

1 BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION
2 COMMISSION

3 In the Matter of the Joint)
4 Application of)
5 VERIZON COMMUNICATIONS INC.,) DOCKET NO. UT-050814
6 and MCI, INC.) Volume II
7) Pages 29 - 75
8 For Approval of Agreement)
9 and Plan of Merger)
10 -----

9 An oral argument in the above matter was held
10 on August 4, 2005, at 9:04 a.m., at 1300 South
11 Evergreen Park Drive Southwest, Olympia, Washington,
12 before Administrative Law Judge C. ROBERT WALLIS,
13 Chairman MARK SIDRAN, Commissioners PHILIP JONES and
14 PATRICK OSHIE.

15 The parties were present as follows:

16 VERIZON COMMUNICATIONS, INC., by JUDITH
17 ENDEJAN, Attorney at Law, Graham & Dunn, 2801 Alaskan
18 Way, Suite 300, Seattle, Washington 98121-1128;
19 telephone, (206) 340-9694.

20 MCI, INC., by ARTHUR A. BUTLER, Attorney at
21 Law, Ater Wynne, 601 Union Street, Suite 5450, Seattle,
22 Washington 98101-2327; telephone, (206) 623-4711.

23 MCI, INC., by MICHEL SINGER NELSON (via
24 bridge line), Senior Attorney, 707 17th Street, Suite
25 4200, Denver, Colorado 80202; telephone, (303)
390-6106.

26 Kathryn T. Wilson, CCR
27 Court Reporter

INTEGRA TELECOM OF WASHINGTON, INC, by JOHN

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1 (JAY) P. NUSBAUM, Associate Regulatory Attorney, 1201
2 Northeast Lloyd Boulevard, Suite 500, Portland, Oregon
3 97232; telephone, (503) 453-8000.

4 WASHINGTON UTILITIES AND TRANSPORTATION
5 COMMISSION, by JONATHAN THOMPSON, Assistant Attorney
6 General, 1400 South Evergreen Park Drive Southwest,
7 Post Office Box 40128, Olympia, Washington 98504-0128;
8 telephone, (360) 664-1225.

9 PUBLIC COUNSEL, by SIMON J. FFITCH (via
10 bridge line), Assistant Attorney General, 900 Fourth
11 Avenue, Suite 2000, Seattle, Washington 98164-1012;
12 telephone, (206) 389-2055.

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1 P R O C E E D I N G S

2 JUDGE WALLIS: This session will please come
3 to order. This session has been called for the purpose
4 of hearing oral argument on a motion to compel
5 production of information that's been filed by Integra.
6 Chairman Mark Sidran, Commissioner Pat Oshie, and
7 Commissioner Phil Jones are presiding along with me.
8 My name is Robert Wallis.

9 I would like to ask the parties to identify
10 yourselves beginning with the moving party for this
11 docket.

12 MR. NUSBAUM: Jay Nusbaum, representing
13 Integra Telecom.

14 JUDGE WALLIS: The Respondent?

15 MS. ENDEJAN: Judy Endejan, representing
16 Verizon Communications, Inc., in this matter.

17 MR. BUTLER: Arthur A. Butler appearing on
18 behalf of MCI.

19 MR. THOMPSON: Jonathan Thompson on behalf of
20 Commission staff.

21 JUDGE WALLIS: There was some correspondence
22 earlier that addressed a motion to compel filed by
23 Commission staff and Public Counsel. It's my
24 understanding that the matter is not yet resolved but
25 that the Company is providing some information to those

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1 parties, and if that is satisfactory, the motion will
2 be abandoned. If it is not, then they are free to also
3 pursue the motion that they have filed. Is that a
4 correct statement of the status of that?

5 MS. ENDEJAN: Yes, Your Honor.

6 MR. THOMPSON: I think that's mostly correct.
7 I'm not sure Public Counsel would agree to the
8 characterization of "abandoning" it. I think they want
9 the opportunity to keep it open and then ask for an
10 oral argument possibly if they think it's needed.

11 JUDGE WALLIS: I think that's what I said.
12 Very well. We did talk earlier about the division of
13 time. In an effort to keep the argument to
14 approximately 60 minutes, we indicated that Mr. Nusbaum
15 would have 30 minutes to be divided as he wishes
16 between the opening and response, and the Company would
17 have 30 minutes.

18 Staff indicated that he has no prepared
19 argument but may wish to weigh in depending on what the
20 others say. We will not allocate specific time for
21 Staff. Is that satisfactory to the parties?

22 MR. THOMPSON: Yes, Your Honor.

23 MS. ENDEJAN: Yes, Your Honor.

24 MR. NUSBAUM: Yes, Your Honor.

25 JUDGE WALLIS: Mr. Nusbaum, please proceed.

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1 MR. NUSBAUM: Thank you, Your Honor,
2 Commissioners. I do believe that hopefully I won't
3 come close to using my 30 minutes this morning, because
4 I do believe that the issue, the core issue in this
5 motion is really a simple one, and that is, is the
6 Commission going to consider the state of competition
7 in Washington in this merger proceeding, because that's
8 really the issues that we have sought to identify and
9 that we've sought discovery on.

10 From our viewpoint, we have a situation where
11 we believe is the second largest wholesale competitor
12 in the state is poised to become, in its own words,
13 essentially, an even stronger competitor for a lot of
14 the same kinds of customers that Integra and other
15 competitors are out there vying for every day, and we
16 have a situation where, as near as we can identify,
17 there are no standards governing Verizon's interaction
18 with the competitors and how it provides things, how
19 the relationship between Verizon and the competitors is
20 going to go.

21 We believe that that's an important issue for
22 the Commission to consider, because I believe, as
23 Public Counsel stated when they answered our motion and
24 joined in our motion, a robust wholesale competition
25 provides protection for retail customers in the form of

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1 reduced rates and increased choice and a variety of
2 other things. So we believe it is in the public
3 interest to take a look at how Verizon is competing
4 now, which is what our discovery is aimed at, and it
5 deeply affects the public interest in this proceeding.

6 And we've encountered a situation where we've
7 requested discovery requests on issues that relate to
8 problems that we've had with Verizon that we hopefully
9 will get to address in our testimony and have
10 essentially been shut out of getting any useful
11 information about that on the grounds, primarily, that
12 Verizon believes that that information isn't relevant
13 to this proceeding.

