ISSUE I-2

Can Verizon require WorldCom to receive Verizon traffic at a Verizon end office and then require WorldCom to transport that traffic back to the WorldCom network free of charge?

Q. Please describe the dispute that gives rise to this issue.

A. Verizon has proposed an interconnection architecture in which WorldCom is obligated to receive Verizon originated traffic at a point in each Verizon Rate Center Area. Verizon refers to this point as the WorldCom IP. Verizon would then obligate WorldCom to provide transport and termination of Verizon's traffic from that point. Finally, Verizon proposes that no additional charges beyond reciprocal compensation shall apply for the termination of traffic from the IP. The effect of this proposal is to require WorldCom to provide transport of Verizon traffic free of charge.

Q. What is WorldCom's response to Verizon's proposal?

A. As indicated by our response to the closely related Issue 1-1 (which we here incorporate by reference) WorldCom believes that this proposal is unreasonable for several reasons. First, it is unreasonable because Verizon seeks to avoid its responsibility to deliver its traffic to WorldCom's network. In many instances, Verizon will deliver its traffic no further than its end office. Verizon seeks to transfer to WorldCom the responsibility to transport Verizon's traffic to the WorldCom network.

This provision is also unreasonable in that imposes on WorldCom charges for traffic which originate on Verizon's network in violation of 47 CFR 51. 703(b).

1 Second, the provision stating that no additional charges shall apply beyond
2 reciprocal compensation forces WorldCom to transport Verizon's originated traffic from
3 the Verizon end office (the so-called WorldCom IP) all the way into WorldCom's
4 network free of charge. The reciprocal compensation which WorldCom receives does not
5 provide compensation for this transport.

6 Reciprocal compensation is for "transport and termination *on each carrier's*
7 *network facilities* of local telecommunications traffic that originates on the network
8 facilities of the other carrier." 47 CFR 51.701(e). Reciprocal compensation compensates
9 a terminating carrier for transport and termination services provided *after* the originating
10 carrier delivers its traffic to the terminating carrier's network. As the Commission noted
11 in TSR Wireless, supra, "The *Local Competition Order* requires a carrier to pay the cost
12 of facilities used to deliver traffic originated by that carrier to the network of its co-
13 carrier, who then terminates that traffic and bills the originating carrier for termination
14 compensation." Reciprocal compensation does not compensate for transport of the
15 originating carrier's traffic from the originating carrier's network to the terminating
16 carrier's network. Verizon's proposal requires WorldCom to provide this transport
17 service free of charge. Neither would reciprocal compensation, in any way, adequately
18 compensate WorldCom for the additional mileage that WorldCom would have to be
19 responsible for under Verizon's illegal proposal.

20 Of course, WorldCom could voluntarily agree to provide transport service to
21 Verizon to transport Verizon traffic from Verizon's end office to the WorldCom
22 terminating switch. If WorldCom chose to do so, it would be entitled to charge for this
23 transport service. Such charges would be in addition to reciprocal compensation.

Q. What does WorldCom request of the Commission on this issue?

A. The Commission should specifically reject the network architecture and contract language proposed by Verizon. The Commission should adopt the principles set forth below.

GENERAL PRINCIPLES:

- Verizon's proposal to prohibit a CLEC from charging for transport services is unlawful.

- Verizon's proposal imposes charges on a CLEC for transport of Verizon's originating traffic, interferes with a CLEC's right to designate a point of interconnection, and is inconsistent with a CLEC's right to symmetrical reciprocal compensation.

- A LEC is financially responsible to provide transport for its originating traffic to the other LEC's terminating switch serving the end user.

Issue I-4

Should the ICA contain provisions specifying that MCIm may choose to establish trunking to any given End Office when there is sufficient traffic to route calls directly to such End Office and that the charge for such trunks, if they are not shared, shall be the transport charges for dedicated transport, and that for shared trunks the charges will be shared by both Parties in proportion to their respective use of the shared trunk facility?

Q. Did WorldCom and Verizon previously indicate to the Commission that this issue was resolved?

A. Yes, we did. However, during continuing negotiations in mid-July, Verizon proposed a new condition, placing a limit on the number of tandem trunks, which WorldCom cannot accept. Therefore, this issue is not resolved at this time.

