

ORIGINAL
RECEIVED
JAN 26 1996
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE
Federal Communications Commission
WASHINGTON, D. C.

In the Matter of)
)
Market Entry and Regulation of) IB Docket No. 95-22
Foreign-affiliated Entities) RM-8355
) RM-8392

TO: The Commission

DOCKET FILE COPY ORIGINAL

WORLDCom, INC. PETITION FOR CLARIFICATION
OR, IN THE ALTERNATIVE, FOR RECONSIDERATION

WorldCom, Inc. ("WorldCom"), by its attorneys, hereby petitions the Commission to clarify one aspect of its Report and Order (FCC 95-475) released on November 30, 1995 in the above-captioned proceedings.¹ WorldCom requests that the Commission clarify that a U.S. facilities-based carrier may interconnect an international private line ("IPL") with the public switched network at one end, without demonstrating equivalency or obtaining separate Section 214 authorization, where the foreign correspondent is a non-dominant, U.S.-affiliated carrier that owns the foreign half-circuit facilities. Without the requested clarification, the Commission's new rules could have unintended consequences contrary to the Commission's policy objectives in this proceeding. In the alternative, should the Commission regard this petition as proposing a substantive modification of its new

¹ IDB Communications Group, Inc. ("IDB"), wholly owned by WorldCom, participated in IB Docket No. 95-22 regarding the Commission's policies governing the routing of switched traffic over international private lines which are interconnected to the public switched network. IDB filed a petition for rulemaking (RM 8392), which the Commission incorporated into this proceeding, as well as comments in response to the Notice of Proposed Rulemaking, 10 FCC Rcd 4844 (1995).

No. of Copies rec'd 0111
List A B C D E

List A B C D E
No. of Copies rec'd

rules, WorldCom hereby seeks reconsideration of those rules. In either case, the change proposed here requires a slight amendment to the language in Section 63.01(k)(6)(i), which WorldCom proposes below.

In the Report and Order (at ¶ 159), the Commission held that a U.S. facilities-based carrier may interconnect an IPL with the public switched network at one end without obtaining separate Section 214 authority, and without demonstrating that the foreign country offers equivalent resale opportunities, so long as the foreign correspondent does not own the foreign half-circuit facilities. This policy, which WorldCom fully supports in principle, was intended to encourage U.S. carriers to enter foreign markets and impose price competition upon the incumbent monopoly or duopoly carriers through new service offerings. The Commission did not extend this policy to cases where the foreign half-circuit is provided by the monopoly or duopoly foreign carrier because "[a]llowing switched traffic to be carried over private lines in such an instance would not create any competition to the foreign facilities-based carrier." Report and Order at ¶ 159. As a means of distinguishing between U.S. carriers entering foreign markets and the entrenched monopoly or duopoly carriers in those markets, the Commission fashioned its rule to apply only when the foreign half-circuit provider does not own the underlying facilities. As a matter of law in nearly all foreign countries today, only the incumbent monopoly or duopoly carriers may own international facilities; U.S. carriers and other new entrants

must lease circuits from such carriers in order to provide service.

In today's telecommunications environment, the Commission's rule will have the desired result of ensuring that U.S. carriers and other new entrants, but not the entrenched monopoly or duopoly carriers, can provide switched services over IPLs interconnected to the public switched network at one end without obtaining separate Section 214 authority or showing that the foreign country satisfies the Commission's equivalency standard. However, the Commission adopted its policies in IB Docket No. 95-22 in order to encourage foreign countries to begin liberalizing their markets so that U.S.-affiliated carriers and other new entrants can own foreign half-circuit facilities.² When such liberalization occurs, the Commission's rule will have the unintended result of preventing U.S. carriers or their affiliates from owning the foreign half-circuit facilities they use to provide switched services over IPLs interconnected to the public switched network at one end. Instead, those carriers would have to continue leasing the underlying capacity from the incumbent monopoly or duopoly carriers, thereby foregoing the benefits of foreign market liberalization.

