

## **ATTACHMENT 6**

**REPLY DECLARATION OF MICHAEL K. HASSETT,  
TOM MAGUIRE, MICHAEL O'CONNOR, AND  
VINCENT J. WOODBURY**

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Verizon Communications Inc. and	)	
MCI, Inc.	)	WC Docket No. 05-75
Applications for Approval of	)	
Transfer of Control	)	

**REPLY DECLARATION OF MICHAEL K. HASSETT,  
TOM MAGUIRE, MICHAEL O’CONNOR,  
AND  
VINCENT J. WOODBURY**

1. My name is Michael K. Hassett. I submitted a Declaration in this proceeding on March 11, 2005. My qualifications are set forth in that Declaration.
2. My name is Tom Maguire. My business address is 1095 Avenue of the Americas, New York, New York. I am a Senior Vice President in Verizon’s Wholesale Markets Group with primary responsibility for wholesale ordering, provisioning and maintenance. In this capacity, I am responsible for Verizon’s number portability processes.
3. Since joining Verizon nearly 25 years ago as a service technician, I have held managerial positions in installation, maintenance and performance management. My experience includes coordination of managing number portability requests from competitors. My education background includes a Bachelor of Science degree from Adelphi University, and an M.B.A. from Long Island University.
4. My name is Michael O’Connor. My business address is 1095 Avenue of the Americas, New York, New York. I am employed by Verizon as Executive Director –

Federal Regulatory Affairs. In this capacity, I am responsible for assuring that Verizon's 911 service offerings are consistent with Verizon policy and federal requirements for 911.

5. I have more than 16 years of experience in the telecommunications industry in a variety of positions including Operator Services, Network Services and Corporate Staff. Prior to my current position, I served as Director – Federal Regulatory Affairs, where I was responsible for 911, CALEA, and numbering related policy. My education background includes a B.A. from Catholic University and an M.B.A. from Pace University.

6. My name is Vincent J. Woodbury. I submitted a Declaration in this proceeding on March 11, 2005. My qualifications are set forth in that Declaration.

**I. Purpose of Reply Declaration**

7. The purpose of our reply declaration is to respond to comments regarding competition for mass market services. As we explained in our Declaration, intermodal competition for mass market services has increased dramatically. Contrary to the claims of some commenters, intermodal competition is continuing to grow at a rapid rate. Verizon is losing annually about five percent of its retail access lines to cable companies, independent VoIP providers and wireless carriers, and those retail losses are continuing to grow. Intermodal competitors are continuing to expand their networks and increase the number of mass market customers they serve, particularly in Verizon's service territories.

8. The competition provided by these companies is unaffected by the transaction between Verizon and MCI. Many competitors are already providing mass

market services entirely over their own networks and are not relying on wholesale service providers to compete for mass market customers. In addition, there are many carriers providing wholesale services to companies that provide mass market services.

## **II. Rapid Growth of Competition from Intermodal Sources.**

9. Contrary to the claims of several commenters, cable companies, wireless carriers and independent VoIP providers are increasingly competing for mass market voice telephone customers. These competitors are continuing to gain mass market customers, while Verizon is continuing to lose retail access lines.

10. According to one Wall Street analyst, “[t]he Bells’ access line trends . . . in the first quarter [of 2005], [had] generally higher-than expected declines in overall access lines. Each of the Bells reported year-over-year declines that were the highest since at least 1Q04, ranging from a 3.9% decline for BellSouth to 5.1% for Verizon.”<sup>1</sup>

11. These larger than expected access line losses are attributable to intermodal competition. For example, one analyst “expect[s] SBC and VZ’s YOY access line declines to increase to 6% from 4% currently due to increased wireless and VoIP cannibalization.”<sup>2</sup> Another analyst “estimate[s] that the seven largest U.S. cable operators and Vonage combined contributed roughly half of the Bell lines lost to intermodal competition in the [first] quarter [of 2005], with the other half going to wireless.”<sup>3</sup> A third analyst noted that: “wireless remains the single biggest killer of both

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<sup>1</sup> J. Halpern, *et al.*, Bernstein Research Call, *US Telecom 1Q05 Review: Broadband, Wireless Growth Highlight Positives; Access Lines Start to Show VoIP Impact* at 3 (May 9, 2005) (“*Bernstein 1Q05 Review*”).

<sup>2</sup> T. Horan, *et al.*, CIBC World Markets, *SBC and VZ Downgraded to Sector Performer* at 1 (May 3, 2005).

<sup>3</sup> P. Coburn, *et al.*, UBS, *UBS Investment Research: Loser #1 Fiber-to-the-Premise* at 5 (Apr. 29, 2005) (citing UBS analysts A. Bourkoff and J. Hodulik).

total and retail access lines,” and that “the rate of wireless cannibalization has accelerated in the last four quarters . . . . Although not all numbers are in yet, it is likely that close to 1m of access lines were lost to wireless, maintaining the ratio of around 50% of ‘kills.’ The rest comes from a mixture of broadband expansion (both DSL and cable modem), cable telephony, VoIP and the overlap (i.e. doubling up of lifelines with VoIP/wireless products).”<sup>4</sup>

12. As Deutsche Bank explained, “over the longer-term, RBOCs are likely to lose around 20% of their retail consumer lines to cable telephony. This, in conjunction with continuing strong wireless cannibalization (estimated at more than 1m lines lost per quarter, or around 60%-70% of primary residential access line loss) and rising penetration of non-facilities-based VoIP providers (such as Vonage), should accelerate RBOC access line losses towards (at least) 5%, and possibly as high as 6% through 2005-07.”<sup>5</sup> “All in all,” Deutsche Bank recently summarized, “we believe that it is not unreasonable to expect that the current 400k/quarter line loss to cable telephony could easily double to at least 900k/quarter for the RBOCs within the next twelve months.”<sup>6</sup> And Moody’s recently downgraded the debt ratings of several Verizon operating companies because they face “increasing competition and technology substitution” that

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<sup>4</sup> V. Shvets, *et al.*, Deutsche Bank, *The Hotline: 1Q05 Wireline Post-Mortem* at 4 (May 9, 2005).

<sup>5</sup> V. Shvets, *et al.*, Deutsche Bank, *4Q04 Review: Wireless OK . . . RBOCs Fare Poorly* at 6 (Feb. 28, 2005).

<sup>6</sup> V. Shvets, *et al.*, Deutsche Bank, *The Hotline: 1Q05 Wireline Post-Mortem* at 5 (May 9, 2005).

will lead to “accelerating access line losses.”<sup>7</sup> The New York Attorney General summed it up succinctly: “[n]ever before have consumers had so many choices for cable, satellite, Internet and phone services.”<sup>8</sup>

**Cable Companies.**

13. As we explained in our Declaration, cable companies are aggressively offering voice telephone service to mass market customers across the country using circuit switched and VoIP technology.<sup>9</sup> As of year end 2004, cable companies were offering voice telephone service to more than 32 percent of U.S. households, and plan to offer voice telephone service to nearly 60 percent by the end of this year, and to more than 80 percent by the end of 2006.<sup>10</sup>

14. Analysts still expect all the major cable companies to offer voice telephone service to nearly 100 percent of their cable homes passed over the next two to three years.<sup>11</sup> Collectively, cable companies are expected to serve nearly 6 million lines

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<sup>7</sup> Moody’s Investors Services Press Release, *Moody’s Cuts Certain Verizon Subsidiaries (New England, NJ, PA, MD, VA, and Southwest); Rtg’s of Most Verizon Subs Remain on Review for Possible Cut* (May 20, 2005).

<sup>8</sup> New York State Department of Law Press Release, *Time Warner Cable Agrees to Alter Promotional Practices* (May 18, 2005).

<sup>9</sup> J. Bazinet & D. Pinsker, JP Morgan H&Q, *The Cable Industry* at Table 22 (Nov. 2, 2001); NCTA, *Cable Telephony: Offering Consumers Competitive Choice* at 2 (July 2001). See also *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking, 18 FCC Rcd 16978, ¶ 52 (2003).

<sup>10</sup> See *Bernstein IQ05 Review* at 4, Exhibit 2; J. Halpern, et al., *Quarterly VoIP Monitor: How High Is Up for Cable VoIP?* at 4, Exhibit 2 (Mar. 24, 2005).