Q. Please describe the dispute that gives rise to this issue.

A. Verizon has expressed an interest in including contract terms which require WorldCom to engage in end-office trunking under specified circumstances. Verizon views this as a means to address an alleged tandem exhaust problem.

Q. What is WorldCom's position?

A. WorldCom does not believe it can be compelled under the Act to engage in end-office trunking. Nonetheless, WorldCom is willing to accommodate Verizon's concern and establish end-office trunks where doing so is an efficient interconnection arrangement. WorldCom has proposed the following terms during negotiations with Verizon:

> 2.4.1 Tandem Exhaust - If a tandem through which the Parties are interconnected is unable to, or is forecasted to be unable to, support additional traffic loads for a six month forecasting cycle, the Parties will mutually agree on an end office trunking plan for future trunking additions until Verizon has alleviated the tandem capacity shortage. Verizon shall

take appropriate action to alleviate tandem capacity shortage if such tandem is unable to, or is forecasted to be unable to, support additional traffic loads for any period of time.

2.4.1.1 If a tandem through which the Parties are interconnected is unable to, or is forecasted to be unable to, support additional traffic loads for any period of time, the Parties will mutually agree on an end office trunking plan that will alleviate the tandem capacity shortage and ensure completion of traffic between MCIm and Verizon Customers.

2.4.2 Traffic volume – Either Party may order, and the other Party shall install and retain, direct end office two-way trunking sufficient to handle actual or reasonably forecasted two-way traffic volumes, whichever is greater, between an MCIm switching center and a Verizon end office where the traffic exceeds 200,000 minutes of use per month. When the traffic between an MCIm switching center and a Verizon end office exceeds 170,000 minutes of use per month, either Party may notify the other Party and request that the facilities be installed. Such facilities will be installed on mutual agreement. The Parties will install additional capacity between the MCIm switching center and the Verizon end office when overflow traffic between the MCIm switching center and Verizon access tandem exceeds, or is forecast to exceed, 200,000 minutes of use per month.

2.4.3 Mutual Agreement - The Parties may install direct end office trunking upon mutual agreement in the absence of conditions of 2.4.1 or 2.4.2 above and agreement will not unreasonably be withheld.

Q. Are these terms reasonable?

A. Yes, they are. Sections 2.4.1 and 2.4.1.1 provide that the parties will develop an end office trunking plan if a particular tandem is forecasted to exhaust. This addresses Verizon's concern regarding tandem exhaust. The proposal addresses the issue by focusing on specific tandems which may exhaust rather than including a generalized end-office trunking requirement which would apply without regard to the status of a particular tandem. The proposal also requires Verizon to take appropriate action to alleviate a tandem capacity shortage, which addresses WorldCom's concern that it should not be forced to engage in end-office trunking where it is not economically efficient to do so.

Section 2.4.2 provides that direct end office trunking shall be established whenever traffic between an MCIm switching center and a Verizon end office exceeds 200,000 minutes of use per month. This is a reasonable approach which takes traffic off of the tandem as Verizon requests but does so only when the traffic level makes it economic for WorldCom to establish end-office trunking. The 200,000 minutes per month trigger approximates a single DS-1 level of traffic and is a reasonable level at which to establish end-office trunks.

Finally, Section 2.4.3 provides that WorldCom and Verizon can agree to establish end office trunks in additional situations as well.

Q. What is Verizon's position?

A. Verizon has proposed terms that arbitrarily limit the number of trunks between a WorldCom switch and a Verizon tandem to 240 trunks and require WorldCom to establish end office trunks when that level is reached. Verizon has proposed the following:

> 2.4.4 One-Way and Two-Way Local Interconnection Trunk groups between the MCIm POI and a Verizon Tandem will be limited to a maximum of 240 trunks unless otherwise agreed to by the Parties. In the event that any One-Way or Two-Way Local Interconnection Trunk group exceeds the 240 trunk level at any time, MCIm shall promptly submit an ASR to Verizon to establish new or additional End Office Trunk groups to insure that such Tandem Two-Way Local Interconnection Trunk group does not exceed the 240 trunk level.

Q. Please address Verizon's proposal.

A. As noted above, WorldCom is willing to accommodate Verizon's stated concern about tandem exhaust. WorldCom has offered to engage in responsible end office trunking. However, Verizon's proposal is arbitrary and could lead to call blockage.

