evidence upon which to base a finding of relevancy in this merger proceeding.

Integra does not explain how merger denial will fix any of Verizon Northwest Inc.'s alleged wholesale performance problems. Integra erroneously equates its alleged wholesale service problems with Verizon Northwest Inc. with competitive harm. However, that harm would not be the result of the merger – and this Commission can only consider merger-related harm, if any, in this docket. Therefore, the issue of Verizon Northwest Inc.'s wholesale service performance and the adoption of standards to govern it are simply irrelevant. In sum, the issue of whether wholesale service quality standards should be adopted is entirely separate from whether the Verizon and MCI parent companies should be prevented by the Commission from merging.

Integra relies upon the Commission's decision regarding the Qwest/US West merger.<sup>3</sup> Actually, the passage quoted by Integra supports Verizon's position here. Namely, the focus of the Commission's analysis here must be upon the transaction (i.e., the merger) to determine its impact on the development of competitive markets. Integra's data requests have no relationship to that transaction. They do not tie to any of the testimony filed by Verizon or MCI. They do not ask how any of Verizon's wholesale performance practices at the local operating company level might be impacted by the merger. None of Integra's Data Requests would allow it or the Commission to determine the effect of the merger on competitive markets.

Integra also cites from a white paper dated July 6, 2005 by the New York Public Commission's Staff. First, it is important to bear in mind that this report was issued by the Staff for that Commission. It is simply the Staff's opinion and has not been formally adopted by that Commission, which will consider comments on the white paper from interested parties, due on Friday, August 5, 2005. Second, Verizon and MCI companies have significantly more facilities in New York State than in Washington State. Finally, the issue of wholesale service quality in New York State has been and continues to be the subject of ongoing industry forums that

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<sup>3</sup> *In re Application of US West Inc. and Qwest Communications International Inc., Ninth Supplemental Order Approving an Adopted Settlement Agreement and Granting Application*, ¶ 27 (WUTC Docket No. UT-991358 June 19, 2000).

develop evolving wholesale service quality standards.<sup>4</sup> The New York Commission Staff clearly was not suggesting that new wholesale service quality standards be imposed as a condition for approving the merger. Rather, it appears concerned with ongoing compliance with existing service quality norms.

In contrast here, Integra suggests that the Commission should use the merger proceeding as a vehicle for litigating and imposing new wholesale service quality standards in Washington. This is inappropriate and would be entirely unworkable within the procedural and scheduling context of this docket. As the New York experience demonstrates, the evolution of wholesale service quality standards is complex, adopted through a variety of industry forums and subject to continuing evolution. The Commission in the past has considered the issue of adopting wholesale service quality standards, but has declined to do so.<sup>5</sup> It should not do so here in a completely unrelated merger proceeding. Integra's suggestion is nothing but an attempt to achieve leverage in an unrelated complaint case as discussed in the next section. Because the imposition of wholesale service quality standards has no relevancy in this proceeding, all of the Data Requests at issue need not be answered.

**B. Integra's Data Requests Relate to a Complaint Against Verizon Northwest Inc.**

Attached hereto as Exhibit A is the Complaint filed by Integra Telecom of Washington Inc. against Verizon Northwest Inc. (Docket No. 05-3038). Integra served a set of Data Requests with its Complaint (Attachment B). However, Verizon Northwest Inc. has objected to answering these until the discovery rule is invoked at the Prehearing Conference set for August 10, 2005.

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<sup>4</sup> See e.g. Proceeding on Motion of the Commission to Review Service Quality Standards for Telephone Companies, Order Establishing Modifications to the Inter-Carrier Service Quality Guidelines, New York PSC Case 97-C-0139 (4/15/05); Petition filed by Bell Atlantic-New York for Approval of a Performance Assurance Plan and Change Control Assurance Plan, filed in C 97-C-0271, New York PSC Case 99-C-0949, Proceeding on Motion of the Commission to Examine the Process and Related Costs of Performing Loop Migrations on a More Streamlined (e.g., Bulk) Basis, New York PSC Case 02-C-1425, Order Establishing Modifications to the Performance Assurance Plan and Change Control Assurance Plan for Hot Cut Measurements and Standards (3/17/05).

<sup>5</sup> See Docket No. 990261.

Review of these attachments shows that Integra is really trying to start discovery early in its complaint case by propounding Data Requests in the merger case. With the exception of Data Request 46, Data Request Nos. 33-56 directly relate to factual issues in the complaint case. They do not seek information relevant to the merger case. The remaining Data Requests also seem targeted at the practices of Verizon Northwest Inc. in the area of standard provisioning intervals, ordering systems, customer user forums and number portability issues. All of these issues can be addressed in the complaint case and have no relationship to the merger proceeding. The questions certainly do not go to the issue of whether the absence of formal service quality standards impedes competition, which will be exacerbated by the merger, as alleged by Integra. Verizon Northwest Inc. and Integra have an Interconnection Agreement (ICA) that defines the parameters of service quality to be provided to Integra. Integra has several means for achieving relief from Verizon Northwest Inc., including its complaint proceeding, and an Interconnection Agreement enforcement proceeding pursuant to WAC 480-07-650. Integra should be required to confine its Data Requests to the complaint case, where it bears the burden of proof rather than using these Data Requests as a vehicle for interjecting new irrelevant "issues" in the merger proceeding.

**C. The Remaining Requests Need Not be Answered.**

As explained above, 21 of the Data Requests in dispute directly relate to factual issues in Integra's complaint case. With respect to DR 5, Verizon is not required to perform a special study to rank its purchasers of unbundled network elements. Furthermore, as noted in its objection to DR 6, Verizon cannot release customers' proprietary information. The impropriety of providing sensitive competitive information regarding other CLECs to Integra, a competitor, is clear. Eight other Data Requests (Nos. 9-12, 26, 74 and 75) ask Verizon to do Integra's legal research. These Data Requests do not seek factual information, but request Verizon to obtain legal information that Integra is equally as capable of obtaining on its own. None of the requested information derives from Verizon internal documents.

**RESPONSE OF VERIZON  
COMMUNICATIONS INC. TO INTEGRA  
TELECOM'S MOTION TO COMPEL -- 5**

M32000-629021

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Other Integra data requests demonstrate that Integra really is not after factual information in Verizon's possession. For instance, Integra asks Verizon to verify the absence of provisioning intervals in DR Nos. 17 and 18, but it apparently knows the answer by propounding DR 19. Integra asks Verizon to speak to another company's service standards (DR Nos. 25, 64). Clearly this is impermissible. Integra asks a series of Data Requests that do not seek facts, but require admissions with respect to public interest questions (DR Nos. 27, 28, 29, 30). These are not proper subjects of discovery, are argumentative, serving no purpose in this case. Integra also propounds two Data Requests that fall into the category of "when did you stop beating your wife?" These Data Request Nos. 31 and 32 are virtually impossible to answer without detailed knowledge with respect to all network designs of all competitors everywhere in Washington.


Finally, the remaining unanswered data requests deal with issues covered by the parties' Interconnection Agreement (i.e., DRs 56-63 regarding ordering systems) at issue in the complaint case. They do not go to establish anything of relevance in this merger proceeding.

### III. CONCLUSION

Integra is using the Data Requests at issue here to engage in an early fishing expedition for its complaint case. Integra will have every opportunity to submit Data Requests that are relevant in that proceeding. It should not be allowed to expand the issues in this merger proceeding to address a private grievance.

DATED this 1<sup>st</sup> day of August, 2005.

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**RESPONSE OF VERIZON  
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TELECOM'S MOTION TO COMPEL -- 6**

M32000-629021

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