

OPEN MEETING ITEM



0000035285

COMMISSIONERS  
JEFF HATCH-MILLER - Chairman  
WILLIAM A. MUNDELL  
MARC SPITZER  
MIKE GLEASON  
KRISTIN K. MAYES

ORIGINAL



ARIZONA CORPORATION COMMISSION

DATE: November 22, 2005  
DOCKET NO: T-01846B-05-0279 T-03258A-05-0279  
T-03475A-05-0279 T-03289A-05-0279  
T-03198A-05-0279 T-03574A-05-0279  
TO ALL PARTIES: T-02431A-05-0279 T-03197A-05-0279  
T-02533A-05-0279 T-03394A-05-0279  
T-03291A-05-0279

Enclosed please find the recommendation of Assistant Chief Administrative Law Judge Dwight D. Nodes. The recommendation has been filed in the form of an Opinion and Order on:

VERIZON COMMUNICATIONS, INC./MCI, INC.  
(NOTICE OF INTENT)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00 p.m.** on or before:

DECEMBER 1, 2005

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Open Meeting to be held on:

DECEMBER 6 AND 7, 2005

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931

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BRIAN C. McNEIL  
EXECUTIVE DIRECTOR

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 JEFF HATCH-MILLER, Chairman  
4 WILLIAM A. MUNDELL  
5 MARC SPITZER  
6 MIKE GLEASON  
7 KRISTIN K. MAYES

8 IN THE MATTER OF THE JOINT NOTICE OF  
9 INTENT BY VERIZON COMMUNICATIONS,  
10 INC. AND MCI INC., ON BEHALF OF ITS  
11 REGULATED SUBSIDIARIES.

DOCKET NO. T-01846B-05-0279  
T-03258A-05-0279  
T-03475A-05-0279  
T-03289A-05-0279  
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T-02533A-05-0279  
T-03394A-05-0279  
T-03291A-05-0279

12 DECISION NO. \_\_\_\_\_

13 OPINION AND ORDER

14  
15 DATE OF HEARING: September 14, 2005  
16 PLACE OF HEARING: Phoenix, Arizona  
17 ADMINISTRATIVE LAW JUDGE: Dwight D. Nodes  
18 IN ATTENDANCE: Marc Spitzer, Commissioner  
19 Kristin K. Mayes, Commissioner  
20 APPEARANCES: Mr. Thomas H. Campbell, LEWIS AND ROCA, L.L.P.;  
21 and Mr. Thomas F. Dixon, Senior Attorney, on behalf of  
22 MCI, Inc.;  
23 Ms. Deborah R. Scott, SNELL & WILMER, L.L.P.; and  
24 Ms. Mary L. Coyne, Vice President and General  
25 Counsel, on behalf of Verizon Communications, Inc.;  
26 and  
27 Ms. Maureen Scott, Staff Attorney, Legal Division, on  
28 behalf of the Utilities Division of the Arizona  
Corporation Commission.

29 **BY THE COMMISSION:**

30 On April 13, 2005, Verizon Communications, Inc. ("Verizon") and MCI, Inc. ("MCI")  
31 (jointly "Applicants"), on behalf of their regulated subsidiaries, filed a Joint Notice of Intent with the

1 Arizona Corporation Commission (“Commission”) pursuant to Arizona Administrative Code  
2 (“A.A.C.”) R14-2-803 concerning Verizon’s proposed acquisition of MCI.

3 On May 6, 2005, the Applicants filed an Amendment to the Notice of Intent.

4 On May 25, 2005, the Commission’s Utilities Division Staff (“Staff”) filed a Request for  
5 Procedural Order requesting implementation of a proposed procedural schedule.

6 On June 16, 2005, Commissioner Mayes filed a letter in the docket expressing concern with  
7 the Applicants’ expressed intent, in meetings with individual Commissioners, to withdraw the Notice  
8 of Intent and rely instead on waivers previously granted to prior affiliated corporate entities.

9 On June 23, 2005, the Applicants filed a Response to Staff’s Request for Procedural Order.  
10 The Applicants suggested dates for filing testimony in this proceeding pursuant to agreement reached  
11 with Staff.

12 By Procedural Order issued June 27, 2005, a hearing was scheduled in this matter  
13 commencing September 14, 2005, publication of notice of the application and hearing was ordered,  
14 and other procedural filing dates were established.

15 On June 29, 2005, Commissioner Spitzer filed a copy of a letter he sent to Verizon’s Chief  
16 Executive Officer (“CEO”), Ivan Seidenberg, posing questions regarding comments attributed to Mr.  
17 Seidenberg in a newspaper article (*See*, Comm. Ex. 1).

18 On July 1, 2005, the Applicants filed a Second Amendment to Notice of Intent, requesting  
19 that the Commission allow the proposed merger transaction to proceed without requiring additional  
20 approval. The Applicants stated their belief that previously granted waivers of the Affiliated Interest  
21 Rules (A.A.C. R14-2-801 *et seq.*) were applicable and requested that the Commission consider the  
22 merger in light of those prior waivers.

23 On July 13, 2005, the Applicants filed the Direct Testimony of Michael Beach, Timothy  
24 McCallion, and Paul Vasington<sup>1</sup>.

25 On July 18, 2005, Verizon filed a letter from Mr. Seidenberg in response to questions posed  
26 by Commissioner Spitzer’s June 29, 2005 letter.

27 <sup>1</sup> On September 8, 2005, Verizon filed a Notice of Substitution of Witness. Dr. Kenneth Gordon adopted part of Mr.  
28 Vasington’s testimony and testified at the hearing on behalf of Verizon. The remaining portion of Mr. Vasington’s  
testimony was adopted by Mr. McCallion.

1 On August 1, 2005, the Applicants filed a Notice of Filing Affidavit of Publication in  
2 compliance with the June 27, 2005 Procedural Order.

3 On August 8, 2005, Dieca Communications, Inc. dba Covad Communications Company  
4 ("Covad") filed a Motion to Intervene stating that it leases facilities from MCI in Arizona and that it  
5 will be directly and substantially affected by the issues raised in this docket<sup>2</sup>.

6 By Procedural Order issued August 25, 2005, Thomas Dixon was granted admission to appear  
7 *pro hac vice* on behalf of MCI.

8 By Procedural Order issued August 30, 2005, Mary Coyne was granted admission to appear  
9 *pro hac vice* on behalf of Verizon.

10 On September 2, 2005, Staff filed the Responsive Testimony of Elijah Abinah and Armando  
11 Fimbres.

12 On September 8, 2005, the Applicants filed Supplemental Information in support of the  
13 Application.

14 On September 8, 2005, Verizon filed Certificates of Corporation Doing Business Under  
15 Fictitious Name Pursuant to Provisions of Arizona Revised Statutes ("A.R.S.") 44-1236.

16 On September 9, 2005, MCI filed the Rebuttal Testimony of Michael Beach.

17 On September 9, 2005, Staff filed a copy of the Minnesota Public Utilities Commission's  
18 Order regarding the Verizon/MCI merger.