Verizon's proposal will require WorldCom to establish end-office trunking in circumstances where the traffic volumes do not justify the expense. Verizon's proposal requires WorldCom to establish end-office trunks once the 240 trunk tandem limit is reached, even if the end-office trunks to be so established would carry minimal amounts of traffic. This proposal imposes unnecessary trunking costs on WorldCom.

1 The proposal to limit the number of tandem interconnection trunks to 240 trunks
2 is totally arbitrary. This is the equivalent of 10 DS-1s and does not represent a significant
3 amount of traffic to be routed through a tandem. Moreover, Verizon's proposal is not
4 targeted to tandems which are actually in jeopardy of exhausting. Rather, it is presented
5 as a generic proposal which applies to all tandems.
6 Verizon's suggestion is arbitrary for other reasons as well. The proposal applies
7 to all tandems regardless of the serving area of a particular tandem or the number of end
8 offices subtending a particular tandem. The proposed 240 trunk limit applies at all
9 tandems regardless of whether a large number or smaller number of end offices subtend
10 a particular tandem.
11 Verizon's proposal also appears to be discriminatory as, to WorldCom's
12 knowledge, Verizon does not impose this limitation on any other entity outside of the
13 CLEC community.
14
15 **Q. Will the proposed limit on tandem trunks cause call blockage?**
16 A. It could. WorldCom currently has end office trunks in place with Verizon.
17 Tandem trunks act as a back-up to these end-office trunks. Tandem trunks handle
18 overflow from these existing end-office trunks. The proposed limit on the number of
19 tandem trunks will impede this call completion insurance. Tandem trunks are also needed
20 in the event the existing end office trunks experience trouble. In short, tandem trunks are
21 the final route for some calls and the primary route for other calls. The imposition of an
22 arbitrary limit on the number of tandem trunks jeopardizes WorldCom's ability to
23 complete calls.

Q. Are there other examples of how the proposed limit on tandem trunks may lead to call blockage?

A. Yes. Tandem routing is the primary, and in some cases the only, routing available for cellular and paging calls. For example, Verizon sends its cellular calls destined to WorldCom end-users through the tandem. Placing an arbitrary limit on the number of tandem trunks will increase the possibility that such calls will be blocked. Similarly, tandem routing is the most efficient choice for low volume routes such as CLEC-to-CLEC calling and calls from an independent telephone company. An arbitrary limit on the number of tandem trunks will impose unnecessary costs and could impede call completion in each of these circumstances.

Q. Is there another example of how an arbitrary limit on the number of tandem trunks may impede call completion?

A. Yes. When a large customer migrates its service to WorldCom, it frequently does so via local number portability. Once the migration is complete traffic begins to flow between the carriers through the tandem. The traffic must flow through the tandem because at the time of the migration WorldCom has no calling statistics identifying the traffic by Verizon end office. Therefore, at the time the migration occurs there is no reasonable basis upon which to engineer end-office trunks.[12] An arbitrary limit on the number of tandem trunks could well lead to call blocking because the traffic flowing to the new WorldCom customer could easily exceed the 10 DS-1 tandem trunks which Verizon proposes as a limit. For example, if a large customer operating a catalog business

1 migrated its service to WorldCom the new traffic flowing to the WorldCom switch over
2 the tandems could exceed 50 DS-1s. If the ten DS-1 tandem trunk limit was in place,
3 those calls would not go through and it would be impossible to assess the specific end
4 office trunking required to handle this traffic for some considerable time. Thus,
5 Verizon's proposal could lead to poor service for new WorldCom customers, and for that
6 reason have a powerful anti-competitive effect.
7
8 **Q. Is there also a pricing aspect of this issue?**
9 A. Yes. WorldCom has proposed that the charge for leased end-office trunks be set
10 equal to the rate for unbundled transport, as follows:
11 MCIm may choose to establish trunking to any given end office
12 for calls to numbers served out of that end office, when there is
13 sufficient traffic to route calls directly to such end office. If MCIm
14 leases non-shared trunks from Verizon, MCIm will pay the transport
15 charges for dedicated transport. For shared trunks the charges will be
16 shared, by both parties in proportion to their respective use of the shared
17 trunk facility.
18 If WorldCom chooses to purchase Dedicated Transport from Verizon the
19 appropriate rate to be paid for this transport would be the TELRIC compliant rate for
20 unbundled dedicated transport. Verizon on the other hand has proposed that leased
21 transport should be purchased out of the Verizon access tariff. For transport ordered by
22 WorldCom, and operated exclusively to carry WorldCom originated traffic, the

