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Division of Public Utilities

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September 14, 2005

TO: PUBLIC SERVICE COMMISSION

FROM: DIVISION OF PUBLIC UTILITIES

Constance B. White, Director
Wes Huntsman, Manager, Telecommunications
Casey J. Coleman, Utility Analyst

Re: In the Matter of the Joint Application of Verizon Communications, Inc. and MCI, Inc. for Approval of Agreement and Plan of Merger Docket No. 05-2430-01

RECOMMENDATION: Approval of Merger

Although there are a variety of unknown elements of how the telecommunication industry could be affected by the Verizon Communications, Inc. "(Verizon)" and MCI, Inc. "(MCI)" merger on a national level, the Division feels that the Commission is required to approve or deny this Application looking at how the State of Utah will be impacted by this merger. Because Verizon has indicated that it will continue to operate MCI as the Competitive Local Exchange Carrier "(CLEC)" in the state the Division feels that the competitive landscape of the State will be marginally impacted, if there is any impact at all. The Division does realize that with the MCI merger, where in effect a CLEC is being acquired by an RBOC, an advocate for CLEC issues could be lost.

Because of the minimal impact on competition in the State of Utah by this merger, the Division recommends approving the merger, leaving the total impact of the national telecommunication market to be assessed by the Federal Communications Commission (FCC) and the Department of Justice.

BACKGROUND:

On March 30, 2005 Verizon and MCI filed a joint application informing the Commission of their intent to acquire MCI by Verizon. Verizon has indicated the intention to leave things essentially the same as they are now, with MCI operating in the state as a Competitive Local Exchange Carrier (CLEC). Verizon currently has not filed for a CPCN in the State of Utah, but if MCI is the only company offering service in the State then the Division feels the current CPCN for MCI would be sufficient. If for some reason at a later date Verizon determines to enter the Utah market as Verizon and not MCI a CPCN would need to be obtained by Verizon.

Even though MCI has been a CLEC offering service in the State the number of total customers served by MCI is under 5%. Because neither company is a prevailing company in the state of Utah, the Division does not envision that the competitive climate would be tipped much in either direction with this merger.

On April 20, 2005 DIECA Communications, Inc., d/b/a Covad Communications Company ("Covad") petitioned the Commission to intervene in this Docket. On August 29, 2005 the Commission granted the petition for Covad to intervene. In a Technical Conference on September 14, 2005 Covad indicated their intention to withdraw from this proceeding. Because there are no other companies or organizations expressing an interest in this proceeding the Division feels the recommendation to approve the merger is warranted.

One potential impact that this merger could have on the State of Utah is the loss of an advocate for CLEC issues. Over the past few years MCI was an active participant in a variety of cases that were presented before the Commission. MCI was able to provide insight from a CLEC perspective on a variety of issues from Pricing Flexibility to Unbundled Network Elements. With the merger of MCI into Verizon it is unclear how active a role Verizon will take as a CLEC, or even if Verizon will take a position that might be opposite the opinion of RBOCs. To be fair though, MCI had already begun to lessen their involvement in cases in the State.

Other than the issue mentioned above, the Division, excluding any of the national issues that still must be resolved, recommends that the proposed Verizon and MCI merger should be approved.