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UNITED STATES
FEDERAL COMMUNICATIONS COMMISSION

In the Matter of:	)	
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IMPLEMENTATION OF THE LOCAL COMPETITION PROVISIONS OF THE TELECOMMUNICATIONS ACT OF 1996	)	CC DOCKET NO. 96-98
WORLDCOM, INC. PETITION FOR WAIVER OF THE SUPPLEMENTAL ORDER CLARIFICATION REGARDING UNE COMBINATIONS	)	DA 00-2131

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Before the
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Washington, D.C. 20554

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Room 5-B254
FCC Building
445 Twelfth Street, S.W.
Washington, D.C.

Thursday,
November 16, 2000

The parties met, pursuant to the notice of the Commission, at 1:39 p.m.

APPEARANCES:

On behalf of the FCC:

DOROTHY ATTWOOD
MICHELLE CAREY
JODIE DONOVAN-MAY
TOM NAVIN
GLENN REYNOLDS
RICHARD LERNER

On behalf of WorldCom:

BRAD STILLMAN
DON GRIECO
CHUCK GOLDFARB
HANK HULTQUIST

On Behalf of Verizon:

SCOTT RANDOLPH
FRANK GUMPER
ED SHAKIN

1 P R O C E E D I N G S

2 (1:39 p.m.)

3 MS. ATTWOOD: Okay. Thanks everybody for coming.
4 I am Dorothy Attwood, Chief of the Common Carrier Bureau,
5 identifying myself for the record. It would be useful I
6 think if we talked to you all, for purposes of the record,
7 if you could identify yourselves.

8 MR. STILLMAN: I am Brad Stillman with WorldCom.

9 MR. GRIECO: Don Grieco with WorldCom.

10 MR. GOLDFARB: Chuck Goldfarb, WorldCom.

11 MR. HULTQUIST: Hank Hultquist, WorldCom.

12 MR. RANDOLPH: Scott Randolph, Verizon.

13 MR. GUMPER: Frank Gumper, Verizon.

14 MR. SHAKIN: Ed Shakin, Verizon.

15 MS. CAREY: Michelle Carey, FCC.

16 MS. DONOVAN-MAY: Jodie Donovan-May, FCC.

17 MR. NAVIN: Tom Navin, FCC.

18 MR. REYNOLDS: Glenn Reynolds, FCC.

19 MS. ATTWOOD: Great. Well, thanks for coming.
20 The reason we wanted to have you both here was because we
21 have been hearing from both of you separately. And,
22 obviously, there have been a lot of pleadings in the matter
23 and thought it would ease our own purposes in trying to
24 resolve some of these issues if we could have you together
25 and have you explain to us I guess a little bit more your positions.

1 We thought it would be useful initially if you
2 could just spend a few minutes each side in a nutshell
3 trying to making clear kind of what your view is, the
4 requested relief. And then we will dive into how we think
5 the questions we still have outstanding in light of looking
6 at the exhibits.
7 MR. STILLMAN: From WorldCom's perspective, what
8 we had done is taken a look at the supplement order and
9 tried to identify what we felt would be the least
10 controversial group of circuits that we wanted to identify
11 for purposes of getting a waiver of the rule because as we
12 saw the objective of the FCC, it came down to trying to make
13 certain that there was not an effort by any carrier to take
14 what is dedicated services and switch them to UNEs under the
15 terms of this order.
16 And the proposal that was reached by several CLECs
17 and some of the ILECs was quite limited in its scope and
18 unfortunately for our purposes based on the design of our
19 network did not permit us to convert what are wholly local
20 services to UNEs. And we thought that the goal of the FCC
21 was to allow local services to be converted to UNEs, but to
22 do so in a way that would not risk the wholesale switching
23 of dedicated services to UNEs which the FCC did not want to
24 permit at this point under that particular order.
25 So in going back and looking at our network, we

1 identified -- there is a variety of services that we think
2 should be able to be converted. But we limited our waiver
3 to only those circuits that are providing 100 percent local
4 service. In other words, we are selling as a local service.
5 And so our goal here was to make this the easy question for
6 purposes of a Commission review.
7 And while we understood that the simple fact that
8 these circuits were connected to our classified switch was
9 something that the FCC was not willing to sort of apply as a
10 general matter across the industry. We then focused on
11 identifying from our engineers what made that fact, the
12 connection for a classified switch, determinative for
13 purposes of the FCC in the case of WorldCom specifically.
14 And that is what we have been trying to do with the waiver.
15 MS. ATTWOOD: Okay. Do you have a response?
16 MR. SHAKIN: Yes, I guess the way Verizon looks at
17 the petition, we look at it in two ways. One is with
18 respect to the relief that they are seeking, it really goes
19 through three or four of the fundamental points of the
20 supplemental clarification order. Really, what the
21 supplemental clarification order was about was developing a
22 safe harbor.
23 And rather than waive it for some specific
24 circumstance or something that they didn't suggest is now is
25 possible, what they have done is taken every -- almost