[12] Once WorldCom has gained some experience with the traffic flowing to the new customer, and has traffic data available, end office trunks could be established based upon the criteria specified above, such as

1 appropriate rate is that for unbundled transport. One-way trunks carrying Verizon
2 originated traffic would be paid for by Verizon. For shared trunks, the cost should be
3 shared by both parties in proportion to their respective use of the shared trunk facility.
4 These pricing rules are consistent with the guidelines established by the FCC in the Local
5 Competition Order. The FCC has ruled that interconnection trunks should be priced
6 equal to the unbundled network element of dedicated transport. Further, the FCC has
7 ruled that if interconnection trunks are shared, each carrier should pay a proportionate
8 share of the cost based on each carrier's originating traffic.[13]

9 WorldCom requests that the Commission specifically endorse WorldCom's
10 proposed language regarding the establishment of end office trunking and WorldCom's
11 proposed language regarding the price which Verizon can charge if WorldCom orders
12 trunks from Verizon.

200,000 minutes of use per month from a given end office.

[13] "Finally, in establishing the rates for transmission facilities that are dedicated to the transmission of traffic between two networks, state commissions should be guided by the default price level we are adopting for the unbundled element of dedicated transport. ...The amount an interconnecting carrier pays for dedicated transport is to be proportional to its relative use of the dedicated facility. For example, if the providing carrier provides one-way trunks that the interconnecting carrier uses exclusively for sending terminating traffic to the providing carrier, then the interconnecting carrier is to pay the providing carrier a rate that recovers the full forward-looking economic cost of those trunks." Local Competition Order ¶ 1062. The FCC went on to rule that interconnecting carriers should not have to pay for one-way trunks which carry the incumbent's originating traffic and that where trunks are shared the interconnecting carrier should pay a rate that reflects only the portion of the trunk capacity that the carrier uses to send traffic. Id.

Issue I-5

Should the agreement implement the Commission's recent ISP Intercarrier Compensation Order?

Q: How does the recent ISP Remand Order change the parties' disputes over the appropriate treatment of inter-carrier compensation for ISP-bound traffic?

A. The Order resolves, pending judicial review, many of the substantive issues that were the basis of the parties' disputes in their original competing contract proposals. All parties now apparently agree that the only issues remaining are implementation issues. They also apparently agree that those implementation issues are properly addressed in the interconnection agreement.

Q: Why does MCIm believe interconnection agreements should include provisions addressing the implementation of the new inter-carrier compensation regime for ISP-bound traffic?

A. MCIm believes interconnection agreements should include provisions addressing implementation of the new inter-carrier compensation regime because the ISP Remand Order makes clear that state commissions should play a role in implementing the new regime.

For example, the ISP Remand Order establishes a "rebuttable presumption" that traffic exchanged between local carriers that "exceeds a 3:1 ratio of terminating to originating traffic is ISP-bound traffic." ISP Remand Order ¶ 8. However, the ISP

1 Remand Order further provides that "carriers that seek to rebut this presumption, by
2 showing that traffic above the ratio is not ISP-bound traffic or, conversely, that traffic
3 below the ration is ISP-bound traffic, *may seek appropriate relief from their state*
4 *commission pursuant to section 252 of the Act.*" Id. (emphasis added). The ISP Remand
5 Order thus clearly contemplates the continued involvement of state commissions in the
6 implementation of the new inter-carrier compensation regime.

7 Moreover, under the ISP Remand Order, inter-carrier compensation rates for ISP-
8 bound traffic may continue to vary from state to state, and may still be based on the
9 reciprocal compensation rates established by individual state commissions. Incumbent
10 LEC can invoke the new inter-carrier compensation regime "*only* if [the] incumbent LEC
11 offers to exchange all traffic subject to section 251(b)(5) at the same rate." ISP Remand
12 Order ¶ 89. If an incumbent carrier does not offer to exchange all section 251(b)(5)
13 traffic at the new rate, the Commission "order[s] them to exchange ISP-bound traffic at
14 the state-approved or state-arbitrated reciprocal compensation rates reflected in their
15 contracts." Id. Incumbent LECs "may make this election on a state-by-state basis." Id.
16 n.179. If the new inter-carrier compensation regime is to be invoked on a state-by-state
17 basis, state commissions are in the best position to evaluate and implement that new
18 regime.

