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Federal Communications Commission
Office of Secretary

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February 24, 1997

William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

RE: CC Docket Nos. 96-262, 94-1, and 91-213
Access Charge Reform

Dear Mr. Caton:

On Friday, February 21, 1997, Richard Fruchterman and Richard Whitt of WorldCom, Inc., and Peter A. Rohrbach and I of Hogan & Hartson L.L.P., met with James Coltharp, Special Counsel to Commissioner Quello, to discuss the above-captioned proceeding. The discussion addressed the positions and arguments in WorldCom's initial and reply comments; and the attached materials were used at the meeting.

Because the meeting took place late in the day, it was not possible to file this notice on the same day, and so this is being filed on the following business day. We are filing two copies of this notice with the Office of the Secretary.

Respectfully submitted,

HOGAN & HARTSON L.L.P.

David Sieradzki

By: David L. Sieradzki
Counsel for WorldCom, Inc.

cc: James Coltharp

Enclosure

WORLDCOM, INC.

A Plan for Pragmatic Access Reform

CC Docket No. 96-262
February 1997

WORLDCOM ACCESS POSITION

1. **WorldCom has a balanced, practical proposal for how to move ahead on access reform – using market-based solutions where possible.**

   [A summary of our access reform proposal is provided as Attachment A; our proposed schedule for staging access reform orders is provided as Attachment B]

   - Our plan corrects the most egregious ways that the access rate structure does not reflect cost.
   - Our plan involves only limited rate prescription now, focusing on elements that are the least susceptible to competition.
   - Our plan would not result in precipitous changes in ILEC access revenue, but it does not grant the ILECs revenue guarantees either.

2. **The WorldCom plan depends upon full implementation of local competition.**

   - Unless we can routinely replace the ILEC as the local service provider, we must pay access charges in virtually all cases. "Originating switched access" per se is not a competitive service.
   - New access rules should support the development of local competition, while recognizing that this process will take time.

3. **Meanwhile, the ILECs seek premature pricing flexibility.**

   - We generally do not oppose opportunities for ILECs to reduce access rates towards cost for all access customers.
   - We do oppose premature flexibility that would allow the ILECs to reduce charges for only selected access customers (but no one else), and to cross-subsidize services facing initial competition.

4. **The Commission should hold in reserve the "stick" of broader prescription of access rate reductions if local competition does not develop soon.**

ATTACHMENT A

WORLDCOM ACCESS REFORM PLAN

(Summary of comments filed January 29, 1997)

SUMMARY

A. WorldCom's Perspective on Access Reform

- **Access reform should promote consumers' closely inter-related interests in lower long distance rates and future local competition.**
  - Access is fundamentally different from end user services: access is primarily a production input that carriers use to create end user services.
  - Today, monopoly ILEC access charges artificially inflate long distance rates for all consumers.
  - For structural reasons, "access competition" per se is not possible in ways that would reduce the access costs of stand-alone IXCs. Rather, ILECs will face pressure on their access rates only with the development of local competition, and the ability of competing carriers to supply access to local customers they have won from the ILECs.

- **Access reform should make use of competitive pressure on access rates where possible, recognizing that some access rate elements are much less subject to such pressures.**
  - Charges to end users: Incumbent LECs and new entrants will compete directly for end user business, so charges to end users are likely to become competitive -- if local competition develops.
  - Charges to carriers:

    Special access and dedicated transport -- should become competitive if the 1996 Act is implemented successfully.

    Originating switched access charges -- will remain a bottleneck for stand-alone IXCs, and will not become competitive per se. But will become avoidable to the extent IXCs can self-supply originating access through vertical integration, as full-service local and long distance carriers, or through special access.

    Terminating switched access charges -- are not likely to be subject to competition in the foreseeable future, because the party placing the call -- or that party's IXC -- has little or no ability to influence the called party's choice of local carrier.

    Bulk billed-type charges -- charges imposed whether or not a carrier uses ILEC access by definition could never become competitive.

B. Governing Principles for Market-Driven Access Reform

1. **Local competition is the best way to discipline incumbent LECs' access rates and achieve long-term access reform.**

   - In the short run, the Commission must make rate structure reforms that facilitate local competition, and prescriptive rate level changes targeted to rates that will not be subject to competitive pressure. Comprehensive rate level prescriptions can be avoided initially.