19 On September 9, 2005, Verizon filed a Notice describing the portions of Mr. Vasington's  
20 Direct Testimony that would be adopted by Mr. McCallion and Dr. Gordon.

21 On September 14, 2005, a full public hearing was commenced before a duly authorized  
22 Administrative Law Judge of the Commission at its offices in Phoenix, Arizona.

23 On September 21, 2005, the Applicants filed the following late-filed exhibits: the mass market  
24 UNE-P line counts, nationally and for Arizona, before and after the WorldCom, Inc. bankruptcy  
25 filing; a report by MCI on numbering resources for the 480, 602, and 623 area codes; a signed copy  
26 of MCI's 2004 Annual Report; a "Synergies Analysis" related to the merger; and a statement of

27 <sup>2</sup> Covad was granted intervention by Procedural Order issued August 25, 2005. On that same date, Covad requested to  
28 withdraw its intervention request. By Procedural Order issued August 30, 2005, Covad was granted permission to  
withdraw its intervention.

1 Verizon's Position on Federal Preemption of State Consumer Protection Rules. In response to the  
2 Administrative Law Judge's directive at the conclusion of the hearing, the Applicants also provided a  
3 statement regarding the consequences on the merger if the Commission were to deny the Application.

4 On September 21, 2005, Staff also filed a Statement Regarding Ramifications of a State  
5 Rejecting the Merger, as well as two late-filed exhibits pertaining to: the Applicants' subsidiaries'  
6 compliance with alternative operator service ("AOS") zero-minus rules; and the number of  
7 complaints filed with the Commission concerning MCI and Verizon and their respective subsidiaries.

8 Following the submission of the late-filed exhibits, this matter was taken under advisement  
9 pending the submission of a Recommended Opinion and Order for the final disposition of the  
10 Commission.

11 \* \* \* \* \*

12 Having considered the entire record herein and being fully advised in the premises, the  
13 Commission finds, concludes, and orders that:

14 **FINDINGS OF FACT**

15 1. Verizon Communications, Inc. is a Delaware corporation with its principal offices  
16 located in New York. Verizon's various telephone operating company subsidiaries provide  
17 telecommunications services in 29 states, Washington D.C., and Puerto Rico. Verizon serves  
18 approximately 53 million customers nationally, of which approximately 9,300 wireline customers are  
19 located in Arizona. Verizon had annual operating revenues of approximately \$71 billion in 2004, and  
20 has approximately 210,000 employees nationwide – of which approximately 1,450 are located in  
21 Arizona (for both wireline and wireless).

22 2. The following Verizon subsidiaries provide telecommunications services in Arizona:  
23 Verizon California, Inc. ("Verizon California")<sup>3</sup>; Verizon Select Services, Inc.; One Point  
24 Communications-Colorado, LLC, dba Verizon Avenue; Bell Atlantic Communications, Inc., dba  
25 Verizon Long Distance; and NYNEX Long Distance Company dba Verizon Enterprise Solutions.

26 3. Verizon's subsidiaries provide domestic telecommunications services, including  
27

28 <sup>3</sup> Verizon California is an incumbent local exchange carrier ("ILEC") in western Arizona with approximately 8,000 access lines.

1 switched local residential business services, local private line, voice and data services, Centrex,  
2 intraLATA and interLATA toll and interexchange services, and exchange access services, including  
3 switched and special access services. Other Verizon subsidiaries provide voice and data wireless  
4 services, information services (including directory publishing), and electronic commerce (Ex. S-2, at  
5 1-3).

6 4. MCI, Inc. is a Delaware corporation with its principal place of business located in  
7 Virginia. MCI's subsidiaries provide services to residential, business, and government customers,  
8 including 75 federal government agencies. In 2004, MCI had annual operating revenues of  
9 approximately \$21 billion. MCI has over 42,000 employees nationally and internationally, of which  
10 approximately 1,000 are located in Arizona.

11 5. The following MCI subsidiaries provide telecommunications services in Arizona:  
12 MCImetro Access Transmission Services, LLC, dba MCImetro ("MCImetro"); MCI WorldCom  
13 Network Services, Inc. ("MCI WorldCom NSP"); TTI National, Inc. ("TTI"); Teleconnect Long  
14 Distance Services and Systems Co. dba Telcom\*USA ("Telcom\*USA"); MCI WorldCom  
15 Communications, Inc. ("MCI WorldCom Communications"); and Intermedia Communications, Inc.  
16 ("Intermedia").<sup>4</sup>

17 6. Through its subsidiaries, MCI provides data, Internet, voice, IP network technology,  
18 virtual private networking, SONET private line, frame relay, ATM, and dedicated, dial, and value-  
19 added Internet services. Other subsidiaries provide interstate long distance, intrastate toll,  
20 competitive local exchange, and other telecommunications services in Arizona (*Id.* at 3-4).

21 7. According to Staff, Verizon derives most of its in-state revenues from the provision of  
22 local exchange services to its 8,000 customers. The majority MCI's intrastate revenues are obtained  
23 from providing interexchange services. Although MCI has a significantly higher number of local  
24 exchange access lines in Arizona, compared to Verizon, MCI's local exchange access lines are  
25 primarily leased from ILECs through unbundled network elements ("UNEs") and commercial  
26 agreements (*Id.* at 4-5).

27 \_\_\_\_\_  
28 <sup>4</sup> Intermedia Communications, Inc. has requested cancellation of its Certificate of Convenience and Necessity ("CC&N")  
as part of the proposed merger (Docket Nos. T-3291A-05-0038; T-03541A-05-0038).

1           8.     The mechanics of the proposed merger provide for MCI to merge into ELI  
2 Acquisition, LLC ("ELI"), a wholly owned subsidiary of Verizon that was created to facilitate the  
3 merger. The merger will result in a combination of the MCI and Verizon businesses, with Verizon as  
4 the surviving parent company. MCI will be renamed MCI, LLC, and MCI's regulated subsidiaries in  
5 Arizona will remain as subsidiaries of MCI, LLC (*Id.* at 6).

6           9.     The First Amendment to the Merger Agreement provides for MCI shareholders to  
7 receive a total of \$26.00 in cash and Verizon stock for each MCI share tendered. For each share of  
8 MCI stock, MCI shareholders would receive 0.5743 shares of Verizon common stock, and will  
9 receive a special dividend of \$5.60 per share, less any dividend paid by MCI between February 14,  
10 2005 and the consummation of the transaction (*Id.*).

11 **Prior Waivers of Affiliated Interest Rules**

12           10.    In their Second Amendment to Notice of Intent, filed July 1, 2005, the Applicants  
13 requested that the Commission allow the proposed merger transaction to proceed without requiring  
14 additional approval. The Applicants stated their belief that previously granted waivers of the  
15 Affiliated Interest rules were applicable and requested that the Commission consider the merger in  
16 light of those prior waivers.