<sup>11</sup> See C. Moffett, et al., Bernstein Research Call, *Cable and Telecom: VoIP Deployment and Share Gains Accelerating; Will Re-Shape Competitive Landscape in 2005* at 3 (Dec. 7, 2004) (“*Bernstein VoIP Deployment Report*”).

by the end of 2005, more than 10 million by year-end 2006, and grow from there to as much as 20 percent of primary access lines.<sup>12</sup>

15. Deutsche Bank “believe[s] [that] telephony net additions will continue to ramp nicely for the [cable sector] . . . . Given the dramatic early success that cable operators have seen in their test markets (10% penetrations within 12-18 months, low capex per addition, scales well) and the positive halo effect the product is having on other cable services (Cablevision is accelerating [high-speed data] and digital net additions despite having sector-leading penetrations), we expect the cable sector will continue to be very aggressive expanding VoIP telephony coverage and pricing and promoting the service.”<sup>13</sup>

16. Cable companies have a strong incentive to market voice telephone service because it leads to increases in the subscription rates for basic cable service. According to one analyst, “the emergence of Voice of IP (VoIP) telephony appears to have a dramatic impact on cable’s basic subscriber growth. Cable operators offering VoIP on a significant scale grew basic subscribers by 89K (+0.3% growth, or 1.2% annualized), while those not yet offering VoIP lost 61K (0.2% contraction, or 0.8% annualized).”<sup>14</sup> Citigroup/Smith Barney reached the same conclusion: “Our analysis suggests voice adoption can help improve basic video penetration rates. A 1%

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<sup>12</sup> F. Governali, *et al.*, Goldman Sachs, *Americas: Telecom Services* at 3 (Jan. 12, 2005). See also *Bernstein VoIP Deployment Report* at Exhibit 5.

<sup>13</sup> D. Mitchelson, *et al.*, Deutsche Bank, *Cable/Sat Spotlight: 1Q05 Preview* at 3 (Apr. 27, 2005).

<sup>14</sup> C. Moffett, *et al.*, Bernstein Research Call, *Cable and Satellite: The “Halo Effect” of VoIP. . . Renewed Basic Subscriber Growth* at 1 (May 12, 2005) (“*Bernstein Halo Report*”).

improvement in voice penetration translates into a 0.37% improvement in video penetration rates.”<sup>15</sup>

17. While cable companies are aggressively competing for mass market customers across the country, this competition is particularly advanced in the areas where Verizon provides voice telephone services as an incumbent carrier. According to analysts, “Verizon is the incumbent Bell in 79% of Cablevision’s territory, and 25% of Time Warner Cable’s [territory].”<sup>16</sup> These two cable companies “had 21.6M homes passed with VoIP as of the end of 2004, representing more than 90% of total homes passed by cable VoIP . . . had together acquired nearly 500K VoIP subscribers by year end 2004, and each was forecast to more than double its subscriber base in 2005.”<sup>17</sup> These analysts concluded that Verizon’s “worse-than-peer access line trend is at least partly reflective of its overlap with cable telephony.”<sup>18</sup>

18. Morgan Stanley has reached the same conclusion. “This continuing trend of weakening has been driven by wireless substitution and increased VoIP activity, particularly from Cablevision and Time Warner . . . Verizon is again likely to lead the access line declines, given its significant exposure to Cablevision.”<sup>19</sup>

19. Verizon estimates that cable companies already offer voice telephone service in markets that reach more than 23 million homes in Verizon’s service areas,

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<sup>15</sup> J. Bazinet, *et al.*, Citigroup/Smith Barney, *Cable – Voice Growth = Video Growth* at 1 (May 11, 2005).

<sup>16</sup> *Bernstein IQ05 Review* at 4.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> S. Flannery, *et al.*, Morgan Stanley, *Telecom Services, IQ05 Preview: The First Glimpse of 2005* at 6 (Apr. 19, 2005).

which is roughly 40 percent of the homes in Verizon's service areas,<sup>20</sup> and have announced that they will offer service on a much wider basis by the end of this year. As we demonstrated in our Declaration, each of the major cable companies has major concentrations of customers in Verizon's service areas, and either already is offering or is in the process of rolling out voice telephone service to large numbers of customers. See Exhibit 1 to Hassett et al. Declaration.

20. Verizon estimates that Cablevision now offers VoIP to 4.4 million homes it passes in metropolitan New York, southern Connecticut, and New Jersey.<sup>21</sup> Cablevision added nearly 92,000 VoIP subscribers in the first quarter of 2005, and now serves more than 364,000 subscribers – a penetration rate of more than 8 percent of homes passed.<sup>22</sup> Cablevision is adding an average of nearly 1,000 VoIP customers in the New York metropolitan area per day.<sup>23</sup>

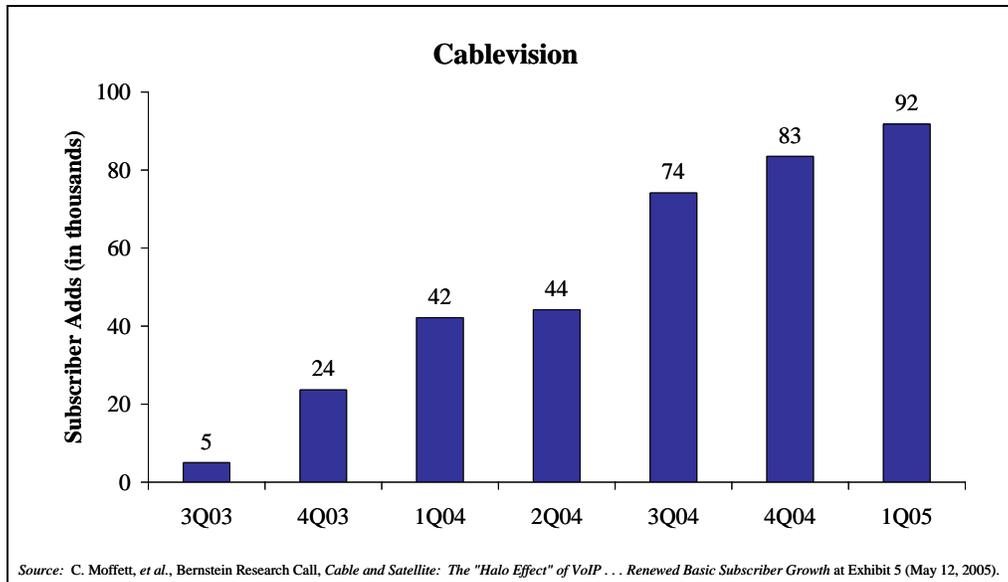
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<sup>20</sup> Verizon's calculations of the number of homes passed by cable companies in Verizon's service areas are based on the aggregate of the number of homes passed by a cable company in each county that is part of the MSA in Verizon's service area in which that company is offering telephony. Homes passed data were obtained from Media Business Corp., *Top 10 MSOs by County* (Mar. 2004). Verizon included only those counties within an MSA that are within its service area. The number of homes in Verizon's service area was calculated using Census Bureau data for these counties and estimating the number of households in 2005 based on the 1990-2000 growth rate. See *National Household Data by County, 1990-2000* based on the U.S. Census, *1990 and 2000 County and City Data Books*, available at the University of Virginia Geospatial and Statistical Data Center, <http://fisher.lib.virginia.edu/collections/stats/ccdb/>.

<sup>21</sup> See Cablevision News Release, *Cablevision Systems Corporation Reports First Quarter 2005 Results* (May 5, 2005).

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*; see also Cablevision News Release, *Cablevision Systems Corporation Reports Fourth Quarter and Full Year 2004 Results 2005 Outlook Provided* (Feb. 23, 2005); R. Black, Blaylock & Partners, *4Q04 Wireline Preview – The Telecom Landscape Is Evolving, Tread Carefully* at 2 (Jan. 20, 2005).

