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May 31, 2000

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FEDERAL COMMUNICATIONS COMMISSION  
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BY MESSENGER

Magalie Roman-Salas  
Secretary, Federal Communications Commission  
445 12<sup>th</sup> Street S.W.  
Washington DC 20554

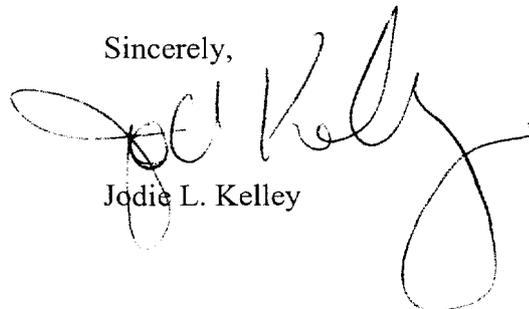
Re: In the Matter of Policy and Rules Concerning the Interstate, Interexchange  
Marketplace, CC Docket No. 96-61

Dear Ms. Roman-Salas:

Enclosed for filing in the above referenced proceeding, please find an original and four copies of the Comments of WorldCom, Inc. An extra copy has also been included to be file stamped and returned.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Jodie L. Kelley

Enclosure

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

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Policy and Rules Concerning )  
the Interstate, Interexchange )  
Marketplace )  
\_\_\_\_\_ )

CC Docket No. 96-61

**COMMENTS OF WORLDCOM, INC.**

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## EXECUTIVE SUMMARY

In this proceeding, the Commission has required carriers to cancel all domestic tariffs by the end of a nine-month transition period, and has imposed a public disclosure requirement that mandates online disclosures of the information that currently appears in tariffs. The Common Carrier Bureau has since requested comments with respect to issues relating to the implementation of detariffing during the transition period.

WorldCom offers these comments in response to that request.

1. WorldCom believes that it will need at least several months to design and construct its web site. Because compliance with the Commission's web posting requirement prior to the cancellation of tariffs would not further the Commission's goals, however, WorldCom urges the Commission to require compliance with the web-posting requirement for a given service at the time that service offering is detariffed.

2. WorldCom also seeks a declaration that carriers need not post summaries of their *individually negotiated* service arrangements. Such a requirement would require the posting of thousands of pages, without resulting in any corresponding benefit to customers, and would not serve the de-regulatory purpose that the FCC has identified as its goal.

3. WorldCom urges the Commission to permit carriers to file initial certifications stating that they are in compliance with the geographic rate averaging and rate integration requirements of § 254(g) of the Act at the end of the transition period, rather than whenever a tariff is revised or canceled. Such a rule would serve the efficiency interests of both carriers and the Commission itself, without having any negative effect on consumers.

4. WorldCom requests a re-affirmance, consistent with the text and purposes of the Detariffing Orders, that to the extent the FCC prohibited carriers from revising tariffed “long-term service arrangements” during the nine-month transition period, the FCC intended to limit its prohibition to individually negotiated agreements.

5. WorldCom also asks the Commission to emphasize, as is clear in its Orders, that detariffing does not provide parties to long-term contracts with an opportunity to take a “fresh look” at such contracts and alter or abrogate their terms. In this way the Commission will be able to eliminate the confusion in the marketplace with respect to this issue.

6. Finally, WorldCom encourages the FCC to initiate promptly a proceeding that would resolve whether international service offerings — like domestic service offerings — should be detariffed.

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

<b>In the Matter of</b>	)	
	)	
<b>Policy and Rules Concerning</b>	)	
<b>the Interstate, Interexchange</b>	)	<b>CC Docket No. 96-61</b>
<b>Marketplace</b>	)	
	)	

**COMMENTS OF WORLDCOM, INC.**

WorldCom, Inc. ("WorldCom"), on behalf of all its operating carriers, respectfully submits these comments in response to the Common Carrier Bureau's Public Notice (DA 00-1028, CC Docket No. 96-61), released May 9, 2000 ("Notice"). In that Notice, the Bureau sought comment on issues relating to the nine-month period of transition from mandatory tariffing to a regime without tariffs for domestic service.

