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

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In the Matter of	)	
	)	
Implementation of the Local Competition Provisions of the Telecommunications Act of 1996	)	CC Docket No. 96-98
	)	
Petition for Expedited Rulemaking to Establish Reporting Requirements and Performance and Technical Standards for Operations Support Systems	)	RM 9101

COMMENTS OF WORLDCOM, INC.
ON
PETITION FOR EXPEDITED RULEMAKING

WorldCom, Inc. ("WorldCom") joins with LCI and CompTel in urging the Commission to initiate a rulemaking that orders incumbent local exchange carriers ("LECs") to measure and disclose the performance levels at which they provide operations support systems ("OSS") functions to themselves and to competitive local exchange carriers ("CLECs"). Only through such measurement and disclosure can it be determined whether an incumbent LEC is providing nondiscriminatory access to its OSS functions as required by the Telecommunications Act of 1996[1] and the Commission's Local Competition First Report and Order.[2]

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[1] 47 U.S.C. 251(c)(3) and 251(c)(4).

[2] Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, First Report and Order, CC Docket 96-98, 11 FCC Rcd 15499 (1996)("Local Competition First Report

I. Introduction and Summary

WorldCom is the nation's fourth largest long distance carrier. Through its subsidiary MFS, WorldCom is the nation's largest CLEC, and through its subsidiary UUNET, WorldCom is the nation's leading provider of Internet services. WorldCom is also a member of the Local Competition Users Group ("LCUG"). WorldCom is making a substantial effort to enter and expand its presence in the local exchange marketplace. Among the obstacles that WorldCom has encountered in that pursuit is difficulty in obtaining reasonable and nondiscriminatory access to the OSS functions of incumbent LECs.

WorldCom urges the Commission to initiate a rulemaking to require incumbent LECs to measure and report their performance in the provision of access to their OSS to their competitors. Only by requiring the measurement and reporting of such performance can it be determined whether the incumbent is providing access to its competitors that is equal in quality to the access that it is providing to itself.

WorldCom also urges the Commission to adopt default performance standards, which, in the absence of the required measurements and reports, can be used to represent the level of

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and Order"), motion for stay denied, 11 FCC Rcd 11754 (1996), Order on Reconsideration, 11 FCC Rcd 13042 (1996), Second Order on Reconsideration, 11 FCC Rcd 19738 (1996), further recon. pending, appeal pending sub nom. Iowa Util. Bd. v. FCC and consolidated cases, No. 96-3321 et al., partial stay granted pending review, 109 F.3d 418 (8th Cir. 1996), order lifting stay in part (8th Cir. Nov. 1, 1996), motion to vacate stay denied, 117 S. Ct. 429 (1996).

quality that an incumbent LEC must provide its competitors. WorldCom further asks the Commission to adopt penalties for an incumbent LEC's failure to provide nondiscriminatory access to OSS. In addition to money damages, WorldCom recommends that incumbents failing to provide nondiscriminatory access to their OSS should be prohibited from signing up and serving new long distance customers until their OSS access is brought to parity.

Finally, WorldCom asks the Commission to encourage the industry to adopt uniform national standards for OSS access as quickly as possible. WorldCom suggests that the Commission require monthly updates from industry standard setting bodies and establish a deadline after which the Commission will act through regulation if the industry has not reached consensus.

II. THE CURRENT STATUS OF OSS

It should be beyond question at this point in time that reasonable and nondiscriminatory access to an incumbent LEC's OSS functions is critical to the development of local exchange competition in the United States. In August of last year, the Commission found that

> [I]f competing carriers are unable to perform the functions of pre-ordering, ordering, provisioning, maintenance and repair, and billing for network elements and resale services in substantially the same time and manner that an incumbent can for itself, competing carriers will be severely disadvantaged, if not precluded altogether, from fairly competing. Thus, providing nondiscriminatory access to these support systems functions, which would include access to the

information such systems contain, is vital to creating opportunities for meaningful competition.[3]

