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SEP - 4 1998

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

September 4, 1998

VIA HAND DELIVERY

Magalie Roman Salas, Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

RE: Withdrawal of Americatel's "Petition for  
Temporary Waiver,"  
CC Docket No. 92-237

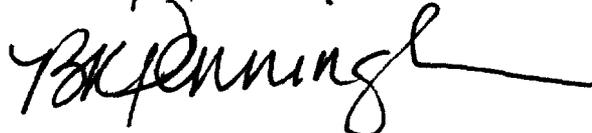
Dear Ms. Roman Salas:

Enclosed for filing, in the above-captioned proceeding, please find an original and four (4) copies of a letter withdrawing Americatel's "Petition for Temporary Waiver," filed in the above-referenced docket on June 18, 1998.

Please return the "stamp and return copy" to the messenger for delivery back to our office.

If you have any questions regarding this submission, please call the undersigned at (202) 414-9481.

Sincerely,



Brenda K. Pennington

Enclosures

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

## Via Hand Delivery

Ms. Magalie Roman Salas, Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

RE: Withdrawal of Americatel's Petition for  
Temporary Waiver,  
CIC Transition,  
CC Docket No. 92-237

Dear Ms. Roman Salas:

On June 18, 1998, Americatel Corporation ("Americatel") filed a "Petition for Temporary Waiver" ("Petition") of the Commission's Order on Reconsideration<sup>1</sup> and Second Report and Order<sup>2</sup> in the above-referenced docket mandating transition of the telephone network from three- to four-digit carrier identification codes ("CICs") and from five- to seven-digit carrier access codes ("CACs"). In March of this year, Americatel launched the first dial-around service specifically marketed to the U.S. Hispanic population. In its Petition, Americatel requested, among other things, additional time to negotiate with certain local exchange carriers ("LECs") for the provision of a Spanish language educational intercept message and other educational tools that would adequately educate and inform Americatel's actual and potential customers of the change in dialing pattern that was about to occur.

<sup>1</sup> *Administration of the North American Numbering Plan, Carrier Identification Codes*, CC Docket No. 92-237, Order on Reconsideration, Order on Application for Review, and Second Further Notice of Proposed Rulemaking, FCC 97-368 (rel. Oct. 22, 1997) ("Order on Reconsideration").

<sup>2</sup> *Administration of the North American Numbering Plan, Carrier Identification Codes and Petition for Rulemaking of VarTec Telecom, Inc.*, CC Docket No. 92-237, FCC 97-125 (rel. April 11, 1997) ("Second Report and Order").

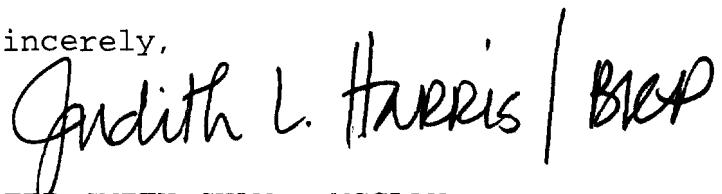
REED SMITH SHAW & MCCLAY LLP

Ms. Roman Salas  
September 4, 1998  
Page 2

In view of varying degrees of relief granted from those LECs, namely, Ameritech, BellSouth, and US West, as summarized in the attached document, "Report Summarizing Americatel's Negotiations with Certain Local Exchange Companies," and the FCC's issuance in the Spanish language of its most recent Consumer Bulletin, Americatel hereby respectfully withdraws its Petition having successfully raised awareness of the issue of reaching the Spanish speaking population regarding mandatory changes in the telephone network.

Americatel wishes to thank the Commission, particularly the Network Services Division, for its assistance in helping Americatel bring this issue to the fore and for its sensitivity to the Spanish speaking population.

Sincerely,



REED SMITH SHAW & MCCLAY LLP  
Judith L. Harris  
Counsel for Americatel Corporation

cc: Chairman William Kennard  
Commissioner Gloria Tristani  
J. Nakahata  
T. Power  
P. Gallant  
L. Strickling  
G. Matisse  
A. Gomez  
K. Monteith

Attachment

REED SMITH SHAW & MCCLAY LLP

Ms. Roman Salas  
September 4, 1998  
Page 3

bcc: A. Vargas  
G. Karish  
B. Walker



the transition would indeed occur, and as the implementation date became fixed and drew closer, Americatel became concerned that its mainly Spanish-only speaking customers would not understand the nature of the transition and would become confused when their calls were not completed after the conversion was in place. The FCC and the industry has recognized the need for an intercept message to educate callers regarding the dialing pattern change and one was developed in English. Americatel realized that a Spanish language intercept message was necessary in those markets where a significant percentage of a local exchange carrier's ("LEC's") customers spoke Spanish as their only or primary language, not only to benefit Americatel (and other dial-around services, such as MCI, that advertised in Spanish), but also for the benefit of that LEC's Spanish speaking customers. To that end, Americatel, at first through its underlying carrier, Frontier Communications, and later on its own, began contacting the LECs in the markets in which Americatel currently offers service, seeking a Spanish language educational intercept message. Americatel also began meeting with the Federal Communications Commission ("FCC" or "Commission") to enlist its help in Americatel's negotiations.