1 every, single point that the Commission addressed in the
2 order and asked for a waiver of that point. And all of
3 these issues were raised by MCI and rejected in the context
4 of the order. So it is not as if there is something new.
5 But even more troubling is the way they get there,
6 we are concerned, is a pre-judgement of the next proceeding
7 which the Commission has said they are going to do at some
8 point next year which is rapidly approaching. What the
9 Commission did in the supplemental order is put in a safe
10 harbor as a temporary measure until it fully considers the
11 question of the interrelationship between special access and
12 locally.
13 Particularly, the Commission said that, "The
14 exchange access market occupies a different legal category
15 from the market for telephone exchange service. And unless
16 we find that these markets are inextricably interrelated in
17 these other respects, it is unlikely that Congress intended
18 to compel us once we determined the network element meets
19 the impair standard for local exchange market, to grant
20 competitors access for that reason alone without further
21 inquiry to the same market element solely or primarily for
22 use in the exchange access market." And that is exactly
23 what MCI is trying to get here.
24 MS. ATTWOOD: And where are you quoting that from?
25 MR. SHAKIN: That is paragraph 14 of the

1 supplemental clarification order. And that is exactly what
2 they have done. The way they get to 100 percent local is --
3 and then I am just quoting from page 8 of their petition --
4 is they define local switched as "local exchange and
5 switched access."
6 So what they are really saying is that we are 100
7 percent local if you count switched access as local. And,
8 indeed, if they were truly 100 percent local, they would
9 qualify for one of the options under the existing rule. The
10 reason they don't qualify for one of the options under the
11 existing rule is because they are not 100 percent local.
12 They have a certain amount of switched access and they've
13 said they don't want to measure that.
14 And so I guess the bottom line is we think that
15 the rules under the bright line test, the safe harbor rules
16 give them the opportunity to do what they want to do if they
17 truly are predominantly local. And if they are not, they
18 shouldn't qualify.
19 MR. HULTQUIST: May I respond to that?
20 MS. ATTWOOD: Yes. Well, I would like to actually
21 ask you to respond to the definitional issue that he has
22 raised.
23 MR. HULTQUIST: Yes. The first one is that the
24 language cited in paragraph 14 goes on to say that "Before
25 we can determine the extent to which denial of access" --

1 this is actually in paragraph 16 -- "denial of access to
2 network elements would impair carrier's ability to provide
3 special access services."
4 The other market that the Commission was referring
5 to in the supplemental order clarification where they are
6 saying we haven't yet determined impairment isn't the market
7 for switched access. It is the market for dedicated access
8 services. And that is the thing that the Commission
9 intended in the supplement order clarification, not to
10 conclude.
11 The supplemental order clarification nowhere says
12 that there is a different impairment analysis for switched
13 access services than there is for local exchange services.
14 And it could not because switched access services are a
15 necessary byproduct of local exchange service.
16 Right now, we have, you know, thousands of UNE-P
17 customers that we are providing service to. We admit, those
18 customers make and receive long distance calls just as
19 customers who have dedicated T-1 connections to our local
20 switches also make and receive long distance calls.
21 MS. ATTWOOD: Well, but I just need to clarify
22 because I think both of you are fundamentally opposed to in
23 one -- it seems to us when we were reviewing the record on
24 one point, you guys are describing switched access as local.
25 Right? And you are saying that is an unresolved question.

1 Is that correct?

2 MR. SHAKIN: I would even go further that switched
3 access is not local. The unresolved question is, is the UNE
4 treatment. But switched access by definition is not local.

5 MS. ATTWOOD: And where do you find support for
6 that conclusion other than this order? I -- I mean, other
7 than that paragraph 14, is there any time where the
8 Commission previous to this has indicated that switched
9 access is not local? And by the same token, while you are
10 thinking --

11 MR. GUMPER: Well, let me say, when we went
12 through this debate both in terms of the first clarification
13 and then the second clarification and the three different
14 versions we came up with here, the intent was that you
15 wanted to make sure that people -- CLECs were providing
16 local exchange service were in effect going to be able to
17 use the UNE combinations instead of having to purchase
18 switched access.

19 MS. ATTWOOD: Right.

20 MR. GUMPER: And the criteria were based upon
21 things like local voice traffic, that people were using
22 these services not as means to bypass switched access in
23 order because, you know, the class of services we are
24 talking about here that you would put on a T-1 really are
25 long distance calling from a large volume business customer.