19 Finally, there are implementation issues raised by the ISP Remand Order that the
20 Order itself does not resolve. For example, the ISP Remand Order establishes caps on
21 the growth in the number of minutes of ISP-bound traffic for which a carrier may charge
22 incumbent LECs, but does not specify how the minutes of ISP-bound traffic should be

calculated. ISP Remand Order ¶ 78. That implementation issue can appropriately be addressed in interconnection agreements.

Q: How does MCIm propose to implement the ISP Remand Order in its interconnection agreement with Verizon?

A. MCIm proposes that a new section x be added to the agreement. This new section x provides at subsections x.1 and x.2 that it is intended to implement the ISP Remand Order. Section x implements the ISP Remand Order by: (1) setting out at subsection x.3 the prerequisites Verizon must meet to invoke the new inter-carrier compensation regime; (2) establishing as subsection x.4 a mechanism for calculating the 3:1 ratio of originating to terminating traffic established in the ISP Remand Order; and (3) codifying at subsection x.5 the rate caps established in the ISP Remand Order.

Section x also provides at subsection x.6 a reservation of rights permitting either party to void section x in the event the ISP Remand Order is reversed, vacated, or remanded in whole or in part. Including this provision is appropriate because the ISP Remand Order is being appealed to the D.C. Circuit, and all parties should retain their rights in the event the ISP Remand Order is overturned. MCIm's proposed implementation language [along with a brief description in brackets of the purpose of the provision] is as follows:

"ISP-bound Traffic" shall have the same meaning as is used in the FCC's Order on Remand and Report and Order in CC Docket Nos. 96-98 & 99-68, FCC 01-131, released April 27, 2001 ("ISP Remand Order").

Section x. **Compensation for ISP-bound Traffic**

x.1 This section is intended to implement the FCC's ISP Remand Order for any period in which both the ISP Remand Order and this Agreement are in effect. The terms used in this Section x shall have the same meaning as those terms are used in the ISP Remand Order. Additionally, as used in this Agreement, the term "ISP-bound Traffic" shall have the same meaning as the term is used in the ISP Remand Order.

[This section establishes that the following contract terms are intended to implement the ISP Remand Order and that the terms used in this section have the same meanings as set forth in the ISP Remand Order.]

x.2 The Parties agree to pay each other for delivering ISP-bound Traffic and section 251(b)(5) traffic in accordance with the terms and conditions of this section x. For purposes of this section x, ISP-bound Traffic and section 251(b)(5) local traffic shall be identified in accordance with the provisions of Section x.4 below.

[This section implements the distinction between ISP-bound traffic and section 251(b)(5) traffic which the ISP Remand Order establishes.]

x.3 The information access rates described in Sections x.3.2. for the delivery of ISP-bound Traffic shall apply only if: (a) Verizon requests that ISP-bound Traffic be treated at the rates specified in the ISP Remand Order; (b) Verizon offers to exchange all traffic subject to the reciprocal compensation provisions of section 251(b)(5) with LECs, CLECs, and MRS, at these information access rates; and (c) Verizon has paid all passed due amounts owed on WorldCom's delivery of ISP-bound Traffic prior to June 14, 2001. If Verizon does not comply with these conditions, then the rate for the delivery of ISP-bound Traffic shall be the rate for reciprocal compensation set forth in Table 1 of this Attachment.

[This section sets forth the prerequisites which must be satisfied before Verizon can avail itself of the terms of the ISP Remand Order. The first two terms memorialize conditions set forth in the ISP Remand Order. The third term requires Verizon to pay all amounts due for termination of ISP-bound traffic prior to issuance of the ISP Remand Order. The Order represents a change in the law from that which existed prior to its issuance. The Order established that reciprocal compensation would no longer be payable on ISP-bound traffic. It is clear, therefore, that prior to entry of the Order, this traffic was subject to the reciprocal compensation provisions of the Act. It is appropriate that amounts due under the prior regime now be paid in full.]

x.3.1 The reciprocal compensation rates shown in Table 1 apply to the exchange of all section 251(b)(5) traffic.