On June 18, 1998, Americatel filed a "Petition for Temporary Waiver" ("Petition") of the Commission's Order on Reconsideration<sup>3</sup> and Second Report and Order<sup>4</sup> in the above-referenced docket mandating transition of the telephone network from three- to four-digit carrier identification codes ("CICs") and from five- to seven-digit CACs. In its Petition, Americatel requested, among other things, additional time to negotiate with certain LECs for the provision of a Spanish language educational intercept message that would adequately educate and inform Americatel's actual and potential customers of the change in dialing pattern that was about to occur.

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Continued from previous page

to move to longer CICs/CACs and the Commission's decision not to grandfather three digit CICs. On June 26, 1998, the Appeals Court dismissed this proceeding once petitioners, and all other intervenors with the exception of Americatel, voluntarily dismissed their petitions.).

<sup>3</sup> *Administration of the North American Numbering Plan, Carrier Identification Codes*, CC Docket No. 92-237, Order on Reconsideration, Order on Application for Review, and Second Further Notice of Proposed Rulemaking, FCC 97-368 (rel. Oct. 22, 1997) ("Order on Reconsideration").

<sup>4</sup> *Administration of the North American Numbering Plan, Carrier Identification Codes and Petition for Rulemaking of VarTec Telecom, Inc.*, CC Docket No. 92-237, FCC 97-125 (rel. April 11, 1997) ("Second Report and Order").

Throughout the process of negotiating with certain LECs, Americatel has been astonished by the lack of interest shown by those LECs to educate and inform the Hispanic community about the imminent changes in the CIC dialing pattern. While the service areas of each of the LECs contains a considerable concentration of Spanish speaking customers and each of the LECs markets heavily to the Hispanic community the products and services for which it has competition, those LECs do not seem to believe that they have a general obligation to apprise the Hispanic community of dialing pattern changes, such as with CACs.

Even after attempting to sensitize those LECs to their obligation to serve the whole of their customer base, the LECs, with the exception of one, maintained that because they do not have a legal obligation to educate and inform the Hispanic community of the CIC dialing pattern change, they were not inclined to do so. One LEC, however, did agree to implement a Spanish language intercept message at a limited number of its end offices, but only after Americatel agreed to assume all costs relative to the intercept message, which must remain non-specific to Americatel's CAC. Moreover, none of the accommodations afforded Americatel were easily gained. Indeed, Americatel, which is a new entrant to the U.S. dial-around market, spent considerable money hiring both legal counsel and technical experts to make its case before the FCC and negotiate with the LECs.

Nonetheless, after several months of negotiating with representatives from Ameritech, BellSouth, and US West, some progress has been made, and for this reason, Americatel respectfully withdraws its Petition. Specifically, Americatel is able to report that all three LECs, to varying degrees, agreed to postpone the date on which their networks commenced blocking Americatel's three-digit CIC, so that Americatel could, through its own advertising methods, notify and educate its Spanish speaking customers of the recent change in dialing pattern, as mandated by the FCC. Specifically, Ameritech committed to begin blocking no earlier than August 1, 1998; BellSouth committed to not begin blocking until July 23, 1998; and US West committed to not begin blocking until July 15, 1998.

In addition, and on a space-available basis, Ameritech agreed to deploy a Spanish language intercept message<sup>5</sup> on ten of its DMS 100 switches located in the end offices in the Greater Chicago area and Milwaukee that carry the greatest amount of

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<sup>5</sup> Per Ameritech's terms and conditions, the Spanish intercept message is a verbatim translation of the Network Interconnection and Interoperability Forum ("NIIF")-developed intercept language.

Americatel traffic.<sup>6</sup> Ameritech agreed also to allow Americatel to tape the intercept message at Americatel's studios, provided Americatel met specific technical requirements outlined by Ameritech. Further, Ameritech will implement the Spanish language intercept message for at least six months, the same length of time in which Ameritech will play the English language intercept message.

