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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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March 2, 2001

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Ex Parte re: CC Docket No. 96-98

Dear Ms. Salas:

Enclosed please find an original and two copies of an *ex parte* letter that WorldCom, Inc. submits for the record in CC Docket No. 96-98. The letter responds to a request from the Common Carrier Bureau for evidence relevant to the question, "Are CLECs able to serve all business customers using their own switches or are they impaired in their ability to serve some categories of small business customers?", and to *ex parte* letters filed by Allegiance Telecom on January 30, 2001 and by Cbeyond Communications on February 7, 2001.

Sincerely,

Chuck Goldfarb

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Enclosure

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

Magalie Roman Salas
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

EX PARTE

Re: CC Docket No. 96-98

Dear Ms. Salas:

WorldCom, Inc. ("WorldCom") stands ready to expand its presence in the small business market to serve customers *ubiquitously* wherever provision of service is feasible. Despite being the largest facilities-based competitive local exchange carrier ("CLEC"), however, WorldCom simply cannot serve all small businesses using its own switches. Instead, because of the underlying economics as well as loop provisioning problems, WorldCom will need access to unbundled incumbent local exchange carrier ("ILEC") switching (as part of UNE-platform) to serve the lion's share of small businesses -- even in the 50 largest metropolitan statistical areas ("MSAs"). Without access to unbundled switching, WorldCom and all other CLECs are impaired in their ability to offer local telecommunications services to small business customers who seek less than DS-1 service except in unique situations where (1) the customer is located in a "lit" building that is directly connected to the CLEC's fiber optic SONET ring, or (2) the customer is served by an ILEC end office at which the CLEC happens to be collocated, unbundled ILEC loops can be reasonably provisioned, and the customer agrees to a minimum annual revenue commitment.

Just as WorldCom's switch-based business strategy has required significant up-front investment commitments, so does WorldCom's UNE-platform business strategy. WorldCom is committed to the sizeable investments needed for systems, marketing, and sales, but only if it can make those investments with full confidence that it will be able to use them for a reasonable period of time. WorldCom will not be able to maintain that commitment -- and to serve the huge unserved small business market -- if its access to UNE-platform becomes restricted simply because its competitors decide to deploy a switch or a collocation in one location or another. Given these realities, any use restriction adopted under the "necessary and impair" standard should be explicit and should be maintained until the triennial review contemplated by the Commission's UNE Remand order. Use restrictions should not be a moving target. In any event, the use restriction should not extend beyond DS-1 and higher switch ports located in the

50 largest MSAs where unbundled loop-transport combinations (also referred to as enhanced extended links or “EELS”) are fully available. As demonstrated by WorldCom’s and other CLECs’ on-going business practice, which is the best available commercial evidence, outside that exception boundary, switch-based service for small business customers is either uneconomic or unfeasible due to BOC provisioning problems, or both.

On January 22, 2001, representatives of WorldCom, Inc. had an *ex parte* meeting with members of the Common Carrier Bureau staff to discuss the exception to the unbundled switching requirement.¹ In that discussion, the Common Carrier Bureau staff stated that the Bureau has received conflicting information on whether CLECs are able to serve all small business customers using their own switches or whether there are categories of small business customers the CLECs are impaired in their ability to serve. Bureau staff asked WorldCom to submit into the record of this proceeding any evidence it had that could shed light on this issue. In this confidential submission, WorldCom provides the requested information.

Subsequent to that meeting, Allegiance Telecom, Inc. submitted an *ex parte* letter in this proceeding,² stating that:

... the Commission should find that competitive LECs without access to unbundled local switching are not impaired in their ability to serve *any* business customers in *any* metropolitan statistical areas (“MSAs”) in which four or more CLECs have deployed switches, provided that the incumbent LEC provides nondiscriminatory access to the enhanced extended link, or EEL [as defined in the Commission’s November 21, 1999 Supplemental Order].

Allegiance alternately suggests adding a second prong to the four CLEC switch standard. Specifically, the Commission could additionally require that at least 50% of the serving wire centers in an MSA have four or more collocated CLECs.

In that letter, Allegiance did not provide or cite to any empirical evidence that was not already on the record (and already critiqued in various parties’ *ex parte* submissions) in this proceeding. Subsequently, Cbeyond Communications submitted an *ex parte* letter supporting the Allegiance proposal.³ Cbeyond also provided no empirical evidence not already on the record.