**BACKGROUND AND SUMMARY**

In October 1996, the Commission issued the Second Report and Order, imposing "mandatory" detariffing — that is, prohibiting carriers from filing domestic interexchange tariffs and ordering carriers to rescind any tariffs on file within nine months of the effective date of the Order. See Second Report and Order, *In re Policy and Rules Concerning the Interstate, Interexchange Marketplace*, 11 F.C.C.R. 20730 (1996) ("Second Report and Order"). On reconsideration, the Commission modified its decision to allow tariffing under certain limited circumstances and eliminated the public disclosure requirement that had been imposed by the Second Report and Order. See Order on Reconsideration, *In re Policy and Rules Concerning the Interstate, Interexchange Marketplace*, 12 F.C.C.R. 15014 (1997) ("Recon. Order"). On further reconsideration, the Commission reinstated the public disclosure requirement and

mandated online disclosures by carriers with existing web sites. See Second Order on Reconsideration and Erratum, *In re Policy and Rules Concerning the Interstate, Interexchange Marketplace*, 14 F.C.C.R. 6004 (1999) ("Second Recon. Order"). The D.C. Circuit upheld the Commission's orders (collectively, the "Detariffing Orders") on April 28, 2000,<sup>1/</sup> and, on May 1, 2000, lifted a stay of the Orders it had previously entered.<sup>2/</sup>

On May 9, 2000, the Common Carrier Bureau ("the Bureau") issued a Public Notice establishing a new transition period beginning May 1, 2000, and ending January 31, 2000. The Bureau also provided technical guidance for carriers with respect to the implementation of detariffing, and sought comment on specific issues relating to the transition period, including how quickly carriers should have to comply with the online disclosure requirement and whether permissive detariffing should be permitted during the transition period for bundled domestic and international service offerings. The Bureau more generally sought comment as to "whether any other modifications should be made to the transition plan." Notice at 4. In response, WorldCom submits these comments.

*First*, although work is underway, WorldCom anticipates that full compliance with the Commission's web-posting requirement is likely to take at least several months. Regardless of WorldCom's capabilities in this respect, however, WorldCom believes that compliance with the web-posting requirement prior to the cancellation of tariffs is unnecessary to advance the Commission's goals. Accordingly, WorldCom urges the

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<sup>1/</sup> See *MCI WorldCom, Inc. v. FCC*, No. 96-1459, 2000 WL 390520, \* \_\_ (D.C. Cir. Apr. 28, 2000).

<sup>2/</sup> See *MCI WorldCom, Inc. v. FCC*, No. 96-1459, Order (D.C. Cir. May 1, 2000).

Commission not to require carriers to comply with the web-posting requirement before a given service offering is detariffed.

*Second*, WorldCom urges the Commission to declare that carriers need not post the terms of their individually negotiated service agreements. Such a requirement would impose a significant (and ultimately unnecessary) burden on carriers — requiring them to post literally thousands of extra pages. There is no corresponding benefit to customers that would justify this expense: individually negotiated arrangements are simply irrelevant to the vast majority of customers, and sophisticated large business customers are fully capable of negotiating service arrangements, without having access to the deals their competitors have struck. Indeed, such a requirement is antithetical to the “free market” environment the Commission has indicated it is trying to create.

*Third*, WorldCom asks the Commission to conclude that carriers may file initial certifications stating that they are in compliance with the geographic rate averaging and rate integration requirements of § 254(g) of the Act at the end of the transition period, and annually thereafter.<sup>3/</sup> This will allow carriers to file a single certification, rather than filing in a piecemeal fashion whenever a tariff is revised or canceled prior to the end of the transition period, and will similarly be most efficient for the Commission.

*Fourth*, WorldCom asks the Bureau to reaffirm, as the text and the purposes of the Detariffing Orders make clear, that the Commission’s prohibition on revising tariffed “long-term service arrangements” during the transition period is limited to agreements

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<sup>3/</sup> WorldCom’s request with respect to the rate integration requirement in no way waives any of the claims on this issue that are pending before the D.C. Circuit, which is currently considering a challenge to the FCC’s rate integration order.

that are individually negotiated between carriers and their customers. Both the text and the purpose of the Orders support this result.

