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ATTORNEYS AT LAW

September 23, 2005

**Via Electronic Filing**

Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: WC Docket No. 05-65 (SBC-AT&T merger application)
WC Docket No. 05-75 (Verizon-MCI merger application)

Dear Ms. Dortch:

On September 22, John Ryan and Cindy Schonhaut of Level 3 Communications, LLC ("Level 3"), and the undersigned on behalf of Level 3 met separately with (i) Jim Bird, Anthony Butler, Pam Megna, Marcus Maher, Bill Dever, Gail Cohen, Joel Rabinovitz; (ii) Jessica Rosenworcel, Legal Adviser to Commissioner Copps; (iii) Don Stockdale, Julie Veach; and (iv) Scott Bergmann, Legal Adviser to Commissioner Adelstein. The points made during these conversations are summarized in the attached.

In accordance with the Commission's rules, I am filing this letter and the attached document electronically in the dockets identified above. Pursuant to the Commission's *First* and *Second Protective Orders* in those dockets, I am filing a redacted version of the attached document. The redacted version contains markings indicating where Confidential (as defined by the Commission's *First Protective Orders*) information has been removed.

Level 3 is also currently seeking pre-approval to treat certain information as Highly Confidential, as provided by ¶ 4 of the *Second Protective Order* in WC Docket No. 05-65 and ¶ 3 of the *Second Protective Order* in WC Docket No. 05-75. The redacted version contains markings indicating the page on which this information is contained. When the Commission's staff has reached a decision regarding this request, Level 3 will file the remaining information under the appropriate procedures as outlined in the *First* and/or *Second Protective Orders*.

Pursuant to the instructions in the Commission's Public Notices (DA 05-656 & 05-762), a copy of this correspondence is also being provided via email to the following FCC personnel: Gary Remondino of the Competition Policy Division; Mary Schultz, Jeff Tobias, and Eric McGrath of the Wireless Telecommunications Bureau; David Krech, Kathleen Collins, and JoAnn Lucanik of the International Bureau; Charles Iseman of the Office of Engineering and Technology; and Jonathan Levy of the Office of Strategic Planning and Policy Analysis, as well as to the FCC's duplicating contractor, Best Copy and Printing, Inc.

Sincerely,

/s/

John T. Nakahata
*Counsel for Level 3 Communications, LLC*

# Network Divestiture/Customer Retention

September 22, 2005

[REDACTED]

# SBC Competition – Before Mergers

MAKE THE SWITCH

**SBC - AT&T Analysis - Before Merger**

[REDACTED]
[CONFIDENTIAL INFORMATION]

- SBC + 1 CLEC
- SBC + 2 CLECs
- SBC + 3 or more CLECs

# Verizon Competition – Before Mergers

**Verizon MCI Analysis - Before Merger**

[REDACTED]
[CONFIDENTIAL INFORMATION]

- VZN + 1 CLEC
- VZN + 2 CLECs
- VZN + 3 or more CLECs

# After Mergers Picture is Worse . . .

MAKE THE SWITCH

**SBC - AT&T Analysis - After Merger**

[REDACTED]
[CONFIDENTIAL INFORMATION]

- SBC + No CLECs
- SBC + Only MCI
- SBC + 1 non-MCI CLEC
- SBC + MCI + 1 other CLEC
- SBC + 2 non-MCI CLECs
- SBC + 3 or more CLECs

# . . . In Both ILEC Territories

MAKE THE SWITCH

**Verizon MCI Analysis - After Merger**

[REDACTED]
[CONFIDENTIAL INFORMATION]

- VZN + No CLECs
- VZN + Only ATT
- VZN + 1 non-ATT CLEC
- VZN + ATT + 1 other CLEC
- VZN + 2 non-ATT CLECs
- VZN + 3 or more CLECs

# *Divestiture Specifics*



- *Divestiture Requirement. We propose a "Network Divestiture/Customer Retention" plan, where all of AT&T's and MCI's "Transport Assets" (defined below) would be divested within SBC's and Verizon's territories.*
  - *"Transport Assets" means fiber, transport equipment, collocation space and off-net transport purchase agreements or rights owned, leased or operated by AT&T or MCI within the territories of SBC and Verizon*.
- *Divesting Customer Contracts. While preferred from a purely competitive standpoint, requiring divestiture of AT&T's and MCI's customer agreements is not feasible because:*
  - *Difficulties of separating multi-service, geographically spread customer contracts between in-region and out of region services*
  - *Reliance on the Sellers for extensive OSS and BSS Support*
  - *Highly complex and often unique service delivery requirements that the buyer would have difficulty replicating*
  - *Customer Retention Risks without strict win-back rules*

# Divestiture Benefits



- *Network Divestiture/Customer Retention*. *Because conveyance of customer contracts is infeasible, the divestiture of transport assets should be accompanied by a commitment by SBC/Verizon to continue to purchase services from the new owner for a period of 5 years. Such a structure has the following advantages:*

  - *The new owner would be able to quote pricing, terms and conditions for services (both to end users on a retail basis and to other service providers on a wholesale basis) that were offered in-region by AT&T/MCI prior to the merger.*

  - *There would be no interruption or migration of service to customers (except as might otherwise result from the merger itself).*

  - *The new owner could sell to third parties – both wholesale and retail – so that the new owner would be able to compete with the incumbent even after expiration of the purchase commitment.*

  - *SBC and Verizon still obtain the benefits of the merger in that they would have customer contracts with the largest business customers purchasing a full range of products and services.*