14 There are a couple of main ideas that I was
15 able to get out of their response to our motion as to
16 why our data requests, which relate to essentially
17 wholesale competition, are not relevant. One is that
18 they claim that we are seeking to expand the issues in
19 this proceeding because we go beyond issues that are
20 identified or addressed in Verizon's opening testimony.
21 I think that is not a valid way of looking at what the
22 issues are in this proceeding.

23 The parties at the prehearing conference
24 discussed adopting an issues list, and I think there
25 were a couple of drafts that floated around that the

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1 parties agreed not to adopt and rather to leave the
2 issues open and to allow Verizon, effectively, to
3 dictate what issues the Commission is going to consider
4 in this case just by virtue of what it addresses in its
5 opening testimony is not the way things normally work,
6 and I don't think it's the way things should work here.
7 There is nothing that prevents us from raising an issue
8 about the wholesale competition just because it's not
9 addressed in Verizon's opening testimony.

10 We made the point in our opening brief, but
11 I'll make it again, that ultimately, the standard to be
12 applied here is the public interest, and that is really
13 the main issue in this case, and our data requests
14 relate to the public interest in that they ask for
15 information about the state of competition in
16 Washington, which is a factor that the Commission has
17 to consider in the merger proceeding, so there is no
18 expansion of the issues by those data requests.

19 Another argument that Verizon makes is that
20 essentially because the data requests themselves don't
21 ask about postmerger landscape, the effect that the
22 merger itself is going to have on competition, that
23 therefore, they are not relevant to this proceeding,
24 but I think it's important to know and to understand,
25 first of all, the principle that governs discovery,

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1 which is that discovery is permissible if it seeks
2 information that's relevant or reasonably calculated to
3 lead to relevant evidence and the context in which the
4 discovery arises. Essentially, these discovery
5 requests are foundation for our proposed testimony.

6 Competition. Verizon's competition and
7 Integra's ability to compete with Verizon in Washington
8 is really our primary issue in this case. The
9 discovery requests were intended to provide
10 foundational evidence for our testimony and our legal
11 briefs, and to the extent that they themselves don't
12 ask for postmerger information doesn't prevent us from
13 making the connection either in our testimony or in our
14 briefs using the information that we get from Verizon
15 in this round of discovery as a foundation for that.

16 And it seems to me that it's a little like
17 putting the cart before the horse to say that it's not
18 relevant because we haven't had a chance to prove our
19 case yet. It seems to me it's more appropriate that if
20 Verizon wants to raise the issue in its rebuttal
21 testimony, that is the most appropriate place to do it,
22 but at the discovery phase when we are just seeking to
23 gather information to allow us to present our case is
24 not appropriate for them to shut off all dialogue on
25 this issue.

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1 We did intend to have additional discovery,
2 and our intention was to explore the postmerger
3 landscape, but given that we've essentially had the
4 door shut on us on our first round, it didn't seem like
5 it would be effective to do that until we had an idea
6 of whether we were going to get this foundational
7 information, and so it essentially is cutting us off
8 from our ability to make our case.

9 One of the other reasons that Verizon gave
10 for refusing to answer claiming that all of the data
11 requests that it hasn't answered are irrelevant is that
12 the schedule doesn't allow for consideration of
13 wholesale service quality standards. That to me just
14 seems like a convenient argument, because in the
15 prehearing conference, there was a bit of discussion
16 about the schedule in this case and the fact that it
17 was very quick, and for Verizon to propose an expedited
18 schedule when basically require the other parties to
19 adhere to that and then use that as an excuse for not
20 responding to data requests seems like an unfair
21 advantage to me and certainly not a reason to prevent
22 us from asking the questions and getting answers to the
23 questions.

24 If wholesale service quality standards are a
25 complex issue, which is another argument that Verizon

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1 raises, and require a lot of thought and research and
2 understanding, I don't think that is a reason for not
3 allowing us to get discovery on that information
4 because there are a lot of complex issues in this case.
5 This case by its nature is a complex case. So to say
6 it's a complex issue, it's a difficult issue to address
7 wholesale service quality standards, doesn't get to the
8 point. There are a lot of other issues that are
9 complex that are going to be addressed here.

10 Since Verizon brought up the issue of the
11 schedule in this case, I feel compelled to also bring
12 up the fact that this delay on our primary issue has
13 caused us to not have any information from Verizon that
14 we can use in our testimony to prevent us from being
15 able to identify witnesses that are actually going to
16 submit testimony in this case, and in one case, our
17 vice president of regulatory affairs, who was a
18 potential witness or is a potential witness on these
19 issues, is now going to be outside out of the office on
20 a prescheduled vacation until after we file our opening
21 testimony.

22 So we've had a delay of 16 days at this point
23 trying to get this information from Verizon. That
24 delay has had concrete effects on Integra's ability to
25 present its case, and we would ask that to the extent

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1 the Commission grants our motion to compel, it also
2 adjusts the schedule accordingly to allow us to have
3 the additional time to incorporate the information we
4 get from Verizon into our testimony.

5 The other issue I wanted to talk about is
6 Verizon's argument that Integra is using its data
7 requests to get early discovery in another docket that
8 it has pending before the Commission. We have a
9 complaint case that's pending before the Commission. I
10 refer to it as the Boys and Girls Club Complaint
11 because that's the main customer at issue, and there
12 are about 13 data requests, not 22, that relate to
13 issues that are at issue in the Boys and Girls Club
14 Complaint. We don't dispute that.

15 But the legal and factual issues there are
16 also relevant here because the issues in the Boys and
17 Girls Club Complaint relate to Verizon's wholesale
18 performance, and it's one of the problems, frankly,
19 that we've been having with Verizon that we want to
20 talk about in this case to give the Commission a
21 picture of what's going on out there on a daily basis.

22 And so there is overlap. We admit that, but
23 there is also overlap for relevance, and the question
24 has been raised whether Integra is gaining the system
25 to get early discovery in that case, and my response to

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1 that is, to what end? We don't have any incentive to
2 get early discovery in that case. We have a prehearing
3 conference scheduled for next week. We anticipate the
4 discovery rule will be invoked and that we will get
5 answers to our discovery requests in that case by the
6 end of August. That case is not on an expedited
7 schedule. We have nothing scheduled in that case as of
8 yet, and there is no reason for us to have early
9 discovery in that case.

10 We did submit discovery requests early in
11 that docket before the prehearing conference. That was
12 simply a mistake, and we intend to reissue them if
13 necessary after the prehearing conference, but that
14 wasn't an attempt and shouldn't be seen as an attempt
15 to get early discovery; frankly because we have no use
16 for that information other than in that docket.