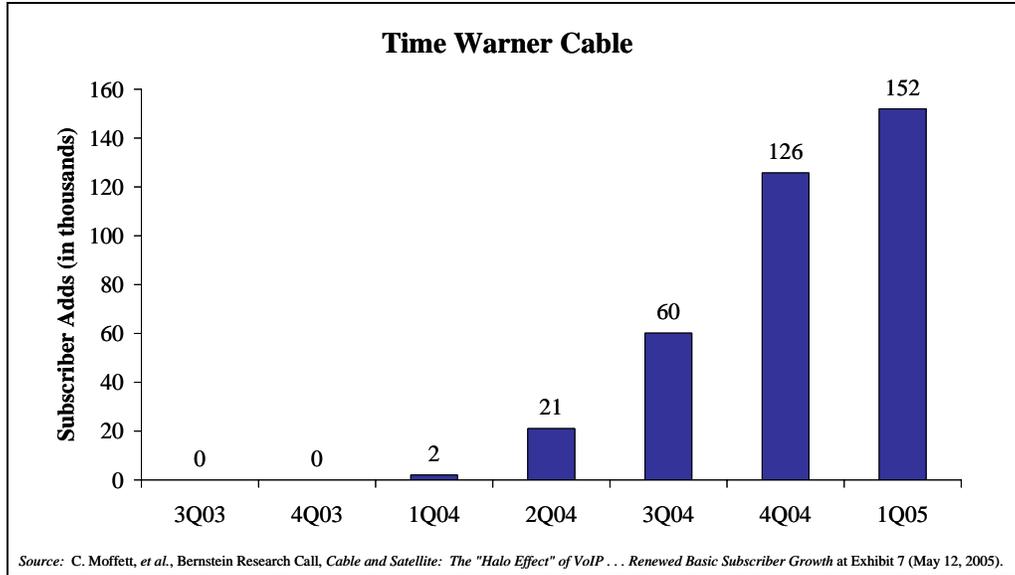


21. As we explained in our opening Declaration, Time Warner now offers VoIP in all 31 of its markets, passing a total of more than 19 million homes.<sup>24</sup> As of the end of the first quarter of 2005, Time Warner Cable served 372,000 Digital Phone subscribers.<sup>25</sup> Time Warner is continuing to increase the rate at which it signs up new customers. According to Chairman & CEO Dick Parsons, “[i]n the first quarter [Time Warner] added over 150,000 net new customers, about 30% more than in the fourth quarter of last year. [Time Warner’s] rollout success has continued into the second quarter. [Time Warner is] adding more than 15,000 net new subscribers per week, and [Time Warner is] quickly closing in on half a million total subscribers.”<sup>26</sup>

<sup>24</sup> Thomson StreetEvents, *TWX – Q4 2004 Time Warner Inc. Earnings Conference Call*, Conference Call Transcript at 6 (Feb. 4, 2005) (statement of Time Warner Inc. CFO Wayne Pace); Time Warner Cable, *About Us Company Highlights*, <http://www.timewarnercable.com/corporate/aboutus/companyhighlights.html>.

<sup>25</sup> Time Warner Inc. Press Release, *Time Warner Inc. Reports First Quarter 2005 Results* (May 4, 2005).

<sup>26</sup> Thomson StreetEvents, *TWX – Q1 2005 Time Warner Inc. Earnings Conference Call*, Conference Call Transcript at 3 (May 4, 2005).



22. Time Warner is achieving very high take rates for its VoIP service. For example, in Portland, Maine, up to 18 percent of homes passed are subscribing to Time Warner’s VoIP service.<sup>27</sup>

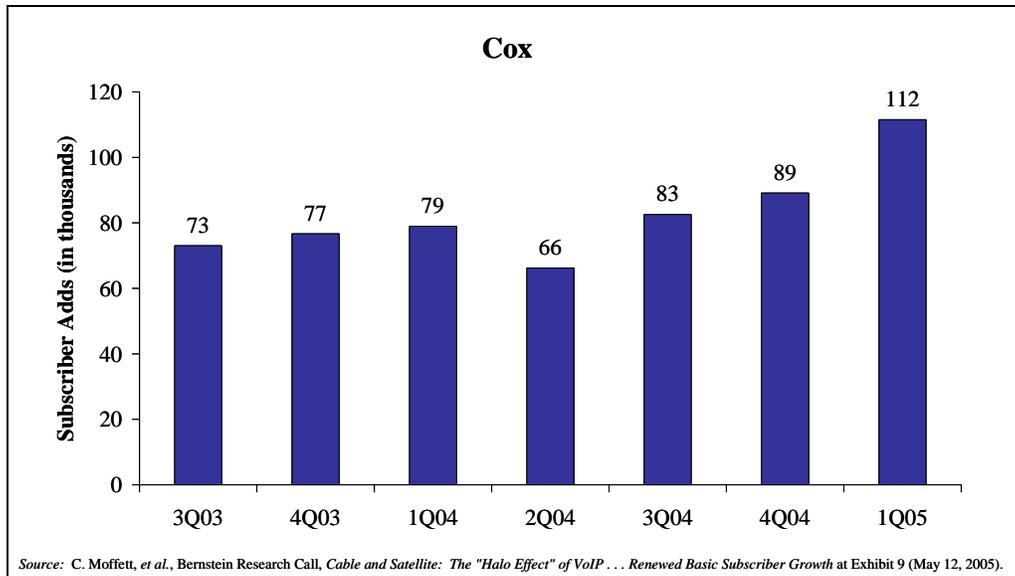
23. Cox already offers circuit-switched voice telephone service and VoIP to more than half of the 10 million homes it passes nationally, covering 17 of its major markets.<sup>28</sup> Cox is expected to roll out VoIP service to five more markets this year to reach a total of 70 percent of homes passed.<sup>29</sup> During the first quarter of 2005, Cox

<sup>27</sup> *Time Warner Inc. at Banc of America Securities Media, Telecommunications and Entertainment Conference – Final*, FD (Fair Disclosure) Wire, Transcript 033005ac.759 (Mar. 30, 2005) (quoting Time Warner Cable Chairman & CEO Glenn Britt).

<sup>28</sup> Cox Communications Inc. Operating Statistics, *attached to Cox News Release, Cox Communications Announces First Quarter Financial Results for 2004* (Apr. 29, 2004); Cox News Release, *Cox Brings Telephone to Five New Markets in '05* (Mar. 8, 2005).

<sup>29</sup> See Cox News Release, *Cox Brings Telephone to Five New Markets in '05* (Mar. 8, 2005).

added nearly 112,000 telephone customers,<sup>30</sup> and now serves a total of 1,416,000 telephone customers.<sup>31</sup>



24. As we explained in our Declaration, Comcast has deployed VoIP in Philadelphia, Pennsylvania; Indianapolis, Indiana; and Springfield, Massachusetts, and plans to expand to 15 million homes passed by the end of 2005, and to all 40 million homes passed by the end of 2006.<sup>32</sup> Comcast added 7,000 VoIP customers in the first quarter of 2005,<sup>33</sup> and now provides telephone service to 1.2 million customers.<sup>34</sup> Comcast expects a penetration rate of 20 percent in five years.<sup>35</sup>

<sup>30</sup> Cox News Release, *Cox Communications Announces First Quarter Financial Results For 2005* (May 9, 2005).

<sup>31</sup> Cox News Release, *Cox Communications Announces First Quarter Financial Results For 2005* (May 9, 2005) (“financial results” attachment, [http://media.corporate-ir.net/media\\_files/irol/76/76341/news/Q105Financials.xls](http://media.corporate-ir.net/media_files/irol/76/76341/news/Q105Financials.xls)).

<sup>32</sup> See Comcast, presentation at the Bear Stearns 18th Annual Media, Entertainment & Information Conference at 10-11 (Mar. 2, 2005).

<sup>33</sup> See Comcast Corporation Press Release, *Comcast Reports First Quarter 2005 Results* (Apr. 28, 2005).

25. Comcast is also planning to integrate wireless service into its VoIP offerings. According to Comcast Cable president Stephen B. Burke, Comcast wants to soon include wireless phone plans in its service bundles, and the offering of a hybrid cellphone that switches over to unlimited fixed-price Internet phone service inside subscribers' homes "is a big part of our future."<sup>36</sup>

26. Charter recently began offering voice service in Massachusetts.<sup>37</sup> Charter "launched an aggressive telephony campaign in April primarily targeting non-customers with a triple-play bundle, as well as video-only customers with a high-speed Internet and telephony bundle on top of their existing video package," and "continue[s] to move forward with an aggressive deployment of VoIP, planning for additional launches in key markets in 2005."<sup>38</sup>

27. The transaction between Verizon and MCI will not affect mass market competition. Many cable companies are already offering VoIP service using their own technology and over their own network facilities. These competitors can compete without using facilities from Verizon or MCI.

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<sup>34</sup> J. Bazinet, *et al.*, Citigroup/Smith Barney, *Cable – Voice Growth = Video Growth* at Table 3 (May 11, 2005).

<sup>35</sup> See *Q4 2004 Comcast Corporation Earnings Conference Call – Final*, FD (Fair Disclosure) Wire (Feb. 3, 2005) (Comcast COO & President Steve Burke: "[W]hen you look at what Cox, and more recently Cablevision, and others have done in this business, we think the 20 percent penetration is very reasonable within a five-year time period.").

<sup>36</sup> P. Howe, *Comcast Plans Boston Launch of Internet Phone Service*, Boston Globe at E1 (Apr. 14, 2005).