1 That becomes dedicated because that business customer has
2 traffic volumes that make it cheaper to go out and purchase
3 a direct pipe to the POP instead of paying us the switched
4 access rates. That is basically what the traffic is we are
5 talking about here.
6 And when we were looking at these definitional
7 issues, the one requirement that we were trying to come to
8 was to say, okay, we wanted to make sure that people weren't
9 gaining this process and using EELs primarily to transport
10 long distance traffic to POPs. So that is why we had these
11 definitions as to what was local exchange and local exchange
12 traffic was that traffic which was within the local exchange
13 where switched access is an inter-exchange traffic.
14 MS. ATTWOOD: And can I just -- can I ask you guys
15 now from your perspective, have we ever said switched access
16 or -- is a long distance or local service?
17 MR. HULTQUIST: In the original first local
18 competition order, the Commission found that switched access
19 was a byproduct of local exchange service.
20 MS. ATTWOOD: Do you know where we said that?
21 MR. HULTQUIST: I don't have that paragraph.
22 MS. ATTWOOD: Could you --
23 MR. HULTQUIST: Sure.
24 MS. ATTWOOD: Because there is some suggestion I
25 think that when we went back to look at this question, that

1 maybe it was left as an open question. So I just --

2 MR. SHAKIN: In this order itself, just to give

3 you one more cite to work from, in paragraph 7, when you are

4 talking about the reasons why we may want to have these

5 kinds of limitations, you specifically do refer to switched

6 access.

7 And the context that you refer to it -- and I am

8 going to give you the quote because that's -- "For example,

9 in the absence of completed implementation of access charge

10 reform, allowing the use of combinations of unbundled

11 network elements for special access could undercut universal

12 service by inducing IXCs to abandon switched access for

13 unbundled network element-based special access on an

14 enormous scale."

15 So that is exactly what we are talking about here

16 which is using special access as a vehicle to remove your

17 switched access traffic.

18 MS. ATTWOOD: But that goes -- I just want to

19 dissect one point, okay, because I know that we will get to

20 the policy question which is the ramification. But I just

21 want to make sure that I understand because I think there is

22 a definitional difference here. And that is something that

23 to the extent we have spoken to this question it would be

24 useful to know.

25 We have been looking at this. But the

1 definitional question is is switched access local or long
2 distance and what have we said about that. Now, then we go
3 have we said something about that. And then we move into,
4 okay, what does that mean for what we intended to do in this
5 order.
6 MR. STILLMAN: Can I raise one point --
7 MS. ATTWOOD: Yes.
8 MR. STILLMAN: -- about in the context of
9 universal service when the Commission defined what universal
10 service was, one of those things included the ability to
11 receive and make long distance calls. And as far as I am
12 aware, universal service applies to the division of local at
13 least historically. So to whatever extent, looking at the
14 universal service docket may help you in that question. It
15 might be worth it.
16 MS. ATTWOOD: It might be there, okay.
17 MR. REYNOLDS: Could I ask as a real -- maybe this
18 is a simple question. But, okay, we have local and then we
19 have exchange access. If you include exchange access as
20 local in these -- for purposes of this evaluation, what is
21 left?
22 MR. HULTQUIST: Our point is that the dedicated
23 access market is very -- is a separate market from the local
24 market. It may turn out that things you need to provide
25 dedicated access are the same things that go into local.

1 But the market for dedicated access is a separate market.
2 The market for switched access is not. Switched access is
3 part and parcel of local service. It can't be separated
4 from local service.
5 The suggestion that all dedicated access is is
6 customers with a high volume, in WorldCom's case, that is
7 not true. When a customer purchases dedicated service from
8 us, the product they get is not the same as the product they
9 get when they purchase switched. They have the dedicated --
10 products on our dedicated network have capabilities far
11 beyond what is available on our local --
12 MR. GUMPER: Excuse me. I did not say that that
13 was the sole purpose. I said a significant portion -- when
14 you get to the large volume customers who have large amounts
15 of long distance calling, instead of going through our
16 switches and paying switched access, traditionally the long
17 distance carriers -- and I don't care whether it is AT&T,
18 MCI or anybody else -- you know, have gone out and purchased
19 dedicated access to take those long distance calls.
20 Now, there are other uses of dedicated access
21 besides carrying long distance voice trapping. But that is
22 a primary use of the large business customers.
23 MR. HULTQUIST: But the suggestion is that when we
24 provide switched access, it works the same way as when we
25 provide a dedicated toll product. And that is simply not

1 the case.

2 MS. ATTWOOD: Well, that -- can you go to the

3 diagram for a second because --

4 MR. HULTQUIST: Sure.

5 MR. NAVIN: Can I try to clarify --

6 MS. ATTWOOD: Yes, please.

7 MR. NAVIN: -- an issue. Let me see if this is

8 right. You are talking about an exchange access market.

9 MS. DONOVAN-MAY: Tom, he can't hear you.

10 MR. NAVIN: I'm sorry. You are talking about the

11 exchange access market. Is that right? I am going to try

12 to understand where you guys diverge. And does this -- this

13 breaks down into special and switched. You guys agree on

14 that so far? Is that right?

15 UNIDENTIFIED VOICE: Then there is a separate thing

16 for local.

17 MR. NAVIN: Yes, okay. I'm talking about the

18 exchange access market. Okay? So now what you are arguing

19 about is down here. Is that -- you get dedicated and what I

20 hear you saying is then you have switched. Now, if this

21 isn't the right diagram, can you explain to me --

22 MR. HULTQUIST: Yes, I think it's --

23 MR. NAVIN: -- because this switched, we are

24 talking about the ILECs network, right?