17 Without getting into the details,
18 necessarily, of the various objections that Verizon
19 raises to our data requests, there are a couple of main
20 issues that I wanted to address quickly, and that is
21 there are a few data requests where Verizon objects, in
22 addition to the grounds of relevancy, that they are
23 required to give a legal conclusion in order to answer
24 the question.

25 That applies to Requests 9 through 12 and to

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1 26 in particular where we ask about wholesale service
2 quality standards, and I think it's clear from reading
3 the requests that we are asking Verizon to admit to
4 facts, which is clearly allowed by the rule that
5 defines what a data request is allowed to do. You can
6 ask a party to admit to facts, admit the fact that
7 there are no wholesale service quality standards
8 imposed by statute or by rule or by order, and that
9 seems like very straightforward questions to me that
10 don't call for legal conclusions.

11 And I would also point out that Verizon
12 doesn't address our Data Request 13, which is clearly
13 in narrative form, and that asks, Do you follow,
14 essentially, any wholesale service quality standards in
15 Washington? If so, why, what's the source, and please
16 explain it to us, and that's as straightforward a
17 question as you can get.

18 I guess the other thing I wanted to bring up
19 was Verizon also raises an issue about our Data
20 Requests 17 through 19, which asks specifically about
21 the differences between Verizon East and Verizon West,
22 and our experience is, and we hope to be able to
23 demonstrate this in our testimony, is there is
24 substantial differences between the way things are done
25 in Verizon East and Verizon West.

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1 Those discovery requests were intended to get
2 Verizon to provide information about those differences
3 and to explain those differences in the case of having
4 provisioning intervals on its Web site for Verizon East
5 but not Verizon West. The question is why? Why is
6 there this distinction? We think that's a legitimate
7 question that gets to the heart of the kinds of issues
8 that we are encountering on a daily basis.

9 Finally, I wanted to address a comment that
10 Verizon made about our claim in our motion that we have
11 continual problems with Verizon. Verizon responds by
12 saying we've only filed one complaint, and that
13 involves eight customers, and I want to point out that
14 for a company like Integra that has three people in its
15 regulatory department, is nowhere near the size of
16 Verizon, an issue has to get to a place where we feel
17 like there is nowhere else to go on it, that we have no
18 other choice, before we commit the resources to file a
19 complaint.

20 There are other issues that I've been working
21 on in the two months or so since I've been with Integra
22 that we've been preparing to file complaints on against
23 Verizon, and we haven't, and we've been in discussions
24 with Verizon on how we can avoid doing that, and that's
25 my point.

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1 We have business-to-business contacts with
2 Verizon all the time, every day, about issues that we
3 have that impede our ability to compete in the State of
4 Washington. Some of those are resolved, quite frankly,
5 but that doesn't mean they are not problems that need
6 to be fixed, because the resolution may come after a
7 substantial amount of time and numerous problems and
8 customer indignation that they have to wait or do
9 additional things in order to get their service.

10 So the fact that we've only filed one
11 complaint against Verizon in Washington doesn't mean we
12 don't have problems we are talking with them about
13 every single day trying to resolve short of filing
14 complaints, and it doesn't mean that those issues are
15 any less important. That's really all I have to say on
16 kind of the main issues that Verizon raises in its
17 response. Thank you.

18 JUDGE WALLIS: Thank you. It's been called
19 to my attention that Mr. Ffitch, Public Counsel, is on
20 the bridge line, and I think he's able to communicate
21 with us now. Mr. Ffitch, are you there?

22 MR. FFITCH: Thank you, Your Honor. Can you
23 hear me? I apologize. I had attempted to appear. For
24 some reason, I was not being heard in the hearing room,
25 but I am now listening in.

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1 JUDGE WALLIS: Did you intend to participate
2 in the argument?

3 MR. FFITCH: Simply to state that for the
4 reasons set out in our filed pleading, we support the
5 Integra motion.

6 JUDGE WALLIS: Very well.

7 MS. SINGER NELSON: Your Honor, this is
8 Michel Singer Nelson. I'm also on the line for MCI,
9 but I don't plan to participate at this point.

10 JUDGE WALLIS: Is there anyone else on the
11 bridge line who wishes to participate? Let the record
12 show there is no response. Ms. Endejan, will you be
13 arguing on behalf of the merging parties?

14 MS. ENDEJAN: I will. Good morning,
15 Commissioners and Chair Sidran.

16 JUDGE WALLIS: Excuse me. I believe there is
17 a question.

18 CHAIRMAN SIDRAN: Before you proceed, I would
19 like to ask Mr. Nusbaum a question about how you
20 respond to, and I assume Ms. Endejan will be addressing
21 this, but in Verizon's brief, there is a not very fully
22 developed but notion that because the merger is between
23 the parent companies and not the operating companies
24 that somehow, that makes a difference; although, it's
25 not really very clearly developed in the brief, but I

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1 take the point in the brief to be that it makes a
2 difference that it's a merger of the parent level.

3 And then in the brief from Verizon, there is
4 this suggestion that the point you made in your brief
5 about the Commission's disposition of the Qwest/US West
6 merger where the issue of wholesale standards was
7 addressed is part of a settlement that Verizon's brief
8 states -- actually, the passage that's quoted supports
9 Verizon's position here and then goes on to basically
10 suggest that Verizon's wholesale performance
11 practices -- I'm quoting now from the brief on Page
12 3 -- that it asks that Integra, in effect, the
13 discovery request doesn't ask how any of Verizon's
14 wholesale performance practices at a local operating
15 company level might be impacted by the merger.

16 Would you respond to what I take Verizon's
17 point to be that because this is a merger at the parent
18 level, what's happening at the operating company level
19 somehow doesn't matter? I guess that's the implicit
20 point, or it doesn't matter as much, and I'm sure
21 Ms. Endejan will address this, and that the precedent
22 you cite from the Qwest/US West merger is not apropos
23 to this issue.

24 MR. NUSBAUM: I will, Chairman Sidran. Thank
25 you. I think the issue of this being a merger between

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1 the parent companies is an issue that's going to be
2 explored in this docket and its effect on competition
3 here locally with respect to Verizon Northwest, but I
4 think it's important -- and I would say that that's not
5 a reason to not allow us to engage in information
6 gathering about the local entity.

7 Our ability to tie that to the merger, the
8 effect of the merger, is up to us. If you took the
9 position that any discovery requests that didn't
10 specifically ask about a particular issue was not
11 relevant, then I think you would have a much more
12 limited discovery. I don't think I'm articulating
13 myself very well, and I apologize.