x.3.2 Information Access Rates. For the period beginning on June 14, 2001 and ending on December 13, 2001, the Party delivering ISP-bound Traffic will bill the Party originating this traffic an information access rate of $.0015 per minute of use (MOU). To the extent that this Agreement remains in effect, beginning on December 14, 2001, and ending on June 13, 2003, the Party delivering ISP-bound Traffic will bill the Party originating this traffic an information access rate of $.001 per MOU. To the extent that this Agreement remains in effect, beginning on June 14, 2003, and ending on June 13, 2004, the Party delivering ISP-bound Traffic will bill the Party originating this traffic an information access rate of $.0007 MOU. The ISP Remand Order specifies that, in the event the FCC does not take further action within the final period during which the $.0007 per MOU information access is applicable to ISP-bound Traffic, that period will be extended until the FCC takes such further action. The Parties agree that the $.0007 per MOU information access rate will continue in effect for ISP-bound Traffic beyond June 13, 2004, if the FCC fails to take such further action by that date, to the extent this Agreement remains in effect during such period.

[These sections set forth the rates applicable to section 251(b)(5) traffic and ISP-bound traffic consistent with the ISP-Remand Order.]

x.4. Identification of ISP-bound Traffic and 251(b)(5) local traffic. Traffic that originates on Verizon's network and that WorldCom delivers to a MCIm customer and that is in excess of a ratio of 3:1 of all of the local MOU that originates on MCIm's network for delivery by Verizon to Verizon's customers. The Parties further agree that such traffic that MCIm delivers for Verizon which is in not in excess of a ratio of 3:1 of all of the MOU that Verizon's delivers for MCIm shall be billed by MCIm at the reciprocal compensation rates contained in Table 1 to this Agreement.

x.4.1. The Parties agree that (a) MOU originated by MCIm over inter-connection trunks between MCIm's local switches and Verizon's local network, and (b) MOU originated by MCIm over the Network Element Platform (UNE-P) leased from Verizon shall be included for purposes of the 3:1 ratio calculation described in Section x.4.

x.4.2 The 3:1 ratio will be computed by using the billing Party's recordings of calls originated from and terminating to its customers. When such recordings are unavailable from the facilities of the billing Party, call records supplied to the billing Party may be used for the ratio computation.

[These sections set forth procedures for implementing the 3:1 ratio established in the ISP Remand Order. The section establishes that WorldCom traffic originated over interconnection trunks as well as WorldCom traffic which originates over the UNE-P shall be included in the calculation of total minutes. There is no difference between these

types of traffic for compensation purposes and both should be included. WorldCom pays compensation to Verizon for terminating either type of traffic and similarly WorldCom is entitled to collect compensation when it terminates calls to its customers whether those customers are served by WorldCom's switches or via the UNE-P.]

x.5. Demand or Minutes of Use Cap. For ISP-bound Traffic exchanged during the year 2001, and to the extent this Agreement remains in effect during that year, the information access rates set out in Section x.3.2 shall be billed by MCIm to Verizon on ISP-bound Traffic for MOU only up to a ceiling equal to, on an annualized basis, the number of ISP-bound minutes originated on Verizon's network and delivered by MCIm during the first quarter of 2001, plus a ten percent growth factor. For ISP-bound Traffic exchanged during the year 2002, and to the extent this Agreement remains in effect during that year, the information access rates set out in Section x.3.2 shall be billed by MCIm to Verizon on ISP-bound Traffic for MOU only up to a ceiling equal to the number of ISP-bound minutes originated on Verizon's network and delivered by MCIm for the year 2001, plus a ten percent growth factor. For ISP-bound Traffic exchanged during the year 2003, and to the extent this Agreement remains in effect during that year, the information access rates set out in Section x.3.2 shall be billed by MCIm to Verizon on ISP-bound Traffic for MOU only up to a ceiling equal to the number of ISP-bound minutes terminated by Verizon to MCIm for the year 2002.

[This section implements the minutes of use cap set forth in the ISP Remand Order.]