*Fifth*, WorldCom similarly asks the Bureau to reaffirm that the move to a detariffed environment in no way abrogates existing long-term contracts, or entitles either party to a “fresh look.” Although the Commission has already so indicated, there nevertheless appears to be confusion in the marketplace with respect to this issue. Thus, WorldCom asks the Commission to highlight this point to ensure that the transition to a detariffed environment is as seamless as possible.

*Finally*, WorldCom strongly supports the prompt initiation of a proceeding that would address whether international service offerings should be detariffed, as domestic service offerings have been. The dual regime that exists now will inevitably lead to confusion, to the detriment of both carriers and customers.

**I. Online Posting of Rate and Service Information Should Not Be Required Until a Service Is Actually Detariffed.**

In the Notice, the Bureau sought comment on “how quickly the IXCs that currently have websites should be required to come into full compliance with the web posting requirement adopted in the *Second Order on Reconsideration*.” Notice at 4.<sup>4/</sup> As set out below, WorldCom urges the Bureau not to impose a rigid deadline prior to the end of the transition period by which carriers must come into compliance with this requirement. It will take several months for WorldCom to put in place the necessary

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<sup>4/</sup> The Detariffing Orders require nondominant interexchange carriers to make available to the public “information concerning [their] current rates, terms and conditions for all of [their] interstate, domestic, interexchange services.” 47 C.F.R. § 42.10(a). The Commission also directed carriers that currently maintain web sites to “make such rate and service information . . . available on-line at its Internet website in a timely and easily accessible manner, and [to] update this information regularly.” 47 C.F.R. § 42.10(b).

infrastructure necessary and, because it is impossible to predict the technological or logistical issues that might arise during the course of creating the site, it is impossible to predict with any confidence the precise date by which the site would be ready.

WorldCom has begun the process of transitioning from a tariffed environment into a detariffed environment. That effort obviously involves much more than merely creating a portion of the web site on which newly detariffed service offerings are posted. Instead, the company has devoted, and will continue to devote, substantial time and resources studying and implementing the regime that will take the place of tariffed offerings.

One aspect of that implementation process has been the creation of a web site, or a portion of the company's existing web site, on which information about rates, terms, and conditions can be posted. Company representatives have been working with information services personnel to design a site that contains all necessary information, while remaining easy to use and navigate.<sup>5/</sup> Initial estimates from information services personnel indicate that several months will be needed to complete this undertaking — in the absence of any unforeseen logistical difficulties.

Regardless of when carriers' web sites are operational, the Commission should not require the posting of standard service offerings until each such offering is actually

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<sup>5/</sup> The Commission first imposed a web-posting requirement in its Second Order on Reconsideration. See Second Recon. Order ¶ 18. Prior to that Order, the Commission initially had "merely encouraged" carriers to post information on their web sites, Second Report and Order ¶ 86 n.236, and then had dispensed with the public disclosure requirement altogether, see Recon. Order ¶¶ 68-69. The Second Reconsideration Order, like the other Orders, was stayed by the D.C. Circuit. Because the very purpose of the stay was to avoid the unnecessary time and expense of complying with requirements that might eventually be struck down on appeal, carriers began working to implement the web-posting requirement only after the stay was lifted last month.

detariffed.<sup>6/</sup> As the Commission has already recognized, such a posting requirement is not necessary to provide consumers with rate and term information. Posting rate, term and condition information on a web site while it is still publicly available *via* tariffs is plainly unnecessary to advance the Commission's goal of making such information available to the public. Indeed, the Commission itself emphasized that its public disclosure requirement would "retain[] the one positive aspect of tariffing, making information on the rates, terms and conditions of interstate, interexchange services available to the public, without the negative aspects of tariffing." Second Recon. Order ¶ 19. There is no need to "retain[] the one positive aspect of tariffing" while tariffs are still on file; the asserted value of the web-posting requirement — to keep rate and term information available — exists only in a regulatory regime in which such information would not otherwise be available. Moreover, it is not clear that the service offerings that are currently available by tariff will be identical to those offered in a detariffed environment. Accordingly, if the web-posting requirement were implemented before detariffing occurs, carriers may be forced to post on their web sites terms and conditions that are simply redundant of the information contained in tariffs, only to be forced to expend needless time and expense taking down obsolete information, and posting the service offerings that are available on a detariffed basis.