   - In the somewhat longer term, the Commission should use both "carrots" and "sticks" to induce the incumbent LECs to provide interconnection and unbundled network elements at reasonable rates, terms, and conditions.

     > The "carrot": incumbent LECs that have fully satisfied the competitive checklist should be allowed certain forms of pricing flexibility.

     > The "stick": if an incumbent LEC has not fully satisfied the checklist by a date certain, the Commission should proceed with aggressively prescriptive access rate reductions.

2. **No incumbent LEC revenue stream should be guaranteed or shielded from competition.**

   - A guaranteed revenue stream would be inconsistent with market-based access reform; it would eliminate competitive discipline for such revenues, and thus perpetuate above cost access charges.

   - It would also create a formidable barrier to entry, giving incumbent LECs a revenue stream not available to their competitors that they could use to cross-subsidize competitive services.

   - Under the 1996 Act, the incumbent LECs have no legal right or policy basis for guaranteed recovery of past investments.

3. **The Commission must be vigilant to prevent discrimination and other anti-competitive conduct by the incumbent LECs during the transition to competition.**

   - During the transition period, the Commission must not allow forms of pricing flexibility that would enable incumbent LECs to discriminate in favor of their affiliates or other favored customers, thus forestalling local competition without bringing overall access rates closer to cost.

   - Such discriminatory forms of pricing flexibility include contract tariffs, competitive response tariffs, additional authority for volume discounts or discounts for terms longer than 3 years, or deregulation of "new" services.

C. Recommended Baseline Access Rate Structure and Rate Level Changes to Set the Stage for Local Competition.

- Rate Structure:
  Recover the costs of dedicated facilities through non-traffic sensitive, flat rates:

  - Subscriber loops:

    > Eliminate the per-minute carrier common line charge.

    > Eliminate the cap on the subscriber line charges for all lines, or at least for business and additional residential lines.

    > Recover any remaining loop costs as flat rate from IXCs; forbear on Section 254(g) to permit IXCs to recover on a geographically deaveraged basis.

  - Line-side port component of local switching: Flat rate charge either on end users or on IXCs (with forbearance on Section 254(g)).

- Rate Level:

  Initial prescriptive rate level changes should be focused on elements least subject to competitive pressure. We recommend that the Commission initially set rates based on forward-looking economic costs only for the following:

  - Terminating Local Switching -- because terminating switched access rates are least likely to become subject to competitive pressure.

  - Tandem Switching -- in response to the CompTel v. FCC remand.

  - Line-Side Port Component of Local Switching -- to initialize a new rate element and adjust the per-minute charge accordingly.

- Transport Interconnection Charge:

  - Eliminate the TIC immediately, or as soon as possible.

  - Take first from the TIC all access rate reductions due to universal service, price caps, and end of equal access reconfiguration amortization; remove SS7 costs, retail marketing costs, and costs of non-regulated facilities from the TIC.

  - Modify the rate structure of any residual TIC to be a flat rate charge per presubscribed line.

D. Manage the Transition to Competition By Offering Incentives to ILECs

- Phase I -- "Potential Competition": Incumbent LECs that are providing unbundled network elements under pro-competitive terms and conditions and at forward-looking cost based rates, and that fully comply with other prerequisites to local competition, should be permitted certain forms of pricing flexibility:
  - At Phase I, permit: geographic deaveraging of all access services; term discounts of no more than 3 years; streamlined regulation of truly new services (that cannot be substituted for existing access services).
  - Do not permit: contract tariffs; competitive response tariffs; additional authority for volume discounts or discounts for terms longer than 3 years; or deregulation of services that can be substituted for existing services.
  - Competitively neutral universal service mechanisms should be fully implemented and the TIC should be eliminated before Phase I measures are allowed.
- Phase II -- "Substantial Full-Service Competition": Incumbent LECs that can show an economically substantial degree of full-service competition, measured using the Herfindahl-Hirshman Index, should be allowed additional pricing flexibility.
  - But the Commission should not deregulate the rate structure rules for dominant ILECs (especially for terminating access).
  - The Commission could consider subdividing Phase II into two intermediate phases ("emerging full service competition" and "substantial full service competition"). Such distinctions could permit a more tailored approach to further ILEC rate regulation.
- If an incumbent LEC has not fully complied with the checklist of local competition prerequisites by Jan. 1, 1999, the Commission should prescribe all of its access rates based on forward-looking economic cost.