<sup>37</sup> See *Q1 2005 Charter Comm Earnings Conference Call- Final*, FD (Fair Disclosure) Wire, Transcript 050305aj.724 (May 3, 2005) (statement of Charter Communications VP of telephony Mark Barber).

<sup>38</sup> *Q1 2005 Charter Comm Earnings Conference Call- Final*, FD (Fair Disclosure) Wire, Transcript 050305aj.724 (May 3, 2005) (statement of Charter Communications COO Mike Lovett).

28. Cable companies generally do not rely on Verizon or MCI to provide their voice telephone service. Some cable companies provide voice telephone service using their own network facilities, while other cable companies supplement their own network facilities with wholesale VoIP services from other companies.

29. For example, Cablevision offers its Optimum Voice VoIP service using its own facilities. Cablevision's service "does not connect your calls via the public Internet. Optimum Voice uses state of the art digital technology and Cablevision's advanced broadband network. Unlike Internet telephony, [Cablevision] guarantee[s] the quality of the network that carries your voice signal, so you get crisp, clear digital voice service all the time."<sup>39</sup>

30. Cox offers VoIP service to its residential customers using predominantly its own facilities and technology. Cox's voice telephone service "is based on a converged packet core that successfully transports a growing number of its long distance customer calls via its national backbone, effectively reducing reliance on third-party wholesale providers."<sup>40</sup> Cox "own[s] end-to-end network infrastructure, including a nationwide OC-48 IP backbone network – a key differentiator from Cox's peers and competitors. This allows [Cox] to own and manage the complete end-to-end customer experience including sales, provisioning, transport, billing and quality-of-service. This allows us to own and manage the complete end-to-end customer experience including

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<sup>39</sup> Cablevision, *Questions & Answers: How is Optimum Voice Different from Standard Telephone Service?*, [http://optimumvoice.custhelp.com/cgi-bin/optimumvoice.cfg/php/enduser/std\\_adp.php?p\\_faqid=258&p\\_created=1076619333&p\\_sid=-E7WK\\_Dh&p\\_lva=&p\\_sp=cF9zcmNoPSZwX3NvcnRfYnk9JnBfZ3JpZHNvcnQ9JnBfcm93X2NudD0xMTQmcF9wYWdlPTE\\*&p\\_li=](http://optimumvoice.custhelp.com/cgi-bin/optimumvoice.cfg/php/enduser/std_adp.php?p_faqid=258&p_created=1076619333&p_sid=-E7WK_Dh&p_lva=&p_sp=cF9zcmNoPSZwX3NvcnRfYnk9JnBfZ3JpZHNvcnQ9JnBfcm93X2NudD0xMTQmcF9wYWdlPTE*&p_li=) (see Related Answers: How is Optimum Voice different than Internet telephony?).

<sup>40</sup> Cox White Paper, *Circuit Switch to VoIP Evolution Plan* at 2 (Mar. 2005), [http://media.corporate-ir.net/media\\_files/IROL/76/76341/COX0305whitepaper.pdf](http://media.corporate-ir.net/media_files/IROL/76/76341/COX0305whitepaper.pdf).

sales, provisioning, transport, billing and quality-of-service.”<sup>41</sup> The technology Cox uses to provide VoIP service “enables phone calls to be transported over Cox's private, IP-based data network, with priority given to voice. This differs greatly from Internet Telephone solutions that use the public Internet to transport telephone calls, thereby making voice packets susceptible to the same slowdowns as data traffic on the Internet.”<sup>42</sup>

31. Comcast uses its own network facilities and obtains wholesale VoIP services from third parties. Comcast’s Digital Voice service “is a residential telephone service that travels over the company's privately managed advanced broadband network using IP technology, not the public Internet. This differentiates Comcast's phone service from VoIP providers and enables Comcast to ensure the quality and reliability customers expect from a primary phone service.”<sup>43</sup> In addition, Comcast selected Level 3 “to provide wholesale transport services in support of its deployment of consumer voice services.”<sup>44</sup> Comcast also uses Sprint “to provide certain transport services in support of Comcast’s deployment of voice services in selected markets.”<sup>45</sup>

32. Charter is obtaining VoIP services from three wholesale providers, Level 3, Sprint and Accenture. According to Charter, “[b]y partnering with Level 3 and Sprint,

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<sup>41</sup> Cox White Paper, *Voice over Internet Protocol: Ready for Prime Time* at 3 (May 2004), [http://media.corporate-ir.net/media\\_files/IROL/76/76341/May\\_whitepaper\\_2.pdf](http://media.corporate-ir.net/media_files/IROL/76/76341/May_whitepaper_2.pdf).

<sup>42</sup> Cox Press Release, *Cox Communications Turns on Digital Telephone Service in Tulsa* (Oct. 4, 2004).

<sup>43</sup> Comcast Press Release, *Comcast Chairman and CEO Brian Roberts Unveils Boston and Hartford Comcast Digital Voice Rollout Plans* (Apr. 13, 2005).

<sup>44</sup> Level 3 Press Release, *Level 3 Reports Fourth Quarter Results and Full Year 2004 Results* (Feb. 8, 2005).

<sup>45</sup> Sprint News Release, *Sprint Reports Fourth Quarter and Full-Year 2004 Results* (Feb. 3, 2005).

we expect to gain speed to market with efficient and cost effective local connectivity and long distance services support. We chose to align with more than one carrier to maximize the benefits of each agreement on a market-by-market basis and achieve the maximum cost savings and flexibility.”<sup>46</sup> In addition, Charter’s agreement with Accenture, “will provide Charter with automated provisioning processes, which are designed to improve operational efficiency and accelerate customer acquisition.”<sup>47</sup>

33. Time Warner also obtains wholesale VoIP services from Sprint.<sup>48</sup> “Sprint will help enable Time Warner Cable to offer voice-over-IP-based telephone service to Time Warner Cable subscribers in 17 markets. Additionally, Sprint will carry long-distance traffic for Time Warner residential customers and provide turnkey telephone services such as 911 service, relay systems and operator services.”<sup>49</sup>

34. Cable companies can obtain wholesale long haul service from multiple carriers. In addition to Level 3 and Sprint, there are other carriers offering wholesale long haul services that can be used by cable companies to provide voice telephone service. For example, “Global Crossing VoIP Service provides wholesale IP interconnection, transport, and call completion of packet-based voice traffic over Global Crossing's integrated IP and TDM platforms.”<sup>50</sup> “In addition to providing Carrier-class IP voice worldwide, Global Crossing VoIP Service customers can combine Global

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<sup>46</sup> Charter Press Release, *Charter Taps Three Telephony Partners; Level 3, Sprint and Accenture to Enhance, Expedite Charter Telephone* (Aug. 30, 2004).

<sup>47</sup> *Id.*

<sup>48</sup> M. Farrell, *Going Mobile*, Multichannel News (Oct. 11, 2004).

<sup>49</sup> Sprint Press Release, *Sprint, Time Warner Cable Sign Agreement that Helps Enable Time Warner Cable to Offer Telecom Services* (Dec. 8, 2003).

<sup>50</sup> Global Crossing, *VoIP Service*, [http://www.globalcrossing.com/xml/carrier/car\\_voice\\_ip\\_orig\\_over.xml](http://www.globalcrossing.com/xml/carrier/car_voice_ip_orig_over.xml).

Crossing's state-of-the-art VoIP Service with Global Crossing's Premier IP VPN service for on-net calling between 500 cities in 50 countries across 6 continents.”<sup>51</sup>

35. Teleglobe offers services for interconnecting and transporting VoIP traffic on international networks. Teleglobe VoIPLink offers two configurations: 1) interdomain configuration which provides “[d]irect VoIP access to Teleglobe's network for customers managing entire VoIP networks” including “[c]all signaling, [with] control & routing [] centrally managed by gatekeepers, a softswitch or proxy servers;” or 2) gateway direct configuration providing “[d]irect VoIP access to Teleglobe’s network for customers using stand-alone gateways” with interfaces directly into the gateway for call signaling, control and media.<sup>52</sup> Both options allow “traffic exchange with every other network and phone in the world.”<sup>53</sup>

36. Broadvox offers wholesale VoIP services including “aggregated local origination inbound service from over 1700 rate centers in the USA and 11 major markets in Canada” and termination for “DSL, Cable, PC-to-Phone, and other traffic originated from IP end points.”<sup>54</sup> Broadvox’s has over 100 carrier customers around the world, including CLECs such as MetTel.<sup>55</sup>

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<sup>51</sup> *Id.*

<sup>52</sup> Teleglobe, *VoIP Interconnection*, [http://www.teleglobe.com/en/services/voice\\_services/voip\\_interconnection/default.asp](http://www.teleglobe.com/en/services/voice_services/voip_interconnection/default.asp).