Thus, the Commission concluded that, pursuant to section 251(c)(3) and section 251(c)(4) of the Telecommunications Act of 1996, "an incumbent LEC must provide nondiscriminatory access to their operations support systems functions for pre-ordering, ordering, provisioning, maintenance and repair, and billing available to the LEC itself"[4] and must do so by January 1, 1997.[5] The Commission held that "nondiscriminatory access" meant that the quality had to be "equal between all carriers requesting access to that [OSS]" and "equal in quality to that which the incumbent LEC provides to itself."[6]

Yet, almost twelve months after the Commission made these findings and over six months after the Commission's January 1, 1997 deadline, no incumbent LEC is providing access to OSS that is "equal in quality to that which the incumbent LEC provides to itself." The many reasons for this are well and extensively documented in LCI and CompTel's Petition for

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[3] Local Competition First Report and Order at ¶518.

[4] Id. at ¶523.

[5] Id. at 525. The Commission later reaffirmed the January 1, 1997 date in denying petitions for reconsideration filed by several incumbent LECs seeking to modify this requirement. Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Second Order on Reconsideration, CC Docket No. 96-98, adopted December 13, 1996.

[6] Id. at 312.

Expedited Rulemaking.[7] Likewise, many state commissions, in the context of state section 271 proceedings, have found the Regional Bell Operating Companies' provision of nondiscriminatory access to OSS functions to be woefully lacking.[8] The Department of Justice has made similar findings in its section 271 advisory role.[9] WorldCom has experienced many of the same difficulties described in the Petition in its attempts to obtain OSS; there is no need to reiterate those difficulties here. It is clear that, across the country, the incumbent LECs' record for the provision of nondiscriminatory access to their OSS functions has fallen well short of the Commission's expectations of a year ago, vastly limiting the "opportunities for meaningful competition."

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[7] In the Matter of: Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, Petition for Expedited Rulemaking, LCI International Telecom Corp. and Competitive Telecommunications Association (CompTel), May 30, 1997 ("Petition").

[8] See, e.g., Public Service Commission of Wisconsin, Matter Relating to Satisfaction of Conditions for Offering InterLATA Service (Wisconsin Bell, d/b/a/ Ameritech Wisconsin), Docket No. 6720-TI-120, Findings of Fact, Conclusions of Law and Second Order (May 29, 1997).

[9] See, Application of SBC Communications, Inc. et. al., Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region InterLATA Services in the State of Oklahoma, Evaluation of the United States Department of Justice, CC Docket No. 97-121 (May 16, 1997) and Application of Ameritech Michigan Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in the State of Michigan, Evaluation of the United States Department of Justice, CC Docket No. 97-137 (June 25, 1997) ("DOJ Michigan Evaluation")

III. THE COMMISSION SHOULD INITIATE A RULEMAKING TO ESTABLISH REPORTING REQUIREMENTS AND DEFAULT PERFORMANCE STANDARDS FOR OPERATIONS SUPPORT SYSTEMS

A. The Commission should establish reporting requirements regarding an incumbent LEC's provision of OSS to itself and to its competitors

The most fundamental problem facing CLECs with respect to gaining parity of access to the incumbent LECs' OSS functions is a lack of performance data from the incumbents by which a CLEC can compare the level of quality that it is receiving against the quality that the incumbents provide to themselves. The dearth of performance data also complicates the task of regulators who must determine 1) whether incumbent LECs are complying with section 251 of the Telecommunications Act and, 2) with respect to the RBOCs, whether they satisfy the section 271 requirements for entry into the long distance market. Without accurate data it is impossible to determine objectively whether an incumbent LEC is providing its competitors with nondiscriminatory access to its OSS.[10]

The Commission can and should remedy this situation by requiring each incumbent LEC to measure its performance with respect to critical activities involved in the provision of OSS, both for itself and for its competitors. The Commission should then require each incumbent LEC, on a monthly basis, to file with the Commission and with each appropriate state commission a report of its own performance for each of these critical activities and an aggregate report of the incumbent LEC's

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[10] See, e.g., DOJ Michigan Evaluation at 38-40.

performance in providing OSS access to its competitors.[11] The Commission should also require that the incumbent LEC provide company specific performance data to each individual CLEC to which it provides, or attempts to provide, OSS.

