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EX PARTE – VIA ELECTRONIC FILING

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: WC Docket No. 05-75 – *In the Matter of Applications for Consent to Transfer Control Filed by Verizon Communications Inc. and MCI, Inc.*

On July 13, 2005, representatives of CloseCall America, Inc. (“CloseCall”) met with FCC staff, Gail Cohen, Bill Dever, Jim Bird, Joel Rabinowitz, Michael Jacobs, Jon Reel, Nick Alexander, Rodger Woock, and Paul Zimmerman, to provide an oral *ex parte* presentation related to local competition issues in connection with the proposed merger. CloseCall was represented by Tom Mazerski, Richard Ramlall, and Jay West of West & Costello, LLC.

CloseCall focused its presentation on three areas in which Verizon has failed to comply with its obligations under the Communications Act of 1934, as amended (“the Act”), undermining competition in the provision of local telephone service. First, Verizon refuses to process local service change orders placed by CloseCall (and presumably other CLECs) to transfer a customer’s local telephone service from Verizon when the customer also subscribes to Verizon’s DSL service or receives DSL service from a provider,

such as AOL or Earthlink, that requires its customers to also receive local voice service from Verizon. In CloseCall's view, Verizon's rejection of local service change orders violates numerous provisions of the Act, including the obligations (a) to resell local telecommunications services, as required by Section 251(c)(4) of the Act, (b) to provide unbundled network elements necessary to offer local telecommunications services as required by Section 251(c)(3) of the Act, and (c) to effectuate promptly number portability requests as required by Section 251(b)(2) of the Act and the Commission's decision in *BellSouth Telecommunications, Inc. Request for Declaratory Ruling that State Commissions May Not Regulate Broadband Internet Access Services by Requiring BellSouth to Provide Wholesale or Retail Broadband Services to Competitive LEC UNE Voice Customers*, WC Docket No. 03-251, FCC 05-78 ("BellSouth Order").

The Commission specifically ruled in the BellSouth Order that a LEC cannot avoid its number portability obligations "by pleading non-porting related complications or requirements such as the presence of DSL on a customer's line." BellSouth Order ¶ 36. As a direct result of the BellSouth Order, Verizon informed CLECs that, effective April 4, 2005, it would "process Local Service Requests (LSRs) from voice providers to port a Telephone Number when DSL is on the line without the end user having to disconnect his DSL service in advance of the port activity." Despite the clear holding of the BellSouth Order and Verizon's subsequent notice to CLECs, CloseCall informed the Commission that Verizon continues to the present to block CloseCall's local service change orders for any customer also subscribing to Verizon's DSL service. Error messages dated April 7, April 11, April 12, April 13, April 15, May 2, and May 6, 2005 substantiating Verizon's rejection of CloseCall's local service orders for customers also subscribing to Verizon's DSL service are attached as Exhibit A.

Second, CloseCall discussed with the Commission its concerns relating to secret agreements into which Verizon has entered with certain CLECs, offering those carriers preferential treatment through deep resale discounts not offered to CloseCall or other CLECs. This practice creates an uneven playing field among CLECs in the provision of local telecommunications services and contravenes the mandate of Section 252(i) of the Act.

Third, CloseCall discussed with the Commission Verizon's failure to provide dialing parity to CloseCall's customers in violation of the Section 251(b)(3) of the Act. CloseCall's customers have been allowed to make

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intrastate long distance calls without having to dial a preceding "1." Without the need to dial a "1," CloseCall's customers are unaware that they are making a long distance call. As a result, CloseCall has suffered a loss of goodwill with its customers when they receive bills with unexpected long distance charges. CloseCall informed the Commission that Verizon appears to have corrected this problem, but only after CloseCall requested the intervention of state regulators.

CloseCall emphasized its concerns that Verizon has shown a disturbing pattern of not meeting its most basic obligations to allow for local competition as required by the Act. This problem will only be exacerbated with the potential loss of MCI and AT&T from the CLEC ranks. Both MCI and AT&T have provided the expertise and financial resources to advocate for the enforcement of the Act and the development of meaningful competition in the local telecommunications market. For example, MCI stood alongside CloseCall for over two years in proceedings before the Public Service Commission of Maryland against Verizon Maryland Inc. relating to Verizon's tying of its DSL service to its local telephone service. *See In the Matter of the Complaint of CloseCall America, Inc. v. Verizon Maryland Inc.*, Case No. 8927.

CloseCall stressed to the Commission that with the impending loss of MCI and AT&T as viable, established, and well-funded CLECs, merger approval must ensure, through specific conditions, Verizon's compliance with the Act to allow for competition in the local telecommunications market. At a minimum, merger conditions are needed to preclude Verizon from blocking local service change orders, to prevent Verizon from entering further secret agreements with certain CLECs, and to require Verizon to provide dialing parity for CLEC customers.

Please call me with any questions that you may have.

Respectfully submitted,

/s/

James H. West