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March 30, 2005

**BY HAND DELIVERY**

Ms. Blanca Bayó, Director  
Commission Clerk and Administrative Services  
Room 110, Easley Building  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, Florida 32399-0850

Re: Docket No. 040156-TP

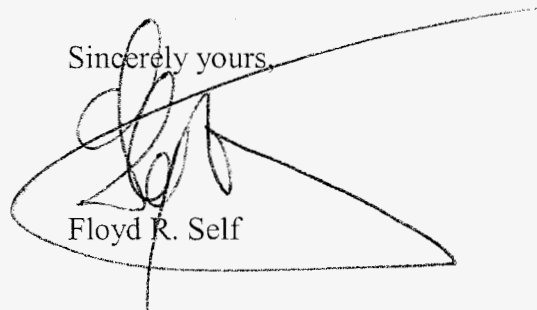
Dear Ms. Bayó:

Enclosed for filing on behalf of MCI, Inc. are an original and fifteen copies of the MCI's Prehearing Statement in the above referenced docket. Also enclosed is a 3 ½" diskette with the document on it in MS Word 97/2000 format.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me.

Thank you for your assistance with this filing.

Sincerely yours,



Floyd R. Self

FRS/amb  
Enclosures  
cc: Parties of Record

COMMUNICATIONS CLERK  
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**BEFORE THE PUBLIC SERVICE COMMISSION**

In re: Petition for arbitration of amendment ) to interconnection agreement with ) certain competitive local exchange ) carriers and commercial mobile radio ) service providers in Florida by ) Verizon Florida Inc. ) <hr style="width: 100%;"/>	Docket No. 040156-TP  Filed: March 30, 2005
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**MCI'S PREHEARING STATEMENT**

MCImetro Access Transmission Services, LLC, and as successor in interest to MCI WORLDCOM Communications, Inc., Metropolitan Fiber Systems of Florida, Inc., and Intermedia Communications Inc, ("MCI"), pursuant to Orders No. PSC-04-1236-PCO-TP, issued December 13, 2004, and PSC-05-0221-PCO-TP, issued February 24, 2005, hereby submits the following Prehearing Statement in the above-captioned docket.

**1. Witnesses, Subject Matter Issue(s)**

MCI intends to sponsor the testimony of the following witness:

<u>Witness:</u>	<u>Testimony Filed</u>	<u>Issue(s)</u>
Greg J. Darnell	Direct, Supplemental Direct, Rebuttal	1-16 and 21-26

**2. Witness Exhibits**

**Darnell Direct Exhibits**

Exhibit GJD-1	Academic and Professional Qualifications
Exhibit GJD-2	Relevant Excerpts from Interconnection Agreement
Exhibit GJD-3	MCI's revisions to Verizon's proposed amendment

**Darnell Supplemental Direct Exhibit**

Exhibit GJD-4	MCI's supplemental revisions to Verizon's proposed amendment
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## **Darnell Rebuttal Testimony**

Exhibit GJD-5          Verizon MA March 1, 2005 letter

### **3. Basic Position Statement**

Verizon proposes to modify the existing change of law process so that *it* would be permitted to decide unilaterally which changes of law should be automatically incorporated into the interconnection agreements, how the change of law should be interpreted and which changes of law should not be automatically incorporated. Having a process that allows one party to decide to implement immediately changes of law that benefit itself, and to require all other changes of law to proceed through a negotiated process is unreasonable. The interconnection agreement should give both parties the same protection as exists in the current agreement.

Verizon has proposed numerous revisions to the MCI/Verizon interconnection agreement. MCI has a number of concerns regarding Verizon's specific language and positions, and MCI has set forth in detail its proposed revisions to Verizon's proposals in this proceeding. (See Exhibit GJD-4, Darnell, Supplemental Direct Testimony).

Another significant issue is the double recovery of costs Verizon proposes to charge for activities related to commingling, conversions, and routine network modifications. The changes of law concerning commingling and conversions were created by the TRO and were not appealed or affected by the ruling of USTA II., and the law regarding routine network modifications was not changed by the TRO or TRRO. Although Verizon proposes these new charges on an interim basis, it failed to file in this proceeding any cost supports for new rates, even though it had nineteen months to develop such studies.

Contrary to Verizon's position, additional charges are not warranted. This Commission already determined the *total* element long run incremental cost (TELRIC) of the network and processes in Verizon Florida's territory. The creation of new UNE rates without commensurate reductions to existing UNE rates would result in revenues that exceed this Commission's calculation of TELRIC and would violate federal rules. Verizon Massachusetts filed a letter with the Massachusetts Department of Telecommunications and Energy stating this "[u]ntil such rates for those elements are approved by the Department, Verizon MA will not charge for the activities when provisioning new loops once interconnection agreements are appropriately amended." (See Exhibit GJD-5, Darnell Rebuttal Testimony). The Commission should not permit Verizon to assess new charges at this time, even on an interim basis. If Verizon wants to request new charges, it should be required to file a cost study to support its position.

