

BEFORE THE  
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

|   |   |                          |
|---|---|--------------------------|
| In the Matter of the Review of:         | ) |                          |
| Unbundled Loop and Switching Rates;     | ) | Docket No. UT-023003     |
| the Deaveraged Zone Rate Structure; and | ) |                          |
| Unbundled Network Elements,             | ) | MCI OPPOSITION TO        |
| Transport and Termination               | ) | VERIZON MOTION TO COMPEL |
| (Recurring Costs)                       | ) |                          |
| _____                                   | ) |                          |

WorldCom, Inc. (n/k/a/ "MCI"), on behalf of its regulated subsidiaries in Washington, provides the following opposition to the Second Motion of Verizon Northwest, Inc. ("Verizon") to Compel Discovery ("Motion").

MCI joins in AT&T Communications of the Pacific Northwest, Inc.'s ("AT&T's") Opposition to Verizon's Motion also filed today with the Commission to the extent it addresses questions posed to AT&T and MCI jointly. Basically, the only discovery subject to Verizon's Motion that is directed solely to MCI is Verizon's Fourth Set of Data Requests to MCI. This response addresses Verizon's Motion with regard to the Fourth Set.

**DISCUSSION**

Verizon's Fourth Set of Data Requests to MCI is identical to Verizon's Fourth Set of Data Requests to AT&T. Thus, many of the responses herein are identical to those presented in AT&T's Opposition. As explained in AT&T's Opposition, contrary to Verizon's implication in its Motion, only six of Verizon's 43 requests ask for the same type of outside plant construction data that Qwest requested and that Judge Mace found relevant in response to Verizon's first motion to compel. The remaining 37 requests ask for very different data, including MCI vendor pricing, business plans, and customer counts, none of which has the Commission found relevant in this proceeding.

In addition, as explained by AT&T, Verizon erroneously generally contends that the information it requests has been compelled in other states. Moreover, with regard to vendor pricing, business plans, and customer counts, not only is MCI contractually obligated not to disclose such information, but a discrepancy in vendor prices reflects only relative bargaining power of the purchasers, not any greater efficiency or deployment of superior technology. Verizon cannot credibly claim that such information is necessary for its evaluation of the HAI Model, particularly when the equipment prices used in the model are derived from publicly available sources and thus are conservatively high.

Finally, MCI joins in AT&T's argument that production of "average" investments, "best available estimates" or, alternatively, all documents on MCI's local operations in Washington, is vastly overbroad and unduly burdensome and expensive, particularly in light of the lack of any evidentiary value.

In addition to the above general response to Verizon's arguments, MCI individually addresses the 43 data requests in Verizon's fourth set of data requests below:

Request No. 4-1. Verizon requests information on the cost of capital that MCI uses to evaluate "local exchange projects." Verizon does not define "local exchange projects." Based on MCI's counsel's research, no responsive information exists.

Request Nos. 4-2 & 4-3. Verizon requests the "route-to-air ratio" of MCI's Washington and national interoffice transport network. MCI's interstate, interLATA, and interexchange long distance transport network is not even remotely related to the forward-looking costs of Verizon's local transport UNE. Nor has Verizon made any attempt to explain why a calculation of the "route-to-air ratio" of MCI's local transport network would be related to that issue.

Request Nos. 4-4, 4-15 through 18, 4-20 through 4-23 & 4-25 through 4-27, and 4-39.

Verizon requests data on virtually every aspect of MCI's switching costs in Washington, as well as MCI's investment per service control point, DS-1 channel bank, signal transfer point, OC-48 add drop multiplexer, OC-48 optical generator, and optical distribution panel in Washington. As explained above, the vast majority of the requested information consists of prices that MCI pays to its switch and equipment vendors, and such information is irrelevant when individualized vendor pricing reflects relative market power of the purchasing party, not that party's efficiency or deployment of superior technology. That information is all the more useless to Verizon in light of the fact that the HAI Model uses switching costs that Verizon (as well as other ILECs) provided to the FCC.

Moreover, as stated in response to these Data Requests, MCI has contractual arrangements with its switch and other equipment vendors not to disclose the prices MCI pays, and production of the requested information would violate those agreements. Verizon contends that MCI should obtain permission from its vendors to disclose this information, just as Verizon has done. Verizon, however, has affirmatively placed the prices it pays its vendors at issue in this proceeding, while MCI has not. Particularly given the lack of any value the information would have in this proceeding, MCI should not be compelled to seek permission from its vendors to disclose proprietary pricing when MCI has not placed that pricing at issue.

Request Nos. 4-5, 4-6 & 4-24. Verizon requests the average per square foot cost that MCI incurs for building construction and the average price that MCI has paid for land since passage of the Act. MCI's research has uncovered responsive information to these requests and will produce it under separate confidential cover.