¹ See letter from Chuck Goldfarb to Ms. Magalie Roman Salas, Secretary of the FCC, dated January 22, 2001.

² Letter from Thomas Jones, Counsel for Allegiance Telecom, to Ms. Magalie Roman Salas, Secretary of the FCC, dated January 30, 2001,

³ Letter from Patrick J. Donovan, Counsel for Cbeyond Communications, to Magalie R. Salas, dated February 7, 2001.

In this submission, WorldCom responds to the Allegiance and Cbeyond *ex parte* letters as well as the Bureau request because they all address the same issue:

Are CLECs able to serve all small business customers using their own switches or are they impaired in their ability to serve some categories of small business customers?

WorldCom is the largest facilities-based CLEC and seeks to serve customers using its own switching and other network facilities wherever feasible. WorldCom's local network consists of more than 8500 route miles of optical fiber, more than 100 local circuit switches, and equipped collocation spaces at approximately 500 ILEC end offices. But even WorldCom's network has only very limited geographic reach and even WorldCom cannot offer switch-based service to most small business customers, even in the 50 largest MSAs. WorldCom has found it feasible to serve small business customers using its own switching facilities -- and thus has product offerings available for small business customers -- under three circumstances:

- (1) "lit building" provisioning: the customer is located in a "lit" building -- i.e., a building directly connected to WorldCom's fiber optic SONET ring -- and thus WorldCom does not have to lease unbundled loops or transport or to collocate at an ILEC end office to serve that customer. Only a very small portion of all small businesses are located in WorldCom's (or other CLECs') lit buildings.
- (2) "collo-unbundled loop" provisioning: the customer is located in a geographic area served by an ILEC serving wire center (rate center) at which WorldCom is collocated (allowing WorldCom to concentrate traffic at the serving wire center and efficiently backhaul that traffic to its switch), unbundled ILEC loops can be reasonably provisioned, *and* the customer meets a minimum revenue commitment (which is incorporated in the product offering) set to ensure that the customer generates revenues sufficient to recover the capital, operating, and leasing costs associated with the switching, transport, collocation, loops, OSS, sales force, etc. needed to serve the customer. The geographic footprint that can be served in this fashion is relatively limited; by necessity it only covers customers served by ILEC serving wire centers at which WorldCom is collocated. Beyond the geographic restrictions, the significant costs associated with field operations visits and a direct sales team limit the viability of this approach for small business customers who generate low revenues.^{4 5}

⁴ The tariff for this product offering has a one year term requirement and a \$1200 annual revenue commitment. That revenue commitment can be met by purchases of international, long distance, Internet, and other services, as well as local services.

⁵ The ILECs are able to serve many small business customers that switch-based CLECs cannot feasibly serve because they are subject to fewer loop provisioning problems than the CLECs and because the ILECs' large market share allow them to exploit field operations and transport scale economies that the CLECs cannot.

- (3) “digital T-1” provisioning: the customer seeks digital service that WorldCom provisions by leasing a digital T-1 line from the ILEC – i.e., WorldCom leases a digital T-1 from the ILEC to transport that customer’s traffic to its network; when the traffic reaches the ILEC end office, if that end office is not on the WorldCom fiber network, the traffic is multiplexed onto a DS-3 (or larger) pipe and transported to the WorldCom network – *and* the customer meets a 12-circuit minimum requirement (which is incorporated in the product offering) set to generate revenues sufficient to recover the capital, operating, and leasing costs associated with the switching, transport, T-1, OSS, etc. needed to serve the customer.⁶ Digital T-1 provisioning has a significantly larger geographic footprint than the other provisioning modes, but still is limited. Because T-1 rates are distance sensitive, there are limitations on how far the customer can be from a serving wire center at which WorldCom has brought a DS-3 (or larger) pipe. Thus, in an MSA in which WorldCom has a switch there will be some customers seeking 12 or more digital circuits that nonetheless are too distant from the WorldCom network to be economic to serve. Moreover, ILEC provisioning problems often limit digital T-1 service.

These three means of serving small business customers only reach a minority of small businesses, even in the 50 largest MSAs..

WorldCom is not aware of – nor does the record in this proceeding show – any CLEC employing its own switching to offer local service to small business customers except using these three provisioning modes, and subject to similar restrictions.