E. Retain the Rule that Information Service Providers Need Not Pay Interstate Carrier Access Charges.

SUMMARY

- WorldCom's Access Reform Plan – A Third Way.
  - An immediate prescription of all access rates to cost is unnecessary *if* the FCC takes all necessary steps to ensure that local competition has a reasonable chance to grow in the near future.
  - On the other hand, a market-based approach will not work if ILECs are allowed excessive pricing flexibility that could facilitate discrimination, or if their revenues are guaranteed free of competitive pressure.
  - Instead, WorldCom supports a market-based approach that would rely primarily on local competition to drive originating access rates toward cost, and would use access reform to promote local competition:
    - > Reform access rate structure and certain rate levels: Expose most ILEC access services to competitive pressure, while reducing rates for services (e.g., terminating usage) that will never be competitive.
    - > Use "carrots" and "sticks": Offer ILECs non-discriminatory forms of pricing flexibility to induce them to fully implement local competition; reserve threat of rate prescriptions if they do not.
- **The ILECs' Over-Reaching Arguments for Both Revenue Guarantees and Deregulation are Mutually Inconsistent, and Must Be Rejected.**
  - Revenue guarantees, such as "bulk billing" or depreciation recovery mechanisms, are inconsistent with a competitive marketplace. Further, there is absolutely no legal or policy warrant for such guarantees.
  - Premature deregulation or streamlining of ILEC access regulation would enable the ILECs to squelch local competition.
  - An uneconomic access charge "tax" on unbundled network elements would thwart local competition, and would doom market-based access reform.
  - No transport rate structure or pricing changes are necessary now. But if the FCC elects to revisit this issue, common and dedicated transport must be treated consistently, using an accurate understanding of the geodesic interoffice network. (See attached diagram.)
  - The ILECs must not be allowed double recovery of the shared costs of their SS7 networks from vertical service offerings and carriers. Instead, adopt "bill-and-keep" for carrier-to-carrier SS7 network interconnection.
  - Unlike the ILECs' proposals, WorldCom recommends pragmatic reforms to existing price cap baskets and service categories.

WORLDCOM'S PROPOSAL FOR GRADUAL IMPLEMENTATION OF ACCESS REFORM

Timing of Order	Issues to Address	Likely Results
Adopt in April/May 1997; ILEC tariffs effective 7/1/97	<u>Rate Structure</u> • Eliminate per minute CCL and recover all subscriber loop costs through flat rate charges • Establish flat rate for line-side local switch port • During transition, recover TIC as a flat rate charge <u>Rate Level</u> • Set initial level of switch port rate based on TELRIC times interstate allocation • Re-initialize terminating local switching based on TSLRIC • Remaining local switching revenues recovered through originating charges • Easiest rate level fixes to TIC (e.g., target universal service, price cap reductions) <u>Phase I Triggers and Pricing Flexibility</u> • (See WorldCom's initial comments)	• Makes rate structure more cost-based • Imposes most of rate burden on elements for which competitive pressure is most likely to be felt • Avoids up-front prescriptive rate reductions, but also avoids revenue guarantees • Incumbent LECs retain revenues to the extent they retain end user customers
Adopt in Fall 1997; ILEC tariffs effective 1/1/98	• Complete 4th FNPRM in price caps • Complete plan to eliminate TIC	• More analytically difficult measures to complete stage setting for local competition
Adopt in early 1998; implementation based on ILEC performance and competitive conditions	• Specify triggers and pricing flexibility for phases beyond Phase I • Specify prescriptive measures if ILECs do not meet Phase I checklist • Address ESP/ISP issues	• Establish plan for lessening of regulation as local and full-service competition develops further • Establish fall-back in case local competition does not develop

The Incumbent LEC Inter-Office Transmission Network