Request Nos. 4-7 through 4-10, 4-28 & 4-29. Verizon requests MCI's manhole, pole, conduit, and fiber placement investment in Washington since 1996. This type of information has been previously produced in this docket by MCI in response to Qwest's motion to compel. Before seeking to compel MCI to respond to these data requests, Verizon should be required to review all the information previously produced by MCI to ensure that it has not previously been provided to the parties.

Request Nos. 4-11, 4-12 & 4-40 through 4-42. Verizon requests copies of MCI engineering guidelines for its local and long distance networks. Long distance network costs are not at issue in this proceeding, and MCI has already responded to Verizon that MCI engineers its local network to meet or exceed Bellcore standards. In addition, like the information responsive to the above requests, MCI provided all parties copies of its Outside Plant Manual in response to Qwest's motion to compel in this matter. No other responsive information exists.

Request No. 4-13. Verizon requests the number of local customers by class that MCI has served in Verizon's service territory every year since 1996. This data is wholly unrelated to the issues in this proceeding, and Verizon does not even attempt to demonstrate otherwise. MCI, moreover, does not track such information in the form Verizon has requested, and attempting to compile it would require an extensive and expensive search of MCI customer records. Such efforts are unwarranted, particularly here, when the information has no value in this proceeding.

Request No. 4-14. Verizon requests any analysis MCI has undertaken since 1996 to determine whether to enter the local market in Verizon's service territory in Washington. Such

data is extremely sensitive and proprietary business information and bears no relationship to the issues in this proceeding. Verizon thus appears to be more interested in assessing the market entry strategy of a competitor than in obtaining data that would be useful in this proceeding.

Request Nos. 4-19. Verizon requests data on the fill factors MCI uses in doing its network planning in Washington. MCI's counsel's research has uncovered no responsive information.

Request No. 4-30. Verizon asks for the same information in this data request that it has requested in many of its other data requests. For the reasons that MCI has explained in response to Verizon's other data requests, the Commission should refuse to compel MCI to provide any further response to this request.

Request Nos. 4-31 through 4-34. Verizon requests MCI's plans for future deployment of new switch and loop technology and projections for use of UNE loops. These requests are wholly unrelated to the forward-looking costs that Verizon incurs to provide UNEs in Washington and are designed only to obtain the highly confidential business plans of a competitor.

Request No. 4-35. Verizon requests that MCI define "DS-3 Entrance Facility Without Equipment," "Dedicated Transport," and "SS7 Links." These UNEs have been defined by the FCC and/or parties in their interconnection agreements, and this request is improper by seeking to require MCI to provide those legal definitions. MCI nevertheless responded that it has not developed any definition of these elements for use by its employees or consultants. Verizon, however, persists and claims that it this information "is essential to Verizon NW's understanding and analysis of AT&T/MCI's proposed cost model." Motion at 13, n.31. These

requests make no reference to that model or to any testimony AT&T or MCI have filed in this case. Information about how the HAI Model estimates costs for these elements is an appropriate area for discovery, but Verizon has not requested any such information. The Commission should refuse to compel production of the information that Verizon has requested.

Request Nos. 4-36 & 4-37. Verizon requests the average length of MCI's DS1 and DS3 "loops" on a wire-center basis. Such information is entirely irrelevant to the issue of Verizon's loop lengths or any other issue in this proceeding. MCI, moreover, does not maintain such information, which would be virtually impossible to produce. MCI's network consists of fiber optic rings with redundant routing, rather than the "hub-and-spoke" configurations in Verizon's network. A single "loop" on MCI's network, therefore, may have multiple lengths, depending on how the signal is routed over the fiber rings. None of this information is of any value to Verizon or the Commission in this proceeding.

Request No. 4-38. Verizon requests all business cases or other internal studies in which MCI has utilized an Expense to Investment methodology. Again, Verizon has not demonstrated any relationship between such studies and the HAI model or testimony that MCI has sponsored in this proceeding. This request thus is simply another example of Verizon's improper attempt to obtain the highly proprietary internal business case evaluations of a competitor.

Request No. 4-43. Verizon requests detailed maps of any and all distribution areas of MCI's local network in Washington. Such information bears no relationship to Verizon's forward-looking costs to provide UNEs and represents only Verizon's improper attempt to discover the size and precise location of a competitor's network. MCI, moreover, scrupulously protects this information as part of its heightened network security following the events of

September 11, 2001 – as, presumably, does Verizon – making Verizon’s request all the more inappropriate and unwarranted.

**CONCLUSION**

The Commission, however, should refuse to compel MCI to provide additional responses to the Verizon’s Fourth Set of Data Requests. Even if the Commission were to grant Verizon’s Motion, Verizon should be required to ensure that the information sought has not been previously produced by MCI in discovery in this matter.

DATED this 5th day of November, 2003.

Respectfully submitted,

**MCI**

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