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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

ORIGINAL

In the Matter of)
)
1998 Biennial Regulatory Review --)
Part 61 of the Commission's Rules)
and Related Tariffing Requirements)
)

CC Docket No. 98-131

MCI WORLDCOM REPLY COMMENTS

MCI WorldCom, Inc. (MCI WorldCom) hereby submits its reply to comments on the Notice of Proposed Rulemaking in the above-captioned docket.¹ MCI WorldCom agrees with several commenters' suggestions for modifications that would clarify the rules proposed in the Notice. MCI WorldCom opposes, however, the wide-ranging revisions to the Part 61 and Part 69 rules that are proposed by USTA and several incumbent local exchange carriers (ILECs). These proposals address issues that are clearly beyond the scope of this proceeding.

I. Notice Proposals Concerning Dominant ILEC Tariff Rules

In the Notice, the Commission proposes no substantive changes to the dominant local exchange carrier (LEC) price cap rules. The Commission does, however, propose to reorganize and clarify the rules in several respects. Most parties supported these proposed modified rules, but pointed out several areas where the proposed rules may require clarification or correction. MCI WorldCom supports some of these clarifications or corrections.

¹1998 Biennial Regulatory Review -- Part 61 of the Commission's Rules and Related Tariffing Requirements, CC Docket No. 98-131, FCC 98-164, released July 24, 1998 (Notice).

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Section 61.45(b)-(c): In the Notice, the Commission proposes to revise Section 61.45 of the Commission’s rules to create a standalone rule section governing the application of price cap regulation to dominant LECs, eliminating the cross-references to Section 61.44 of the Commission’s rules. As several parties point out, however, the proposed Section 61.45 does not delineate clearly the price cap formulas applicable to each basket. The changes suggested by Sprint and several other parties would improve the clarity of the proposed rule in several respects.² Specifically, the Commission should (1) revise the proposed definition of “R” in Sections 61.45(b)(1) and 61.45(c)(1) to refer to the EUCL as well as PICC;³ (2) revise the proposed definition of “w” in Section 61.45(b)(1) to eliminate the reference to access rates;⁴ (3) revise Section 61.45(b)(2) to remove the language concerning “w” that was applicable to AT&T but is not applicable to ILECs;⁵ and (4) revise Section 61.45(b)(4) to include the interexchange basket-specific PCI formula.⁶

Section 61.45(i)-(j): In the Notice, the Commission proposes to rewrite the language in Section 61.45(i) and (j) that governs the targeting of price cap reductions to the TIC. The proposed language is, however, less clear than the existing language and, in the case of the proposed rewording of Section 61.45(i)(4), appears to be incorrect.⁷ If the Commission decides

²Sprint Comments, Attachment A.

³Id. at 1, Item 38, Item 40.

⁴Id. at 1, Item 38.

⁵Id. at 1, Item 38.

⁶Id. at 2, Item 38.

⁷Id. at 3-5.

to rewrite the rule, as proposed in the Notice, the Commission should modify the language in the manner proposed by Sprint and several other parties.

Section 61.47(i)(2): In the Notice, the Commission proposes to codify the SBI upper limit calculation methodology it permitted by waiver prior to the January 1, 1998 access reform tariff filing. This waiver permitted the ILECs to target exogenous adjustments to particular service categories, in order to implement the rate structure changes required by the Access Reform Order. The ILECs generally support this proposal, but point out that the methodology outlined in proposed Section 61.47(I)(2) works only with mid-year filings, not with annual access filings. They ask that the Commission codify the SBI upper limit calculation methodology that should be used when exogenous cost changes are targeted to a particular service category as part of an annual access filing.

MCI WorldCom agrees with AT&T that little purpose is served by codifying the SBI targeting methodology.⁸ Most of the rate structure changes required by the Access Reform Order were made in the January 1, 1998 tariff filing; the only rate structure changes still to be implemented are the transfer of tandem switching costs from the TIC to the tandem switching category and, for a small number of ILECs, the targeting of X-Factor reductions to the TIC. Because the rate structure changes required by the Access Reform Order are largely complete, the Commission would be codifying mechanisms that, in most cases, will not be used again.

⁸AT&T Comments at 6-7.

III. Notice Proposals Concerning Nondominant Carrier Tariff Rules

In the Notice, the Commission proposed several changes to the rules affecting nondominant carriers. As several commenters point out, however, some of these changes would actually impose additional regulatory burdens on nondominant carriers.

Section 61.77 - Separate Domestic and International Tariffs: MCI WorldCom agrees with GTE, AT&T, Sprint, and TRA that the Commission should not adopt proposed Section 61.77, which would require carriers to maintain separate international and domestic tariffs. As these commenters discuss, separating existing tariffs into separate domestic and international tariffs would impose substantial burdens on IXCs and would provide no benefit to customers.

