

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of: )  
)  
Petition of the Illinois Commerce )  
Commission for Expedited Temporary )  
Waiver of Section 52.19(c)(3)(ii) of the )  
Federal Communication Commission's )  
Rules )  
)  
Implementation of the Local Competition )  
Provisions of the Telecommunications )  
Act of 1996 )

NSD File No. L-99-65

CC Docket No. 96-98

**COMMENTS OF MCI WORLDCOM, INC.**

MCI WorldCom, Inc. (MCI WorldCom) hereby submits comments on the petition of the Illinois Commerce Commission (ICC) for an expedited temporary waiver of 47 C.F.R. § 52.19(c)(3)(ii). That section of the Commission's rules states that:

[n]o area code overlay may be implemented unless there exists, at the time of implementation, mandatory ten-digit dialing for every telephone call within and between all area codes in the geographic area covered by the overlay area code.

This rule serves a significant, pro-competitive purpose by eliminating a dialing disparity that would otherwise exist between end users with telephone numbers in the pre-existing area code and end users with numbers in the overlay area code.<sup>1</sup> The Commission should require a strong

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<sup>1</sup> The dialing disparity arises because, absent mandatory ten-digit dialing, the vast majority of assigned telephone numbers will be in the pre-existing area code. Calls between end users within that area code would require the dialing of only seven digits, while calls from the overlay code to the pre-existing code would require ten-digit dialing. This disparity is anti-

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showing of special circumstances before waiving any rule adopted to further the pro-competitive purposes of the Telecommunications Act of 1996. In this case, the ICC has not made such a showing. Its petition should be denied.

The Chicago metropolitan area is served by five area codes, all of which are projected to exhaust during the next eighteen months.<sup>2</sup> The ICC has ordered the staggered introduction of all-services overlays to relieve each of the five area codes upon exhaust.<sup>3</sup> The ICC believes that, unless it receives the requested waiver, it would have to implement ten-digit dialing in a piecemeal fashion as each of the five area codes exhausts. According to the ICC, “granting a temporary waiver until the last of the four newly assigned area codes is activated will allow the ICC to implement the Commission’s 10-digit dialing requirement uniformly in the Chicago metropolitan area.”<sup>4</sup> The ICC also asserts that a temporary waiver will minimize disruption and customer confusion from piecemeal implementation of ten-digit dialing, and will allow the ICC and carriers additional time to develop and administer a comprehensive education program for customers.<sup>5</sup> Finally, the ICC argues that a temporary waiver is consistent with past Commission

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competitive since the incumbent local exchange carrier (ILEC) will almost always have a substantial inventory of numbers available for assignment in the pre-existing area code, while competitive local exchange carriers (CLECs) may have to rely disproportionately on numbers in the overlay area code.

<sup>2</sup> ICC Petition at 1.

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

<sup>4</sup> *Id.* at 5.

<sup>5</sup> *Id.*

actions.<sup>6</sup> None of these arguments justifies granting the requested waiver.

The primary factual predicate for all of the ICC's arguments is that a waiver is necessary to avoid the piecemeal implementation of ten-digit dialing. This is simply false. There is absolutely no barrier to the uniform implementation of ten-digit dialing throughout the entire Chicago metropolitan area, or indeed the entire state of Illinois, to precede or coincide with implementation of the first overlay area code. Section 52.19(c)(3)(ii) of the Commission's rules does not require the ICC to delay the implementation of ten-digit dialing until exhaust occurs.<sup>7</sup> In similar cases other states have adopted ten-digit dialing beyond the confines of the overlay area code with little if any customer confusion.<sup>8</sup> Since the ICC can do likewise and require ten-digit dialing throughout the Chicago metropolitan area at any time between now and implementation of the first overlay code, there need be no piecemeal implementation of ten-digit dialing.<sup>9</sup>

The Commission may waive its rules only upon a showing of special circumstances that justify deviation from the general rule, as well as a finding that such deviation would be in the

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<sup>6</sup> *Id.* at 6.

<sup>7</sup> Indeed, the Commission's rules do not even require state commissions to wait until an area code exhausts before activating the relief code. The ICC could order the relief plans to take place concurrently.

<sup>8</sup> For example, in 1997 the state of Maryland introduced statewide ten-digit dialing. This change in the statewide dialing pattern did not occasion significant disruption or confusion.

<sup>9</sup> In fact, such a policy would greatly relieve the already confusing dialing pattern in Chicago where a substantial number of call require 11-digit dialing.

public interest.<sup>10</sup> By adopting ten-digit dialing throughout the Chicago metropolitan area to precede implementation of the first overlay code, the ICC would prevent disruption and customer confusion in a manner consistent with the Commission's rules and the pro-competitive purposes of the Telecommunications Act of 1996. The ICC has made no showing that the later implementation of ten-digit dialing protects the public interest better than would an earlier implementation. By adopting 47 C.F.R. § 52.19(c)(3)(ii), the Commission has already determined that requiring ten-digit dialing with overlays promotes the public interest by promoting competition. Since a waiver is unnecessary to prevent disruption and customer confusion, and would not promote the public interest, such a waiver should not be granted.