Of course, some foreign countries which liberalize their markets by permitting U.S.-affiliated carriers to own international capacity may qualify as countries offering

² E.g., Report and Order at ¶ 16 (endorsing "full facilities-based competition on the foreign end of a U.S. international route"); id. at ¶ 6 (goal of proceeding "to encourage foreign governments to open their communications markets").

equivalent resale opportunities to U.S. carriers. In those cases, a U.S. carrier could obtain Section 214 authority to continue providing one-end IPL interconnection services over facilities it owns at the foreign end. However, it will not necessarily be true that a country which permits U.S. carriers to own foreign half-circuit facilities will qualify under the Commission's equivalency standard. The Commission considers numerous other factors, including the ability of resale carriers to obtain non-discriminatory interconnection at reasonable prices, in determining whether a foreign country offers equivalent resale opportunities.³ It is possible, even likely, that certain countries which permit U.S.-affiliated carriers to own international facilities will not satisfy the Commission's equivalency standard. In that case, Section 63.01(k)(6)(i), as currently written, would prevent U.S.-affiliated entrants in foreign markets from providing such services over foreign half-circuit facilities which they own.

Over the next few years, it is likely that several countries will change their laws and policies so that U.S.-affiliated entrants will, for the first time, be able to own international facilities. In particular, a number of European countries, including Germany, have committed to authorizing alternative infrastructure competition prior to the introduction

³ E.g., Cable & Wireless Inc., File No. ITC-93-328, DA 96-17, rel. Jan. 16, 1996, at ¶¶ 21-28 (addressing ability of resellers to obtain reasonable, nondiscriminatory interconnection in designating Sweden as an equivalent country).

of full competition on January 1, 1998. Through affiliates, WorldCom has entered, or plans to enter, the telecommunications markets in several European countries which may soon permit U.S.-affiliated carriers to own international facilities. The Commission should clarify its rules to make certain that WorldCom and other U.S. carriers who enter these foreign markets are able to take advantage of liberalized rules on owning international facilities without being treated under the Commission's rules the same as monopoly or duopoly foreign carriers.

WorldCom recommends that the Commission modify the language of Section 63.01(k)(6)(i) as follows (proposed new language underlined):

"(i) No formal application is required under this paragraph in circumstances where the carrier's previously authorized private line facility is interconnected to the public switched network only on one end -- either the U.S. or the foreign end -- and where the carrier is not operating the facility in correspondence with a carrier, other than a non-dominant U.S.-affiliated carrier, that directly or indirectly owns the private line facility in the foreign country at the other end of the private line."

By making this minor textual modification of the rule, the Commission can ensure that its policy will continue in the future to achieve the Commission's goal, as it does today, of permitting U.S. carriers and other new entrants to route switched traffic over IPLs interconnected with the public switched network at one

end, thereby imposing downward pressure on accounting rates and foreign collection rates.

Respectfully submitted,

WORLDCOM, INC.

By: 
Robert J. Aamoth
Reed Smith Shaw & McClay
1301 K Street, N.W.
Suite 1100 - East Tower
Washington, D.C. 20005
(202) 414-9210

Robert S. Koppel
Vice President
International Regulatory Affairs
WorldCom, Inc.
15245 Shady Grove Road
Suite 460
Rockville, MD 20850
(301) 212-7099

January 26, 1996

Its Attorneys

CERTIFICATE OF SERVICE

I, Regina A. Alston, do hereby certify that I have this 26th day of January, 1996, delivered copies of the foregoing WorldCom, Inc. Petition for Clarification or, In The Alternative, For Reconsideration, via hand delivery (*) to the following parties of record in this proceeding:

*Robert McDonald
Federal Communications
Commission
International Bureau
Common Carrier Bureau
2000 M Street, N.W., 8th Floor
Washington, D.C. 20554

*Scott Blake Harris
Federal Communications
Commission
International Bureau
Common Carrier Bureau
2000 M Street, N.W., 8th Floor
Washington, D.C. 20554

*Susan O'Connell
Federal Communications
Commission
International Bureau
Common Carrier Bureau
2000 M Street, N.W., 8th Floor
Washington, D.C. 20554

*Troy Tanner
Federal Communications
Commission
International Bureau
Common Carrier Bureau
2000 M Street, N.W., 8th Floor
Washington, D.C. 20554

*Diane Cornell
Federal Communications
Commission
International Bureau
Common Carrier Bureau
2000 M Street, N.W., 8th Floor
Washington, D.C. 20554

*Jennifer Warren
Federal Communications
Commission
International Bureau
Common Carrier Bureau
2000 M Street, N.W., 8th Floor
Washington, D.C. 20554



Regina A. Alston