#### **4. Questions of Fact, Law , and Policy**

**ISSUE 1:** Should the Amendment include rates, terms, and conditions that do not arise from federal unbundling regulations pursuant to 47 U.S.C. sections 251 and 252, including issues asserted to arise under state law or the Bell Atlantic/GTE Merger Conditions?

**MCI POSITION:** Yes. The interconnection agreement should include all of Verizon's wholesale obligations to MCI, including those arising from Section 251 and 252 of the Act, obligations arising under state law, as well as obligations arising from voluntary commitments made by Verizon.

**ISSUE 2:** What rates, terms, and conditions regarding implementing changes in unbundling obligations or changes of law should be included in the Amendment to the parties' interconnection agreements?

**MCI POSITION:** The FCC has not invalidated change of law provisions in interconnection agreements. The effect of Verizon's proposed language is to eliminate

the need to negotiate contract amendments to implement changes in law that reduce its contract obligations and to implement those changes by giving notices of discontinuance to carriers. MCI proposes to delete Verizon's proposed Section 2.1 and has proposed revised language for Section 3.1.

**ISSUE 3:** What obligations under federal law, if any, with respect to unbundled access to local circuit switching, including mass market and enterprise switching (including Four-Line Carve-Out switching), and tandem switching, should be included in the Amendment to the parties' interconnection agreements?

**MCI POSITION:** The interconnection agreement between Verizon and MCI provides both parties with a specific process to follow if either wants to modify the agreement in response to any change of law. MCI proposes that Enterprise Switching be defined and listed as a "discontinued element," and therefore references throughout the amendment to the four-line carve out are unnecessary and should be deleted. (See MCI's proposal to Section 8, Exhibit GJD-4.)

**ISSUE 4:** What obligations under federal law, if any, with respect to unbundled access to DS1 loops, unbundled DS3 loops, and unbundled dark fiber loops should be included in the Amendment to the parties' interconnection agreements?

**MCI POSITION:** The interconnection agreement between Verizon and MCI provides both parties with a specific process to follow if either wants to modify the agreement in response to any change of law. MCI's proposed contract language regarding the availability of DS1, DS3, and Dark Fiber loops is found in Section 9 of Exhibit GJD-4.

**ISSUE 5:** What obligations under federal law, if any, with respect to unbundled access to dedicated transport, including dark fiber transport, should be included in the Amendment to the parties' interconnection agreements?

**MCI POSITION:** The interconnection agreement between Verizon and MCI provides both parties with a specific process to follow if either wants to modify the agreement in

response to any change of law. With respect to this issue, MCI's proposed contract language is found in Section 10 of Exhibit GJD-4.

**ISSUE 6:** Under what conditions, if any, is Verizon permitted to re-price existing arrangements which are no longer subject to unbundling under federal law?

**MCI POSITION:** If Verizon seeks to re-price existing arrangements that will no longer be subject to unbundling requirements under federal law, Verizon is required to follow the existing change of law provisions in the parties' interconnection agreement. Nothing in the FCC's recent orders, specifically the TRO and TRRO, give Verizon license to amend the change of law provisions of the current interconnection agreement. .

**ISSUE 7:** Should Verizon be permitted to provide notice of discontinuance in advance of the effective date of removal of unbundling requirements?

**MCI POSITION:** MCI does not object to part of proposed Section 31. as discussed in Mr. Darnell's direct testimony. MCI does, however, object to Verizon's proposal to include language on UNEs that *might* be removed from federal unbundling rules in the future, because Verizon's proposal seeks to gut the change of law provisions in the current agreement. This amendment should address UNEs and UNE combinations that are no longer the subject of federal unbundling obligations. MCI also proposes to delete as unnecessary Verizon's proposed language to give notice of discontinuance in advance of the effective date of removal of unbundling requirements.

**ISSUE 8:** Should Verizon be permitted to assess non-recurring charges for the disconnection of a UNE arrangement or the reconnection of service under an alternative arrangement? If so, what charges apply?

**MCI POSITION:** Verizon should not be permitted to assess its existing loop disconnect nonrecurring charges on loops that are not disconnected or on loops that are disconnected as part of a group or batch request. The changes that can be expected as a result of the

TRRO will not reflect normal, market driven customer churn and therefore the existing nonrecurring loop disconnect charge would be inappropriate. The Commission should determine new and lower “batch” hot cut rates to capture the scope and scale economies of one-time, mass migration of loops. To the extent unbundled loops are converted to alternative Verizon offerings such as resale or commercial offerings, no disconnect or reconnect charges should apply. (See Sections 3.2 and 8 of Exhibit GJD-4).