17           11.    In support of their argument, the Applicants rely on two prior Commission Decisions  
18 that granted waivers to the Affiliated Interest rules for MCI subsidiaries and the predecessor of  
19 Verizon's Arizona ILEC subsidiary, Verizon California. In Decision No. 58232 (March 24, 1993),  
20 the Commission granted Verizon California's predecessors in interest, Contel of the West, Inc. dba  
21 GTE West and Contel of California, Inc., limited affiliated interest waivers. In Decision No. 62702  
22 (June 30, 2000), the Commission also granted limited affiliated interest waivers to MCI's subsidiaries  
23 (MCImetro; MCI WorldCom Communications; MCI WorldCom NSI; and Telcom\*USA). These  
24 limited waivers required that a Notice of Intent be filed only if a reorganization would be likely to  
25 result in: significant increased capital costs to the Arizona jurisdiction; significant additional costs  
26 allocated or charged directly to the Arizona jurisdiction; or a significant reduction in the net income  
27 of Arizona operations (*Id.* at 7-8).

28           12.    We agree with Staff that the limited waivers cited by the Applicants do not relieve

1 MCI and Verizon of the duty to seek approval of the merger transaction pursuant to the Affiliated  
2 Interest Rules. In the case of the Verizon affiliate, no transfer of the limited waiver was sought or  
3 obtained from the predecessor companies to Verizon California. Further, the limited waivers do not  
4 restrict the Commission's ability to review and approve transactions where such action is necessary to  
5 ensure that the public interest is served. Indeed, Verizon's own witness, Mr. Vasington (as adopted  
6 by Mr. McCallion) acknowledged that the Commission "may evaluate the transaction pursuant to its  
7 constitutional duty to determine whether the transaction is in the public interest ..." (Verizon Ex. 1, at  
8 3).

9 **Alleged Benefits of the Merger**

10 13. Michael Beach testified on behalf of MCI's position in support of the merger. Mr.  
11 Beach stated that the merger will have a pro-competitive effect and will not cause competitive harm  
12 in Arizona. In the enterprise market (*i.e.*, large and medium size businesses, and government  
13 institutions), Mr. Beach claims that MCI's and Verizon's networks, services, and areas of expertise  
14 are complementary due to MCI's strong market presence in the business segment of the industry,  
15 compared to Verizon's stronger presence in the mass market segment (*i.e.*, residential and small  
16 business) (MCI Ex. 4, at 3).

17 14. Other complementary features of the merger relationship described by MCI include  
18 Verizon's significant wireless business compared with MCI's lack of wireless and MCI's operation  
19 of a large Internet backbone network. Mr. Beach described MCI's global fiber optic network and  
20 global data capabilities, including its Internet Protocol ("IP") backbone and IP-related expertise. He  
21 stated that MCI and Verizon do not currently compete for enterprise business in Arizona and that the  
22 decline in MCI's national mass market business results from factors unrelated to the merger. In  
23 addition to complementary assets, Mr. Beach claims that the companies' services are likewise  
24 focused on different market segments. He contends that while Verizon focuses primarily on local  
25 and regional services, MCI serves large enterprise customers with a global reach. Thus, according to  
26 Mr. Beach, the merger would not substantially change the competitive balance in Arizona (*Id.* at 29-  
27 31).

28 15. Mr. Beach also testified that the merged company would be in a stronger financial

1 position than the individual companies, which would allow greater investment in infrastructure at a  
2 lower cost of capital than MCI could obtain individually. He claims that additional products and  
3 resources would be available to Arizona customers due to Verizon's increased presence. Mr. Beach  
4 contends that the merged entity would benefit enterprise customers in particular, and he pointed to  
5 the development and deployment of mobile IP services as an example. He stated that MCI has  
6 explored mobile IP offerings but has been limited due to its lack of a wireless network. Mr. Beach  
7 also indicated his belief that government customers would benefit from the merger due to the  
8 "integrated suite of services" that would be available. He testified that the merger would enhance  
9 domestic security due to the likelihood of increased investment in the communications infrastructure  
10 used by the Department of Defense and Homeland Security, as well as other state and federal  
11 agencies (*Id.* at 31-32).

12 16. MCI further contends that the complementary nature of the current MCI and Verizon  
13 business models minimizes the chance that competition in the Arizona marketplace would be  
14 hindered. With respect to mass market customers, Mr. Beach stated that MCI's business is already in  
15 decline due to factors unrelated to the merger and MCI would not, absent the merger, be a significant  
16 competitor going forward in that market. Mr. Beach also cites to several emerging competitive  
17 options that he believes are likely to further minimize MCI's ability to compete for mass market  
18 customers without Verizon's presence following the merger. For example, Mr. Beach claims that  
19 cable companies in Arizona are deploying two-way broadband services for transmission of both high-  
20 speed data and voice services; wireless carriers have an increased presence in the provision of voice  
21 services, causing further erosion in market share for landline carriers; and new voice over internet  
22 protocol ("VOIP") providers are providing additional competitive options to mass market customers  
23 (*Id.* at 33).

24 17. Verizon's witnesses also touted the complementary nature of the merger transaction.  
25 Verizon witness Kenneth Gordon testified (through adoption of portions of Mr. Vasington's direct  
26 testimony) that in Arizona there is no overlap between the facilities employed by Verizon and MCI,  
27 and that Verizon's strengths in the mass market segment of the industry will not conflict with MCI's  
28 continuing and irreversible decline in mass market business (Verizon Ex. 1, at 5). Consistent with the

1 views expressed by MCI's witness, Verizon points to MCI's strengths in the operation of IP  
2 backbone services to enterprise customers, compared to Verizon's minimal presence in the enterprise  
3 market on a national level and in Arizona; Verizon's strength as a provider of services to residential  
4 and small business customers; Verizon's claim that the merger "should deliver benefits to customers  
5 of all types" in the form of competitive prices, network improvements, and enhanced ability to  
6 purchase services from a single provider; and a "commitment" to investing \$2 billion in enhancing  
7 MCI's existing network and systems (*Id.* at 6)<sup>5</sup>.

8         18. Verizon also asserts that because Verizon itself was created through a series of  
9 mergers of substantial scale (*i.e.*, Bell Atlantic/NYNEX and Bell Atlantic/GTE), and because Verizon  
10 is a majority partner with Vodafone in Verizon Wireless (which is itself a product of various  
11 mergers), the Commission should have confidence in Verizon's management to "implement the  
12 transaction without disruption to ongoing operations and financial status, to manage MCI as a  
13 successful subsidiary, and to deliver the anticipated efficiencies and customer benefits of this  
14 transaction" (*Id.* at 7).

15         19. Verizon asserts that diminished competition concerns are negligible because there is  
16 no change contemplated for any of the Arizona regulated subsidiaries with respect to terms and  
17 conditions of service, service quality, customer service, quality of facilities, rate of investment,  
18 affiliate transaction guidelines and policies, and commitments to customers and their communities.  
19 Verizon claims that the Commission's authority over these subsidiaries will not be affected by the  
20 transaction (*Id.* at 8).