<sup>53</sup> *Id.*

<sup>54</sup> Broadvox, *Wholesale Carrier Services*, <http://www.broadvox.net/carrier.html>.

<sup>55</sup> Broadvox, <http://www.broadvox.net/index.aspx> (“More than 100 [] communication carriers around the world rely on the Broadvox network to originate and terminate billions of minutes annually.”); Broadvox Press Release, *MetTel Selects Broadvox for its VoIP Service* (Jan. 18, 2005).

37. Symmetric Broadband “provides high performance Internet Protocol connectivity to gateways across North America. With its state-of-the-art tandem gateways, Symmetric can meet its customers at either a TDM or IP level.”<sup>56</sup> “Symmetric Broadband gateways are located in its fully redundant data centers in San Jose, Seattle, New York, Montreal, Toronto and Vancouver” and the company has expansion plans for other cities including Washington D.C., Dallas, Los Angeles, Miami, London, and Hong Kong.<sup>57</sup>

**VoIP Providers.**

38. As we explained in our Declaration, even consumers who today are unable to receive telephone services directly from their cable company can usually obtain them from multiple independent VoIP providers. More than 90 percent of U.S. households are now able to obtain a broadband connection from a provider other than their incumbent local telephone company, principally from their cable company.<sup>58</sup> In fact, cable modem service accounts for more than 61 percent of residential and small business customers receiving download speeds of 200 Kbps and 83 percent of customers that receive more than 200 Kbps in both directions.<sup>59</sup>

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<sup>56</sup> Symmetric Broadband, <http://www.symmetricbroadband.com/>.

<sup>57</sup> *Id.*

<sup>58</sup> See NCTA, *Industry Overview: Statistics & Resources*, <http://www.ncta.com/Docs/PageContent.cfm?pageID=86> (105 million homes passed by cable modem service as of September 30, 2004); see also C. Moffett, *et al.*, Bernstein Research Call, *Broadband Update: Dial-up Conversion Still Accelerating, with No End in Sight* at 9 (Dec. 2, 2004) (as of the end of the third quarter of 2004, cable modem service was available to 95 percent of cable subscribers).

<sup>59</sup> See Indus. Anal. & Tech. Div., WCB, FCC, *High-Speed Services for Internet Access: Status as of June 30, 2004*, Tables 3 & 4 (Dec. 2004).

39. The Commission also has recognized that, in addition to cable and DSL, “[b]roadband Internet access services are rapidly being developed or provided over technologies other than wireline and cable, such as wireless and powerline.”<sup>60</sup> Thus, there are numerous other platforms and technologies already competing in or poised to enter the broadband mass market, including power lines, fixed wireless, 3G mobile wireless, and satellite.<sup>61</sup>

40. Wireless carriers are now deploying broadband capabilities that are comparable to cable and DSL. High-speed Internet access is available at over 15,000 and growing WiFi hot spots located throughout the U.S.<sup>62</sup> Another major development is the adoption of an industry-wide standard for fixed wireless broadband, commonly known as WiMax, that is designed to provide “a wireless alternative to cable, DSL and T1/E1 for last mile broadband access,” and that can “also be used as complimentary technology to

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<sup>60</sup> *Communications Assistance for Law Enforcement Act and Broadband Access and Services*, Notice of Proposed Rulemaking and Declaratory Ruling, 19 FCC Rcd 15676, ¶ 37 n.82 (2004); *see also* Kathleen Q. Abernathy, Commissioner, FCC, *Promoting the Broadband Future*, Keynote Address at Supercomm Conference at 2-3 (June 22, 2004) (“As a result of the consumer benefits and efficiencies, wireline telecommunications carriers, cable operators, wireless carriers, satellite operators, electric utilities, and others are racing to build out broadband networks”), *available at* [http://hraunfoss.fcc.gov/edocs\\_public/attachmatch/DOC-248688A1.pdf](http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-248688A1.pdf).

<sup>61</sup> *See, e.g., Inquiry Concerning the Deployment of Advanced Telecommunications Capability*, Third Report, 17 FCC Rcd 2844, ¶¶ 79-88 (2002); *Triennial Review Order* ¶ 263 (“[T]he Commission also has acknowledged the important broadband potential of other platforms and technologies, such as third generation wireless, satellite, and power lines.”) (citing *Third Section 706 Report 2002*, 17 FCC Rcd 2844, ¶¶ 79-88 (2002)); R. Mark, *Broadband over Power Lines: FCC Plugs In*, Internetnews.com (Apr. 23, 2003), <http://dc.internet.com/news/article.php/2195621> (Chairman Powell: “[t]he development of multiple broadband-capable platforms – be it power lines, Wi-Fi, satellite, laser or licensed wireless – will transform the competitive broadband landscape.”).

<sup>62</sup> *See, e.g. Forbes, Hot Spot Finder*, <http://forbes.jiwire.com/browse-hotspot-united-states-us.htm> (25,877 hotspots in the U.S. as of May 2005).

connect [Wi-Fi] hot spots to the Internet.”<sup>63</sup> These advances could make “last-mile WiMAX connections cheaper than cable and DSL solutions.”<sup>64</sup> Already, TowerStream is offering high-speed Internet access through WiMAX technology in Los Angeles, New York City, Chicago, Boston, Providence and Newport.<sup>65</sup> And Craig McCaw’s Clearwire launched wireless broadband service in Jacksonville, Florida last month and plans to launch service in twenty markets this year.<sup>66</sup>

41. In addition, there are multiple providers that offer VoIP services over the public Internet. Vonage, the largest of the new providers, currently offers local numbers in more than 1,900 rate centers in approximately 120 U.S. markets. Vonage now serves more than 600,000 VoIP subscribers, and continues to add 15,000 customers per week.<sup>67</sup>

42. In April 2005, Skype announced the 100-millionth download of its software. “Skype has now enabled more than 7 billion high-quality minutes of talk time

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<sup>63</sup> See WIMAX Forum, *WIMAX Overview* at 1, available at <http://www.apertonet.com/en/about/wimaxoverview.pdf> (“*WIMAX Overview*”). The standard was approved by the IEEE and released January 29, 2003. WIMAX Forum, *WIMAX FAQs* at 1, available at <http://www.wimaxforum.org> (“*WIMAX FAQs*”).

<sup>64</sup> M. Hogan, *To the WiMAX: A New Protocol Spices Up the 802.X Alphabet Soup*, *Entrepreneur* (Dec. 1, 2003) (citing Intel marketing manager Margaret LaBrecque); see also M. Stone & D. Chang, *Great Expectations for WiMAX*, *Wireless Data News* (Dec. 17, 2003) (“It’s true that WiMAX infrastructure likely will be less expensive than existing infrastructure, and the lower entry costs will encourage new market entrants.”).

<sup>65</sup> TowerStream Press Release, *TowerStream Announces Fixed Wireless Expansion into Los Angeles* (Sept. 13, 2004) at <http://www.towerstream.com/09132004.asp>.

<sup>66</sup> Internetweek.com Mobile Pipeline, *McCaw’s Clearwire Launches Wireless Broadband Service* (Aug. 27, 2004) at <http://www.advancedpipeline.com/45400078>.

<sup>67</sup> Vonage Press Release, *Vonage Contracts with Verizon for Nomadic Voip E9-1-1 Service* (May 4, 2005).

for Skype users worldwide, further establishing Skype as the feature-rich communications choice of cost- and quality-conscious users.”<sup>68</sup>

43. These VoIP providers also can take advantage of a burgeoning wholesale marketplace to provide the necessary network facilities to offer VoIP service. As we explained in our Declaration, these wholesale VoIP services range from turnkey systems to individual network components.

44. For example, Level 3 offers a pair of wholesale VoIP services for residential customers, called (3)VoIP Enhanced Local and HomeTone.<sup>69</sup> (3)VoIP Enhanced Local is an offering for carriers who already have a switching infrastructure, and allows these carriers to “launch IP-based local and long-distance communications services with features like E-911, Directory Assistance, and Operator Services to residential customers via any broadband connection.”<sup>70</sup> HomeTone is a turnkey offering which includes “all the capabilities of (3)VoIP Enhanced Local service combined with a CLASS-5 type Softswitch to provide a complete consumer voice solution. In addition, HomeTone includes advanced features such as find me/follow-me and unified messaging that allow end-users to more effectively customize and manage their communications experience.”<sup>71</sup>

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<sup>68</sup> *SkypeIn and Skype Voicemail Beta*, Business Wire (Apr. 15, 2005).