25 MR. HULTQUIST: I think it is not the right

1 diagram because CLECs offer local service and switched
2 access service, the exact same products that the ILECs
3 offer. The products -- the two markets -- the exchange
4 market separates into special and switched in that some
5 customers want a product -- an access product that only
6 provides them with access to toll services.
7 Other customers, they receive their exchange
8 access over the exact same line that they receive their
9 local exchange service. They don't order a special access
10 for their -- for switched access. They just get one line.
11 And that one line they use to make local calls, to receive
12 local calls, to make inter-exchange calls and to receive
13 inter-exchange calls.
14 MR. NAVIN: So far, I mean, the language that I am
15 seeing in the orders negotiates between exchange access and
16 then local exchange. So I am trying to understand given
17 these two markets where you guys diverge.
18 MR. GUMPER: Well, let me -- okay, I think it goes
19 to the question when in the order we were seeking
20 clarification of what was meant by a significant amount of
21 local exchange service. And we had these three different
22 kinds of things. I think the difference is we were
23 differentiating between local exchange and exchange access
24 and basically saying that in order to use the EELs prior to
25 a further proceeding, that one had to be providing local

1 exchange -- a significant portion of local exchange.

2 And I think the debate here is whether or not

3 exchange access, switched access becomes part of local

4 exchange in that definition.

5 MS. ATTWOOD: I think -- I mean, that is my

6 question. Isn't that the -- isn't that really the issue

7 here?

8 MR. HULTQUIST: Well, if it is, it is an issue

9 that is only coming up now that we filed our waiver position

10 because if you remember back to the underlying proceedings,

11 and this goes all the way back to last year, the only thing

12 that was raised constantly was the idea that if the

13 Commission allows the use of EELs for -- without a use

14 restriction, then what the IXCs will do is they will take

15 this and they will convert all these dedicated access

16 circuits to EELs. That was the concern that was raised

17 prior to the filing of this waiver. There was never a

18 concern raised --

19 MS. ATTWOOD: That's right.

20 MR. HULTQUIST: -- that we would use EELs to

21 provide switched access.

22 MR. GUMPER: That's not true at all.

23 MS. ATTWOOD: Isn't it the same --

24 MS. DONOVAN-MAY: Has the issue of -- has the

25 issue of whether or not you can use UNEs to carry switched

1 access been teed up on front of the Commission prior to this
2 point?
3 MR. HULTQUIST: The Commission has repeatedly
4 affirmed in the access reform docket -- the Commission has
5 said, yes, one of the benefits of UNEs is that carriers will
6 be able to use UNEs to provide switched access services.
7 MS. DONOVAN-MAY: Then what is the issue as you
8 guys see it in the third order on recon. and the local --
9 the shared transport order?
10 MR. HULTQUIST: The issue of further notice?
11 MS. DONOVAN-MAY: No, the shared transfer order,
12 the third order on recon. that we said there is an issue of
13 whether or not you can use shared or dedicated transport
14 facilities to provide solely exchange access service.
15 MR. HULTQUIST: Yes, that would be to provide
16 exchange access service to a customer to whom you are not
17 providing local exchange service.
18 MS. DONOVAN-MAY: Did that -- did we mean there
19 either special or switched?
20 MR. HULTQUIST: In that context, that was switched.
21 MR. GUMPER: And that would have been the trans-
22 point from our central office to the --
23 MR. HULTQUIST: That is for a customer to whom you
24 are not providing local service.
25 MS. DONOVAN-MAY: You are not providing any local

1 service at all.

2 MR. GUMPER: The thing -- and again, I will get

3 back -- when we were debating this, the issue was not

4 whether or not you provided a local service to the customer,

5 but whether or not the local service that you were provided

6 represented a significant portion of the service --

7 MS. ATTWOOD: You see, I think that that -- I

8 think that's why to some degree both of you are right. And

9 that is what has been so vexing in listening to your

10 arguments. Because the Commission was concerned about

11 making sure that those providing local services were able to

12 obtain UNEs. The Commission was also concerned about not

13 permitting bypass of special access and dedicated

14 facilities.

15 And so the question becomes what we were trying to

16 do definitionally is it seemed like your argument hinged on

17 calling exchange access "local exchange" because you

18 couldn't establish a local service on your -- and I want to

19 get into exactly how you could do that. But --

20 MR. HULTQUIST: Yes, maybe we should go into a

21 little more detail.

22 MS. ATTWOOD: But there was -- in a sense, it was

23 definitionally, you had to assume exchange access was local

24 exchange in order for us to accept that this was 100 percent

25 local.