The reports to the Commission and the appropriate state commissions will provide regulators and competitors the tools that they need to determine whether an incumbent LEC is providing nondiscriminatory access to OSS as required by section 251 of the Telecommunications Act of 1996 and the Commission's rules. Obviously, these reports will also be useful to the Commission, and others, in evaluating an RBOC's section 271 application. Moreover, after grant of an RBOC section 271 application, OSS performance reports will be necessary to determine continued compliance with the nondiscrimination requirements -- at a time when an RBOC's already negligible pro-competitive incentives will be even further reduced.

The individual reports to each CLEC will clearly help the CLEC determine whether it is receiving nondiscriminatory OSS access with respect to both the incumbent LEC and other competitors. More importantly, however, much of the information regarding these critical activities is necessary for the CLEC simply for the purpose of managing its resources and business.

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[11] WorldCom suggested the need for such reports in its Petition for Clarification of the Commission's Local Competition First Report and Order. Petition for Clarification of WorldCom, Inc., Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98, (September 30, 1996) at 8. That petition is still pending before the Commission.

Further, the individual company reports will enable CLECs to identify potential problems with its access to OSS that are perhaps unique to that CLEC.

The LCUG has put forward a set of critical OSS functions that the Commission should require the incumbent LECs to measure and report as described above.[12] WorldCom believes that performance levels for each of the categories and subcategories of functions in the LCUG document are measurable and are necessary to determine whether parity is being obtained. The measurement and reporting of these functions are also necessary to enable a CLEC to efficiently manage its business. Indeed, in a fully competitive environment, vendors, seeking to attract and retain customers, typically would provide this information in the due course of business. Sophisticated telecommunications customers routinely ask carriers about installation intervals, billing intervals, blocking, outages and post-dial delay to name a few.

In order to establish consistent, meaningful measurements the Commission should also adopt the methodology by which incumbent LECs should conduct each measurement. This would help to end confusing inconsistencies between the performance measured by the incumbent and the performance measured over the same period by the CLEC that result because the parties are using two different methods for calculating performance. A uniform, national methodology would not only promote more accurate

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[12] See Petition, Appendix B.

reporting of OSS performance, it will also permit direct comparisons of performance among the incumbent LECs. If an incumbent LECs' performance level appears substantially below the levels reported by similarly situated incumbent LECs, it may merit an inquiry by the Commission or state commission to determine whether the quality level -- even if at parity -- is sufficient to serve the needs of competitors and consumers alike.

LCUG has also suggested methodologies for the measurement of the critical OSS functions described above.[13] WorldCom urges the Commission to propose these methodologies along with the LCUG measurements.

To be useful for analysis, OSS performance measurements should be reported on a geographically relevant basis -- market by market. If reports are filed on a state-wide basis, for example, good OSS performance in one market may offset dismal performance in another.[14] Any smaller geographic reporting level -- by end office, for example -- would make the management of the reporting an unnecessarily difficult task for all parties.

Regulators and CLECs should be entitled to ask for and obtain audits of the OSS performance reports produced by the incumbent LECs. Even if that right is never exercised, its

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[13] Id.

[14] If Pacific Bell, for example, provided above average OSS performance in San Francisco, but was missing all of its OSS intervals in Los Angeles, the above average performance in San Francisco would mask the fact that competitors in Los Angeles were at a severe disadvantage.

existence will help the measurements and the reports to be produced with greater accuracy and care.

Finally, the Commission and their state counterparts must realize that OSS performance measurements (and the default quality standards discussed below) should not be considered static. Over time, OSS will evolve as processes and technology improve. As this evolution takes places, there may be new activities which will require measurement to ensure parity and new default quality standards adopted to reflect improvements in quality.