Thus, because moving to a detariffed regime, including creating a web site on which rate and service information will be posted, is a time-consuming process, the Commission should, at a minimum, give carriers several months to put the necessary

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<sup>6/</sup> Of course, even though new or revised individually negotiated service arrangements can no longer be tariffed, carriers cannot be expected to post summaries of those offerings until their web sites are operational.

infrastructure in place. Moreover, because compliance with the web-posting requirement prior to the cancellation of tariffs is unnecessary to advance the Commission's goals, the Commission should declare that compliance with the web-posting requirement is required for standard service offerings only after each such offering is detariffed.

**II. Carriers Should Not Be Required to Publicly Disclose and/or Post Individually Negotiated Service Arrangements.**

WorldCom also asks the Commission to find that carriers need not post individually negotiated service arrangements on their web sites. Such a requirement would impose an unnecessary burden on carriers without providing any corresponding benefit to customers. Accordingly, WorldCom asks the Commission to declare that only standard, mass markets offerings must be disclosed on carriers' web sites, or publicly disclosed.

The online posting of individually negotiated service arrangements would be a significant undertaking. WorldCom could conceivably need to post as many as 15,000 additional pages on its web site. These thousands of pages are utterly irrelevant to the vast majority of consumers: residential and small business consumers that buy standard service offerings. Thus, such a requirement would not effectuate what was clearly the primary goal of the Commission's public disclosure requirements — *i.e.*, informing *mass markets* customers of generally available rates and terms.

Nor is the posting of individually negotiated terms necessary to protect sophisticated, large-business customers. Indeed, in these proceedings, large business customers themselves urged the Commission *not* to require public disclosure of individually negotiated contracts. See Recon. Order ¶ 61; see also *id.* ¶ 68 (agreeing

with Ad Hoc Users Committee that the public disclosure requirement should be eliminated for individually negotiated service arrangements). A consumer-oriented group similarly disclaimed any need for public disclosure outside the mass markets context:

We do not believe there needs to be disclosure of contract prices agreed to between carriers and their largest customers. The analogy is perhaps best to that of auto dealers. There are, of course, fleet pricing strategies for big contracts involving large volumes of cars. The pricing strategies and specifics of such agreements are likely to be proprietary.

Comments of Telecommunications Research and Action Center, at 6.

History confirms that such disclosure is unnecessary. Between the early 1980s, when permissive detariffing was first allowed,<sup>7/</sup> and 1992, when permissive detariffing was struck down as beyond the Commission's statutory authority,<sup>8/</sup> carriers generally did not file the terms of individually negotiated deals. Nevertheless, the Commission did not impose a requirement that carriers publicly disclose those terms.

Nothing in the Detariffing Orders suggests that the result should be different now. Indeed, the opposite is true. In its decision upholding the Detariffing Orders, the D.C. Circuit concluded that "the essence of [the Commission's] reasoning was a desire

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<sup>7/</sup> See Second Report and Order, *In re Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor*, 91 F.C.C.2d 59 (1982) (allowing resellers to choose whether to cancel their tariffs). In subsequent orders, the FCC extended this regulatory regime to all non-dominant carriers. See Fourth Report and Order, *In re Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor*, 95 F.C.C.2d 554 (1983); Fifth Report and Order, *In re Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor*, 98 F.C.C.2d 1191 (1984).