1 MR. GUMPER: Yes, let me just --

2 MS. ATTWOOD: Do you follow? I mean --

3 MR. GUMPER: Yes, I am following.

4 MR. SHAKIN: That's the right one -- issue.

5 MR. GUMPER: And I think the issue that we came to
6 because we had these discussions -- in fact, the issue as to
7 whether or not the defining definition of providing local
8 should be the attachment to a Class 5 switch was something
9 that actually Jake raised initially before we got into the
10 first clarification that came out in November.

11 He said instead of going into significant local
12 exchange, could we use just, you know, connecting to a Class
13 5 switch as the defining definition. And after a lot of
14 discussion and debate, we came back and basically we all
15 agreed with him that you couldn't because a provider could,
16 in fact, use that definition to in effect have on that
17 circuit predominantly switched access traffic which would
18 not be local exchange or it is significantly local.

19 MS. ATTWOOD: Well, and that goes to some of the
20 network issues.

21 MR. HULTQUIST: Yes, and what we said is
22 regardless of what other carriers could, might, would do,
23 our filing is intended to show that we do not do that. We -
24 - and that it would not be practically feasible for us to
25 reconfigure our network. Again, the products we sell, our

1 dedicated access products that we sell which far out-number
2 the T-1s we use to provide local service are not products
3 that can be sold off of our local switches.
4 MR. GUMPER: Yes, let me -- yes, a maybe a little
5 factoid would be useful though because, you know, it is
6 being presented like all conscious to not convert things
7 because of the way they design them at market to EELs. Now,
8 throughout the Atlantic footprint, we have already had
9 requests to convert, you know, somewhere in the neighborhood
10 -- let's -- I don't want to get into exact numbers because
11 of having two carriers here. But let's say it is over 1,000
12 TS-1 circuits. The bulk of those circuits come from the
13 largest IXCs that is requested.
14 MS. ATTWOOD: Well, but the question still remains
15 though did those categories not capture what would be
16 significant local traffic. I mean, that's -- and that is
17 really -- you know, the fact that they were able to take
18 advantage of some of those categories to provide the local
19 service, you know, that shows that those categories had some
20 -- that they are -- that the Commission was right, they were
21 good proxies.
22 The question remains, however, is this, in fact --
23 is there a way in which they can show that they are -- we
24 didn't capture everything because of the unique
25 configuration. And that -- I mean, the order says a lot of

1 things. It didn't rule out the possibility of a waiver. I
2 mean, it said in the order --
3 MR. GUMPER: Oh, no. And we agree that you can
4 have a waiver as long as it is --
5 MR. HULTQUIST: Why don't I get into this diagram?
6 MS. ATTWOOD: Yes. I would like -- because I
7 don't know -- I have a question as to why you can't measure
8 why this is -- why you can't measure this as 100 percent --
9 MR. HULTQUIST: Yes. So far we have been focusing
10 on the measurement of the use. And we haven't even talked
11 about -- which is the most significant problem for us --
12 which is the co-mingling prohibition. This is considered as
13 just one type -- one example of how our network is. It is
14 not -- there are variations.
15 But basically in this situation, there is an end-
16 user customer who has today a T-1, it is called a channel
17 termination, to his nearest central office. Then from
18 there, we order T-1 interoffice mileage to another service
19 central office which in this case is our serving wire
20 center.
21 In that central office, we have a co-location
22 where there is a three-to-one MUX. This T-1 is not the only
23 T-1 coming in here. It happens to be this customer is using
24 this T-1 just to get access to our switched local product.
25 There will be lots of other T-1s out here of people who were

1 doing different things with, in some cases, access to our
2 toll products, in some cases, access to data products.
3 In any case, all of those T-1s are hitting this
4 three-to-one MUX. They are being handed off into our collo.
5 Then there is a TS-3. Now, this TS-3 has some local T-1s,
6 some non-local T-1s. It goes to the WorldCom ring and these
7 services go off to the appropriate switch that they need to
8 go to.
9 All we have said is that we can trace this
10 particular T-1 from our switch back to this customer; that
11 this T-1 is used only to provide local service. The fact
12 that it is co-mingled on a multiplexor and a DS-3 is
13 irrelevant to the fact that we are providing only local
14 service to that customer.
15 MS. ATTWOOD: And your DS-3, you are going to
16 continue to pay through access?
17 MR. HULTQUIST: Yes, we are not -- and here, as
18 they are proceeding, we are not asking to make any change in
19 what that multiplexor or that DS-3 -- how that is paid for.
20 All we are seeking is to get UNE pricing on the T-1 portion.
21 MS. ATTWOOD: And you can't measure usage --
22 MR. HULTQUIST: No.
23 MS. ATTWOOD: -- at the collo?
24 MR. HULTQUIST: No. You have to look at the
25 options. The first option says that you have to be the