**ISSUE 9:** What terms should be included in the Amendments’ Definitions Section and how should those terms be defined?

**MCI POSITION:** MCI has proposed that the Amendment to the parties’ interconnection agreement include definitions for a number of terms to ensure that they track federal law and to supply definitions for other terms which were omitted by Verizon. MCI’s proposed definitions are found in Section 12.7 of Exhibit GJD-4.

**ISSUE 10:** Should Verizon be required to follow the change of law and/or dispute resolution provisions in existing interconnection agreements if it seeks to discontinue the provisioning of UNEs?

**MCI POSITION:** Yes. Verizon should be required to follow the change of law provisions in the existing interconnection agreements if it seeks to discontinue provisioning UNEs.

**ISSUE 11:** How should any rate increases and new charges established by the FCC in its final unbundling rules or elsewhere be implemented?

**MCI POSITION:** The interconnection agreement between Verizon and MCI provides both parties with a specific process to follow if either wants to modify the agreement in response to any change of law. The rates Verizon charges MCI should not change until an amendment to the agreement or a new agreement changing the rates becomes

effective. MCI's proposed language regarding the changes in rates caused by the TRRO is found in sections 8-11 of Exhibit GJD-4.

**ISSUE 12:** Should the interconnection agreements be amended to address changes arising from the TRO with respect to commingling of UNEs with wholesale services, EELs, and other combinations? If so, how?

**MCI POSITION:** MCI's position on this issue is set forth in detail in Section 4 of Exhibit GJD-4.

**ISSUE 13:** Should the interconnection agreements be amended to address changes arising from the TRO with respect to conversion of wholesale services to UNEs/UNE combinations? If so, how?

**MCI POSITION:** MCI's position is set forth in detail in Section 5 of its redlined edits to Verizon's proposed interconnection agreement amendment found in Exhibit GJD-4.

**ISSUE 14:** Should the ICAs be amended to address changes, if any, arising from the TRO with respect to:

- a) Line splitting;
- b) Newly built FTTP loops;
- c) Overbuilt FTTP loops;
- d) Access to hybrid loops for the provision of broadband services;
- e) Access to hybrid loops for the provision of narrowband services;
- f) Retirement of copper loops;
- g) Line conditioning;
- h) Packet switching;
- i) Network Interface Devices (NIDs);
- j) Line sharing?

If so how?

**MCI POSITION:** MCI's position on these subissues is found in the following sections of Exhibit GJD-4:

Section 6 – Issue 14(a);

Section 7 – Issues 14(b, c);

Section 7.2, 9.7.5 – Issues 14(d,e);



Section 7.3 – Issue 14(f);

Section 7.4 – Issue 14(g); and

Section 9.7.5 – Issue 14(j).

MCI takes no position regarding Issues 14(h and i).

**ISSUE 15:** What should be the effective date of the Amendment to the parties' agreements?

**MCI POSITION:** Generally, the practice of the Commission has been to issue an order setting forth its decision regarding disputed issues and require the parties to submit a signed agreement that complies with its decision within 30 days of the issuance of the order. The effective date of the agreement should be the date the Commission issues its final order approving the signed amendment.

**ISSUE 16:** How should CLEC requests to provide narrowband services through unbundled access to a loop where the end user is served via Integrated Digital Loop Carrier (IDLC) be implemented?

**MCI POSITION:** MCI's position is set forth in Section 7.2 of Exhibit GJD-4.

**ISSUE 17:** Should Verizon be subject to standard provisioning intervals or performance measurements and potential remedy payments, if any, in the underlying Agreement or elsewhere, in connection with its provision of

- a) unbundled loops in response to CLEC requests for access to IDLC-served hybrid loops;
- b) Commingled arrangements;
- c) Conversion of access circuits to UNEs; and
- d) Loops or Transport (including Dark Fiber Transport and Loops) for which Routine Network Modifications are required?

**MCI POSITION:** MCI takes no position on this issue.

**ISSUE 18:** How should sub-loop access be provided under the TRO?

**MCI POSITION:** MCI takes no position on this issue.

**ISSUE 19:** Where Verizon collocates local circuit switching equipment (as defined by the FCC's rules) in a CLEC facility/premises, should the transmission path between that

equipment and the Verizon serving wire center be treated as unbundled transport? If so, what revisions to the Amendment are needed?

**MCI POSITION:** MCI takes no position on this issue.

**ISSUE 20:** Are interconnection trunks between a Verizon wire center and a CLEC wire center, interconnection facilities under section 251(c)(2) that must be provided at TELRIC?

**MCI POSITION:** MCI takes no position on this issue.

**ISSUE 21:** What obligations under federal law, if any, with respect to EELs should be included in the Amendment to the parties' interconnection agreements?

