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Federal Communications Commission
Office of Secretary

1200 EIGHTEENTH STREET, NW
WASHINGTON, DC 20036

TEL 202.730.1300 FAX 202.730.1301
WWW.HARRISWILTSHIRE.COM

ATTORNEYS AT LAW

ORIGINAL

October 4, 2005

HAND DELIVERY

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

DOCKET FILE COPY ORIGINAL

Re: Redacted Copies for Public Inspection of Highly Confidential Documents in WC
Docket Nos. 05-65 & 05-75.

Dear Ms. Dortch:

Attached are two redacted copies of an ex parte letter and attached document that we
are filing today in WC Dockets Nos. 05-65 & 05-75.

Should you have any questions of if I can be of further assistance, please do not hesitate
to contact me at (202) 730 1338.

Sincerely,

Bruce Gottlieb
HARRIS WILTSHIRE & GRANNIS LLP
1200 18th St NW
Washington, DC 20036

Counsel for Level 3 Communications, LLC

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Network Divestiture/Customer Retention

September 22, 2005

Existing Market Conditions.

- *Market is presently not too competitive; difficult to purchase transport capacity on competitive terms.*
- *AT&T and MCI are the most significant competitive suppliers of transport services*
- *AT&T and MCI pricing tends to be roughly 50% less than standard pricing offered by SBC and Verizon*
- *Construction of new facilities is not economically feasible or foreseeable, and new technology is unlikely to immediately eliminate reliance on metro and suburban fiber-based transport*
- *Level 3 purchases significant quantities of metro and suburban transport, [BEGIN HIGHLY CONFIDENTIAL -- COPYING PROHIBITED] [REDACTED] [END HIGHLY CONFIDENTIAL -- COPYING PROHIBITED]*
- *Level 3's LMS database is used to track its purchases of metro and suburban transport services. Level 3 manages those purchases by location, [BEGIN HIGHLY CONFIDENTIAL] [REDACTED] [END HIGHLY CONFIDENTIAL]*
- *Before the Mergers, the competitive environment is not robust:*

SBC - AT&T Analysis - Before Merger

[REDACTED]
[CONFIDENTIAL INFORMATION]

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

Verizon MCI Analysis - Before Merger

[REDACTED]
[CONFIDENTIAL INFORMATION]

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

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

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 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**

- ***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.***

**[BEGIN HIGHLY CONFIDENTIAL --
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Table 1

[REDACTED]

**[END HIGHLY CONFIDENTIAL --
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Network Divestiture/Customer Retention

September 22, 2005

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[REDACTED]
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Verizon MCI Analysis - After Merger

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