<sup>8/</sup> See *American Tel. & Tel. Co. v. FCC*, 978 F.2d 727 (D.C. Cir. 1992); see also *American Tel. & Tel. Co. v. FCC*, No. 92-1628, 1993 WL 260778, at \*1 (D.C. Cir. June 4, 1993), *aff'd sub nom. MCI Telecommunications Corp. v. American Tel. & Tel. Co.*, 512 U.S. 218 (1994).

to put the interexchange carriers under the same market conditions as apply to any other nonregulated provider of services in our economy.” *MCI WorldCom, Inc. v. FCC*, No. 96-1459, 2000 WL 390520, \* \_\_ (D.C. Cir. Apr. 28, 2000). But the effect of the disclosure requirement, as it applies to individually negotiated service arrangements, is to treat carriers quite differently than service providers in other markets. See Recon. Order ¶ 62 (citing statements of commenters that “businesses in other competitive markets are not required to disclose the terms of customer-specific deals”).<sup>9/</sup>

In short, there is simply no justification for imposing on carriers the enormous burden of disclosing information about their individually negotiated arrangements. Accordingly, WorldCom seeks a declaration that the Commission’s public disclosure requirements apply only to information about standard, mass markets service offerings.

### **III. Carriers Should Be Permitted to File All Initial Certifications of Compliance with § 254(g) of the Communications Act at the End of the Transition Period.**

To discharge its regulatory obligation in the absence of tariffs, the Commission has required nondominant providers of interexchange services to file annual

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<sup>9/</sup> Although the Commission re-imposed the public disclosure requirement with respect to individually negotiated service arrangements (after eliminating that requirement in the Reconsideration Order), it did not discuss the differences between such arrangements and mass markets offerings. See Second Recon. Order ¶ 16 n.60 (stating, without explanation, that “in order for this disclosure requirement to be meaningful, it must apply to all arrangements, including mass market services and individually-negotiated service arrangements”). The Commission did cite, in a footnote, the statements of a single commenter that “many of its clients are small- and medium-sized businesses that were paying basic rates for mass market services and obtained lower prices by using an existing individually-negotiated service arrangement for another customer with a similar calling pattern,” *id.*, but did not explain why it was no longer the case, as it had found in the Reconsideration Order, that “[t]here are means to ensure that nondominant interexchange carriers make individually-negotiated service arrangements available to all similarly-situated customers” besides public disclosure generally, or online posting in particular. Recon. Order ¶ 68.

certifications stating that they are in compliance with the geographic rate averaging and rate integration requirements of § 254(g) of the Act. See Second Report and Order ¶ 83; 47 C.F.R. § 64.1900(b); see also 47 U.S.C. § 254(g). The Public Notice suggests that such certifications be filed “initially, at the same time and in a separate package as the filing that either cancels their domestic, interstate interexchange service tariff(s) or revises the existing tariff to remove references to interstate, domestic interexchange services.” Notice at 3-4 (emphasis added).<sup>10/</sup> In order to streamline this process for both carriers and the Commission, WorldCom suggests that carriers be permitted to file all of their initial certifications at the end of the transition period — when the majority of tariffs will be withdrawn — rather than in a piecemeal fashion each time a tariff is canceled prior to that date.

The Bureau has indicated that it is aware of the costs of canceling tariffs and the need to minimize those costs. Thus, in its recent Public Notice, the Bureau permitted carriers to “cancel several tariffs or revise several tariffs under one cover letter with the payment of one filing fee . . . .” Notice at 3. Carriers undoubtedly will take advantage of this opportunity in order to save time and money and to move more efficiently from a tariffed world to a detariffed world. For the same reason, carriers are likely to cancel the vast majority of their tariffs at the end of the transition period. In this way, carriers will be able to achieve economies of scale by canceling most of their tariffs at once. The initial certifications of compliance with respect to those tariffs would thus be filed at

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<sup>10/</sup> “Carriers who are not currently providing such services, and therefore do not have tariffs on file with the Commission, should file this certification letter with the Commission by the time they begin to offer interstate, domestic interexchange services to the public.” *Id.* at 4.

the end of the transition period — at the time of cancellation — consistent with the Public Notice. *Id.* at 3-4.