- a) What information should a CLEC be required to provide to Verizon as certification to satisfy the service eligibility criteria (47 C.F.R. Sec. 51.318) of the TRO in order to (1) convert existing circuits/services to EELs or (2) order new EELs?
- b) Conversion of existing circuits/services to EELs:
  1. Should Verizon be prohibited from physically disconnecting, separating or physically altering the existing facilities when a CLEC requests a conversion of existing circuits/services to an EEL unless the CLEC requests such facilities alteration?
  2. In the absence of a CLEC request for conversion of existing access circuits/services to UNE loops and transport combinations, what types of charges, if any, can Verizon impose?
  3. Should EELs ordered by a CLEC prior to October 2, 2003, be required to meet the TRO's service eligibility criteria?
  4. For conversion requests submitted by a CLEC prior to the effective date of the amendment, should CLECs be entitled to EELs/UNE pricing effective as of the date the CLEC submitted the request (but not earlier than October 2, 2003)?
- c) What are Verizon's rights to obtain audits of CLEC compliance with the service eligibility criteria in 47 C.F.R. 51.318?

**MCI POSITION:** MCI's position is set forth in detail in Sections 4, 5, 8, and 9 of Exhibit GJD-4

**ISSUE 22:** How should the Amendment reflect an obligation that Verizon perform routine network modifications necessary to permit access to loops, dedicated transport, or dark fiber transport facilities where Verizon is required to provide unbundled access to those facilities under 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51?

**MCI POSITION:** An amendment is unnecessary. Because the FCC rules have not been changed in this regard, MCI has not provided contract language regarding Issue 22.

**ISSUE 23:** Should the parties retain their pre-Amendment rights arising under the Agreement, tariffs, and SGATs?

**MCI POSITION:** The interconnection agreement, as changed by the proposed Amendment, will be the exclusive source of the parties' contract rights. Verizon's proposed Section 3.4 provides that Section 3 of the Amendment is subordinate to any pre-existing and independent rights that Verizon may have under the original agreement, a Verizon tariff or SGAT, or otherwise to discontinue providing Discontinued Elements. Verizon's proposal is inappropriate. In all other respects, the proposed amendment supersedes inconsistent provisions in the original agreement. If MCI purchases UNEs out of the agreement, Verizon tariffs and SGATs are irrelevant.

**ISSUE 24:** Should the Amendment set forth a process to address the potential effect on the CLECs' customers' services when a UNE is discontinued?

**MCI POSITION:** MCI has proposed several contract provisions to implement the detailed requirements set forth in the FCC's new unbundling rules to govern the transition from UNE arrangements to replacement arrangements. These provisions are set forth in Exhibit GJD-4. The section numbers for each element affected by the TRRO are set forth as follows:

- |                            |                                   |
|----------------------------|-----------------------------------|
| a) Mass Market Switching   | MCI Redline, §8.1.1 through 8.1.4 |
| b) DS1 Loops               | §9.1.2                            |
| c) DS3 Loops               | §9.2.2                            |
| d) Dedicated DS1 Transport | §10.1.3                           |

- e) Dedicated DS3 Transport §10.2.3
- f) Dark Fiber Transport §10.3.2

**ISSUE 25:** How should the Amendment implement the FCC’s service eligibility criteria for combinations and commingled facilities and services that may be required under 47 U.S.C. § 251(c)(3) and 47 C.F.R. Part 51?

**MCI POSITION:** MCI’s position is set forth in detail in Section 4 of Exhibit GJD-4.

**ISSUE 26:** Should the Commission adopt the new rates specified in Verizon’s Pricing Attachment on an interim basis?

**MCI POSITION:** No. A significant issue regarding Verizon’s proposed rates for performing routine network modifications is the extent to which costs purportedly being recovered are already recovered in recurring UNE rates. It would not be appropriate, even on an interim basis, to allow Verizon to double recover its costs. If the double recovery issue cannot be fully litigated as part of this proceeding, the Commission should set a zero rate for the proposed rate elements.

**5. Stipulated Issues**

There are no stipulated issues at this time.

**6. Pending Motions**

MCI has pending a Motion to Accept Supplemental Direct Testimony of Greg Darnell.

**7. Pending Requests or Claims for Confidentiality**

None at this time.

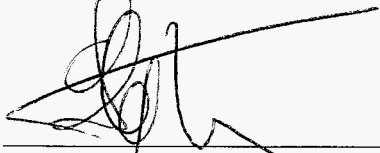
**8. Other requirements**

There are no other requirements at this time.

**9. Objections to witness qualifications**

There are no objections to witness qualifications at this time.

RESPECTFULLY SUBMITTED this 30<sup>th</sup> day of March, 2005.



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## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been served on the following parties by Hand Delivery (\*) and/or U.S. Mail on this 30<sup>th</sup> day of March, 2005.

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