14 Here's how we look at this issue: We look at
15 it in a very straightforward way, and that is Verizon
16 has said that this merger will make it a stronger
17 competitor, a more vigorous competitor. That means as
18 part of that merger, a competitive LEC, MCI, that has
19 been very vocal on a national scale in terms of leading
20 the CLEC community along with AT&T in its fights, is
21 going to disappear. There is going to be one less
22 competitor for retail customers in Washington to chose
23 from that's not Verizon, and the CLEC community, as I
24 think the New York staff pointed out in their white
25 paper, is going to be missing a very vocal voice for

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1 its rights.

2 So we look at it in terms of the effect of
3 the merger on competition is going to be that a major
4 competitor is going to be gone and that Verizon is
5 going to have less incentive to perform well on a
6 wholesale basis after the merger and that those issues
7 should be considered by the Commission.

8 The fact that this is a merger between the
9 parent companies to me doesn't impact whether -- it's a
10 merger between the parent companies, but there are
11 consequences as a result of that, and that is that MCI
12 as a CLEC disappears; again, that Verizon, through its
13 concentrated market power, has less of an incentive to
14 provide well on a wholesale basis, and that that
15 directly affects the public interest even in a
16 postmerger world.

17 I think that gets to the effect of the merger
18 as well, and that is the question of the fact that our
19 data requests don't address that specifically doesn't
20 mean that they are not relevant in order to help us
21 build our case and inform the Commission about the
22 issues that are at stake here.

23 And with respect to the US West/Qwest merger
24 being inapplicable, I think that was the point there,
25 was that what I took Verizon's statement to mean was

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1 there, they did consider the merger's effect on
2 competition, and the parties essentially settled and
3 the Commission adopted wholesale service quality
4 standards that addressed those issues. That's not to
5 say that that's not going to happen here, and that's
6 not to say that our data requests that asked for
7 information that will allow us to build our case are
8 not relevant and should not be answered. Did that
9 answer your question?

10 CHAIRMAN SIDRAN: Yes, thank you.

11 JUDGE WALLIS: Ms. Endejan?

12 MS. ENDEJAN: Chair Sidran, I think you hit
13 the nail right on the head. If you look at the actual
14 data requests here, they don't have anything to do with
15 the impact on competition of the merger. Rather, they
16 deal with the individualized beef that Integra, one
17 CLEC, has with Verizon, and I want to put this in
18 context, first of all, and compare and contrast this
19 situation with what happened in the Qwest case.

20 First of all, back in 1999, I think that all
21 of us could agree that the competitor landscape in the
22 world was a lot different. The 271 proceedings had not
23 occurred, whereby the least US West here in this state
24 had to adopt certain performance quality standards that
25 applied overall to everybody. Back then, it's

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1 important to highlight that what was being acquired was
2 US West, which was the provider of the unbundled
3 network elements, etcetera, that the CLEC's were
4 concerned about.

5 That's not the situation here. Nothing is
6 going to happen to Verizon Northwest, Inc., in terms of
7 it will still be the wholesale provider. It will still
8 honor its interconnection agreement with Integra, which
9 I will address in a minute. Nothing is going to
10 change, and if it was going to change, the data
11 requests we are talking about here today certainly
12 didn't ask about that. Instead, what we have here is
13 an individualized complaint case shoehorned into a
14 general merger proceeding.

15 I would also like to highlight several
16 critical facts. Back in 1999 with the US West merger,
17 there were eight CLEC's that were intervenors. There
18 was a systemic problem associated with US West's
19 wholesale service quality back then. Here, in
20 contrast, you have one CLEC, and the Staff has not even
21 weighed in to say that, Gee, there is a wholesale
22 service quality problem with Verizon. There is only
23 Integra saying, We don't like what they did at the Boys
24 and Girls Club in Woodinville.

25 Well, that's fine. That will be addressed in

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1 the related complaint case. None of the data requests
2 that we are talking about here today have anything to
3 do with A, how Verizon might change things as a result
4 of the merger with respect to wholesale provisioning;
5 doesn't ask at all about the impact of MCI. It has
6 nothing to do with MCI here, and as we're stated
7 repeatedly throughout this, there are really only
8 40,000 MCI access lines that will be acquired in this
9 state. So the key difference between the Qwest/US West
10 merger and ours is the systemic versus the
11 individualized issue, and Integra really has to be
12 viewed as an outlier here.

13 I would also point out a couple of things
14 relating to the Commission's procedural rules. When a
15 party intervenes, a party basically says that, I'm here
16 to protect my interests and I don't intend to broaden
17 the issues. That's what Integra said. Now all of a
18 sudden, we have Integra in here broadening the issue of
19 whether or not Verizon properly provisioned the Boys
20 and Girls Club in Woodinville, and I would submit to
21 the Commission that it would be a waste of your time
22 and resources to engage in the resolution of an
23 individualized complaint within the context of the
24 broader merger proceeding.

25 Now, Integra said that, Gee, what you should

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1 do, Commissioners, is you should condition approval
2 upon the adoption of wholesale service quality
3 standards. The complexity of doing that, we would be
4 tied up until Mt. Saint Helens blew again, because as
5 the New York experience demonstrates, first of all,
6 when you are going to adopt, quote, wholesale service
7 quality standards, they must be generic and apply to
8 other providers who are not present in this case.

9 CHAIRMAN SIDRAN: Let me interrupt you for a
10 minute, because you raise the New York example. Isn't
11 there a distinction between getting to the issue of
12 whether we should have wholesale standards and what
13 those standards should be, which I agree could be very
14 complex and time-consuming? Isn't that a separate
15 issue from a discovery issue as to whether or not the
16 existence or absence of wholesale standards, or for
17 that matter, simply the performance or lack of
18 performance in this regard, would be impacted by the
19 merger?

20 MS. ENDEJAN: Well, first of all, the
21 Commission may not be aware that the Commission had
22 opened a proceeding and decided not to proceed with
23 respect to the adoption of wholesale service quality
24 standards several years ago, and that's cited in the
25 brief, and I think one of the reasons for that is as

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1 the industry has evolved, there are wholesale service
2 quality standards that are incorporated within the
3 walls of each parties' interconnection agreement, and
4 Integra knows this. They don't like dealing with the
5 interconnection agreement provisions.