It is also likely, however, that carriers will be interested in canceling *some* tariffs, and/or will make new offerings that have not previously been tariffed, *before* the end of the transition period. The Bureau appears to suggest that initial certifications of compliance as to such tariffs and offerings be filed prior to the close of the transition period. But that rule would impose unnecessary costs on carriers who will be forced to file certifications of compliance sporadically, throughout the transition period, despite the fact that most certifications will not be due until the end of that period.<sup>11/</sup> Such a rule would also be inefficient for the Commission which, rather than receiving one set of certifications on the same day each year, would receive multiple certifications spread over six months.

Accordingly, WorldCom requests that the Commission declare that carriers are able to file all of their initial certifications of compliance with § 254(g) at the end of the transition period, and annually thereafter.

#### **IV. The Prohibition on Filing New Tariffs or Tariff Revisions During the Transition Period Should Be Applied Only to Individually Negotiated Service Arrangements, and Not to Standard Mass Markets Offerings.**

The Commission has indicated that it will not accept new tariffs or tariff revisions for “long-term service arrangements” during the nine-month transition period prior to the cancellation of all tariffs. Second Report and Order ¶¶ 90. Based on the express language and underlying purpose of the Detariffing Orders, it is WorldCom’s

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<sup>11/</sup> Rather than subject themselves to such costs, carriers may well choose to delay the introduction of new service offerings until the end of the transition period, or to put off canceling all tariffs until then.

understanding that this prohibition on filing tariffs during the transition period applies only to *individually negotiated* service arrangements, and not to standard residential or small business service offerings that may contain term and volume commitments. To eliminate any possible confusion on this point, the Commission should reiterate that the prohibition on filing new tariffs or tariffs revisions during the transition period applies only to individually negotiated service arrangements.

In the Detariffing Orders, the Commission made clear that “mass market services” and “long-term service arrangements” are subject to different detariffing rules during the transition period. The Commission will “continue to accept new tariffs and tariff revisions for “mass market interstate, domestic, interexchange services” throughout the transition period. Second Report and Order ¶¶ 90; see *also* Notice at 2 (“Carriers may file new and revised tariffs for mass market interstate, domestic, interexchange services during the transition period.”). In contrast, it “will not accept new tariffs, or revisions to carriers’ existing tariffs, for long-term service arrangements (such as contract tariffs, AT&T’s Tariff 12 options, MCI’s special customer arrangements, and Sprint’s custom network service arrangements).” Second Report and Order ¶¶ 90. The Commission reasoned that such a rule is necessary “to preserve the legitimate business expectations of customers taking service pursuant to long-term service arrangements.” *Id.*

The examples the Commission gave for the sort of “long-term service arrangements” that may not be altered during the transition period are *customer-specific, individually negotiated* arrangements. See *id.*; see *also* Notice at 2 (“Carriers may not file new or revised interstate, domestic, interexchange tariffs for contract tariff offerings and other long-term service arrangements.”); *id.* at 2 n.9 (“Examples of such

long-term service arrangements include AT&T's Tariff 12 options, MCI's special customer arrangements, and Sprint's custom network service arrangement.") (citing Second Report and Order ¶ 90). The Commission expressly recognized this fact, stating that "[i]ndividually-negotiated service arrangements, as opposed to mass market services, are customer-specific arrangements, such as contract tariffs, AT&T's Tariff 12 options, MCI's special customer arrangements, and Sprint's custom network service arrangements." Recon. Order ¶ 68, n.206; see also NPRM ¶ 99 (discussing issue of alterations to "long-term service or contract tariffs" interchangeably).<sup>12/</sup>

Moreover, the Commission repeatedly distinguished between "individually-negotiated service arrangements" and "mass market services offered to residential and small business customers." Second Report and Order ¶ 34; see also *id.* ¶¶ 41, 49, 63; Recon. Order ¶ 68 n.206; *id.* ¶ 69 n.213 ("Mass market interstate, domestic, interexchange services are those services that are not individually-negotiated service arrangements . . ."). Thus, it is clear from the Detariffing Orders that the Commission contemplated only two categories: individually negotiated service arrangements and mass market services. It did not suggest that a *third* service category might exist —