While several switch-based CLECs claim that they are serving (or plan to serve) small business customers seeking as few as one line, to the extent they do so it is subject to the customer meeting other requirements that most small business customers seeking a small number of lines cannot meet or do not want: (1) a minimum monthly revenue requirement; (2) location in targeted serving wire centers where the CLEC is collocated or in wire centers where the CLEC has chosen to obtain numbers and offer service; (3) obtaining broadband service (i.e., some sort of minimum bandwidth requirement).⁷

⁶ WorldCom has found that it generally is not feasible to serve customers seeking fewer than 12 circuits because those smaller customers are unlikely to generate revenues sufficient to recover the combination of the fixed recurring charges that ILECs set for their T-1 service (a fixed charge for each channel termination and for the airline mileage between WorldCom’s point of presence and the ILEC central office, as well as a variable mileage charge for the distance between the central office and the customer’s premises) and the additional capital and operating costs that WorldCom will have to incur to serve those customers.

⁷ For example, in its February 7, 2001 submission, Cbeyond reiterates its intention “to access its customers through DS1 unbundled local loops and EELs. Using soft switch technology, DS1 loops and EELs can be configured to provide from anywhere from one to

In the “Verizon & SBC v. Ascent & Pace, Local Circuit Switch UNE Carve-Out Debate” sponsored by the Common Carrier Bureau on November 17, 2000, Allegiance presented materials showing that it currently uses its own switches to provide lower than DS-1 service to *some* small business customers.⁸ It is noteworthy that Allegiance has not challenged WorldCom’s clarification that Allegiance actually targets customers seeking DS-1 and higher service and that the DS-0 and voice grade customers Allegiance serves enjoy a unique set of circumstances not shared by all small business customers, namely those customers are served by an ILEC end office at which Allegiance happens to be collocated and are located where the ILEC’s OSS and provisioning are sufficiently reliable.⁹ Thus, while Allegiance claims in its January 30, 2000 letter that “... several commenters, including Allegiance, have submitted evidence that business customers with fewer than four lines are being served by carriers using their own switches,” it makes no demonstration that all small business DS-0 and voice grade customers -- or even a significant portion of those customers -- are (or could be) so served by CLECs using their own switches. In fact, only *selected* small business customers are being (or could be) served by carriers using their own switches. Moreover, the evidence that Allegiance relies on is the RBOC-supplied data that already have been severely criticized by WorldCom and other parties.¹⁰

Nor has Allegiance (or any other facilities-based CLEC) ever stated that it is willing or able to ubiquitously serve small business customers -- *even in those areas served by ILEC end*

several lines as well as high-speed data connectivity....” Clearly, Cbeyond does not intend to serve small business voice grade customers with its switches.

⁸ Conversent Communications is the only other facilities-based CLEC that has claimed on the record that it currently uses its own switching to serve *any* small business customers at lower than the DS-1 level.

⁹ In its January 30, 2001 *ex parte* letter (at p. 4), Allegiance responds to a statement WorldCom made in an *ex parte* letter dated January 9, 2001, relating to data submitted by Verizon in this proceeding, but nowhere does Allegiance challenge the following statement in the WorldCom *ex parte* letter dated December 21, 2000: “Allegiance *selectively* serves small business customers in those MSAs in which it has a switch; it does not offer service to all business analog customers in those MSAs. According to Mr. Crowne, of Allegiance: ‘We’re typically in the more dense markets, and we’re in the most dense parts of those markets.’ (Debate Transcript at 16) Apparently, Allegiance serves that subset of small business analog customers with fewer than 11 lines that happen to be located in the geographic areas served by the ILEC wire centers at which Allegiance has collocated.” (Emphasis in original; omitted footnote quotes from Allegiance Form 10-Q for the quarterly period ended June 30, 2000, that its “smart build approach” allows it to “address attractive service areas selectively throughout target markets....”)