21         20. Verizon further contends that the merger is a response to the emergence of new  
22 technologies, such as deployment of digital, two-way, broadband capabilities and IP-based  
23 technologies, which has brought about the "long-anticipated 'convergence' among once-separate  
24 networks and providers" (*Id.* at 9). Verizon claims that these developments are continuing to blur the  
25 lines between different communications technologies and, in evaluating the merger, the Commission  
26 should look at the entirety of the communications market from the perspective of customers who take  
27

28 <sup>5</sup> However, no commitment has been made regarding where and when any specific funds will be invested and there is no assurance that any of the proposed investment will occur in Arizona (Tr. 145).

1 little notice of jurisdictional boundaries or “outdated market distinctions” (*Id.* at 10-13).

2 **Standard of Review and Staff Recommendations**

3 21. Pursuant to the Commission’s Affiliated Interest Rules (A.A.C. R14-2-803.C.): “[a]t  
4 the conclusion of any hearing on the organization or reorganization of a utility holding company, the  
5 Commission may reject the proposal if it determines that it would impair the financial status of the  
6 public utility, otherwise prevent it from attracting capital at fair and reasonable terms, or impair the  
7 ability of the public utility to provide safe, reasonable and adequate service.”

8 22. In conducting its investigation, Staff determined that: there would not be any  
9 competitive overlaps as a result of the merger based on the respective market share positions of MCI  
10 and Verizon in Arizona; Verizon is not a dominant ILEC in Arizona; there would be no harm to any  
11 class of customers from the merger; and there are some benefits that are likely to occur from the  
12 merger, specifically for enterprise market customers. Based on this analysis, Staff concluded that the  
13 merger application satisfies the requirements set forth in A.A.C. R14-2-803(C), and is therefore in the  
14 public interest and should be approved subject to compliance with certain specific conditions (Tr.  
15 220-224, 239). Staff’s recommendation for approval is subject to the Applicants’ compliance with  
16 the following remaining conditions (some prior conditions were resolved to Staff’s satisfaction  
17 subsequent to filing of Staff’s testimony):

- 18 a) The Applicants should be required to file a notice with the  
19 Commission within 30 days of consummation of the merger;
- 20 b) Verizon should be required to file in this docket copies of all  
21 petitions and/or comments filed at the FCC or with Congress  
22 which seek preemption of state regulation;
- 23 c) At least 90 days prior to improvements to MCI’s network and  
24 system facilities, Verizon should provide the Commission with the  
25 dollar amount of the investment to be made in Arizona;
- 26 d) Various Verizon and MCI subsidiaries should be required to  
27 procure performance bonds in the amounts set forth in Staff’s  
28 testimony in accordance with current Commission policy  
governing performance bonds (see discussion below in  
Performance Bond Requirements section);
- e) For a period of one year or completion of all merger-related

1 activities, whichever is later, Verizon and MCI should be required  
 2 to inform the Commission and the Director of the Utilities Division  
 3 of any planned layoffs and/or closing of facilities at least 60 days  
 4 in advance of any such action as a result of merger-related  
 5 reductions or closings (see discussion below in Notice  
 6 Requirements section) (Ex. S-2, at 29-32);

7 f) Verizon/MCI affiliate competitive local exchange carriers  
 8 (“CLECs”) should only be allowed to provide local exchange  
 9 services in Verizon California’s ILEC areas under the following  
 10 conditions:

11 (i) Verizon/MCI CLEC affiliate services can be provided to  
 12 enterprise market customers (business customers with four or more  
 13 access lines) upon application to and acceptance by the  
 14 Commission;

15 (ii) Verizon/MCI affiliates must file interconnection agreements  
 16 with the Commission before providing CLEC services to enterprise  
 17 market customers;

18 (iii) Verizon/MCI affiliate services may not be provided to mass  
 19 market customers (all residential and business customers with less  
 20 than three access lines) without filing data which allows Staff to  
 21 assess any adverse impact on Verizon’s ILEC operations; and

22 (iv) Verizon/MCI affiliate CLECs may only utilize Verizon  
 23 California CPNI information services to the same degree that non-  
 24 affiliate CLECs are permitted to utilize Verizon California CPNI  
 25 information services<sup>6</sup>;

26 g) Verizon/MCI long distance affiliates may only provide long  
 27 distance services in Verizon California’s ILEC service areas under  
 28 the following conditions:

(i) Verizon/MCI long distance affiliates must operate under the  
 same long distance customer selection rules that apply to all other  
 long distance providers; and

(ii) Verizon/MCI long distance affiliates may only utilize Verizon  
 California CPNI information services to the same extent that non-  
 affiliate long distance providers permitted to utilize Verizon  
 California CPNI information services<sup>7</sup>; and

h) MCI should be required to review its numbering resources in the  
 480, 602 and 623 NPAs and, to the extent the company’s  
 numbering resources in those NPAs exceed a six-month inventory,  
 MCI should be required, within 60 days of the Commission’s  
 Decision in this docket to return to the Pooling Administrator all

<sup>6</sup> At hearing, Staff witness Fimbres clarified that, since MCI’s CLEC affiliate is certificated to operate only in Qwest’s service territory, Staff has no objection to addressing this issue at the time, if ever, an application by that affiliate is made to operate in Verizon’s service area (Tr. 218-219).

<sup>7</sup> Mr. Fimbres stated at the hearing that it was Staff’s intent with respect to this condition only that the companies be required to comply with all existing FCC regulations regarding CPNI (Tr. 219).

1 surplus thousands-blocks with less than 10 percent contamination  
 2 (Ex. S-1, at 21-22).

3 23. Although we appreciate Staff's analysis of the application, the basis of our review  
 4 does not begin and end with a strict application of the Commission's Affiliated Interest rules. Rather,  
 5 as recognized by Verizon witness Paul Vasington's pre-filed testimony, the Commission possesses  
 6 authority pursuant to the Arizona Constitution to ensure that the transaction is in the public interest  
 7 prior to granting approval. In *Ariz. Corp. Com'n v. State ex rel. Woods*, 171 Ariz. 286 (1992), the  
 8 Arizona Supreme Court recognized the Commission's authority to apply a public interest standard in  
 9 promulgating rules requiring both review and approval of transactions between affiliated entities.  
 10 The Court, citing to the Commission's expansive authority over such transactions, stated:

11 The Commission was not designed to protect public service corporations  
 12 and their management but, rather, was established to protect our citizens  
 13 from the results of speculation, mismanagement, and abuse of power. To  
 14 accomplish those objectives, the Commission must have the power to  
 15 obtain information about, and take action to prevent, unwise management  
 16 or even mismanagement and to forestall its consequences in intercompany  
 17 transactions significantly affecting a public service corporation's structure  
 18 or capitalization. It would subvert the intent of the framers to limit the  
 19 Commission's ratemaking powers so that it could do no more than raise  
 20 utility rates to cure the damage from inter-company transactions.... The  
 21 Commission must certainly be given the power to prevent a public utility  
 22 corporation from engaging in transactions that will so adversely affect its  
 23 financial position that the ratepayers will have to make good the losses,  
 24 and it cannot do so in any common sense manner absent the authority to  
 25 approve or disapprove such transactions in advance. To put it simply, the  
 26 Commission was given the power [by the Arizona Constitution] to lock  
 27 the barn door before the horse escapes. (171 Ariz. 286, 296-297)

28 24. It is therefore with the Commission's Constitutional powers and its authority under the  
 29 duly enacted Affiliated Interest Rules that we evaluate the proposed merger transaction between  
 30 Verizon and MCI.