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<sup>12/</sup> Federal regulations define a "contract-based tariff" as "[a] tariff based on a service contract entered into between a non-dominant carrier and a customer . . ." 47 C.F.R. § 61.3(m). The Commission previously has used the terms "contract-based" service arrangements and "long-term" service arrangements interchangeably, as it has in these proceedings. See, e.g., *In the Matter of Motion of AT&T Corp. to Be Reclassified as a Non-Dominant Carrier*, Order, 11 F.C.C.R. 3271, ¶ 131 (1995) (noting commenters' argument that notice period for revisions to AT&T's "long-term or contract-based arrangements" should be longer than one day); *In the Matter of Tariff Filing Requirements for Nondominant Common Carriers*, Memorandum Opinion and Order, 8 F.C.C.R. 6752, ¶¶ 20, 25 (1993); see also *id.* ¶ 25 ("large telecommunications users that usually negotiate such long-term service arrangements possess sufficient leverage in the market to discourage nondominant carriers from choosing a course of conduct harmful to the users' interests").

*i.e.*, a category of long-term arrangements that are *not* individually negotiated. Rather, the Commission properly assumed that any standard, mass market service offering, which is not individually negotiated, would not constitute a “long-term service arrangement.” See Recon. Order ¶ 13 (“The ‘filed-rate’ doctrine also harms residential and small business customers who utilize mass market services and do not enter into long-term service arrangements.”).

No other conclusion is reasonable in light of the Commission’s expressed interest in “preserv[ing] the legitimate business expectations of customers taking service pursuant to long-term service arrangements.” Second Report and Order ¶ 90. Customers who did not individually negotiate their service arrangements, and who therefore did not create a particular arrangement in order to meet a specific business need, do not have “legitimate business expectations” that would be defeated by a revision to a tariffed standard service offering. In contrast, a customer who negotiated a particular contractual provision would have a greater expectancy interest that is entitled to broader protection at the expense of carriers’ flexibility.

Interpreting “long-term service arrangements” to include standard service offerings would also defeat the very purposes of the transition period. An enormous percentage of WorldCom’s tariffs are standard service offerings that contain term or volume commitments. If such service offerings are considered to be “long-term service arrangements,” they could not be revised in any way during the transition period. But this was clearly not the Commission’s goal. The FCC emphasized that carriers should have “an appropriate transition period to adjust to detariffing,” *id.*, and that “it is appropriate to allow . . . carriers to revise their tariffs for mass market . . . services . . . during the nine-month transition period in order to respond to changes in the market,”

*id.* ¶ 90 n.248. These benefits would be illusory if the only tariffs that could be revised during the transition period were the small percentage of tariffs that do not have either term or volume commitments.

For all of these reasons, it is apparent that the immediate effect of the Commission's detariffing requirement was intended to apply only to individually negotiated agreements, and not to standard, mass market service offerings that contain term and volume commitments. WorldCom asks the Commission to reaffirm this point by clarifying that its prohibition on revising tariffed "long-term service arrangements" during the transition period is limited to agreements that are individually negotiated between carriers and their customers.<sup>13/</sup>

**V. The Commission Should Reaffirm That the Detariffing of Individually Negotiated, Long-Term Service Arrangements Does Not Allow Parties to Those Arrangements to Alter Them.**

In its Order the Commission should also reiterate that detariffing "does not entitle parties to a contract-based, or other long-term, service arrangement to take a 'fresh look' at such arrangements" and alter their terms. Second Report and Order ¶ 92; see *also id.* ("our detariffing policy should not be interpreted to allow parties to alter or abrogate the terms of long-term arrangements currently on file with the Commission").

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<sup>13/</sup> The same rule should apply with respect to bundled service offerings that incorporate both domestic and international components. Thus, during the transition period, carriers should be permitted to revise existing tariffs, and/or offer new services, even with respect to *standard, domestic mass markets offerings* that are bundled with international services. Compare Notice at 2 ("Carriers may not file new or revised interstate, domestic, interexchange tariffs for *contract tariff offerings and other long-term service arrangements*. Pending public comment and further consideration by the Bureau, this prohibition applies to arrangements that bundle domestic and international services.") (footnote omitted and emphasis added). WorldCom declines to express any view as to whether permissive detariffing should be applied to bundled offerings regarding long-term service arrangements during the transition period. See *id.* at 4.