1 x.6 Reservation of Rights. The terms of Sections x.3, x.3.2, Table 1 (rate schedule),
2 x.4, x.4.x, and x.4.2 may be voided by either Party, upon written notice to the other party,
3 if any legislative, regulatory, or judicial action, rule, or regulation modifies, reverses,
4 vacates, or remands the ISP Remand Order, in whole or in part. If these Sections
5 become void as provided herein, then: (a) ISP-bound Traffic shall be deemed section
6 251(b)(5) traffic under this Agreement, retroactive to the effective date of this
7 Agreement; (b) any compensation that would have been due under this Agreement since
8 its effective date for the exchange of ISP-bound Traffic shall immediately be due and
9 payable; and (c) the Parties shall immediately begin the exchange of ISP-bound Traffic
10 that was subject to the ISP Remand Order on the same terms, conditions, and rates as
11 they exchange section 251(b)(5) traffic.
12
13 [This section sets forth the rules which will apply if the ISP Remand Order is modified by
14 judicial or other action. Specifically, the section provides that if the Order is reversed,
15 vacated, etc., the ISP-bound traffic shall be deemed 251(b)(5) traffic and that the
16 compensation which would have been due for the traffic as section 251(b)(5) traffic shall
17 be due. The section also provides for the prospective exchange of such traffic as
18 251(b)(5) traffic in the event of judicial or other modification of the ISP Remand Order.
19
20 These provisions should be included in the Interconnection Agreement because
21 they will set forth the rights of the parties in the event of judicial action modifying the
22 ISP Remand Order. If these terms are not included the result will be a series of inevitably
23 protracted and contentious negotiations to develop a contract amendment to reflect the

1 judicial action. Moreover, these provisions preserve WorldCom's right to section 251
2 (b)(5) compensation in the event the Order is modified. If this term is not included the
3 result will be further protracted and expensive litigation. The experience of the past few
4 years is replete with examples of Verizon refusing to pay amounts due for termination of
5 ISP-bound traffic except when ordered to do so after extensive litigation. Inclusion of the
6 proposed terms may contribute to a more rapid recovery of any compensation due and
7 may decrease the incidence of unnecessary and expensive litigation.]
8
9 **Q: Is it appropriate to implement the ISP Remand Order in an interconnection**
10 **agreement?**
11 A. Yes. First, as I have shown, the Commission made clear in the ISP Remand
12 Order that, while state commissions no longer have authority over rates for ISP-bound
13 traffic, they should continue to play a role in administering the new inter-carrier
14 compensation regime.
15 Second, if implementation language is not incorporated into agreements, it will be
16 difficult for the FCC to implement the Order. If the states are not permitted to play a
17 continuing role in implementing the ISP Remand Order, the Commission will have to
18 assume responsibility to resolve every dispute over implementation that arises anywhere
19 in the country. It does not make sense to require the Commission to assume nationwide
20 responsibility for implementing the new inter-carrier compensation regime when the state
21 commissions are in the best position to implement the new regime on a state-by-state
22 basis.

As the Commission is well aware, the issue of inter-carrier compensation for ISP-bound traffic has generated significant disputes all around the country. The state commissions are in the best position to resolve disputes that arise under the ISP Remand Order on a state-by-state basis. By contrast, requiring the Commission to resolve every dispute nationwide would impose needless additional administrative burdens on the Commission. State commissions are perfectly capable of administering the implementation of the new inter-carrier compensation regime created by the ISP Remand Order.

Finally, because the Commission is acting as the section 252 arbitrator in this case, it has a unique opportunity to clarify that state commissions retain authority to implement the ISP Remand Order when exercising their section 252 authority over interconnection agreements. By doing so early on, the Commission can avoid administrative confusion as the issue arises in subsequent state commission arbitration proceedings, and can avoid incurring the burden of resolving disputes over the implementation

Issue I-6

Is the jurisdiction of a call determined by the NPA-NXXs of the calling and called numbers? (Attachment I, Section 4.2.1.2)

Q. What do the Act and the applicable FCC regulations provide with regards to this issue?

A. Section 251(b)(5) of the 1996 Act requires parties to include in their interconnection agreements "reciprocal compensation arrangements for the transport and