After briefly considering Americatel's request for a Spanish language intercept message, BellSouth determined that "it was too late to properly implement a multi-lingual central office intercept message . . . ." However, BellSouth has expressed its "willingness to explore the use of [multi-language] intercept messages in connection with future projects with Americatel, and in the context of industry fora such as the NIIF."<sup>7</sup> As a compromise, BellSouth agreed to provide for the month of August, 1998, a generic Spanish language bill insert to all of its customers in South Florida who receive their BellSouth bill in Spanish. That insert will explain the change in dialing pattern. It does not contain information specific to Americatel, but rather provides general dialing instructions for customers to access the dial-around company of their choice.

Notwithstanding US West's seemingly progressive and much touted outreach to the Hispanic community through, for example, the development of a customer service center, Arizona for its Spanish speaking customers and the marketing of consumer products to the Hispanic communities within its service territory, US West declined to provide either a Spanish language intercept message or a written bill insert."<sup>8</sup> US West declined

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<sup>6</sup> Ameritech has stated that out of the top twenty-five end offices which Americatel identified as processing the greatest amount of its calls, only twelve are equipped with DMS 100 switches (located in Chicago in lata 358 and in Milwaukee in lata 356). Of these twelve switches, ten have the capacity to divert misdialed Americatel calls to a Spanish language message. In addition, Ameritech did not begin blocking in these end offices until late August, 1998. Further, in these ten end offices Ameritech committed to play the English language message no longer than until September 18, 1998 in the Chicago lata, and until September 24, 1998 in the Milwaukee lata, at which time Ameritech will begin rerouting Americatel traffic to Americatel's Spanish language intercept message.

<sup>7</sup> See Attachment 1, Letter from Theodore Kingsley, General Attorney, BellSouth, to Judith Harris and Brenda Pennington, Reed Smith Shaw & McClay LLP, dated July 2, 1998, at 1.

<sup>8</sup> See Attachment 3, Letter from Katherine Krause, Senior Attorney, US West, to Judith Harris, Reed Smith Shaw & McClay LLP, dated July 9, 1998, at 1.

to provide a Spanish language educational intercept message due other company projects that require the same limited company resources, as well as technical limitations inherent in [its] network.<sup>9</sup> They also declined to provide a written bill insert that would inform US West's Spanish speaking customers of the change in dialing pattern to access dial-around long distance companies. However, it was learned, some time after the conclusion of Americatel's negotiations with US West that US West's customer service center will answer questions and provide instructions to callers regarding the change in dialing pattern to access dial around companies.

While Americatel's initial request for a Spanish language intercept message was only honored by Ameritech, and even then in only very limited areas and at Americatel's expense, nonetheless, Americatel remains committed to the goal of sensitizing LECs whose service areas contain a sizable percentage of Spanish speaking customers to their obligation to educate and inform those customers of any changes, developments and technological advancements in and to their networks, just as the LECs' English speaking customers are notified and educated.

In conclusion, Americatel wishes to express its gratitude to the FCC, particularly the Network Services Division, for its efforts in assisting Americatel to reach its goal. Most specifically, Americatel was very pleased that the FCC's most recent Consumer Bulletin issued to the public on August 31, 1998, regarding the change in dialing pattern to access dial-around companies was also written in the Spanish language.

Dated: September 4, 1998

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<sup>9</sup> See Attachment 2, Letter from Eldridge Stafford, Exec. Dir.- Federal Regulatory, to Kris Monteith, FCC, dated July 6, 1998, at 1.

Theodore R. Klingley  
General Attorney

**BellSouth Corporation**  
Legal Department - Suite 1700  
1155 Peachtree Street, N.E.  
Atlanta, Georgia 30309  
Telephone: 404-249-3392  
Facsimile: 404-249-2118

July 2, 1998

**VIA FACSIMILE AND U. S. MAIL**

Judith Harris  
Brenda Pennington  
Reed Smith Shaw & McClay  
1301 K Street, NW  
Washington, D.C. 20005

Re: Americatel

Dear Judy and Mary:

This morning we committed to delaying 3-digit CIC blocking in BellSouth's South Florida switches for as long as is prudent in light of the list of switches provided by Americatel's expert, the expiration of the Commission's waiver of the 3-digit CIC blocking requirement on September 1, 1998, and the expiration of BellSouth's collective bargaining agreement with the Communications Workers of America on August 6, 1998.

On Monday we stated that we had 69 switches in South Florida and requested, if possible, a subset of anticipated high volume switches. Americatel's expert provided a list of 78 end offices that included all 69 BellSouth switches as well as switches belonging to independent telephone companies. In light of this list, the current collective bargaining environment and the Commission's mandate, we feel the latest we can prudently delay the process to begin 3-digit blocking is July 23, 1998. If Americatel is able to be more precise in its switch identification, we could possibly delay converting individual switches later than this.

