

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

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

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**COMMENTS OF IMPSAT USA INC.'S ON
WORLDCOM'S PETITION AND AT&T'S OPPOSITION THERETO**

Pursuant to Section 1.429(g) of the Commission's Rules, IMPSAT USA, Incorporated ("Impsat"), hereby comments on Worldcom, Inc.'s ("Worldcom") Petition for Clarification or, in the Alternative, for Reconsideration (the "Petition") of the above-captioned *Report and Order* released November 30, 1995 (FCC 95-475) and on AT&T Corp.'s ("AT&T") Opposition to Petitions for Reconsideration (the "Opposition") of the same.^{1/}

I. Background and Introduction

Impsat is an international telecommunications carrier that has Section 214 authority to provide facilities-based telecommunications services, including switched voice and data and private lines services, between the U.S. and various international points using certain international satellite and cable facilities.^{2/} Impsat also has applied for authorization to resell telecommunications services of other international carriers between the U.S. and

1. Section 1.429(g) of the Rules contemplates the filing of replies to "oppositions" to petitions for reconsideration. Impsat is not necessarily replying to the petitions filed in this proceeding, but believes that its views will assist the Commission in evaluating the merits of those petitions, and hereby requests acceptance of these comments.

2. Order, File No. ITC-95-434, FCC DA 95-1962 (Chief, Telecommunications Division) released September 19, 1995, *recon. pending*.

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various international points.^{3/} Impsat has been at the forefront of the efforts to provide facilities-based competition to monopoly providers of telecommunications services in certain competitive segments of many Latin American markets.

WorldCom has requested that the Commission clarify, or in the alternative, reconsider to a limited extent its policies concerning the provision of switched services over international private lines ("IPL"). In the *Report and Order*, the Commission permitted U.S. facilities-based carriers to provide switched services over IPLs without demonstrating equivalency at the foreign end and without prior Section 214 authorization, except where: (1) the U.S. carrier corresponds with a carrier that directly or indirectly owns the foreign half-circuit in a market not yet found to offer equivalent resale opportunities; or (2) the international private lines interconnected to the PSTN on both ends. *Report and Order* at ¶¶ 157-160.

In its Petition, Worldcom specifically requested that the Commission "clarify that a U.S. facilities-based carrier may interconnect an 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." *Worldcom Petition* at 1.

AT&T opposed WorldCom's petition, characterizing it as an attempt to exempt non-dominant U.S. carriers from the prohibition on U.S. carriers offering such services in correspondence with the foreign carrier owning the foreign half-circuit. *AT&T Opposition* at 4. AT&T contended that adoption of WorldCom's position would limit the Commission's protections against one-way settlements bypass. AT&T further contended that the

3. File No. ITC-95-485 (filed August 14, 1995).

Commission's restrictions on one-end IPL interconnection "should apply to all carriers in foreign markets with the ability to set accounting rates, including U.S. carriers entering such markets on a facilities basis." *AT&T Opposition* at 5.

Impsat supports WorldCom's position to the extent that a U.S. facilities-based carrier may interconnect an 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* carrier that owns the foreign half-circuit facilities. Impsat opposes Worldcom's restriction that the foreign correspondent is a *U.S.-affiliated*, non-dominant carrier for two reasons. First, by limiting this policy to U.S.-affiliated non-dominant carriers only, the full benefit of encouraging carriers to enter foreign markets to provide price competition against the monopoly/duopoly carriers will not be realized. It is irrelevant whether the carrier operating in the foreign market is U.S.-affiliated because the Commission's overriding goal is to encourage competition in foreign markets by providing price competition on monopoly/duopoly carriers to decrease their accounting rates and foreign collection rates. *Report and Order* at ¶¶ 2, 16. Second, it is unclear what test the Commission would use to determine whether a carrier is "U.S.-affiliated." It has been difficult enough for the Commission to determine the foreign-affiliation of U.S. carriers, let alone to set a standard to determine U.S. affiliation of foreign carriers as suggested by WorldCom.

Impsat agrees with AT&T's position that the Commission's current restrictions on one-end IPL interconnection should be applied to those carriers in foreign markets with the ability to set accounting rates if such restrictions are a *substitute* for applying the restrictions to all facilities-based carriers operating in foreign markets. However, such a

policy may be inappropriate as more and more markets are open to competition. In many Latin American countries, new carriers are permitted to offer services in restricted competitive segments of the market including (1) domestic and/or international private lines services such as data communications and integrated digital services and (2) enhanced services such as fax store and forward, Internet access, etc. In most cases, these competitive carriers are permitted to own the underlying facilities to provide these services because to do otherwise would restrict the ability of the competitive carriers to compete against the monopoly carrier on a quality of service basis. By excluding these non-dominant facilities-based carriers from providing switched services over one-ended interconnected IPLs, the Commission will not be achieving its underlying goal of encouraging downward pressure on monopoly carriers' accounting rates.

III. Conclusion

For the foregoing reasons, the public interest requires the Commission to clarify its one-end interconnection policy for international private lines as requested by WorldCom with the one modification discussed above by Impsat.

Respectfully submitted,
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CERTIFICATE OF SERVICE

I hereby certify that I have this 11th day of March, 1996 caused copies of the foregoing COMMENTS OF IMPSAT USA INC.'S ON WORLDCOM'S PETITION AND AT&T'S OPPOSITION THERETO to be served by hand on the following:

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