B. The Commission should adopt default performance standards for incumbent LEC provision of access to OSS

In order to determine whether an incumbent LEC is providing nondiscriminatory access to its OSS in the event that an incumbent does not measure or report the necessary information, particularly with regard to its performance to itself, the Commission should adopt stringent default performance standards to which the incumbent LEC should be held. In this circumstance, the CLECs can use their own internal measurements of the OSS performance that they are receiving to determine whether that performance meets the default standard. If the incumbent's performance does fall short of the default standard, there should be a presumption that the incumbent is not providing OSS that is equal in quality to the OSS that it is providing to itself.

LCUG has also proposed a set of default performance standards that WorldCom strongly urges the Commission to consider.[15] In the absence of any data from the incumbent LEC to the contrary, these default performance standards represent the level of quality that should be provided by an incumbent to CLECs seeking access to the incumbent's OSS.

It is important to stress that an incumbent LEC would not be held to these default performance standards if the incumbent measures and reports its OSS performance as described in Section A above. If an incumbent LEC measures and reports properly, there is then a basis for comparison regarding the performance given to itself and that given to its competitors; it can be determined whether the incumbent LEC is providing nondiscriminatory access to its OSS.[16] The default performance standards will apply only when an incumbent LEC fails to measure and report, or fails to measure and report completely, its OSS performance.

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[15] See Petition, Appendix B.

[16] Where an incumbent LEC does measure and report, and where its performance appears to be at parity, a separate issue may nevertheless arise regarding the level of that performance provided even though it is at parity. Such a situation may give rise to a complaint at the Commission or at the appropriate state commission where it would be argued that the incumbent is providing service at a quality level below the standard that the American public has come to expect and has the right to enjoy. The incumbent LEC in this situation, however, would not be held to the stringent default performance standards that apply only when an incumbent does not measure or report its performance.

IV. THE COMMISSION SHOULD ADOPT PENALTIES FOR AN INCUMBENT LEC'S FAILURE TO MEASURE AND REPORT OSS PERFORMANCE, AND FOR AN INCUMBENT'S FAILURE TO PROVIDE NONDISCRIMINATORY ACCESS TO ITS OSS

WorldCom strongly recommends that the Commission adopt penalties for an incumbent LEC's failure to measure and report its OSS performance and for an incumbent LEC's failure to provide nondiscriminatory access to its OSS. WorldCom also believes that monetary damages alone will not be a sufficient deterrent to prevent an incumbent LEC from engaging in anticompetitive behavior. An incumbent that is intent on preventing competition in its local marketplace will view a monetary fine as simply a cost of doing business. Although monetary penalties are an appropriate starting point, greater penalties are necessary to prevent anticompetitive conduct.

An incumbent LEC that does not provide nondiscriminatory access to its OSS will gain a tremendous advantage in the local exchange and full service telecommunications markets. It will essentially be preventing opportunities for others to compete in these markets. An incumbent that does not provide nondiscriminatory access to its OSS should not be permitted to gain from its anticompetitive behavior.

Clearly, an RBOC that fails to provide nondiscriminatory access to its OSS will therefore not satisfy the section 271 checklist and will not be allowed into long distance. After entry for an RBOC is permitted, however, only strong sanctions will encourage that RBOC to resist the strong

incentives to backslide in its provision of OSS to competitors. Likewise, independent LECs, who can already provide interLATA services, have little incentive to improve their OSS provisioning absent strong sanctions.

WorldCom believes that, in addition to monetary damages, an incumbent LEC that fails to provide nondiscriminatory access to its OSS should have its authority to enlist and serve new long distance customers suspended. Congress clearly contemplated such penalties for backsliding RBOCs by enacting section 271(d)(6) of the Telecommunications Act of 1996,[17] which permits the Commission to suspend or revoke the interLATA authority of an RBOC that no longer meets the conditions necessary for approval of its interLATA application. WorldCom believes that the Commission can use its general authority to regulate interstate telecommunications to impose similar penalties on independents that violate the requirements of section 251(c)(3) and 251(c)(4) by not providing nondiscriminatory access to their OSS.[18]

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[17] 47 U.S.C 251(d)(6).