¹⁰ See, for example, the letters from Chuck Goldfarb to Magalie Roman Salas dated December 21, 2000 and January 9, 2001.

offices at which Allegiance is collocated within the 36 MSAs in which it has switching facilities. Allegiance admits that it does not currently serve all small business customers in those MSAs, but claims that it plans *eventually* to expand its reach by offering service more broadly to business customers served by an ILEC end office at which it is collocated and by collocating at additional ILEC end offices. It is worth noting, however, what Allegiance has *not* committed to:

- Allegiance has *not* indicated when, and under what circumstances, it would undertake these expansions.
- Allegiance has *not* explained how extensively it plans to expand its collocation deployment.
- For those customers served by ILEC end offices at which Allegiance is collocated, Allegiance has *not* identified what portion of the currently unserved small business DS-0 and voice grade customers it would seek to serve in the future.
- Allegiance has *not* claimed its product offerings would not have a minimum revenue requirement or some other minimum requirement.
- Allegiance has *not* made any guarantees about any expansion.
- Allegiance has *not* provided any data making a business case for expanding its provision of DS-0 and voice grade service.

Allegiance simply argues that its ability to expand and serve additional small business customers would be harmed if any of its potential customer base could turn to carriers using UNE-platform to provide service. On that claim alone, it proposes that the Commission protect Allegiance's investments by denying small business customers access to UNE-platform service.

Based only on a characterization of its business plan for which it has provided no empirical documentation, Allegiance would have the Commission believe that it (and other CLECs) would not be impaired in their ability to serve *all* small business customers in the largest 50 MSAs if denied access to unbundled ILEC switching. Empirical evidence indicates otherwise. Allegiance's switch and collocation deployments, in particular, and CLEC switch and collocation deployments, in general, have been concentrated in the densest areas within the 50 largest MSAs.¹¹ From these "nodes," CLECs have targeted high volume (typically mixed use,

¹¹ In its most recent 10-Q filing with the SEC, files 11/14/2000 for the quarter ended September 30, 2000, Allegiance stated that "Our business plan covers 36 of the largest metropolitan areas in the United States." All 36 of those SMAs are among the largest 50. In that filing, Allegiance also indicated that it is collocated in 552 ILEC wire centers. According to the data submitted by the ILECs in their Petitions for Flexibility for Special Access and Dedicated Transport Services filed last year, the New York MSA, alone has 239 wire centers; Boston 142;

voice, data, and Internet) customers seeking service at least the DS-1 level. But there is no support for Allegiance's claims that it (and, presumably, other CLECs) will expand the scope of customers served -- by expanding its target customer base to include smaller customers served by ILEC end offices at which it is collocated and/or by expanding the reach of its network through more switch and collocation deployment -- in the near future. Given currently available technology, the underlying economics will not allow that rapid expansion.

All CLECs are in a race to acquire customers and generate revenues quickly enough to cover the capital, operating, and leasing costs associated with their switches, transport, collocations, OSS, sales forces, etc., and to minimize diseconomies from low traffic or utilization. Allegiance's management has the fiduciary responsibility to be as aggressive as possible in implementing its strategy for that race, including attempting to convince regulators to restrict competition by denying other providers the ability to provide service using UNE-platform. But the Commission has a different responsibility; it must assure that this is not a race in which those competitors who have chosen one particular entry strategy -- in this case, deploying switches and collocations to selectively serve the heaviest small business telecommunications users located in dense business districts -- are protected from possible competition from other competitors whose entry strategy is to provide ubiquitous service by expanding the reach of switch-based service with UNE-based service.

There is ample evidence that CLECs currently do not -- and cannot -- serve large segments of the small business market using their own switches. What evidence is there that, in the absence of UNE-platform, CLECs will begin to serve these currently unserved customers -- by deploying additional switches, by collocating at additional ILEC end offices, and by introducing product offerings with lower circuit or revenue minimums? Given the multi-million dollar investment costs associated with a Class 5 switch and the significant additional costs associated with collocation, there are limited geographic areas where market density is sufficient for CLECs to have some confidence that they will be able to generate the revenues necessary to cover their switch and collocation investments. These geographic areas are precisely the areas where Allegiance has deployed *all* its facilities and where CLECs as a whole have deployed the vast majority of their facilities -- in the densest areas within the 50 largest MSAs. There has been substantial CLEC switch investment, primarily in the 50 largest MSAs, but also in smaller markets. But there will be a substantial tapering off of further investment, in part because of current Wall Street conditions limiting access to capital, but primarily because those facilities for which CLECs can project profitability already are largely in place. No facilities-based CLEC has provided evidence on the record demonstrating a business case for deploying additional switches and collocations to serve small business customers not currently served. While inevitably there will be new pockets where the economics support additional switch and collocation deployment, these will be selective and many areas will never be served. This market reality that the market for switch deployment has largely been saturated is demonstrated in the analyst reports on switch