6 CHAIRMAN SIDRAN: Let me try reframing the
7 question. In Integra's brief, they cite the staff
8 report from the New York Public Service Commission,
9 which you point out is simply a staff report, but
10 again, looking at it in the context of a discovery
11 request as opposed to getting to the merits of the
12 advisability or inadvisability of adopting standards,
13 just looking at the Staff and New York Commission's
14 white paper report and what they had to say, doesn't
15 that suggest at least relevancy that its an issue that
16 is fairly addressed in the context of looking at the
17 merger?

18 MS. ENDEJAN: Well, I would submit that the
19 New York staff report is focusing on whether there will
20 be ongoing compliance with respect to the standards
21 that they've adopted, not whether they should be
22 adopted and what they are.

23 There are national standards that Integra is
24 fully aware of by virtue of the fact that they
25 reference the Company's Web site. It's called the WISE

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1 system, and it basically lays out for all CLEC's and
2 has operated successfully for CLECs across the country
3 for the past several years. Integra just doesn't like
4 the system. It exists.

5 But to go to your direct point, you are
6 asking, is the issue of wholesale service quality
7 standards relevant in this proceeding --

8 CHAIRMAN SIDRAN: Forget standards. I'm just
9 asking you whether the issue of the quality of
10 wholesale service to CLEC's is relevant?

11 MS. ENDEJAN: In the overall context of this
12 proceeding, I would say no, simply because Verizon
13 Northwest Inc., there is nothing that is going to
14 change. There is going to be no impact on how they
15 provision today. That is a separate issue. It may be
16 relevant to another proceeding, etcetera, but I would
17 also like to point out, and I would like to go through
18 these data requests, they don't really go to the issue
19 of wholesale service quality and how Verizon is
20 performing.

21 So even if you accept this attenuated theory
22 of relevancy that Integra is propounding here, when you
23 look at the actual questions themselves, they don't go
24 to that issue. It's kind of like a double layer of
25 irrelevancy. For instance --

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1 COMMISSIONER OSHIE: Before you go there,
2 Ms. Endejan, I want to go back to the point that you
3 made earlier in just this response to Commissioner
4 Sidran, which is that nothing is going to change, and
5 as a result of that statement, any issues that might
6 deal with change in the competitive landscape would be
7 irrelevant.

8 Isn't that a subject that is raised in the
9 testimony and, I believe, in the petition, the Verizon
10 and MCI, in this merger matter that nothing really is
11 going to change in the competitive landscape? Isn't
12 really the issue in play in this, and that can't
13 Verizon or can't Integra or any other party argue that
14 they might see a change in the competitive environment
15 as a result of the merger, and can't they bring that to
16 us? They might argue that all UNE's should be free as
17 a result of this, but aren't they free to do that, and
18 wouldn't they have the burden to carry that in any kind
19 of proceeding and we would have to make a decision?

20 I guess I see that issue as being relevant to
21 this proceeding, so I was taken aback a bit when you
22 stated that, Well, no, because nothing is going to
23 change, it's not relevant if Integra wants to talk
24 about how it might change.

25 MS. ENDEJAN: Point well taken, Commissioner

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1 Oshie, but I would like to emphasize if you look at the
2 actual questions that we are here about today, they
3 don't go to the issue of whether the competitive
4 landscape is going to change, and they also ask nothing
5 about anything Verizon has said in its testimony or in
6 its petition. They ask for things such as, Admit that
7 the WUTC has not promulgated any rules that include or
8 set forth any wholesale service quality standards.

9 Now, that's not a fact. That is something
10 that if Integra wanted to prepare its case, it could
11 look and very easily research and find out that there
12 are no WUTC promulgated rules. This does not ask us to
13 provide factual information that's only in our
14 possession in order to enable an opposing party to
15 present their case.

16 So I guess I take issue with Mr. Nusbaum's
17 claim that we have to have all these answers in order
18 to write testimony because that is simply not the case.

19 CHAIRMAN SIDRAN: I was just going to say, I
20 think for our purposes today, the focus should not be
21 on the individual requests because they may or may not
22 be very artfully framed in terms of their individual
23 requests. I don't personally think we need to reach
24 that this morning.

25 What I'm interested in hearing about, which I

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1 think is really the big issue, is help me understand
2 why it's not relevant, why it's not a legitimate area
3 for inquiry? Maybe these data requests individually,
4 which I'm sure Judge Wallis will do, need to be
5 reframed, or maybe some will not be allowed, but the
6 big picture issue that I would like you to focus on,
7 and I think Commissioner Oshie did a nice job of
8 framing it, is if this is not relevant because nothing
9 is going to change, if that's the premise, then what is
10 there for the Commission to examine, because Verizon's
11 position is nothing is changed. Therefore, this is no
12 impact of this merger, and if we took that literally,
13 we could all go home.

14 MS. ENDEJAN: I have to admit, Chair Sidran,
15 that that is the Company's position; that nothing will
16 change. However, I also acknowledge that parties are
17 free to challenge the Company's position.

18 I guess my point here is Integra's not doing
19 that in its data requests, and I won't focus on the
20 individualized ones, but they don't ask questions about
21 how Verizon might be changing as a result of the
22 merger, its service provisioning intervals. They don't
23 go there.

24 They simply go to their individualized
25 problems with Verizon on a number of occasions, and we

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1 submit that this merger proceeding, it's really an
2 abuse of the merger proceeding to deal with some
3 individualized service problems. There are other
4 forums. It's not like Integra is not going to have
5 relief. It has every opportunity in the related
6 complaint case to bring these forward.

7 CHAIRMAN SIDRAN: Wouldn't you acknowledge
8 that you can have the same issue arise in two separate
9 proceeding, subject, perhaps, to different kinds of
10 standards? The fact that Integra has this pending
11 complaint where many of these issues may well be
12 addressed, how does that preclude the relevancy of an
13 inquiry if the context of the merger that simply speaks
14 to this question of whether wholesale service will be
15 affected by the merger? Now, that's got to be to a
16 relevant question; don't you think?

17 MS. ENDEJAN: Yes, that is a relevant
18 question, but again, Integra's discovery don't go
19 there. They don't address that issue.

20 CHAIRMAN SIDRAN: But you can see it's a
21 relevant question. If they reframe under Judge
22 Wallis's individualized attention their data requests,
23 if you can concede that wholesale service is a relevant
24 area of inquiry in terms of the merger, then can't we
25 find some way to, under Judge Wallis's guidance, to go

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1 through those individual requests and decide which ones
2 speak to that issue, which don't, which might need to
3 be refined in some way, which might be too burdensome,
4 which are not burdensome at all? Wouldn't that meet
5 the need here?