1 customer's sole provider of local exchange. Well, we don't
2 know when we are the customer's sole provider of local
3 exchange service. We haven't asked our customers. We don't
4 know if even they would know. So we haven't done that.
5 The second one says that you have to be providing
6 at least a third of your customer's local exchange. Well,
7 again, we don't have that information. Maybe you could send
8 people out and you can hear that out. The third one says --
9 MS. ATTWOOD: You can't ask your customer if you
10 are providing them a third?
11 MR. STILLMAN: Well, you have to understand that -
12 -
13 MR. HULTQUIST: How do we measure that? Is that
14 dollars? Is that minutes?
15 MR. GUMPER: By law, it says rate.
16 MR. STILLMAN: But you have to understand that we
17 may be serving a customer that is an enormous customer with
18 outposts in lots of different places.
19 MS. ATTWOOD: But they say -- it is also the third
20 option is the --
21 MR. HULTQUIST: Yes, the third option is the one -
22 -
23 MS. ATTWOOD: -- 50 percent in the one location.
24 MR. HULTQUIST: -- that is most feasible. The
25 third option is the one that is most feasible because under

1 the third option, you don't necessarily have to be providing
2 any. You have got the co-mingling prohibition which for us,
3 all of our circuits are on common multiplexors that provide,
4 you know, our commingling. But --
5 MS. ATTWOOD: Well, now, can I ask --
6 MR. HULTQUIST: -- now the usage, the third option
7 says that it has to be at least 50 percent local voice
8 traffic. Now, potentially, yes, we could go out and measure
9 and say, okay, these circuits we can and these circuits we
10 can't. What we have said in our waiver is that the fact
11 that a circuit is connected to our local switch is a better
12 showing of whether or not the customer is getting local
13 because the only thing we sell on this local switch is --
14 MS. ATTWOOD: Can I just back you up because I
15 think I heard you say, yes, we could go out and measure
16 whether or not there is --
17 MR. HULTQUIST: After the fact. Before the fact,
18 we don't know how the customer is going to use it. But if
19 we converted circuits and we were audited, we could say,
20 okay, here is the usage.
21 MS. ATTWOOD: Well, but -- I'm sorry. But if
22 you -- so you could, in fact, go to the collo location and -
23 - the reason I ask this -- let me just put it in a larger
24 question. If you can measure at the co-location point that
25 it would -- where it is co-located before it gets

1 multiplexed -- you can't.

2 MR. STILLMAN: We are not measuring. We are just

3 peeling off an entire circuit.

4 MR. HULTQUIST: The measurements would be out of

5 the local -- the switch record --

6 MS. ATTWOOD: I know. But I am asking can you

7 measure?

8 MR. HULTQUIST: No. The switch records are on the

9 local switch. That is where the usage records are

10 generated. The collo -- there is nothing -- there is

11 nothing -- there is no intelligence in here.

12 MS. DONOVAN-MAY: So you are measuring at the

13 switch.

14 MR. HULTQUIST: Yes. That's it. If we were

15 audited and somebody said show us how many local minutes you

16 have, we would, you know, say, okay, here is our switch

17 records.

18 MS. DONOVAN-MAY: Would they be pure local minutes

19 like local exchange minutes --

20 MR. STILLMAN: It would include switched access.

21 MR. DONOVAN-MAY: -- you are calling across the

22 street?

23 MR. HULTQUIST: Presumably, it would include local

24 INTRALADA toll and INTRALADA toll.

25 MR. GUMPER: That is the difference, right?

1 MR. HULTQUIST: Yes. So you could measure how
2 much is real local as opposed to access. First of all, we
3 dispute this idea that there is this --
4 MR. GUMPER: Okay. But --
5 MS. ATTWOOD: But for the purposes of this
6 argument.
7 MR. GUMPER: But for the purpose of this argument
8 I don't know how to say it other than that. I mean but
9 local exchange versus exchange, I --
10 MR. HULTQUIST: Yes, we acknowledge -- we
11 acknowledge that our switch generates records that could be
12 audited. We believe that the proposal we have made that
13 when a circuit terminates on a WorldCom classified switch
14 since the only product we sell is local, that that should
15 show that it is local. But, yes, we can measure usage on
16 our switch.
17 MR. GUMPER: Well, see, I think that was the whole
18 purpose of the debate, was, now, you keep wanting to define
19 local sa the combination of local exchange and exchange
20 access. And the debate was how much local exchange traffic
21 you would have to have. Because under your definition, you
22 could have 100 percent exchange access. And you are saying,
23 well, it is hooked up to a Class 5 switch and it is all long
24 distance traffic. But it doesn't hand off to my Class 4
25 switch in the POP. That qualifies as local service.