### 31 Performance Bond Requirements

32 25. As a matter of policy, the Commission currently requires facilities-based local  
 33 exchange and facilities-based long distance telecommunications service providers to obtain a  
 34 performance bond as a condition of certification. During the course of its review of the merger  
 35 application, Staff found that certain MCI and Verizon subsidiaries did not have in place performance  
 36

1 bonds in accordance with current Commission policies.

2       26. As a condition of merger approval, Staff recommends that the performance bonds for  
3 the various affiliated companies be updated. Staff's bond recommendations are as follows: Verizon  
4 Select Services, Inc. should obtain a performance bond of \$235,000; One Point Communications –  
5 Colorado dba Verizon Avenue should obtain a performance bond of \$235,000, and Verizon Avenue  
6 should be permitted to remove \$100,000 held in an escrow account pursuant to a prior Order; Verizon  
7 Long Distance fka Bell Atlantic Communications should obtain a performance bond of \$10,000;  
8 MCImetro should obtain a performance bond of \$235,000; MCI WorldCom Network Services, Inc.  
9 should obtain a performance bond of \$110,000; and MCI WorldCom Communications, Inc. should  
10 obtain a performance bond of \$235,000 (Ex. S-2, at 23-26).

11       27. The Applicants do not oppose Staff's performance bond recommendations which, as  
12 indicated above, reflect requirements that are consistent with the performance bond policies that have  
13 been established over the past several years. We find Staff's recommendations to be reasonable and  
14 we will therefore require that the Applicants' subsidiaries obtain the performance bonds set forth  
15 above in accordance with Staff's recommendations.

16 **Compliance Issues**

17       28. Staff conducted a review of pending compliance issues involving the Applicants and  
18 their affiliated companies. According to Staff, between January 1, 2002 and July 2005, the  
19 Commission received 851 "complaints, inquiries, and/or opinions" (generically "complaints") from  
20 Arizona consumers regarding Verizon and MCI services, which represents approximately 1.8 percent  
21 of Verizon and MCI total number of access lines in Arizona. According to Staff witness Abinah,  
22 Staff considers this ratio of complaints to access lines to be "an acceptable level of service by the  
23 Verizon and MCI affiliates" (Ex. S-2, at 26-27).

24       29. In a Late-Filed Exhibit submitted on September 21, 2005, Staff provided a breakdown  
25 of complaints, inquiries, and opinions logged for the various affiliates. During the period of 2002  
26 through July 28, 2005, the vast majority of customer contacts were lodged against MCI WorldCom  
27  
28

1 Communications, Inc. (539 complaints, 330 inquiries, and 10 opinions)<sup>8</sup>. In its filing, Staff provided  
 2 for comparison purposes the following customer complaint numbers for Qwest and AT&T during the  
 3 same timeframe: Qwest Corporation (wireline) – 3,226 complaints, 3,479 inquiries, and 492  
 4 opinions; Qwest Corporation (wireless)<sup>9</sup> – 21 complaints, 608 inquiries, and 165 opinions; AT&T  
 5 Communications of the Mountain States, Inc. – 1,152 complaints, 679 inquiries, and 58 opinions  
 6 (Staff Late-Filed Exhibit).

7 30. According to Mr. Abinah, several of the Verizon and MCI subsidiaries had  
 8 outstanding compliance issues at the time the application was filed. Since that time, the Applicants  
 9 have worked with Staff to resolve these issues and “there are currently no outstanding compliance  
 10 issues with any of the Verizon or MCI subsidiaries” (Ex. S-2, at 28).

#### 11 Notice Requirements

12 31. Staff recommends that the Applicants be required to provide the Commission with at  
 13 least 60 days’ advance notice of any planned merger-related Arizona layoffs or any closing of  
 14 facilities at least 60 days in advance of any such action for a period of one year or the completion of  
 15 all merger-related activities, whichever is later (Ex. S-2, at 32).

16 32. Although the Applicants do not believe that any of Staff’s recommended conditions  
 17 are necessary, they did not file testimony in opposition to Staff’s notice recommendation (*See*,  
 18 Verizon Ex. 3, at 2). We believe Staff’s recommendation furthers an important public policy goal of  
 19 keeping the Commission informed of effects from the merger on Arizona employees. Information  
 20 regarding workforce and facilities reductions is an important factor in considering the effects of the  
 21 merger, and whether approval is in the public interest. The Applicants indicated that no significant  
 22 workforce or facilities reductions are likely to occur due to the merger because of the complementary  
 23 nature of the MCI and Verizon business models. The notice imposed by this condition requires the  
 24

25 <sup>8</sup> It is not clear why the number of complaints, inquiries, and opinions recorded for MCI WorldCom Communications,  
 Inc. alone exceeds the 851 total reported in Staff’s testimony for all MCI and Verizon affiliates.

26 <sup>9</sup> Mr. Abinah testified at the hearing that Consumer Services began tracking calls regarding wireless carriers in January  
 27 2005 and, prior to that time, callers were referred to the FCC to register wireless carrier complaints but no record was  
 28 made of such calls at the Commission (Tr. 234-235). However, according to Staff’s Late-Filed Exhibit, calls regarding  
 Qwest Wireless have been separately tracked during the entire 2002-2005 reporting period. The Late-Filed Exhibit also  
 indicates that there were only two complaints received for Verizon Wireless from January 2005 through July 2005,  
 compared to a total of 73 regarding Qwest Wireless for the same time period (5 complaints, 66 inquiries, and 2 opinions).

1 Applicants to provide at least 60 days' advance notice of any planned merger-related layoffs or  
2 closing of Arizona facilities for a limited period of one year after closing of the transaction, or longer  
3 if the companies have not provided notice that merger-related activities have ceased by that time.

4 33. Consistent with the standards established in the SBC/AT&T merger proceeding, we  
5 wish to make clear that this requirement is not intended to require the Applicants to provide the  
6 specific names of affected employees. We understand that information regarding layoffs and/or plant  
7 or facility closings could be sensitive if it were to be released to the public prematurely. Therefore,  
8 the information required under this condition should not be publicly docketed but, rather, shall be  
9 provided directly to the Director of the Utilities Division and to each Commissioner's office.

10 34. We do not believe that this notice requirement is burdensome given that it is limited to  
11 a specific timeframe and is narrowly tailored to meet important public interest objectives. The notice  
12 requirement applies only to merger-related activities in Arizona, and requires only relevant  
13 information be provided to the Commission that should be readily available to the surviving merged  
14 entity.