6 MS. ENDEJAN: The Company, I think, would --
7 and we tried to work on this one. If the Commission
8 wants some information with respect to whether Verizon
9 is complying with its own wholesale performance
10 standards, etcetera, and if the questions were framed
11 properly that way and if they were capable of being
12 answered, because a lot of the questions here aren't,
13 then the Company would have to respond.

14 CHAIRMAN SIDRAN: Thank you.

15 MS. ENDEJAN: So I guess I would return
16 though to the issue that is raised by Integra, which
17 is, is the merger proceeding -- the allegations in
18 their filings are that this should be a vehicle for
19 adopting wholesale service quality standards, and we
20 would submit that that's just unworkable, and this is
21 not the forum or the place or the time to do that,
22 which is a separate question from the one you just
23 raised, which is will the merger impact existing
24 wholesale service quality performance.

25 JUDGE WALLIS: Ms. Endejan, isn't it

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1 premature to address that question right now? We don't
2 have parties actually offering evidence to which you
3 can object. We don't have parties making arguments,
4 all of the parties in the case making arguments on this
5 point that you could respond to.

6 All we have now is a batch of discovery
7 requests that may or may not ultimately get into
8 testimony that will be something that you can address
9 and all parties could argue.

10 MS. ENDEJAN: Your Honor, the only reason I
11 raised it is in Integra's motion, they assert that the
12 adoption of service quality standards in this
13 proceeding as a condition of approval is one of the
14 bases for why their data requests are relevant. If
15 that's the case and if the Commission agrees or finds
16 that it would not be proper in this proceeding to
17 engage in that sort of examination, then I think that
18 one of the underpinnings of their relevancy argument
19 goes away.

20 If you look at their requests, they are
21 pretty much asking for individualized information that
22 doesn't go to the general, broad public interest issue
23 that Chair Sidran raises, and so I would submit that
24 perhaps if Integra did ask the proper questions that
25 tie to that issue, then the Company would have to

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1 answer, but as it stands today and on the record and
2 with these data requests, they don't go to that central
3 issue.

4 We would also ask that if to the extent
5 possible, you bear in mind that there is a related
6 complaint case, and we would submit that individualized
7 grievances with customer service at the Boys and Girls
8 Club, issues with that should be confined to the
9 complaint case. That's an entirely separate issue from
10 whether or not there is a systemic problem that Verizon
11 has with providing wholesale service to other CLEC's.

12 No other voices are here today except
13 Integra's on that point. We would submit that that's
14 pretty good proof that it really shouldn't be an issue
15 here, and maybe you will have to make that conclusion
16 based upon the other testimony that will be submitted
17 in this case.

18 But I really think that it's a waste of
19 valuable time and resources to focus on an issue that
20 is really only one party's individual beef when there
21 are so many other considerations that this Commission
22 is going to have to weigh when it looks at the ultimate
23 decision of whether or not to approve or disapprove the
24 merger.

25 CHAIRMAN SIDRAN: I just want to note that

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1 apparently Public Counsel is in support of Integra's
2 motion, and I assume Mr. ffitich can speak for himself
3 on this, but I assume that because they agree, at a
4 minimum, there is a relevancy here of the wholesale
5 services issue in the context of the merger, but if you
6 don't mind my interrupting for just a moment, can you
7 clarify, Mr. Thompson, does Staff have no position on
8 this issue?

9 MR. THOMPSON: Your Honor, we hadn't joined
10 in this motion given the time frame. Our discovery
11 efforts and investigation hadn't focused yet on
12 Verizon's wholesale performance. We do intend to ask
13 for updates of information, for example, in the WISE
14 Web site that Ms. Endejan mentioned and to ask a couple
15 of questions about Verizon's wholesale performance.

16 We do think it's relevant, and we certainly
17 disagree with Verizon's assertion that it's
18 categorically irrelevant. The big picture being
19 Verizon is acquiring one of its larger competitors. So
20 Verizon's own testimony that's been filed already deals
21 exclusively with competition issues, so competition is
22 very much an issue in the case.

23 And you look at the reduction of a competitor
24 and then you get to the question, well, are there
25 things that mitigate that potential harm or possibly

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1 exacerbate that harm, and one of those things is how is
2 Verizon doing in terms of providing piece parts of its
3 network to its local exchange competitors? Should we
4 be concerned about the state of competition after the
5 merger because that performance isn't good, or should
6 we take comfort in the fact that it is good and that
7 there won't be barriers to entry by the remaining
8 competitors after the merger?

9 Those are the kinds of issues we think are
10 relevant and that we will turn our attention to.

11 CHAIRMAN SIDRAN: I'm sorry to interrupt.
12 Please go ahead.

13 MS. ENDEJAN: I want to be very clear on why
14 the Company views this whole wholesale service quality
15 issue as a red herring in the sense that if you look at
16 the transaction, the ownership, control, whatever, of
17 Verizon Northwest Inc., it's not going to change.
18 That's what I meant when I said there will be no
19 change. In other words, this transaction that occurs
20 at the parent company level will have no, the
21 transaction itself, impact on Verizon Northwest Inc.

22 So that's why if you are looking at merger
23 impacts, which we believe, I guess, is the central
24 issue here, if there is no change, and I realize you
25 might not agree with that, but the whole issue of

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1 wholesale service quality performance of the Company is
2 separate from an analysis of potential competitive
3 impacts as a result of the merger. And that's why we
4 would resist going down this bunny trail of making the
5 Company's wholesale service quality a major issue here.

6 I also just want to give you some factual
7 information, and we are happy to supplement this, as
8 Mr. Thompson said. There is and has been in place this
9 national wholesale service quality system that is
10 referenced and incorporated by reference as a result of
11 the parties' interconnection agreements, and you can go
12 into the system. You can find the service quality
13 standards. You can find the metrix that measure the
14 Company's perform, etcetera.

15 Integra has been given a password to have
16 access to this system. They've been invited to
17 consumer-user forums, intercarrier forums. Frankly,
18 they have not availed themselves of the opportunity to
19 be trained on the system and to go to these forums,
20 except for in the very recent several months, I'm told.

21 So a lot of the problem with Integra and
22 Verizon is the fact that they just haven't bothered to
23 learn Verizon's system. They are comfortable with the
24 Qwest system. They want Verizon to be like Qwest, and
25 guess what, they are different, and you can't expect

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1 two national companies to alter their systems so that
2 they are exactly the same.