Alternatively, the ICC argues that a temporary waiver will allow additional time to develop a comprehensive education program. Of course, any temporary waiver of this rule would always give carriers and state commissions additional time to develop such programs. The ICC has not shown the existence of special circumstances that require additional time to develop such programs in this case. In fact, the ICC has not described any Chicago-specific circumstances in support of the conclusion that additional time is needed to develop a comprehensive education program.

In concluding its investigation into issues related to number exhaust in the Chicago metropolitan area, the ICC noted that "before general assignment of numbers to customers from the overlay code and before mandatory 11-digit local dialing takes effect, carriers must have an

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<sup>10</sup>See, e.g., *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969).

opportunity to conduct customer education.”<sup>11</sup> The ICC also concluded that three months would provide a sufficient period for customer education, and directed the number administrator to notify the ICC within a reasonable time prior to the commencement of the education program. The ICC reached those conclusions nine months ago. There is no emergency that warrants a waiver at this time. There is no reason why carriers cannot commence customer education long before the first overlay code is implemented.<sup>12</sup>

Finally, the ICC asserts that the requested waiver is consistent with the Commission’s decision to grant a temporary waiver of mandatory ten-digit dialing in New York City to the New York Department of Public Service (NYDPS). However, there are significant differences between the two sets of circumstances. First, in New York the Commission noted that technical network modifications were needed.<sup>13</sup> The ICC has not identified any need for similar modifications here. Second, the ICC, unlike the NYDPS, implemented a mandatory thousands block number pooling trial in the 847 NPA and expanded that trial to four additional Chicago area NPAs.<sup>14</sup> The 847 pooling trial has been fairly successful in forestalling exhaust. The 847

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<sup>11</sup> *Illinois Commerce Commission On Its Own Motion vs. All Telecommunications Carriers holding 847 NXX Codes and Illinois Bell Telephone Company d/b/a Ameritech Illinois in its Capacity as Number Administrator Investigation into issues relating to the exhaustion of telephone numbers in the Chicago Metropolitan area*, Order, Docket No. 98-0497, issued December 16, 1998, p. 23; 1998 Ill. PUC LEXIS 1153.

<sup>12</sup> The ICC’s petition does not indicate when this event will take place.

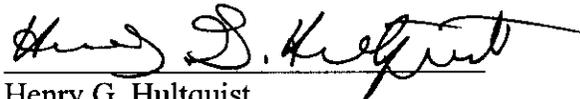
<sup>13</sup> *In the Matter of New York Department of Public Services Petition for Expedited Waiver of 47 C.F.R. Section 52.19(c)(3)(ii)*, NSD File No. L-98-03, Order (released July 20, 1998) at 9.

<sup>14</sup> *Lockheed Martin IMS, Petition for Approval of NPA Relief Plans for the 312, 630, 708 & 773 NPAs*, Interim Order, Docket No. 98-0847, issued June 30, 1999, pp. 13-14; 1999 Ill. PUC LEXIS 448.

NPA was originally projected to exhaust between April and December of 1998.<sup>15</sup> To date there is no reliable indication when the first NXX code from the overlay NPA will be issued. Under these circumstances, Illinois does not face an extreme number exhaust crisis, and has gained sufficient time to prepare for ten-digit dialing. The facts about the numbering situations in Illinois and New York are substantially different. Accordingly, it is inappropriate to compare Illinois to New York.

For the reasons stated above, the ICC petition for a waiver of 47 C.F.R. § 52.19(c)(3)(ii) should be denied.

Respectfully submitted,  
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September 16, 1999

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<sup>15</sup> *Citizens Utility Board, Petition to Implement a form of telephone number conservation known as number pooling within the 312, 773, 847, 630 and 708 area codes, Illinois Bell Telephone Company Petition for Approval of an NPA Relief Plan for the 847 NPA, Docket Nos. 97-0192 and 97-0211 (Consol.), Order, issued May 11, 1998, p. 2; 1998 Ill. PUC LEXIS 368.*

## CERTIFICATE OF SERVICE

I, Vivian Lee, do hereby certify that copies of the foregoing Comments, In the Matter of Petition of the Illinois Commerce Commission for Expedited Temporary Waiver of Section 52.19(c)(3)(i) of the Federal Communication Commission's Rules, of MCI WorldCom Inc. were sent via first class mail, postage paid, to the following on this 16th day of September, 1999.

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