15 35. Although the Applicants have stated that there are no plans to reduce Arizona  
16 workforce levels due to the merger, we remain concerned about the potential impact that the merger  
17 could have on employees in Arizona. Therefore, if the surviving merged entity or its affiliated  
18 companies decide to conduct layoffs or facility closings in Arizona attributable to the merger, they  
19 shall file a report with the Commission within two months of the effective date of the layoffs or  
20 closings stating why such layoffs and/or closings were necessary, and what efforts the companies  
21 made, or are making, to re-deploy the affected employees elsewhere in the surviving merged entity or  
22 its affiliates. The report shall also state whether any savings associated with facility closings have  
23 been re-invested in Arizona operations and, if not, why not. The report shall further state whether  
24 any estimated efficiencies as a consequence of the merger ultimately were derived from reductions in  
25 or changes to the companies' operations in Arizona.

26 **Implications of Merger**

27 36. As CLEC competitors are subsumed into traditional landline communications  
28 providers, we are increasingly concerned with the long-term implications of telecommunications

1 mergers and the very real possibility that the industry will evolve into, at best, oligopolistic markets  
2 that provide limited options for services and prices for residential and small business customers.  
3 Although we are hopeful that technology will continue to evolve in a manner that provides greater  
4 competitive choices for all customers, by the Applicants' admission the customers that are the least  
5 likely to benefit from mergers such as the one before us are smaller customers, especially residential  
6 customers.

7         37. The Applicants' witnesses offered carefully parsed testimony to extol the virtues of  
8 the merger transaction, but failed to offer any concrete examples of how the vast majority of  
9 customers (*i.e.*, residential and small business) would realize any benefits whatsoever from the  
10 transaction. For example, in describing the alleged benefits and commitments associated with the  
11 merger, Verizon's witnesses employed vague terms such as: [the merger] "*likely* will provide benefits  
12 to Arizona customers" (Verizon Ex. 1, at 3); "the merger *should deliver benefits* to customers of all  
13 types" (*Id.* at 6); "there is *no change contemplated* with respect to the terms and conditions of  
14 service" (*Id.* at 8); [the merger transaction is] "*not likely to significantly increase costs* charged to the  
15 Arizona jurisdiction" (Verizon Ex. 2, at 6); "Mass market customers...*may benefit* from new Internet  
16 access services..." [and] "advanced network facilities and products *may, over time, become*  
17 *accessible to mass market customers*" (Verizon Ex. 3, at 6).

18         38. The Applicants' witnesses were unable to identify any examples of specific benefits  
19 that would be realized by mass market customers as a result of the merger. The best that such  
20 customers apparently could expect is that the transaction "is not likely" not cause any significant  
21 harm, and there is a possibility that, someday, in the future, advanced services could be more  
22 accessible to such customers. We are not persuaded that the remote possibility of some long-term,  
23 unidentified future benefit for the majority of the customers affected by a merger transaction satisfies  
24 our obligation to determine whether the merger is in the public interest.

25 **Consumer Protection Issues**

26         39. Verizon's witness, Dr. Kenneth Gordon, who is a former Chairman of both the Maine  
27 and Massachusetts Public Utilities Commissions, expressed the view that emerging technologies and  
28 customer options eliminate the need for state oversight of customer complaints, including wireless

1 providers. Dr. Gordon discounted the need for state consumer protection rules governing wireless  
2 providers, based on his view that wireless customers who are dissatisfied with their wireless service:  
3 are “sophisticated enough to know that they have choices”; could “quickly and easily” move to  
4 another provider; or could seek redress from another state agency such as the state Attorney  
5 General’s office (Tr. 212-213).

6 40. Dr. Gordon’s view that state regulation of the wireless industry is unnecessary is  
7 consistent with the strident comments attributed to Verizon’s CEO, Ivan Seidenberg, in a newspaper  
8 article in the *San Francisco Chronicle* earlier this year. With respect to the prospect of state  
9 regulation of telecommunication services, Mr. Seidenberg is quoted as stating “The first thing we’d  
10 do is pre-empt the states ... That’s priority No. 1, No. 2 and No. 3” (Comm. Ex. 1, at pg. 2).  
11 According to the same article, Mr. Seidenberg indicated that wireless customers have “unrealistic  
12 expectations about a wireless service working everywhere” (*Id.* at 1). Mr. Seidenberg stated “Why in  
13 the world would you think your (cell) phone would work in the house? ... The customer has come to  
14 expect so much. They want it to work in the elevator; they want it to work in the basement.” (*Id.*)<sup>10</sup>

15 41. In response to a letter from Commissioner Spitzer, Mr. Seidenberg indicated that his  
16 comments were taken out of context and that Verizon’s high retention rates and customer satisfaction  
17 levels reflect Verizon’s significant national wireless infrastructure investment, including in Arizona.  
18 He conceded that Verizon opposes state regulation of wireless service due to his view that  
19 competitive forces will best benefit customers (*Id.* at pgs. 4-5). At the hearing, Verizon witness  
20 Timothy McCallion claimed that Mr. Seidenberg’s comments were an expression of Verizon’s  
21 opposition to differing state-by-state standards (Tr. 138-139). He also indicated that the newspaper  
22 article cited above did not reflect the entirety of Mr. Seidenberg’s comments (Tr. 141).

23 42. In order to understand Verizon’s hostility towards state regulation, especially with  
24 respect to wireless services, it is useful to look at the historical context underlying the proposed  
25

26 <sup>10</sup> It is curious that Mr. Seidenberg disparages customer expectations that their wireless service will actually work in their  
27 homes, and elsewhere, when one of the principal tenets of the Applicants’ proposed merger is that MCI’s mass market  
28 wireline business is on its last legs due, in part, to the ubiquitous nature of wireless service and the ability of customers to  
forego a wireline connection. Moreover, the comments attributed to Mr. Seidenberg with respect to the unrealistic  
expectations of customers is wholly inconsistent with its vast advertising campaign suggesting that its wireless service  
will work virtually everywhere (“*Can you hear me now?*”).

1 acquisition of MCI by Verizon. The circumstances surrounding WorldCom's demise due to  
2 fraudulent accounting activities, and subsequent bankruptcy reorganization, have been widely  
3 reported. During the bankruptcy, a number of hedge funds (including self-proclaimed "vulture  
4 capitalists") acquired WorldCom bonds at a steep discount, which bonds were converted to MCI  
5 equity in the course of the reorganization. Verizon subsequently acquired the MCI equity of one of  
6 these hedge funds, and will obtain the remaining MCI shares under the merger agreement (Tr. 119-  
7 120). After MCI's emergence from WorldCom's bankruptcy, Verizon's general counsel referred to  
8 MCI as a "criminal enterprise" and Mr. Seidenberg was quoted as stating that the MCI reorganization  
9 is "an example of where crime pays," and "the whole WorldCom thing is an embarrassment and  
10 wrong." He also analogized MCI to the Las Vegas mob activities in the 1940s and 1950s that  
11 ultimately turned into "legitimate" businesses (Tr. 22, 129-130). In response to Commissioner  
12 Spitzer's questions as to why Verizon wished to acquire a company that its senior management  
13 deemed a criminal enterprise, Mr. McCallion testified that "business is business" (Tr. 132).