1 MR. NAVIN: Is that economically feasible for them
2 to do that? Would they be directing it to the Class 5
3 switch?
4 MR. GUMPER: My engineers tell me, you know, you
5 could if you wanted to, if you -- well --
6 MR. STILLMAN: But coming to -- but can I come
7 back to what Dorothy raised? Because, Dorothy, when you
8 described what you were trying to do, you did not
9 distinguish switched access. You distinguished special --
10 MS. ATTWOOD: All right. Well, can I live in the
11 world of my own engineering? If you were able to measure
12 somehow and if you are paying special access rates for this
13 piece anyway because you have acknowledged you continue with
14 the special access rates, then I was going to ask Verizon
15 why are you -- how are you harmed if they are able to -- if
16 they are able to -- because they are still going to pay
17 their special access for this.
18 All they are saying is for this line where it is -
19 - I can show that it is a majority of local traffic, how
20 would your -- how would you be harmed with that. Now --
21 MR. GUMPER: Well, first of all, I guess what I am
22 trying to understand is I didn't --
23 MS. ATTWOOD: So that was my main --
24 MR. GUMPER: -- maybe appreciate this. So you are
25 taking the circuits into your co-location cage and you are

1 doing the MUXing?

2 MR. HULTQUIST: No, no. We are buying out of your

3 access tier of multiplexing.

4 MR. GUMPER: Well, then you are not in the co-

5 location cage at all.

6 MR. HULTQUIST: No, no. No, at our collos, we

7 take a DS-3 hand-off.

8 MR. GUMPER: When you say at your collos, what do

9 you mean by collos then?

10 MR. HULTQUIST: You -- there is a multiplex

11 service performed in that central office. And then it is

12 cross connected to our collo at the DS-3 level.

13 MR. GUMPER: And that is your DS-3 then?

14 MR. HULTQUIST: It may or may not be. It may be

15 your DS-3. It may be ours depending on if it is --

16 MR. GUMPER: Well, then I don't understand why you

17 are doing co-location cage if you are buying all your

18 services from us.

19 MR. HULTQUIST: We have both --

20 MR. GUMPER: It loops the MUXing can be --

21 MR. HULTQUIST: We have both on-net and off-net

22 collos. The majority are on-net, but it could be off-net.

23 MR. GUMPER: What do you mean by on-net?

24 MR. HULTQUIST: An on-net collo is as collo that

25 our ring goes through. Off-net collo --

1 MS. ATTWOOD: I'm glad he is asking these
2 questions. That's all I can say.
3 MR. GUMPER: No. I am trying to understand what
4 service they are offering because, you know, obviously, for
5 the purpose of the co-location is if you are buying the T-1s
6 from us and the multiplexes from us, then --
7 MR. HULTQUIST: Assume it is our ring. Assume
8 that out of that office, it is our transport. We are still
9 buying multiplexing out of your access tier.
10 MS. DONOVAN-MAY: You are going to keep paying for
11 the multiplexing.
12 MR. HULTQUIST: Yes. But because the options that
13 are on the table all prohibit what they call commingling,
14 the -- we cannot possibly even think about those options.
15 MR. NAVIN: So if you were self-provisioning that
16 DS-3 or if you were buying that DS-3 from another party,
17 there would be -- and you could meet the measurement
18 requirements, there would be no problem under --
19 MR. HULTQUIST: Well, because currently that MUX
20 is an access MUX. So even where we are self-provisioning
21 the transport out of that central office, all of our
22 different T-1s are being multiplexed before being handed off
23 to us.
24 MS. ATTWOOD: And ergo the --
25 MR. HULTQUIST: Ergo their commingling.

1 MS. DONOVAN-MAY: So at a minimum, you need to get
2 rid of the commingling --
3 MR. HULTQUIST: Yes.
4 MS. DONOVAN-MAY: -- in order to convert any of
5 these --
6 MR. HULTQUIST: Yes, and it doesn't -- and the
7 important point is it doesn't serve any of the goals that
8 the supplemental order with clarification was intended to
9 promote. In our case, the fact that they are commingled is
10 not relevant to whether or not we are providing local
11 exchange service.
12 MR. GUMPER: Well, the issue of the commingling is
13 a policy issue that, you know, again, when we were doing
14 this, we were told the Commission did not want to pre-judge
15 the whole issue of commingling because that is a policy
16 decision.
17 MS. ATTWOOD: Well, it is and it isn't. But the -
18 - it is -- I mean, you know, it is and it isn't. I mean, it
19 is a policy call overall. The question is in a unique
20 situation where you are talking about this kind of
21 commingling where you arguably are still getting the revenue
22 for access, arguably or are -- I mean, are.
23 You are saying you are still going to get the
24 revenue for access in the commingling situation, the DS-3
25 and the MUXing. Then the question -- the policy discussion

1 that we had was that we were concerned that commingling, you
2 remove the commingling and you end up with a bypass of
3 access.
4 Here you are saying we are not bypassing access
5 because you are, in fact, paying access for the piece of the
6 DS-3 and the commingling -- or the MUXing. It is just the
7 only thing you are in effect not getting access revenues for
8 is the T-1s which are they are claiming purely local which
9 is consistent --
10 MR. GUMPER: But under their definition.
11 MS. ATTWOOD: Well, no, I know. Well, let's
12 explore that a little because the one -- I mean, the
13 question -- I think that is what you are arguing, right?
14 MR. HULTQUIST: Yes.
15 MS. ATTWOOD: Okay. The question though is how do
16 you do that and not end up bypassing access?
17 MR. HULTQUIST: Because, again, these local
18 circuits that we are talking about are really a minority of
19 the T-1s in our network. We have got five times -- four to
20 five times as many T-1s that are not providing local
21 service. We are not going to seek to convert any of those
22 circuits. We have done this in Florida, in a state where
23 under our contract they ordered the exact thing that we are
24 looking for here. And we ended up converting about 20
25 percent of our circuit, only the ones that are used to

1 provide local service.