<sup>69</sup> Level 3, *(3)VoIP Enhanced Local and HomeTone*, <http://www.level3.com/3184.html>.

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

45. Level 3's wholesale service is currently available in more than 300 U.S. markets.<sup>72</sup> Level 3 customers include Speakeasy, New Global Telecom, Lightyear, and AOL.<sup>73</sup>

46. Sprint similarly offers cable operators a range of wholesale VoIP options, from a turnkey service all the way down to an offering of selected components of a VoIP offering.<sup>74</sup> The company states that it "offers an end-to-end turnkey solution or can tailor a solution to meet your distinctive needs with superior voice products, equipment, network connectivity, and CLEC administrative services."<sup>75</sup> Sprint can "deploy, operate, and monitor all necessary network elements and infrastructures, which minimizes your capital investment and operating risk."<sup>76</sup> Sprint's offering includes "unlimited local and long distance calling, regulatory support, number management, and all other facets of telephony service. Sprint's solution is a full ILEC replacement with full network

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<sup>72</sup> See Level 3, *Investor Fact Sheet: 4th Quarter 2004* at 4 (2005); Level 3, (3)VoIP Enhanced Local and Home Tone, <http://www.level3.com/3184.html>.

<sup>73</sup> Level 3 Press Release, *Adelphia Communications Selects Level 3 as its Wholesale VoIP Services Provider for Residential Voice Offering* (Mar. 16, 2005); Level 3 Press Release, *Level 3 HomeTone VoIP Solutions Enables Broadband Provider Speakeasy to Offer Residential Phone Service in U.S.* (Oct. 19, 2004); Level 3 Press Release, *New Global Telecom Chooses Level 3's VoIP Infrastructure to Expand Wholesale Residential and Business Phone Services* (Oct. 19, 2004); Level 3 Press Release, *Lightyear Using Level 3 VoIP Solution to Deliver New Suite of Business and Residential Phone Services* (Sept. 1, 2004); Level 3 Press Release, *Level 3 to Provide Voice Services to Charter* (Aug. 30, 2004); AOL Press Release, *America Online Introduces AOL Internet Phone Service* (Apr. 7, 2005).

<sup>74</sup> Sprint, *VoIP Solutions*, <http://www.sprint.com/business/products/products/voiceoverip.jsp>.

<sup>75</sup> Sprint, *VoIP Solutions: Benefits*, [http://www.sprint.com/business/products/products/voiceoverip\\_tabB.jsp](http://www.sprint.com/business/products/products/voiceoverip_tabB.jsp).

<sup>76</sup> Sprint, *VoIP Solutions*, <http://www.sprint.com/business/products/products/voiceoverip.jsp>.

redundancy, and standard E911.”<sup>77</sup> Sprint VoIP customers include MediaCom and USA Cos.<sup>78</sup>

47. Volo offers a broadband voice solution called VoiceOne which “delivers a rich array of the most popular enhanced features such as unified messaging with digital voicemail, caller-ID, call waiting, call return, three-way calling and call forwarding.”<sup>79</sup> Additionally, VoiceOne supports 911, directory listings, local number portability and CALEA.<sup>80</sup> VoiceOne “enables rapid market deployment without the investment in network facilities and operational overhead.”<sup>81</sup>

48. RNK offers a wholesale VoIP solution, which allows carriers to “utilize [RNK’s] existing world-class network and infrastructure to offer your customers the most complete PSTN/VoIP packages available.”<sup>82</sup>

49. CommPartners offers turnkey VoIP services and IP-to-PSTN interconnection carrier services.<sup>83</sup> CommPartners offers “all the imaginable piece parts required to deliver innovative, value-added VoIP services to your end-customers at the

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<sup>77</sup> Sprint, *VoIP Solutions: Details*, [http://www.sprint.com/business/products/products/voiceoverip\\_tabC.jsp](http://www.sprint.com/business/products/products/voiceoverip_tabC.jsp).

<sup>78</sup> M. Farrell, *Going Mobile*, Multichannel News (Oct. 11, 2004).

<sup>79</sup> Volo Communications, *Broadband Voice*, <http://www.volocommunications.com/index2.aspx?key=voice>.

<sup>80</sup> Volo Communications, *VoiceOne Wholesale Broadband Voice Services for Carriers*, <http://www.volocommunications.com/index2.aspx?key=press>.

<sup>81</sup> Volo Communications, *Broadband Voice*, <http://www.volocommunications.com/index2.aspx?key=voice>.

<sup>82</sup> RNK Telecom, *RNKVoIP: Private Label*, <http://www.rnkvoip.com/>.

<sup>83</sup> CommPartners, <http://www.commpartners.us/corp/index.php>.

most competitive prices available.”<sup>84</sup> CommPartners recently signed a contract with fixed wireless provider NextWeb to provide its wireless VoIP service to NextWeb.<sup>85</sup>

50. Kancharla offers “end-to-end VoIP solutions for Service Providers including ISPs, MSOs, and CLECs.”<sup>86</sup> Kancharla’s service is “an integrated solution which includ[es] Product Development/Bundling, Network/Engineering Design & Implementation, Sales/Marketing support, Billing, and OSS,” which allows carriers “to take advantage of the demand for hosted VoIP solutions today and to create a more loyal customer base with increasing revenues and margins” “with very little capital.”<sup>87</sup> Kancharla’s customers include Geckotech, FeatureTel, and Razorline.<sup>88</sup>

51. New Global Telecom offers 6DegreesIP, a “managed wholesale VoIP product suite,” which is “an effective turnkey platform to support the profitable provision of VoIP services to business and residential customers.”<sup>89</sup> The “product suite includes Hosted IP PBX and Class 5 features, end-customer support, network and facilities management (including NOC) and back office functionality,” which “allows you to avoid capital outlays and reduce operating expense, while implementing a scalable service solution.”<sup>90</sup> New Global Telecom also offers TelPacks, which are “pre-defined, targeted

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<sup>84</sup> *Id.*

<sup>85</sup> *NextWeb Chooses CommPartners for Wireless VoIP Services*, New Telephony (Apr. 19, 2005).

<sup>86</sup> Kancharla, <http://www.kancharla.com/>.

<sup>87</sup> *Id.*

<sup>88</sup> *Robust Scalability of Application Server and Unique Customer Makes VocalData Ideal Choice for Wholesale VoIP Service Providers*, TMCnet (Aug. 10, 2004), <http://www.tmcnet.com/usubmit/2004/aug/1064094.htm>.

<sup>89</sup> New Global Telecom, *6DegreesIP Product Suite*, <http://www.ngt.com/solutions/?pager=155>.

<sup>90</sup> *Id.*

packages” of VoIP application features for carriers want to target specific markets with their VoIP offering (*i.e.*, large enterprises, residential/SOHO).<sup>91</sup> Customers include CLECs, such as ICG, and resellers.<sup>92</sup>

52. Nuvio offers the Nuvio PLP Total Package, which is a turnkey solution for both residential and business customers, through which Nuvio will handle “all aspects of billing, customer equipment provisioning, and support.”<sup>93</sup> With this package, “Nuvio will design you a private label sign-up website [integrated] with your business look and feel.”<sup>94</sup> Nuvio will also provide “customizable marketing materials” and “dedicated toll free support” for the resold service.<sup>95</sup> Nuvio recently announced that it had signed up 200 service providers for this private-label program.<sup>96</sup>

53. Pac-West offers its VoiceSource service, which provides one source for many of the components needed for a VoIP service, including “local access numbers, PSTN connectivity, and the ability to update end-user information in industry telephone databases, such as E911 and 411 – eliminating the need to build and maintain your own infrastructure, or work with the incumbent carriers, such as SBC and Verizon.”<sup>97</sup> Available in the Western US, the service allows carriers to rapidly expand service

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<sup>91</sup> *Id.*

<sup>92</sup> New Global Telecom Press Release, *New Global Telecom Rapidly Grows 6DegreesIP Service to 15,000 End-Users* (Apr. 8, 2005).

<sup>93</sup> Nuvio, *Nuvio PLP Total Package*, <http://www.nuvio.com/reseller.php>.

<sup>94</sup> *Id.*

<sup>95</sup> *Id.*

<sup>96</sup> Nuvio Press Release, *200 Partners and Counting – Nuvio Achieves Milestone for Private-Label Program* (Mar. 14, 2005).