14       43. It is undisputed that Verizon has historically been one of the most vocal opponents of  
15 CLEC competition, especially of UNE-P competition from companies such as MCI and AT&T. The  
16 RBOCs successfully challenged UNE-P for CLEC competitors in Congress, at the FCC, and through  
17 the court system (Tr. 123-126). Now, due in no small part to the efforts of Verizon and other RBOCs  
18 in opposing UNE-P, programs such as MCI's "The Neighborhood" (which packaged local and long-  
19 distance service to residential customers) are no longer being marketed and, through attrition, will  
20 likely disappear entirely in the very near future. Yet, having helped assure the demise of those  
21 competitors, Verizon is in a prime position to feast on the carrion of the so-called criminal enterprise  
22 that has emerged from bankruptcy with little debt liability, and with lucrative assets such as long-  
23 term business and government contracts. Business may be business but, as recognized by the  
24 Arizona Supreme Court, the Commission is charged with the responsibility of ensuring that  
25 transactions between affiliated entities are in the public interest.

26       44. Despite its attempt to invoke competitive forces as the panacea for all customer  
27 concerns, Verizon's view of the wireless industry does not match the reality of whether actual  
28 customers have an effective means of resolving legitimate disputes with their wireless carriers.

1 Although the FCC is ostensibly charged with handling complaints against wireless carriers, its ability  
2 to resolve such complaints on a local or state level is, at best, inadequate. Further, Verizon's position  
3 that wireless customers can "quickly and easily" switch carriers fails to recognize that most providers  
4 require a minimum one to two year service contract, with a substantial cancellation fee if the contract  
5 period is not completed,<sup>11</sup> and there are likely to be other costs associated with switching to a  
6 competing carrier, such as initiation fees to institute new service. Dr. Gordon's statement that other  
7 state agencies, such as the state Attorney General's office, would be available to resolve alleged  
8 fraudulent actions by wireless providers is also unrealistic given the limited available resources and  
9 priorities of such agencies in dealing with criminal activities and other more serious civil actions. In  
10 sum, this Commission is best suited to address disputes over billing and unauthorized charges.

11 45. Therefore, consistent with our Decision in the SBC/AT&T merger docket (*See*,  
12 Decision No. 68269, at 17), we will require as a condition of approval of the merger that *all* Arizona  
13 residential consumers of telecommunications services should have the opportunity to arbitrate  
14 disputes over billing and unauthorized charges before the Commission. The surviving merged entity  
15 (*i.e.*, Verizon) shall be required to participate in a binding Arbitration Program administered by the  
16 Commission's Consumer Services Division. The Arbitration Program will apply to all Arizona  
17 residential customers of the surviving merged entity and its controlled affiliates that offer  
18 telecommunications services including, but not limited to, wireline, wireless and VOIP telephony.  
19 The Applicants' closing of the merger transaction shall constitute the surviving merged entity's  
20 agreement with and acquiescence to the Commission's jurisdiction with respect to the Arbitration  
21 Program.

22 46. The Arbitration Program shall be administered by the Commission's Consumer  
23 Services Division, and shall embrace Arizona residential customer disputes relating solely to billing  
24 and unauthorized charges. The Arbitration Program shall expressly include wireline, wireless, and/or  
25 VOIP services offered by the surviving merged entity's controlled affiliates. In deciding disputes  
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27 <sup>11</sup> The *San Francisco Chronicle* article cited above indicates that after the California Public Utilities Commission  
28 suspended a rule that required wireless carriers to give customers 30 days to test a service prior to imposition of  
cancellation fees, Verizon shortened its trial period to 15 days to match its return policy in other states (Comm. Ex. 1, at  
2).

1 between any of the surviving merged entity's controlled affiliates and its customers pursuant to the  
2 Arbitration Program established by this Decision, the Commission shall forego imposing any  
3 monetary sanction, except restitution in any form, including billing credits, against any participant in  
4 the Arbitration Program.

5 47. By establishing the Arbitration Program, we wish to make clear that nothing in this  
6 Decision shall prevent the Commission from issuing an Order to Show Cause against the surviving  
7 merged entity and/or any of its affiliates. Further, nothing in this Decision shall compel a customer to  
8 participate in the binding Arbitration Program established herein, or foreclose a customer from  
9 pursuing a cause of action through any other available forum, including pursuit of an action in a court  
10 of law or equity.

11 48. Given our concern about the impact of the proposed merger on consumers, the  
12 surviving merged entity shall also be required to submit annually a Consumer benefits Report to the  
13 Commission's Compliance Division. The first report shall be submitted no later than December 31,  
14 2006, and annually thereafter for a period of four years. Among other things, the report shall detail  
15 any cost savings that have resulted from the merger and have been passed on to consumers; efforts to  
16 provide stand-alone DSL to Arizona consumers; efforts to expand VOIP offerings to Arizona  
17 consumers; and any rate reductions or increases that have been implemented by the surviving merged  
18 entity and its affiliates operating in Arizona.

19 **Conclusion**

20 Although we are not entirely persuaded that this proposed merger transaction will ultimately  
21 result in any real benefits for Arizona consumers, the possibility that a stronger, more competitive  
22 company could result from the merger, and the potential that enterprise customers may realize some  
23 benefits from the combination of MCI's and Verizon's infrastructure and existing business models is  
24 minimally sufficient to satisfy the public interest. We take some comfort in Staff's conclusion that  
25 the merger is in the public interest because there would not be any competitive overlaps as a result of  
26 the merger based on the respective market share positions of MCI and Verizon in Arizona; Verizon is  
27 not a dominant ILEC in Arizona; there would be no harm to any class of customers from the merger;  
28 and there are some benefits that are likely to occur from the merger, specifically for enterprise market

1 customers. However, we are concerned that the Applicants have failed to identify a single, specific  
2 benefit to mass market customers as a result of the merger, aside from the nebulous assertion that  
3 somehow, someday, those customers will indirectly benefit from MCI being folded into a stronger  
4 company. We wish to make clear that this application barely clears the bar of being in the public  
5 interest and, absent the consumer protection requirements included in this Order, the application  
6 would be denied.

7 As stated above, we have ongoing concerns with the overall state of the telecommunications  
8 industry with the elimination of AT&T and MCI as viable competitors. However, given the marginal  
9 overlap between the current MCI and Verizon markets in Arizona, the potential competitive effect in  
10 this state is likely to be minimal. Therefore, considering the record in its entirety, we conclude that  
11 the merger transaction is in the public interest and should be approved subject to compliance with the  
12 conditions recommended by Staff and as further discussed above.

### 13 CONCLUSIONS OF LAW

14 1. MCI and Verizon are public service corporations within the meaning of Article 15,  
15 Section 3 of the Arizona Constitution and Title 40 of the Arizona Revised Statutes.