Section 61.20 - Method of Filing Publications: In the Notice, the Commission proposes to modify Section 61.22 of the rules to provide that “[n]either diskettes nor CD-ROMs shall contain more than one tariff.” While MCI WorldCom does not currently file more than one tariff per diskette or CD-ROM, MCI WorldCom agrees with AT&T that a rule that limited a diskette or CD-ROM to one tariff could significantly increase nondominant carriers’ costs. In particular, it would be more cost-efficient to permit IXCs to use the substantial storage capacity of a CD-ROM to file multiple tariffs.

Section 61.25 - Cross-references: As AT&T suggests in its comments, the Commission should clarify that nondominant carriers have at least the same rights to cross-reference as dominant carriers. There is an inconsistency between proposed Section 61.25, which states that nondominant carriers may cross-reference only the rate provisions of another carrier’s FCC tariff publication, and the broader cross-referencing that would be permitted by Sections 61.74(e)-(f), which apply to both dominant and nondominant carriers.

III. USTA's Wide-Ranging Proposals are Beyond the Scope of this Proceeding

The comments filed by USTA and several incumbent local exchange carriers (ILECs) address issues that are well beyond the scope of this proceeding. Although the purpose of this proceeding is to examine the Part 61 rules and related tariffing rules, the ILECs are proposing wide-ranging changes to the Part 69 access charge rules as well. Among other things, USTA's comments contain (1) a complete proposal for rate of return access charge reform; (2) a pricing flexibility proposal that would permit geographic deaveraging and would grant the ILECs contract pricing authority, volume and term pricing authority; and (3) a proposal for eliminating the Part 69 rate structure for price cap ILECs.

USTA and the ILECs argue that consideration of these broad proposals is required by Section 11(a)(1) of the Act. Bell Atlantic, for example, argues that Section 11 "requires the Commission to review all of its regulations every two years" and to repeal any regulation it determines to be no longer "necessary."⁹ Bell Atlantic also claims that "[t]his requires a cost/benefit analysis of each and every one of the Commission's substantive rules and the elimination, or streamlining, of any rule that is no longer necessary to protect the public interest."¹⁰

As MCI WorldCom has discussed in its reply comments in other Section 11 proceedings, the ILECs misread Section 11 of the Act.¹¹ While Section 11(a)(1) of the Act requires the Commission to review "all regulations issued under this Act," the ILECs are

⁹Bell Atlantic Comments at 1.

¹⁰Id.

¹¹MCI Reply Comments, CC Docket No. 98-81, September 4, 1998, at 3-4 .

ignoring Section 11(a)(2), which obliges the Commission to repeal or modify only those rules no longer necessary as the result of “meaningful economic competition” between providers of telecommunications services.

Application of the “meaningful economic competition” standard shows that the limited scope of the Commission’s proposals is fully consistent with Section 11 of the Act. As the Commission is well aware, there has been little or no change in the level of competition for ILEC local exchange and exchange access services since the passage of the Telecommunications Act of 1996.¹² The ILECs have certainly presented no evidence in this proceeding that would allow the Commission to conclude that meaningful economic competition exists.

Because there is no “meaningful economic competition” for the services offered by the ILECs, it is completely consistent with Section 11 for the Commission to limit the rule changes proposed in this proceeding, insofar as they affect dominant ILECs, to non-substantive changes designed to clarify the Part 61 rules. Absent “meaningful economic competition,” the Commission need not, and should not, repeal or modify any of the Part 61 or Part 69 rules that it has adopted to ensure that dominant ILEC rates are just and reasonable.

Furthermore, Section 11 proceedings -- intended only as a mechanism for providing targeted regulatory relief in competitive telecommunications markets -- should not be expanded into full-blown rulemaking proceedings. The USTA proposals address a variety of issues that are properly considered in other open dockets. In particular, the pricing flexibility proposal included in USTA’s Comments addresses issues under consideration in the CC Docket No. 96-

¹²See MCI WorldCom Update Comments, CC Docket No. 96-262, October 26, 1998.

262 access reform proceeding, while USTA's proposed changes to Part 69 for rate of return carriers address issues under consideration in the CC Docket No. 98-77 rate of return carrier access reform proceeding. Several other proposals advanced by the ILECs address issues that are before the Commission in the context of petitions for reconsideration of the Access Reform Order.¹³ The Commission should reject USTA's proposals as beyond the scope of this proceeding.

Respectfully submitted,
MCI WORLDCOM, INC.



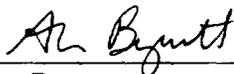
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November 16, 1998

¹³See, e.g., Bell Atlantic Comments at 8 (proposing to exempt universal service contributions from the application of the X-Factor).

STATEMENT OF VERIFICATION

I have read the foregoing, and to the best of my knowledge, information, and belief there is good ground to support it, and that it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on November 16, 1998.



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CERTIFICATE OF SERVICE

I, Vivian I. Lee, do hereby certify that copies of the foregoing Reply Comments were sent via first class mail, postage paid, to the following on this 16th day of November, 1998.

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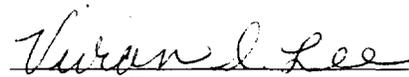
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