<sup>97</sup> Pac-West Telecomm, *VoiceSource*, <http://www.pacwest.com/products/voicesourceproduct/>.

offerings, “accelerating your time to market and significantly reducing your network equipment and operating costs.”<sup>98</sup> The service was launched in February 2005.<sup>99</sup>

54. Teleglobe offers services for interconnecting and transporting VoIP traffic on international networks. Providers using Teleglobe’s services include Netrake and Skype, among others.<sup>100</sup>

55. Symmetric Broadband “provides high performance Internet Protocol connectivity to gateways across North America. With its state-of-the-art tandem gateways, Symmetric can meet its customers at either a TDM or IP level.”<sup>101</sup> “Symmetric Broadband gateways are located in its fully redundant data centers in San Jose, Seattle, New York, Montreal, Toronto and Vancouver” and the company has expansion plans for other cities including Washington D.C., Dallas, Los Angeles, and Miami.<sup>102</sup>

56. Covad has a program through which resellers can sell Covad’s VoIP service, along with its other broadband services.<sup>103</sup>

57. MCI also offers wholesale services to Time Warner Cable. But as such it is merely one of a number of wholesale providers offering IP-based services in this competitive segment of the marketplace.

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<sup>98</sup> *Id.*

<sup>99</sup> Pac-West Telecomm Press Release, *Pac-West Telecomm Announces Launch of VoiceSource* (Feb. 14, 2005).

<sup>100</sup> See Teleglobe Press Release, *Netrake Joins Teleglobe VoIPLink Ready Program* (Aug. 9, 2004); Teleglobe Press Release, *Teleglobe’s VoIPLink Service Selected by Skype for International Long Distance* (July 23, 2004).

<sup>101</sup> Symmetric Broadband, <http://www.symmetricbroadband.com/>.

<sup>102</sup> *Id.*

<sup>103</sup> Covad Press Release, *Covad Announces Special Business VoIP Offer for Level 3 VoIP Resellers and Their Customers* (Feb. 8, 2005).

58. Verizon has business incentives to provide customers with access to unaffiliated VoIP providers, ISPs, and other content and application providers. If Verizon did not provide its customers with access to valuable content or applications, they would switch to a competing broadband service providers that made such content or applications available.

59. Verizon likewise will have business incentives to continue offering wholesale DSL transport services to unaffiliated ISPs, because Verizon needs to find ways to keep traffic on Verizon networks in order to recover its enormous capital investments in broadband technology.

### **E911 Service for VoIP**

60. Several commenters express concerns about the ability of VoIP providers to offer E911 service to their mass market customers. *See, e.g.*, NASUCA Comments at 10; CFA Comments at 16. These concerns are being addressed in the marketplace and at the FCC in proceedings wholly unrelated to this merger. For example, the FCC just recently announced it is adopting rules requiring VoIP providers that allow customers to receive and place calls over the PSTN to provide E911 service to their customers.<sup>104</sup>

61. First, the E911 concerns raised by commenters pertain only to VoIP providers that offer nomadic capability (i.e., ability to use the service from any broadband access point) or the option to select non-geographically relevant telephone numbers. Many cable companies that offer fixed services either already offer E911 service or plan

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<sup>104</sup> FCC News Release, WC Docket Nos. 04-36, 05-196, *Commission Requires Interconnected VoIP Providers to Provide Enhanced 911 Service* (May 19, 2005).

to do so in the near future. These cable companies include: Time Warner,<sup>105</sup> Comcast,<sup>106</sup> Adelphia,<sup>107</sup> and Cox.<sup>108</sup>

62. Moreover, Verizon is already taking steps to make E911-like service for nomadic VoIP providers available. In addition, the Commission recently announced that it had adopted an order covering E911 arrangements for VoIP providers.<sup>109</sup> Verizon will continue to work with VoIP providers as they implement their E911 arrangements. For months, Verizon has worked with the New York Police Department, the New York Department of Information Technology and Telecommunications (which manages the New York City Public Service Answering Point (“PSAP”)), the New York Public Service Commission, Vonage, Intrado, and the New Jersey Board of Public Utilities to develop a means to route 911 calls by VoIP customers through the existing E911 system to trained call-taker positions in the PSAP and to provide the PSAP with customer address and call-back number information for these calls. These parties have agreed upon an interim solution that will provide E911 capabilities to VoIP customers in New York City by this summer. In fact, Vonage indicated that “Verizon is the first ILEC to work closely with

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<sup>105</sup> Time Warner Cable, *Popular Calling Features*, <http://www.timewarnercable.com/corporate/products/digitalphone/popularfeaturesdigitalphone.html>.

<sup>106</sup> Comcast Press Release, *Comcast Chairman and CEO Brian Roberts Unveils Boston and Hartford Comcast Digital Voice Rollout Plans* (Apr. 13, 2005).

<sup>107</sup> Level 3 Press Release, *Adelphia Communications Selects Level 3 As Its Wholesale VoIP Services Provider for Residential Voice Offering* (Mar. 16, 2005).

<sup>108</sup> C. Wilson, *Cox Announces VoIP Plans*, Primedia Insight Telephony Online (Mar. 7, 2005).

<sup>109</sup> FCC News Release, *Commission Requires Interconnected VoIP Providers To Provide Enhanced 911 Service*, WC Docket Nos. 04-36, 05-196 (May 19, 2005).

any nomadic VoIP service to ensure emergency calling keeps pace with VoIP technology.” See Vonage Comments at 5.

**Porting Numbers and DSL Service.**

63. Some commenters questioned whether customers would be able to port their telephone number from their circuit switched telephone service to VoIP service. See, e.g., Vonage Comments at 10-11. Customers are already porting their telephone numbers to VoIP service. In fact, Vonage itself reported that approximately 55 percent of Vonage customers bring their old phone number when they sign up.<sup>110</sup>

64. Verizon has been porting and will continue to port telephone numbers to VoIP service on a transparent basis. When Verizon receives a number portability request, Verizon doesn’t know whether that number is being ported to another carrier's circuit switched telephone line or to a VoIP service. Verizon therefore handles number portability requests in the same manner regardless of whether the number is porting to a circuit switched line or VoIP service.

65. Verizon is also porting telephone numbers where the customer is receiving Verizon’s DSL service over the same line as Verizon’s voice telephone service. Verizon’s DSL customers can obtain VoIP service while keeping their standalone DSL service.<sup>111</sup> In particular, a customer can cancel voice service from Verizon, obtain voice service from an independent VoIP provider such as Vonage, and retain his DSL service provided by Verizon. A Verizon voice customer can also port his telephone number to

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<sup>110</sup> See K. Griffin, Yankee Group, *Fighting Goliath: Can Alternative VoIP Providers Survive?* at 8 (Aug. 2004).

<sup>111</sup> See, e.g., Verizon Tariff FCC No. 1, Section 16.8(d)4.

another facilities-based provider such as a cable company or wireless carrier, while keeping his Verizon DSL service.

66. The New York Attorney General's concern that Verizon's offering is limited geographically is now moot because Verizon's stand-alone DSL offering is generally available in all of Verizon's service territories, not just the former Bell Atlantic service territories. This lag was caused by the different systems used to provide DSL in the former GTE and former Bell Atlantic service territories. Verizon has also announced that it will provide customers the ability initially to purchase DSL service from Verizon without having to also have voice service on that same line (*i.e.*, where the customer is not porting a telephone number to another facilities-based voice service provider). Verizon anticipates testing and commercially offering that kind of service in some markets this summer. And as Verizon rolls out additional stand-alone DSL services, Verizon plans to do so in all of its service territories, although the time frames for these roll outs may vary as the result of systems modifications.

67. Close Call claims that Verizon is blocking its local service requests when the customer has Verizon DSL service. Close Call Comments at 3-4. The local service requests Verizon has received from Close Call are resale orders and orders for a replacement UNE-P service arrangement. Close Call has not submitted number portability requests to Verizon and Verizon would not refuse to process number portability requests if Close Call were to submit them.

68. Verizon has been actively conducting industry forums with the CLEC community to discuss the business rules and operational processes to be applied where, for example, voice service and broadband service are provided over the same line. Key

questions involve the terms and conditions under which a new voice provider allows the existing broadband provider to continue to access the high frequency portion of the line; whether the new voice provider has the customer's authorization to retain or disconnect the broadband service; whether the broadband service provider has the customer's authorization to disconnect the voice service and retain the line; and how the involved service providers notify each other and issue bills. As consensus is obtained, Verizon will implement the process and systems changes to implement the consensus.

Additionally, Verizon has expressed its willingness, to Close Call and others, to negotiate the terms under which Verizon DSL services would be made available to CLECs using mass market voice service from Verizon.