16 2. The Commission has jurisdiction over the transaction proposed in the Application  
17 pursuant to Article 15, Section 3 of the Arizona Constitution and the Commission's Affiliated Interest  
18 Rules, A.A.C. R14-2-801 through 806.

19 3. The public interest requires that the Commission apply the Affiliated Interests Rules in  
20 a manner that will maximize protection to ratepayers.

21 4. Approval of the transaction proposed in the Application would serve the public  
22 interest only if conditions are imposed to provide adequate protection to ratepayers.

23 5. It is in the public interest to approve the transaction proposed in the Application  
24 subject to the conditions recommended by Staff and the additional conditions and requirements  
25 discussed and adopted herein.

26 6. The Commission's regulatory authority over the Verizon and MCI subsidiaries will  
27 not change as a result of the merger.

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**ORDER**

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IT IS THEREFORE ORDERED that the Joint Notice of Intent, as subsequently amended, filed by Verizon Communications, Inc. and MCI, Inc. is hereby approved, subject to compliance with the conditions recommended by Staff and the additional conditions and requirements discussed and adopted herein.

IT IS FURTHER ORDERED that for one year following merger close or until Verizon Communications, Inc. and MCI, Inc. inform the Commission by filing an affidavit with Docket Control that merger-related activities are completed, whichever comes last, Verizon Communications, Inc. and MCI, Inc. shall provide written notification to the Director of the Utilities Division, and to the individual members of the Commission, at least 60 days prior to any planned merger-related Arizona workforce layoffs of any planned merger-related Arizona plant closings and any planned merger-related Arizona facility closings.

IT IS FURTHER ORDERED that if the surviving merged entity or its affiliated companies decide to conduct layoffs or facility closings in Arizona attributable to the merger, they shall file a report with the Commission within two months of the effective date of the layoffs or closings stating why such layoffs and/or closings were necessary, and what efforts the companies made, or are making, to re-deploy the affected employees elsewhere in the surviving merged entity or its affiliates. The report shall also state whether any savings associated with facility closings have been re-invested in Arizona operations and, if not, why not. The report shall further state whether any estimated efficiencies as a consequence of the merger ultimately were derived from reductions in or changes to the companies' operations in Arizona. This report shall be filed for one year following merger close or until Verizon Communications, Inc. and MCI, Inc. inform the Commission by filing an affidavit with Docket Control that merger-related activities are completed, whichever comes last.

IT IS FURTHER ORDERED that the following affiliated companies of Verizon Communications, Inc. and MCI, Inc. shall, within 30 days of closing of the transaction, each procure performance bonds in the following amounts: Verizon Select Services, Inc. (\$235,000); One Point Communications – Colorado dba Verizon Avenue ( \$235,000) (Verizon Avenue shall be permitted to remove \$100,000 held in an escrow account pursuant to a prior Order); Verizon Long Distance fka

1 Bell Atlantic Communications (\$10,000); MCI metro (\$235,000); MCI WorldCom Network Services,  
2 Inc. (\$110,000); and MCI WorldCom Communications, Inc. (\$235,000); with such bond amounts to  
3 be increased in increments as set forth in Staff's testimony in this proceeding; and the companies  
4 shall file with the Commission's Docket Control Center within 30 days thereafter, certification of  
5 compliance with this condition.

6 IT IS FURTHER ORDERED that Intermedia Communications, Inc.'s Certificate of  
7 Convenience and Necessity is hereby cancelled.

8 IT IS FURTHER ORDERED that the surviving merged entity shall submit annually a  
9 Consumer Benefits Report to the Commission's Compliance Division. The first report shall be  
10 submitted no later than December 31, 2006, and annually thereafter for a period of four years. The  
11 Report shall detail any cost savings that have resulted from the merger and have been passed on to  
12 consumers; efforts to provide stand-alone DSL to Arizona consumers; efforts to expand VOIP  
13 offerings to Arizona consumers; and any rate reductions or increases that have been implemented by  
14 the surviving merged entity and its affiliates operating in Arizona.

15 IT IS FURTHER ORDERED that all Arizona residential consumers of telecommunications  
16 services should have the opportunity to arbitrate disputes over billing and unauthorized charges  
17 before the Commission. The surviving merged entity, as well as its affiliated companies, shall be  
18 required to participate in a binding Arbitration Program administered by the Commission's Consumer  
19 Services Division. The Arbitration Program will apply to all Arizona residential customers of the  
20 surviving merged entity and its controlled affiliates that offer telecommunications services including,  
21 but not limited to, wireline, wireless and VOIP telephony.

22 IT IS FURTHER ORDERED that the closing of the merger transaction between Verizon and  
23 MCI shall constitute the surviving merged entity's agreement with and acquiescence to the  
24 Commission's jurisdiction with respect to the Arbitration Program.

25 IT IS FURTHER ORDERED that the Arbitration Program shall be administered by the  
26 Commission's Consumer Services Division, and shall embrace Arizona residential customer disputes  
27 relating solely to billing and unauthorized charges. The Arbitration Program shall expressly include  
28 wireline, wireless, and/or VOIP services offered by the surviving merged entity's controlled

1 affiliates.

2 IT IS FURTHER ORDERED that, in deciding disputes between any of the surviving merged  
3 entity's controlled affiliates and its customers pursuant to the Arbitration Program established by this  
4 Decision, the Commission shall forego imposing any monetary sanction, except restitution in any  
5 form, including billing credits, against any participant in the Arbitration Program.

6 IT IS FURTHER ORDERED that nothing in this Decision shall prevent the Commission  
7 from issuing an Order to Show Cause against the surviving merged entity and/or any of its affiliates.

8 IT IS FURTHER ORDERED that nothing in this Decision shall compel a customer to  
9 participate in the binding Arbitration Program established herein, or foreclose a customer from  
10 pursuing a cause of action through any other available forum, including pursuit of an action in a court  
11 of law or equity.

12 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

13 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

14  
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16 CHAIRMAN

COMMISSIONER

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18 COMMISSIONER

COMMISSIONER

COMMISSIONER

19  
20 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive  
21 Director of the Arizona Corporation Commission, have  
22 hereunto set my hand and caused the official seal of the  
23 Commission to be affixed at the Capitol, in the City of Phoenix,  
24 this \_\_\_\_ day of \_\_\_\_\_, 2005.

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26 \_\_\_\_\_  
27 BRIAN C. McNEIL  
28 EXECUTIVE DIRECTOR

26 DISSENT \_\_\_\_\_

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28 DISSENT \_\_\_\_\_

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SERVICE LIST FOR:

MCI, INC. and VERIZON COMMUNICATIONS, INC.

DOCKET NOS.:

T-01846B-05-0279; T-03258A-05-0279; T-03475A-05-0279; T-03289A-05-0279; T-03198A-05-0279; T-03574A-05-0279; T-02431A-05-0279; T-03197A-05-0279; T-02533A-05-0279; T-03394A-05-0279; and T-03291A-05-0279

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