3 COMMISSIONER OSHIE: I think I'm hearing an
4 argument in the Boys and Girls Club case here, but how
5 does it relate to this matter?

6 MS. ENDEJAN: It doesn't relate to the merger
7 matter. That's what I keep saying. It doesn't go to
8 the central issue of impact as a result of Verizon
9 Communications, Inc., acquiring MCI Communications,
10 Inc. That's the question here.

11 So I think that, and I will cease my argument
12 on this point because I think I've emphasized it
13 enough, that the issues raised by Integra don't go to
14 the question you all have to answer, so accordingly,
15 and particularly because many of them are virtually
16 impossible to answer, we shouldn't have to answer them.
17 So with that, I will conclude.

18 JUDGE WALLIS: Mr. Butler?

19 MR. BUTLER: I would like to make a few
20 comments, and really to reemphasize the point that
21 Ms. Endejan is making. It's important to focus on what
22 exactly is before the Commission here, and the issue is
23 whether this particular transaction will harm the
24 public interest.

25 The transaction, as she said, does not

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1 involve the change in ownership or control of Verizon
2 Northwest. It involves an acquisition by Verizon
3 Northwest parent of MCI; in other words, a change of
4 ownership and control of MCI, unlike the US West/Qwest
5 merger case where the issue was a change in the
6 ownership of control of US West, a major incumbent
7 local exchange company with carrier-of-last-resort
8 obligations. No such issue was involved here.

9 What you have is a change in the ownership
10 and control of MCI, a small CLEC that serves less than
11 two percent of the access lines in the state, is
12 supposed to even be exempt from the chapter of RCW
13 dealing with property transfers. It's also a
14 competitively-classified company for which these
15 provisions have been waived. There is nothing in
16 Integra's questions that go to the issue of about what
17 will be the effect on MCI's service quality.

18 Looking parallel to the US West case, the
19 question was concern about the impact of the
20 transaction on US West service quality, and there was
21 concern that Qwest, which was a long-haul carrier and a
22 CLEC, didn't know what it was doing in terms of running
23 an incumbent local exchange company. That isn't
24 involved here.

25 We have to keep the eye on the ball, which is

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1 the impact of this specific transaction, and the
2 concerns about the impact on competition generally are
3 really relevant to the extent that they affect the
4 competition that MCI was providing. There is nothing
5 in this transaction that involves a change in the
6 ownership, control, or operation of Verizon Northwest,
7 and that's why we believe that the motion to compel
8 should be denied, why we don't think the questions that
9 Integra is asking are relevant for this proceeding.

10 They are maybe properly the subject of a
11 complaint proceeding, which is why you have that
12 complaint process. You also have that expedited
13 process that deals with enforcement of the
14 interconnection agreements. If there is a problem with
15 compliance of the service quality requirements and the
16 interconnection agreement, you have an expedited
17 proceeding to deal with that, but it doesn't belong
18 here.

19 JUDGE WALLIS: Let's ask Mr. ffitch at this
20 point if he has any comments. Mr. ffitch?

21 MR. FFITCH: Thank you, Your Honor. I don't
22 really think I have anything to add. I believe that a
23 number of points that I wanted to raise were actually,
24 I think, framed very well by questions from the Bench
25 regarding the relevance of wholesale service quality in

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1 this case, and so I don't think I'm going to raise
2 those again. I think Verizon has conceded that
3 wholesale service quality is an issue, and I think
4 these questions are certainly relevant, so I won't add
5 anything beyond that, Your Honor.

6 JUDGE WALLIS: Mr. Nusbaum?

7 MR. NUSBAUM: I would add that I believe I
8 saw some data requests from Public Counsel on that very
9 issue. It's not just Integra that has asked questions
10 about it. Public Counsel has admittedly. The other two
11 CLEC's in this case, to my knowledge, have not, but
12 that doesn't mean that the issues that are raised
13 aren't important to the public interest to ultimately
14 retail consumers.

15 We've heard a lot about how the questions get
16 at the individualized beefs that Integra has with
17 Verizon. Some of them do, but most of them don't.
18 Most of them are more general questions about issues
19 involving ordering, provisioning, escalations, the
20 kinds of things Integra deals with on a daily basis.
21 If we have trouble with that, that affects our ability
22 to compete which affects the public interest which
23 affects the public. I wanted to make that point.

24 I wanted to make a quick point about these
25 customer-user forums, which a colleague of mine has

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1 recently started attending. We didn't know about them
2 until fairly recently, I think, in the late fall. And
3 we weren't afforded an opportunity to participate in
4 them. We are participating in them now. They do
5 exist. She's flown back to New York and has
6 participated in them.

7 My understanding is they are not a forum
8 where you can -- it's kind of a generalized, broad
9 forum where everybody can discuss the issues that they
10 have on kind of a global scale. That's my
11 understanding, and it's not the kind of discussion you
12 can have on a company-to-company basis.

13 I guess those are the main points I wanted to
14 make, and I'll stop there.

15 JUDGE WALLIS: Very well. Are there any
16 further questions of counsel?

17 COMMISSIONER JONES: I have a question of
18 Mr. Nusbaum. Can you give me a little bit of context
19 on this, on the number of complaints. You mentioned on
20 a daily operating basis, you have a lot of issues,
21 obviously, that escalates, and I notice in your
22 Complaint that some of them go back to 2002, this Boys
23 and Girls Complaint, and the counsel for the other
24 party has said there are only, what, one complaint has
25 been filed by Integra for eight firms in question.

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1 Can you give us a little sense of the number
2 of customers you have in the state and how large a
3 percentage or what kind of impact this has in terms of
4 a total context of your CLEC business in the State of
5 Washington?

6 MR. NUSBAUM: I would be happy to do that. I
7 would be happy to follow-up with that. Unfortunately,
8 I don't know the answers to those questions off the top
9 of my head. I'm relatively new to the company, about
10 two months now. I will say that some of the Boys and
11 Girls Club issues do go back to 2002 and have been
12 around since then.

13 To get a more general sense of the kinds of
14 things that happen, I mentioned some of the stages in
15 obtaining a customer -- ordering services from Verizon;
16 having Verizon provision them; if there is a problem,
17 escalating it to the appropriate people, trying to get
18 it resolved, and then maintenance and repair is kind of
19 the last issue that we have, and we have issues with
20 Verizon in all of those kind of general categories,
21 frequently in Washington.

