

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

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
International Settlement Rates ) IB Docket No. 96-261

**PETITION OF AT&T, MCI WORLDCOM AND SPRINT FOR ENFORCEMENT  
OF INTERNATIONAL SETTLEMENTS BENCHMARK RATES  
FOR SERVICES WITH CYPRUS**

AT&T Corp. ("AT&T"), MCI WorldCom, Inc. ("MCI WorldCom") and Sprint Communications Company L.P. ("Sprint") (collectively, "Petitioners") hereby submit this Petition requesting enforcement of the benchmark settlement rate of \$0.15 as required by the Commission's *Benchmarks Order* with respect to U.S. international services with Cyprus.<sup>1</sup> Petitioners request this enforcement action in order that they may be in compliance with the rules adopted in the *Benchmarks Order*.

The Commission found in the *Benchmarks Order* that existing settlement rates are substantially above the costs incurred by foreign carriers to terminate U.S.-originated calls, thus harming competition in the U.S. market and causing U.S. consumers to pay a subsidy to foreign carriers.<sup>2</sup> The Commission also found that "the above-cost

<sup>1</sup> *In the Matter of International Settlement Rates*, 12 FCC Rcd 19806 (1997) (Report and Order) ("*Benchmarks Order*"), recon. pending; *aff'd sub nom. Cable and Wireless P.L.C. v. FCC et al.*, C.A.D.C. No. 97-1612, Jan. 12, 1999.

<sup>2</sup> *Id.* at ¶ 2.

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margins in settlement rates can be used to finance strategies that create competitive distortions in the market for U.S. international services.”<sup>3</sup>

To ensure that U.S. consumers pay reasonable rates for international services, and to guard against competitive distortions in the U.S. market, the Commission adopted benchmark settlement rates using the Tariff Component Pricing methodology based on foreign carriers’ publicly available tariff rates and information published by the International Telecommunications Union (“ITU”).<sup>4</sup> The Commission also established five transition periods during which U.S. carriers must negotiate settlement rates at or below the benchmarks.<sup>5</sup>

With respect to foreign carriers from upper-income countries, the Commission requires U.S. carriers to negotiate settlement rates not exceeding \$0.15 for all traffic exchanged after January 1, 1999.<sup>6</sup> Under the *Benchmarks Order*, Cyprus is classified as an upper-income country.<sup>7</sup> Thus, the *Benchmarks Order* requires U.S. carriers to negotiate a benchmark settlement rate with the foreign correspondent in Cyprus

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<sup>3</sup> *Id.*

<sup>4</sup> *Id.* at ¶¶ 19, 111. While on most routes the benchmark rates adopted by the Commission are significantly lower than existing settlement rates, in all instances they "continue to exceed, usually substantially, any reasonable estimate of the level of foreign carriers' relevant costs of providing international terminating services."

<sup>5</sup> *Id.* at ¶ 165.

<sup>6</sup> *Id.* at ¶¶ 165, 111.

<sup>7</sup> *Id.* at Appendix C, "Classification of Economies."

of \$0.15 from January 1, 1999.<sup>8</sup>

As demonstrated by the attached affidavits of Thomas R. Luciano of AT&T, Anthony Scire of MCI WorldCom, and Daniel P. Dooley of Sprint, the three undersigned U.S. carriers have made good faith efforts to negotiate this benchmark rate effective January 1, 1999 with the Cyprus Telecommunications Authority (“CYTA”), the foreign correspondent in Cyprus. However, as the attached affidavits further demonstrate, the U.S. carriers have been unable to negotiate the benchmark settlement rate with CYTA. In accordance with the procedures established by the *Benchmarks Order*, the undersigned U.S. carriers now bring this Petition to obtain “enforcement measures . . . to ensure that no U.S. carrier pays that foreign correspondent an amount exceeding the lawful settlement rate benchmark.”<sup>9</sup>

As recently affirmed by the U.S. Court of Appeals for the D.C. Circuit, the Commission has full authority to prescribe the maximum settlement rates that U.S. carriers may pay their foreign correspondents.<sup>10</sup> In upholding the *Benchmarks Order* “in its entirety,” the D.C. Circuit made clear that the establishment and enforcement of benchmark settlement rates is well within the Commission’s authority under the Communications Act, does not regulate foreign carriers or foreign telecommunications

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<sup>8</sup> *Id.* at ¶¶ 111, 165.

<sup>9</sup> *Id.* at ¶ 186.