We also advised Americatel that from BellSouth's perspective it is too late to properly implement a multi-lingual central office intercept message with respect to the current CIC transition. We expressed our willingness to explore the use of such intercepts in connection with future projects with Americatel, and in the context of industry fora such as the NIIF.

Judith Harris  
Brenda Pennington  
July 2, 1998  
Page 2 of 2

You asked that BellSouth consider the feasibility of using a Spanish language-billing insert as a way to inform Spanish-speaking customers of the significance of the current standard intercept message. We agreed to take this request to the appropriate people within BellSouth for consideration, and to meet again by teleconference on Tuesday, July 7, 1998 to further discuss this idea. Ed Honeycutt has since had some difficulty contacting appropriate individuals within BellSouth in light of the upcoming Independence Day Holiday, and has requested that the companies talk again on Wednesday, July 8.

Very truly yours,



Theodore R. Kingsley

cc: Kris Monteith  
Ben Almond

U S WEST, Inc.  
Suite 700  
1000 Nineteenth Street, NW  
Washington, DC 20005  
202 438-8784  
FAX 202 396-8157

ATTACHMENT 2

**U S WEST**

Erin A. Stafford  
Executive Director  
Federal Regulatory

July 6, 1998

Ms. Kris Monteith  
Common Carrier Bureau Network Services Division  
Federal Communications Commission  
2000 M Street, NW, Room 230  
Washington, DC 20036

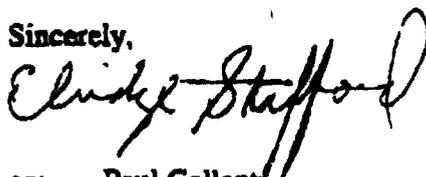
Dear Ms. Monteith:

On Wednesday, July 1, 1998, via teleconference bridge, U S WEST met with representatives of Americatel. During this call we advised the Americatel representatives that U S WEST will delay beginning the blocking of 3-digit carrier identification codes (CICs) as long as prudent in the U S WEST switches on the list that was provided by the Americatel consultant. Because of the pending expiration of its collective bargaining agreement on August 14, 1998, U S WEST must schedule its work such that all conversion work is complete not later than this date. Delaying the start of the blocking conversion in New Mexico, Arizona, and Colorado beyond July 15, 1998 would place in jeopardy U S WEST's ability to complete the conversion in the timeframe mandated by the FCC.

We advised the Americatel representatives that due to the press of a number of critical projects that require the same limited company resources, as well as technical limitations inherent in our network, U S WEST is not in a position at this time to agree to establish a Spanish-language intercept message for the intercept of their 3-digit CICs. We have made our product management people available to the Americatel representatives for further discussion of this matter.

Please contact me if you have any questions.

Sincerely,



cc: Paul Gallant

U S WEST, Inc.  
1801 California Street, Suite 5100  
Denver, Colorado 80202  
303 673-6222  
Facsimile 303 295-6273  
KORALMB@USWEST.COM



Kathryn Marie Krause  
Senior Attorney

July 9, 1998

|                               |              |         |              |            |   |
|-------------------------------|--------------|---------|--------------|------------|---|
| Post-It <sup>®</sup> Fax Note | 7871         | Date    | 7/9/98       | # of pages | 1 |
| To                            | Judgy Harris | From    | Kathy Krause |            |   |
| Co./Dept.                     |              | Co.     | USWEST       |            |   |
| Phone #                       | 202-414-9276 | Phone # | 303-672-2859 |            |   |
| Fax #                         | 202-414-9299 | Fax #   | 303-295-6273 |            |   |

Ms. Judy Harris, Esq.  
Reed, Smith, Shaw & McClay  
1301 K St. N.W.  
East Tower, Suite 1000  
Washington, D.C. 20015

Delivered Via Facsimile to (202) 414-9299

RE: Dial Around Information On U S WEST's Bill Pages

Dear Judy,

I have presented the appropriate U S WEST clients with Americatel's suggestion that U S WEST include dial-around information in U S WEST's bill generally or include such information on U S WEST's bill page(s). As I predicted, the clients are not interested in pursuing this proposal.

If Americatel has a billing and collection contract with U S WEST, U S WEST would be willing (consistent with actions it has taken with respect to other carriers) to include a brief market message on the Americatel page of the bill, advising Americatel customers of how they should dial interexchange carrier access codes upon implementation of the CIC conversion. Please advise if your client is interested in pursuing this proposal.

JL 9 6 41

Sincerely,

Kathryn Marie Krause

cc: Margaret Bumgarner, Elridge Stafford