22 I would be happy to give you more specifics
23 if you would like. The only information I have about
24 the size of Integra in Washington is we believe we are
25 the largest UNE purchaser in the Verizon territory in

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1 Washington. That was one of our questions to Verizon
2 that did not get answered.

3 COMMISSIONER JONES: So you believe you are
4 the largest UNE purchaser of Verizon in the State of
5 Washington?

6 MR. NUSBAUM: We believe so. There are other
7 carriers who focus on resale, UNE-P or equivalent,
8 things like that, or have different operations.
9 Integra's operations in Washington focus on small and
10 medium-size businesses, and we are a facilities-based
11 carrier. We have our own switches, so we focus on
12 UNE's from Verizon.

13 COMMISSIONER JONES: Just one question for
14 Mr. Butler. I understand your argument about the
15 parent companies. This is a composed acquisition
16 between Verizon -- doesn't have anything to do with
17 Verizon Northwest, but you also mention in that
18 statement that MCI, a legitimate area of inquiry would
19 be the effect of the merger on wholesale competition,
20 specifically on MCI, and you are representing MCI
21 today; is that correct?

22 MR. BUTLER: Yes, that's correct. There are
23 no questions here about MCI's service quality.

24 COMMISSIONER JONES: Can you answer this
25 question for me, and my information is not up-to-date,

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1 but aren't MCI and AT&T the largest CLEC's in the State
2 of Washington by number of access lines?

3 MR. BUTLER: It certainly is not. MCI has
4 less than two percent of the access lines in this
5 state, considerably less than two percent of the access
6 lines in this state, and the smallest portion of those
7 are in the Verizon territory. Most of those are in the
8 Qwest territory, but way below two percent. So that
9 makes MCI not the largest, but one of the smallest
10 CLEC's in the state.

11 COMMISSIONER JONES: Well, if MCI is one of
12 the smallest CLEC's in the state, who are some of the
13 largest CLEC's in the state?

14 MR. BUTLER: I believe Comcast has more than
15 two percent of the access lines, and it is considered a
16 Class A company and has to comply with certain
17 reporting requirements of the Commission. MCI does
18 not. I assume AT&T is, maybe XO. I don't know the
19 specific numbers of those CLEC's, but I do know the
20 numbers for MCI, and MCI just isn't that big.

21 COMMISSIONER JONES: I understand your point.
22 My point is that you do concede the point that it is a
23 proper area of inquiry for this Commission to look at
24 wholesale competition postmerger, the impact of this
25 transaction on wholesale competition.

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1 MR. BUTLER: Look at whether the acquisition
2 of MCI --

3 COMMISSIONER JONES: That's my question, the
4 acquisition of MCI.

5 MR. BUTLER: -- will do harm in the public
6 interest here, but these questions don't go to that.
7 In no way do they approach touching that issue.

8 COMMISSIONER JONES: Okay. I'll leave it at
9 that.

10 JUDGE WALLIS: Is there anything further?

11 CHAIRMAN SIDRAN: I would like to follow-up
12 with Mr. Butler. I'm puzzled by that notion, again, in
13 a discovery context, where there is a fairly low
14 standard of relevancy or likely to lead to the
15 discovery of relevant evidence, to suggest that yes,
16 it's a legitimate area that may have some impact on
17 public interest to look at wholesale service and
18 competition, but that the acquisition of MCI by Verizon
19 will have no impact on that issue at all and that it's
20 irrelevant to look at Verizon, look at the Verizon side
21 of that issue to look at what they are doing now and
22 what they might be doing in the future, which can sort
23 of look at the future impact of the merger.

24 Isn't it relevant to look at what is now
25 happening on the Verizon side of that issue in order to

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1 somehow attempt to predict the future impact, if any,
2 that would come from the acquisition of MCI?

3 MR. BUTLER: Again, this transaction involves
4 the change and the ownership and control of MCI by
5 Verizon Northwest, a local exchange company and the
6 wholesale provider you are talking about, by its
7 parent, not by Verizon Northwest. There is nothing
8 about this transaction that involves a change for
9 Verizon Northwest.

10 There is a change for MCI, and that should be
11 the inquiry and the impact on, quote, the wholesale
12 market or wholesale service quality should be focused
13 on the effect of this transaction on what portion of
14 that MCI provides.

15 CHAIRMAN SIDRAN: Shouldn't the focus be on
16 the market and the impact on the market? The part I
17 just can't track in terms of your argument is that when
18 Verizon propounds the value to Verizon of the
19 acquisition of MCI is to make it a stronger competitor
20 in the market place, to suggest that we should not
21 determine that it is relevant or likely to lead to the
22 discovery of relevant evidence on the issue of the
23 impact on the marketplace of wholesale services in
24 competition to look at where Verizon is today in that
25 context and where it might be tomorrow if the merger

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1 goes through, I just don't find that very persuasive.

2 MR. BUTLER: The issue is the change that is
3 brought about by the fact that MCI's ownership and
4 control is changing, and it is being bought by Verizon
5 Northwest's parent, not Verizon Northwest. There is no
6 change for Verizon Northwest.

7 These questions don't go to the issue that
8 you are talking about. These questions go to some
9 service quality complaints that one CLEC has with
10 Verizon Northwest that may be properly the subject of a
11 complaint proceeding and apparently are the subject of
12 a complaint proceeding, but they are not relevant in
13 this case because this transaction doesn't affect
14 Verizon Northwest's service quality, and these
15 questions are geared towards finding out what the
16 effect this transaction has on the overall market,
17 overall wholesale market, or the impact of MCI and the
18 part that it plays in here.

19 That's my point, that it doesn't really touch
20 the issues that are the subject of this proceeding.
21 Those questions don't touch them.

22 CHAIRMAN SIDRAN: Let me conclude by asking
23 the same question I asked Ms. Endejan. Leaving aside
24 these questions, the objection of relevancy of an
25 inquiry into the impact on the market with respect to

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1 wholesale service of the acquisition of MCI by Verizon,
2 would you agree that that's a relevant area of inquiry,
3 leaving aside these particular questions?

4 MR. BUTLER: If someone were to ask about
5 what the effect on the wholesale market would be of the
6 change in the ownership of MCI, I would say that that
7 would be relevant.

8 CHAIRMAN SIDRAN: Would you agree that in
9 order to --

10 MR. BUTLER: Don't concede jurisdiction.

11 CHAIRMAN SIDRAN: I understand. Thank you.

12 JUDGE WALLIS: Thank you all very much. This
13 argument is concluded.

14 (Oral argument adjourned at 10:11 a.m.)

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