<sup>10</sup> *Cable and Wireless P.L.C. v. FCC et al.*, slip op. at 6.

services, and is consistent with ITU obligations.<sup>11</sup>

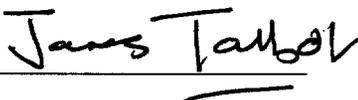
As required by the *Benchmarks Order*, this Petition and the accompanying affidavits demonstrate that the undersigned U.S. carriers have been unable to negotiate benchmark settlement rates with the foreign correspondent in Cyprus. In order to ensure that U.S. consumers pay reasonable rates for international services, and to guard against competitive distortions in the U.S. market, the Petitioners respectfully request that the Commission enforce the *Benchmarks Order* expeditiously by requiring all U.S. carriers to pay settlement rates no higher than the applicable benchmark rate of \$0.15 for all traffic exchanged with Cyprus from January 1, 1999.<sup>12</sup>

Respectfully submitted,

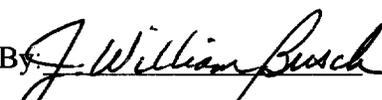
AT&T CORP.

MCI WORLDCOM, INC.

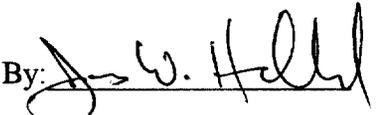
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<sup>11</sup> *Id.* at 3, 10-11.

<sup>12</sup> This Petition in no way precludes Petitioners from filing similar petitions with respect to foreign correspondents in other upper-income countries that have not agreed to implement benchmark rates as of January 1, 1999.

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20544**

In the Matter of )  
 )  
International Settlement Rates ) IB Docket No. 96-261

**AFFIDAVIT OF THOMAS R. LUCIANO**

STATE OF NEW JERSEY )  
 ) ss:  
COUNTY OF MORRIS )

THOMAS R. LUCIANO, being duly sworn, deposes and says:

1. My name is Thomas R. Luciano. I am Vice President for Settlement Operations in the International Traffic Management division of AT&T Corp. ("AT&T"). In this position, I am responsible for AT&T's settlement arrangements with its two hundred and forty foreign correspondents for the provision of AT&T's international switched services, including all settlement rate agreements between AT&T and its foreign correspondents, and all negotiations concerning those agreements.

2. I have direct responsibility for AT&T's efforts to negotiate settlement rates with its foreign correspondents in accordance with the benchmark rates established by the Commission's Report and Order in *International Settlement Rates*, 12 FCC Rcd. 19806 (1997), *aff'd sub nom. Cable & Wireless P.L.C. v. F.C.C.*, No. 97-1612, (D.C. Cir., Jan. 12, 1999) ("*Benchmark Order*"). Those responsibilities include AT&T's efforts to negotiate the applicable benchmark settlement rate with its foreign correspondent in Cyprus, the Cyprus Telecommunications Authority ("CYTA").

3. The *Benchmark Order* requires U.S. carriers to negotiate a settlement rate no higher than \$0.15 with Cyprus effective January 1, 1999. Despite its best efforts, AT&T has not been successful in negotiating this benchmark rate with CYTA. I am therefore submitting this affidavit in support of AT&T's request that the Commission now enforce the *Benchmark Order* by directing all U.S. carriers to pay settlement rates no higher than this benchmark for all traffic exchanged with Cyprus from January 1, 1999.

4. AT&T informed CYTA that the *Benchmark Order* requires U.S. carriers to negotiate a settlement rate no higher than \$0.15 with Cyprus effective January 1, 1999 by letter in August 1997 and in subsequent meetings held in March and July 1998. AT&T further emphasized the importance of negotiating an agreement to provide the benchmark rate in a letter to CYTA in December 1998.

5. In response, CYTA has stated that it will not reduce settlement rates to the benchmark level effective January 1, 1999. CYTA has instead proposed to extend the existing accounting rate of 0.55 SDR (equivalent to a settlement rate of \$0.385) while negotiations continue for further reductions. CYTA has also repeatedly threatened to terminate home country direct and 800 services with U.S. carriers. The International Bureau has supported the efforts of AT&T and other U.S. carriers to negotiate the benchmark rate by letter of December 30, 1998 to CYTA and by letter of January 22, 1999 to the Directorate of Communications in the Cyprus Ministry of Communications and Works. Nonetheless, AT&T has been unable to negotiate the benchmark rate with CYTA effective January 1, 1999 for traffic between the U.S. and Cyprus in conformity with the *Benchmark Order*.

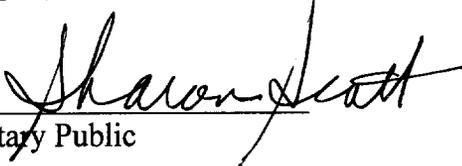
6. These events demonstrate that AT&T has made good faith efforts to negotiate the applicable benchmark settlement rate with its correspondent in Cyprus in accordance with the *Benchmark Order* and that its efforts have not been successful. AT&T therefore requests the Commission to enforce that Order by requiring all U.S. carriers to pay no higher than the benchmark settlement rate of \$0.15 for all traffic exchanged with Cyprus from January 1, 1999.