2 MS. DONOVAN-MAY: They allowed the commingling in

3 Florida?

4 MR. HULTQUIST: Yes.

5 MR. GOLDFARB: They -- the order -- the decision

6 was made that they had to provide that and Bell South has

7 not indicated and has not made any claims that there has

8 been any abuse of that to try to convert what is special

9 access.

10 MS. ATTWOOD: Well, Bell South is not here either.

11 So --

12 MR. HULTQUIST: Yes, well --

13 MS. ATTWOOD: I never take silence for -- I've

14 learned that. So I -- but understood. Okay.

15 MR. GOLDFARB: The other market reality is that we

16 would not -- it would not be sensible given what our special

17 access offerings are to be using this to be trying to

18 provide effectively, you know -- to provide switched access

19 and use this to give us switched access offering as an

20 alternative to the special access offering. It just -- I

21 mean --

22 MS. ATTWOOD: Why not?

23 MR. HULTQUIST: The most important reason is

24 because of the products and the platforms are completely

25 different. I don't know, Don, if you can describe what

1 things are toll switches that have connectivity to that our
2 local switches do not.
3 MR. GRIECO: Well, I mean, we have -- they are
4 really separate networks or separate entities for the most
5 part. I mean, we have Class 3 switches and all the networks
6 have their own billing platforms, their own provisioning
7 systems, their own database applications, none of which are
8 used in our local networks that out classified switches are
9 connected to.
10 This classified network is -- it has their own
11 billing systems, their own provisioning systems, their own
12 network, two totally different software switch loads that
13 would require all be modified, upgraded at I would assume a
14 fairly sizeable expense to --
15 MS. ATTWOOD: Well, but if the sizeable expense
16 was less than what it was to not -- no longer get access, I
17 mean, wouldn't you do that?
18 MR. GUMPER: Well, you do connect your Class 5
19 switches to your toll network, right?
20 MR. GRIECO: Sure, through featured or detailed
21 trunks. We can do trunking the same way you do.
22 MR. GUMPER: So basically, you know, if a customer
23 who you are saying is providing local, if that customer has
24 95 percent of their traffic on that local DS-1, you are
25 going to be switching it over to toll network, right?

1 MR. HULTQUIST: But the difference is -- yes, the
2 thing is that a customer who has dedicated access to our
3 toll network has access to products like VNET which is a
4 virtual private network. That customer can dial unique
5 seven-digit numbers to reach people anywhere in the world.
6 Just pick up their phone and dial.
7 The customer who has -- who is connected to our
8 switch local network can't do that. If the circuit
9 terminates at the switched local network, they cannot have
10 access to a product like that.
11 MR. GUMPER: Yes, but they are still going to get
12 access to worldwide calling. And they do, presumably, to
13 provide them local access. But most of those customers, you
14 are providing them long distance service, too.
15 MR. HULTQUIST: Our customers -- the customers who
16 buy our dedicated products would not substitute an inferior
17 product for a superior product. And the products -- if all
18 you do is make long distance calls, the products on our toll
19 network are superior to switched access which means dialing
20 one plus a long distance number.
21 MS. DONOVAN-MAY: Can I -- may I just ask a -- I'm
22 sorry to be confused. But I definitely understand that if
23 the customer is connected to the Class 5 switch, they have
24 the ability to make local calls. Where if it was a customer
25 using your other products, they wouldn't have that ability.

1 Is it enough, you know, under the context of the order that
2 the ability to make local calls, is that enough --
3 MS. ATTWOOD: Right. And that is actually key
4 because --
5 MS. DONOVAN-MAY: -- to --
6 MS. ATTWOOD: -- one of the things the Commission
7 is concerned --
8 MS. DONOVAN-MAY: -- overcome the restrictions?
9 MS. ATTWOOD: Yes. One of the things the
10 Commission clearly was concerned about was the idea that
11 there was -- one could market a product as a backup local
12 product. But you are really selling INTERLADA toll.
13 MR. HULTQUIST: The first thing is, remember here,
14 what we are talking about is the conversion of existing
15 circuits. So to assume that that would happen, you would
16 have to assume that we knew that this sort of wacky rule
17 would rise up where you could convert to a special pricing a
18 circuit that was used in a special way.
19 So we would have been now for the past several
20 years marketing to our customers, hey, sign up for our local
21 product; it is not really local; you are going to be able to
22 use -- you know, we know you are going to use this to do
23 something else. And somewhere down the line, we think we
24 are going to be able to get a good price break. I mean,
25 that is not credible.