Although WorldCom believes the Commission's Orders are completely clear on this point, the transition period and the initial months of mandatory detariffing inevitably will be a time of great upheaval for interexchange carriers and their customers.<sup>14/</sup> Indeed, it appears that, despite the Commission's clear statements, there is some confusion in the marketplace with respect to the status of long term contracts in the wake of detariffing.

Accordingly, to eliminate any confusion and make the transition as seamless as possible, WorldCom asks the Bureau to reaffirm that both during and after the transition period, parties remain bound to their existing contractual agreements, and are not free to alter or abrogate the terms of those long-term contracts. Moreover, the Bureau should emphasize that the tariffed mass markets terms that are incorporated in those contracts will remain in effect even after mass markets offerings are detariffed, until those contracts expire or are modified by mutual agreement and/or pursuant to the express terms of the contract.

#### **VI. The Commission Should Promptly Initiate a Proceeding to Address Whether International Service Offerings Should Be Detariffed.**

Finally, the Commission has reserved for a separate proceeding the issue of whether it should consider adopting a mandatory or permissive detariffing requirement with respect to international services provided by nondominant carriers. See Recon. Order ¶¶ 45, 51. Although the Bureau has sought comment with respect to how *bundled* offerings — which contain domestic and international components — should

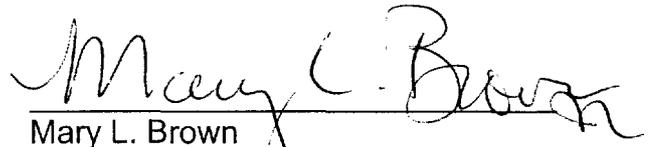
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<sup>14/</sup> During the transition period, for example, carriers will be unable to file new tariffs, or revise their existing tariffs, with respect to long-term service arrangements. See *id.* ¶ 90; see also *id.* ¶ 92 (recognizing that “complete detariffing will change the legal framework for long-term service arrangements”); *supra* Part IV.

be treated during the transition period, see Notice at 4, the Commission still has not released a notice of proposed rulemaking on the broader issue of whether international services should be detariffed.

WorldCom strongly supports the prompt initiation of such a proceeding. In the absence of such a proceeding, there will exist enormous uncertainty and confusion. Consumers perceive long-distance and international service as a single product. Even if carriers attempt to explain the dual regime, it is inevitable that a customer that receives detariffed domestic service coupled with tariffed international service will not understand that entirely different transactional regimes govern the two. If customers receive notice of a change in domestic terms and conditions, for example, it is likely they will assume that the same, or at least some, change has been made for international service. Moreover, because carriers need not notify customers of changes in rates, terms and conditions in a tariffing regime, they are unlikely to provide such notice regarding changes to international tariffs. And even if carriers did so, that would not entirely eliminate potential confusion given that customers' receipt of such notice may not coincide with the tariff change that takes place on one day's notice. In short, a dual regime can only lead to confusion. By initiating a proceeding to address this issue, the Commission would take an important step toward eliminating that confusion and would thereby advance the interests of both customers and carriers.

Respectfully submitted,

A handwritten signature in cursive script that reads "Mary L. Brown". The signature is written in black ink and is positioned above a horizontal line.

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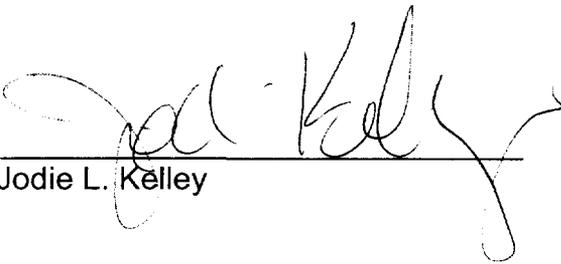
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