Philadelphia 110; Chicago 139; Los Angeles 109; etc. Allegiance therefore is collocated in only a small minority of the serving wire centers in the 36 MSAs in which it has deployed switches.

manufacturers, who are projecting curtailed demand for switches, especially circuit switches.¹²

Nor is it likely that CLECs will continue the wide scale expansion of collocations. After a stampede of collocation deployments in the past few years, which resulted in a glut of collocation build outs, many collocations are going largely unused as CLECs have scaled back business plans. There will continue to be circumstances where CLECs collocate at an additional ILEC end office in order to serve a new large customer or to serve a smaller location of a multi-locational customer whose entire business would be at risk if all locations were not served, but neither Allegiance nor any other CLEC will build out to anywhere near all of the end offices in the MSAs in which they have switches.

With respect to small business customers served by ILEC end offices at which the CLEC is collocated but too small to meet the line, bandwidth, or revenue minimums in current switch-based CLEC product offerings, it is possible that over time as CLECs enjoy cost-reducing economies from greater market penetration or technology or other innovation-related cost reductions, those minimums will get lower and CLEC products will be available to currently unserved small business customers. But there is nothing on the record to indicate that this will happen quickly or that a substantial portion of currently unserved small business customers will be served anytime soon.

This all demonstrates that there are significant constraints on CLECs' ability to use existing or new switches to significantly extend service to those small business DS-0 and voice grade customers not currently served. There will always be circumstances where the switching and provisioning costs render it uneconomic to serve smaller customers. Neither Allegiance nor any other CLEC has shown that it will – or can – serve those customers using its own switches.

Allegiance has proposed that the Commission modify the switching exception to take into account the number of CLEC switches deployed in an MSA and the number of CLEC

¹² The economics of switch deployment may change in the future, as so-called “soft switches” are developed that can perform many of the functions currently provided by Class 5 circuit switches at significantly lower cost and at significantly shorter lag time between ordering and deployment. But soft switch development is just in its earliest stages; product available in the near future will only provide a small portion of the Class 5 functionality. For example, there is uncertainty about the ability of soft switches in the near term to provide 911 functionality. Moreover, the cost savings provided by a soft switch come, in part, from a tradeoff – the reduced functionality of the soft switch relative to a Class 5 switch will require customers (or their carriers) to invest more heavily in customer premises equipment. It may not prove economic for very small business customers or their carriers to make those CPE investments. Nonetheless, there may be a time, somewhere down the road, when CLECs will be able to serve small business DS-0 and voice grade customers ubiquitously using soft switches located in their collocation cages, but that time will not occur until soft switch development matures significantly and until CLECs are able to place those switches in their collocation spaces.

collocations deployed in 50 percent of the ILEC end offices within that MSA. As explained above, the mere fact that Allegiance (or any other CLEC) has deployed a switch and some collocations in an MSA does not in any way demonstrate that Allegiance (or the other CLEC) is serving the small business DS-0 and voice grade customers in that MSA. Moreover, many, if not most, CLECs deploy collocations as part of a business strategy that does not include the provision of small business DS-0 and voice grade service. Thus, the proposed parameters in no way measure whether CLECs are impaired in their ability to offer local service to small business customers and should be rejected out of hand.

Even worse, the Allegiance proposal would inhibit and distort CLEC investment decisions. As discussed above, WorldCom currently serves small business customers using its own switches whenever it is feasible, but economic and provisioning realities limit that coverage to just a portion of small businesses, even in the 50 largest MSAs. All the CLECs together do not – and cannot – use their own switches to serve the majority of small businesses in the United States. WorldCom (and undoubtedly other CLECs) will continue to expand the small business customer base it serves using its own switches, but for the reasons just discussed such expansion will be incremental, while the unserved customer base will remain large. WorldCom therefore plans to serve the currently unserved small business customer base using UNE-platform.

But just as WorldCom's switch-based business strategy has required significant up-front investment commitments, so does WorldCom's UNE-platform business strategy. WorldCom is committed to the sizeable investments needed for systems, marketing, and sales, but only if it can make those investments with some confidence that it will be able to fully use them for a reasonable period of time. It will be difficult, if not impossible, for WorldCom to maintain that commitment – and to serve the huge unserved small business market – if it finds access to UNE-platform whittled away by its competitors' decisions to deploy a switch or a collocation in one location or another.