[18] It should be noted that it is difficult for state commissions to adopt performance standards or penalties in the context of state arbitrations. As noted by Charlotte Terkuerst of the Illinois Commerce Commission during the Commission's OSS forums, "the [Illinois] Commission has been very reluctant to impose standards within an individual contract because there are obviously inefficiencies if there is one set of reporting requirements between Ameritech and AT&T and another set of reporting requirements between Ameritech and MCI. To the extent regulators need to get involved, its does need to be done on a broader basis than individual agreements." Transcripts of Proceedings, In re: Common Carrier Bureau Operations Support Systems Forum, May 28, 1997 at 210.

V. THE COMMISSION SHOULD ENCOURAGE THE INDUSTRY TO ACCELERATE THE ADOPTION OF UNIFORM NATIONAL TECHNICAL STANDARDS FOR THE PROVISION OF OSS

When the Commission adopted its Local Competition First Report and Order in August of last year, it acknowledged that national technical standards for the provision of OSS access were important to the development of competition. The Commission stated that

> Ideally, each incumbent LEC would provide access to support systems through a nationally standardized gateway. Such national standards would eliminate the need for new entrants to develop multiple interface systems, one for each incumbent.[19]

The Commission, relying on a joint ex parte from AT&T and Bell Atlantic that implied that an industry consensus would be obtained within 12 months, felt that there was a strong movement toward such national standards.[20] The Commission stated its intention to monitor the development of national standards and to take action if necessary to "guide industry efforts at arriving at appropriate national standards."[21]

Twelve months after those words were written the industry is still waiting for the promised consensus on technical standards. Although WorldCom still believes that it is preferable for industry to develop the appropriate standards for the provision of access to an incumbent LEC's OSS, WorldCom also feels that the Commission can accelerate the process by 1)

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[19] Local Competition First Report and Order at ¶527.

[20] Id.

[21] Local Competition First Report and Order at ¶528.

requiring monthly status reports from the standard setting bodies and 2) establishing a deadline for industry action. If the industry has not resolved the technical issues by the deadline, the Commission may, at that point, begin a rulemaking to establish the needed standards. Hopefully, the threat of regulatory mandate will provide the necessary incentive for the industry to reach consensus.

One area where Commission action may be necessary now is with the adoption of the industry standards by individual incumbent LECs. Although the industry has reached consensus in its standard setting bodies on a number of technical issues -- for example, EDI Version 7 which supports unbundled loops, interim number portability, and total service resale -- adoption and compliance with those industry standards is completely voluntary. As a result, individual incumbent LECs are slow to modify their systems to conform with the industry standards, and, even where they purport to adopt the standard, they often do so with their own "interpretations" of what the standard entails. This slow roll out of industry agreed standards, and the unique interpretations that some incumbents make, departs from the Commission's ideal of a nationally standardized gateway and requires CLECs to use multiple interface systems.

The Commission should impose on incumbent LECs the duty to adopt industry agreed standards in a timely fashion with little or no deviation.

IV. CONCLUSION

For the reasons expressed above, WorldCom urges the Commission to initiate a proceeding to require incumbent LECs to measure and report critical aspects of their provision of access to OSS, to adopt default performance standards for the incumbent's provision of access to OSS, to adopt penalties for an incumbent LEC's failure to provide nondiscriminatory access to its OSS, and to encourage the industry to accelerate the adoption of uniform national standards for the provision of access to OSS.

Respectfully submitted,

July 10, 1997

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CERTIFICATE OF SERVICE

I, Cecelia Y. Johnson, hereby certify that on this 10th day of July, 1997, true copies of the foregoing "COMMENTS OF WORLDCOM, INC. ON PETITION FOR EXPEDITED RULEMAKING" were hand delivered to each of the parties listed below.

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