**Dialing Parity.**

69. Close Call claims that Verizon is not providing toll dialing parity in Maryland. Close Call Comments at 5. This is not true. Verizon has fully implemented its toll dialing parity obligations under the Act by allowing customers to presubscribe their local exchange lines to an intraLATA toll carrier and an interLATA carrier. Close Call is instead referring to a software issue in certain Verizon switches that allowed UNE-P customers to complete intrastate toll calls on a 10 digit basis (without dialing 1+).

70. In June 2004, Verizon was notified by the Maryland Public Service Commission staff of a potential complaint from Close Call regarding toll dialing patterns. Based on the information provided by the staff, Verizon investigated the matter and discovered that UNE-P customers served by Lucent 5ESS switches in areas with two area codes could complete intrastate toll calls without dialing "1+." This software issue was corrected in the two switches identified by Close Call on August 20, 2004, and

September 3, 2004. Verizon then corrected the software issue in other affected switches in Maryland that had not been identified by Close Call. This work was completed in March 2005.

**Wireless Service.**

71. As we explained in our Declaration, wireless services are also providing robust competition with traditional landline long distance service and a growing number of consumers are abandoning traditional wireline companies all together and using wireless technology instead. Wireless carriers are now competing with wireline carriers both for local access lines (predominantly second lines, but also primary lines) and, even more extensively, for long-distance calls, as well as local calls.

72. Some commenters question whether wireless service can be a replacement for wireline service. *See, e.g.*, CFA Comments at 18; CU Comments at 33. The fact of the matter is that there continues to be a tremendous growth in the number of access lines that are displaced by wireless service. As of year-end 2004, wireless had displaced approximately 11 million wireline access lines, and approximately 7-8 percent of wireless users had given up their landline phones.<sup>112</sup> And that number is growing: three million additional wireless subscribers are now giving up their wireline phones each year.<sup>113</sup>

Deutsche Bank states that “wireless cannibalization” accounted for approximately 60-

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<sup>112</sup> Indeed, one analyst puts the number even higher: “Between 10% and 15% of the total market is now using wireless exclusively. . . . For the youth segment - college students and twentysomethings – it’s significantly higher. The notion of wireless as a substitution for wireline is happening very significantly.” *Dialing into Wireless Stocks; As Wireless Builds Momentum Against Wireline, S&P’s Kenneth Leon Points to the Best Companies in Service and Equipment*, Business Week Online (Mar. 10, 2005).

<sup>113</sup> *See also* C. Cosentino, Standard & Poor’s, *FCC Data Supports Standard & Poor’s View of Local Telephony Competition* at 1-2 (Feb. 4, 2005).

70% of “primary residential access line loss,” which amounts to “more than 1m lines lost per quarter.”<sup>114</sup>

73. In February 2004, the Census Bureau estimated that about 6 percent of all *households* rely on wireless phones as their only telephone service, a substantial increase from its previous estimate in November 2001 of slightly over 1 percent.<sup>115</sup> And the rate at which wireless phones are displacing wireline phones appears to be increasing.<sup>116</sup> For households headed by someone under 24 years of age, 18.0 percent had a cellular telephone only; and 9.6 percent of households headed by someone between 25 and 34 years of age had cellular telephones only.<sup>117</sup>

74. Moreover, local and long distance traffic is continuing to migrate rapidly from wireline carriers to wireless carriers. One analyst estimates that, for 2004, “wireless could make up approximately 29% of voice minutes in the US.”<sup>118</sup> According to another

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<sup>114</sup> V. Shvets, *et al.*, Deutsche Bank, *4Q04 Review: Wireless OK . . . RBOCs Fare Poorly* at 6 (Feb. 28, 2005); *see also* Ninth Report, *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services*, 19 FCC Rcd 20597, ¶ 213 (2004) (“*Ninth CMRS Report*”) (“Wireless cannibalization remains a key driver of access line erosion.”).

<sup>115</sup> The survey was administered to roughly 32,000 households during February 2004. The survey asked about purchases and bills including spending on cellular phone and landline. In particular, the surveys asked whether (1) the household had a bill for local or long distance calls in the past three months and (2) the household had a bill for a cellular phone in the past three months. *See* Clyde Tucker, Brian Meekins, J. Michael Brick, & David Morganstein, *Household Telephone Service and Usage Patterns in the United States in 2004*, presented at the 2004 Annual Meeting of the American Association for Public Opinion Research.

<sup>116</sup> C. Cosentino, *supra* note 113, at 1-2.

<sup>117</sup> *Household Telephone Service and Usage Patterns in the United States* at 23.

<sup>118</sup> D. Janazzo, *et al.*, Merrill Lynch, *The Next Generation VIII: The Final Frontier?* at 5 (Mar. 15, 2004); *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993*, Eighth Report, 18 FCC Rcd 14783, ¶ 102 (2003) (“One analyst estimates that wireless has now displaced about 30 percent of total wireline

report, 60 percent of long distance calls in households with cellular phones are now made on wireless phones.<sup>119</sup> The end result, according to data from the Telecom Industry Association, is that revenue from wireless services has outpaced revenue from wireline long distance since 2003 and will surpass revenue from landline local exchange calls by 2007.<sup>120</sup>

75. Some commenters suggest that wireless service is not competitive with wireline service because it is more expensive. *See, e.g.*, CFA Comments at 18. As we explained in our Declaration, wireless service has had a competitive impact on wireline service with respect to price. *See* Exhibit 2 to Hassett et al. Declaration. In fact, one Wall Street analyst notes that “[w]ireless pricing dropped below wireline pricing in 2003 for the first time.”<sup>121</sup> The Competitive Enterprise Institute also noted the comparability of wireless and wireline prices: “Whether a consumer finds one service less expensive depends on the wireless plan, the wireline plan (business versus residential line), the service provider, the features, and the customer’s actual usage. Either way, it appears that wireless services can compete against wireline services based on price.”<sup>122</sup>

76. There is also statistical evidence that wireless substitution puts competitive pressure on wireline pricing. An econometric analysis by the Competitive

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minutes.”); *Ninth CMRS Report* ¶ 213 (“One analyst estimated . . . that 23 percent of voice minutes in 2003 were wireless, up from 7 percent in 2000.”).

<sup>119</sup> *See* Philip Marshall, *et al.*, The Yankee Group, *Divergent Approach to Fixed/Mobile Convergence* at 7 & Exh. 4 (Nov. 2004).

<sup>120</sup> *See U.S. Telecoms Services Revenue To Rise 3.6% in 2005 – TIA*, Total Telecom (Mar. 4, 2005) (citing TIA’s 2005 Telecommunications Market Review and Forecast).

<sup>121</sup> V. Grover, Needham, *New Year’s Resolution – Avoid the Bells* at 1 (Dec. 29, 2003).

<sup>122</sup> Stephen B. Pociask, Competitive Enterprise Institute, *Wireless Substitution and Competition: Different Technology but Similar Service – Redefining the Role of Telecommunications Regulation* at 6 (Dec. 15, 2004) (endnote omitted).

Enterprise Institute found that “a one percent increase in wireline prices would result in nearly a 2 percent increase in wireless demand. In other words, if wireline carriers were to increase their prices, wireless service providers would gain a substantial number of subscribers. This finding, coupled with the fact that wireless prices continue to decrease, suggests that wireline providers may soon be under pressure to decrease prices in order to stem market share losses.”<sup>123</sup>

### **III. Conclusion**

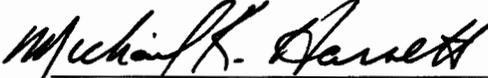
77. The communications business is rapidly being restructured around new technologies. Verizon is rapidly losing retail access lines to cable companies, VoIP providers, wireless carriers and other companies that have emerged as the significant competitors for mass market communications services. This competition will be unaffected by the transaction between Verizon and MCI.

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<sup>123</sup> *Id.* at 15.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on May 28, 2005

  
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Michael K. Hassett

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on May 11, 2005

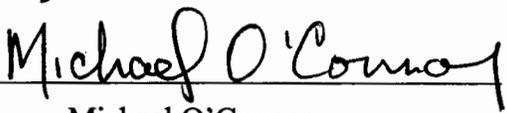


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Tom Maguire

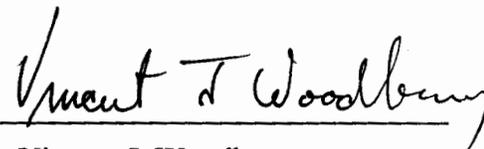
I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on May 23, 2005

  
Michael O'Connor

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on May 23, 2005

A handwritten signature in cursive script that reads "Vincent J. Woodbury". The signature is written in black ink and is positioned above a horizontal line.

Vincent J. Woodbury