Not only would the Allegiance proposal undermine WorldCom's (and other CLECs') ability to make the investment needed for UNE-platform service, but it also would distort and discourage switch and collocation investment. WorldCom and other CLECs make network build decisions based on where they perceive demand for their services – i.e., where they project traffic will be sufficient to justify the investment. If UNE-platform availability is based on competitors' deployment decisions, WorldCom and other UNE-based providers will find themselves forced to make switch and collocation deployment decisions to fill gaps in coverage created by elimination of UNE-platform as a service-provision option. Thus, they would have to modify their build out decisions based not on their own demand and traffic patterns, but on their competitors' deployment decisions. Consider, for example, a location of moderate demand outside a major business district. If a competitor were to deploy a switch or a collocation in a particular location because it happened to win a large customer in that location, and that deployment triggered the UNE-switching exception in that market, then WorldCom would lose access to UNE-platform in that location and be forced to deploy its own switch or collocation in order to continue to serve

its customers, even if it were not efficient to make that deployment.¹³ Surely the Commission would not want to create a switching exception that so badly distorted CLEC investment decisions.

Allegiance and Cbeyond correctly state that CLECs are impaired in their ability to offer local service to small business customers when EELs are not available on a nondiscriminatory basis. Allegiance is mistaken, however, in its belief that EELs availability would be sufficient if it were limited to the availability provided for in the Commission's November 24, 1999 Supplemental Order in this proceeding.¹⁴ As was made crystal clear in the February 14, 2001 "EELs summit" sponsored by the Common Carrier Bureau, CLECs currently do not have access to EELs. There are fundamental ordering and provisioning problems that are not addressed in the Supplemental Order. Allegiance and Cbeyond, themselves, indicate that the Commission must force the ILECs to meet their EELs provisioning responsibilities. But beyond those provisioning problems, the Supplemental Order allows ILECs to refuse to make EELs available in many situations where that lack of availability impairs CLECs' ability to offer local service.

First, the Supplemental Order allows ILECs not to make EELs available where the loop-transport combination would be "commingled" with access services. This exception denies CLECs the ability to combine EELs and access services on the same transport pipe or on the same access multiplexer in the same fashion that the ILECs use facilities for both access and local traffic, and thus denies CLECs the ability to employ an efficient transport network needed to compete. Moreover, if CLECs had to physically take all their traffic off access facilities in order to qualify for EELs, this would require disruptions to customer service and (because of limited windows of opportunity at ILEC end offices for re-homing circuits) would take months or even years to accomplish.

Second, the Supplemental Order does not address new loop-transport combinations and therefore only requires ILECs to convert existing special access circuits to EELs. CLECs seeking EELs for new customers would have to first go through the ordering process for special access and then convert those special access to EELs, creating lengthy delays in obtaining the EELs.

Even if these fundamental restrictions on EELs access were totally eliminated, full

¹³ Some time in the future, a wholesale market for switching *may* develop in which CLECs that deploy switches will offer switching functionality to other CLECs that do not have switch facilities in a particular location. But switch-based CLECs remain focused primarily on developing a retail customer base, rather than developing the additional systems and other infrastructure needed to serve wholesale as well as retail customers.

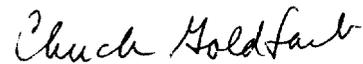
¹⁴ In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, Supplemental Order, released November 24, 1999.

nondiscriminatory access to EELs still would not expand the footprint that CLECs could serve to all small business customers. If T-1 charges were reduced to cost-based rates, CLECs would be able to extend digital T-1 provisioning further through the MSA and the 12-circuit minimum might be reduced. Similarly, full and nondiscriminatory access to EELs could reduce CLECs' collocation needs. It is not possible to identify, before the fact, where the new boundaries would be drawn. The impact of EELs on the CLECs' ability to serve customers with their switching should be reviewed as part of the triennial review outlined in the UNE Remand Order.

In sum, now and for the foreseeable future CLECs are impaired in their ability to offer local service using their own switches to many small business customers. It is essential that the switching exception not be crafted in a fashion that undermines the provision of service using UNE-platform where switch-based provision is not feasible. Any use restrictions adopted under the "necessary and impair" standard should not extend beyond DS-1 and higher switch ports located in the 50 largest MSAs where EELS are fully available.

WorldCom would be happy to discuss this analysis with Commissioners and Commission staff.

Sincerely,



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