I declare, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge and belief.

  
Thomas R. Luciano

Sworn to before me this

17<sup>th</sup> day of February, 1999

  
Notary Public

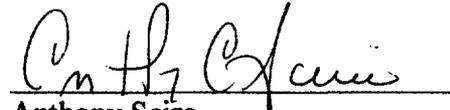
**SHARON SCOTT**  
**NOTARY PUBLIC OF NEW JERSEY**  
**My Commission Expires Sept. 15, 2003**

AFFIDAVIT OF ANTHONY SCIRE

City of Rye Brook                    )  
County of Westchester                )  
State of New York                    )

I, Anthony Scire, being duly sworn, state under penalty of perjury as follows:

- 1) I am Senior Director, International Services, MCI WorldCom, Inc. ("MCI WorldCom"). The people in my organization are responsible for negotiations with the Cyprus Telecommunications Authority ("CYTA") and were so responsible during the periods of 1998 and 1999 attested to. My business address is 2 International Drive, Rye Brook, New York 10573.
  
- 2) In 1998, and to date in 1999, MCI WorldCom has had numerous contacts with CYTA, requesting that the accounting rate for traffic between MCI WorldCom and CYTA be reduced to the equivalent of the benchmark accounting rate, \$0.30, with an effective date no later than January 1, 1999.
  
- 3) These contacts consisted of both meetings and the exchange of letters, and involved a variety of levels of management from both companies.
  
- 4) In all instances, we were unsuccessful in obtaining the agreement of CYTA to implement an accounting rate equivalent to \$0.30, effective January 1, 1999.

  
\_\_\_\_\_  
Anthony Scire  
Senior Director  
International Services  
MCI WorldCom, Inc.

Sworn to me this  
23<sup>rd</sup> day of February, 1999.

  
\_\_\_\_\_  
Notary Public

**SUSAN M. YURUS**  
Notary Public, State of New York  
No. 4895252  
Qualified in Westchester County  
Commission Expires August 3, 1999

AFFIDAVIT OF DANIEL P. DOOLEY

County of Fairfax                    )  
  )  
State of Virginia                    )  
  )

I, Daniel P. Dooley, being duly sworn, state under penalty of perjury as follows:

1. I am Area Vice President, International Carrier Services, with Sprint Communications Company, L.P. ("Sprint"). My business address is 12120 Sunset Hills Road, Reston, VA 20190.
2. I am responsible for all of Sprint's accounting rate negotiations with foreign telecommunications carriers. I am making this affidavit based on my knowledge of, and personal involvement in, Sprint's negotiations with Cyprus Telecommunications Authority ("CYTA"), the telecommunications carrier in Cyprus.
3. Beginning on or around August 1998, CYTA made several requests that Sprint agree to a Total Accounting Rate (TAR) of 0.55 SDR, effective September 1, 1998. In response, Sprint informed CYTA that, consistent with the Commission's Benchmarks Order, Sprint was unable to accept CYTA's accounting rate proposal for traffic exchanged after December 31, 1998. See In the Matter of International Settlement Rates, Report and Order, 12 FCC Rcd 19806 (1997) ("Benchmarks Order"), recon. pending; *aff'd sub nom. Cable and Wireless P.L.C. v. FCC et al.*, C.A.D.C. No. 97-1612, Jan. 12, 1999.
4. CYTA informed Sprint that it would not agree to the TAR of \$0.30 established in the Benchmarks Order for traffic exchanged after December 31, 1998. In addition, CYTA stated that, in light of Sprint's unwillingness to agree to a TAR of 0.55 SDR for traffic exchanged after December 31, 1998, bilateral traffic on the U.S.-Cyprus route must cease after that date. CYTA indicated that if Sprint attempted to terminate any U.S.-originated traffic in Cyprus after December 31, 1998, Sprint would be obligated to pay CYTA a settlement rate of 0.275 SDR.

**CERTIFICATE OF SERVICE**

I, Deborah Fairley, do hereby certify that a copy of the foregoing "Petition of AT&T, MCI WorldCom and Sprint for Enforcement of International Settlements Benchmark Rates for Services with Cyprus" was sent this 25<sup>th</sup> day of February, 1999, by facsimile, first-class U.S. mail, and/or first-class U. S. airmail, postage prepaid, to the following:

Mr. Christodoulides Kyriakos<sup>1</sup>  
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1396 Nicosia  
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2000 M Street, N.W., Room 822  
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Deborah Fairley

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<sup>1</sup>First class U.S. airmail and facsimile.  
A copy of 47 C.F.R. Section 1.47 has also been included with this service, as required in Paragraph 186 of *In the Matter of International Settlement Rates*, 12 FCC Rcd 19806(1997) (Report and Order)

\*hand delivery