1 termination of telecommunications." 47 U.S.C. § 251(b)(5); see also 47 U.S.C.
2 § 251(d)(2). Under the FCC's regulations interpreting section 251(b)(5), reciprocal
3 compensation is to paid for "local telecommunications traffic." 47 C.F.R. § 51.701(a)
4 (emphasis added). The determination of what is a local call has traditionally been based
5 upon the NPA-NXXs of the calling and called numbers. As discussed below, incumbent
6 local exchange carriers have traditionally offered foreign exchange (FX) service which
7 effectively extends the local calling area of subscribers.
8
9 **Q. Please describe the dispute that gives rise to this issue.**
10 A. This issue involves the question of whether a CLEC has the right to assign
11 NPA/NXX codes to end users located outside the rate center in which the NPA/NXX is
12 homed such that it can compete with ILEC FX offerings. Verizon and CLECs disagree
13 concerning whether a party terminating such FX traffic should receive reciprocal
14 compensation from the originating carrier.
15
16 **Q. What is WorldCom's position on this issue?**
17 A. Verizon is required by the Act and FCC Rules to pay reciprocal compensation for
18 the termination of local calls, including local calls made to NPA/NXXs that the CLEC
19 may have assigned to non-ISP customers who may be physically located outside the rate
20 center to which the NPA/NXX is homed.

1 **Q. Briefly describe the intercarrier compensation regime for local calls.**

2 A. The obligation to pay reciprocal compensation on these calls may be limited to
3 non-ISP customers as defined by the FCC in it's recent order. In *the Matters of*
4 *Implementation of the Local Competition Provisions in the Telecommunications Act of*
5 *1999 and Intercarrier Compensation for ISP-Bound Traffic,* CC Docket Nos. 96-98 and
6 99-68, *Order on Remand and Report and Order*, FCC 01-131, ¶¶ 3-8 (ISP Remand
7 Order). The FCC has established an interim compensation mechanism for such ISP calls.
8 *See id* at ¶ 3-8. The issue of a permanent compensation mechanism for such ISP-bound
9 traffic will be considered as part of the rulemaking the FCC initiated on April 27, 2001
10 regarding development of a unified intercarrier compensation regime. *See* Intercarrier
11 Compensation NPRM. Thus, the amount of traffic affected by this issue may have been
12 narrowed by the FCC's recent ruling regarding ISP-bound traffic.
13
14 **Q. Why is this important or even relevant?**
15 A. This issue is important because (a) CLECs should be permitted to offer
16 competitive FX service by assigning NPA/NXXs to end users who may be physically
17 located outside the rate center in which the NPA/NXX is homed, and (b) CLECs are
18 entitled to receive reciprocal compensation for local calls originated by Verizon and
19 terminated to such (non-ISP) end users.
20
21 **Q. What is Verizon's position?**
22 A. Verizon's position is that when its customer calls a CLECs customer which has a
23 telephone number that is within the local calling area of the Verizon customer, but where

the CLEC customer is physically located outside of the rate center, the call should be treated as though it were an interexchange call. Verizon's position is that the jurisdiction of the call is based on the physical location of the parties, not the NPA-NXX of the called and calling parties.

Q. What is WorldCom's response to this position?

A. I will address this issue along the following lines:

- Foreign Exchange ("FX") Service is a telecommunications service that has been available for years and is simply a response to customer demand for dial tone in an exchange separate from the customer's physical location.

- CLECs can provide FX service by assigning an NPA/NXX in the desired exchange to a customer who is physically located outside the rate center in which the NPA/NXX is homed.

- The CLECs' offering of FX service provides a competitive alternative to Verizon's FX service.

- Treatment of FX traffic as "local" is consistent with industry precedent and practice.

- Failure to treat CLEC-provided FX as local, consistent with the local treatment of Verizon's FX service, will eliminate competition for FX service.

1 **Q. What is FX service?**

2 A. FX service involves providing service to a customer physically located outside the
3 rate center to which his or her NPA/NXX is assigned. For example, if a CLEC customer
4 in the Engleside exchange is assigned an NPA/NXX from the Leesburg rate center, that
5 customer is receiving a foreign exchange service. Customers located in Leesburg may
6 call the CLEC customer's foreign exchange number and that call will be treated as a local
7 call. This example also holds true if Verizon assigns the Leesburg NPA/NXX to the
8 Engleside customer.

9

10 **Q. Why is there a demand for FX service?**

11 A. Generally, users of FX service want to establish a local business presence in an
12 area beyond their physical location. And, because being able to be reached via a local
13 telephone call is an integral part of a business' "presence," this typically corresponds with
14 that FX subscriber's desire to serve its customers that are located beyond the local calling
15 area where the business is located. For example, a floral shop located in the Engleside
16 exchange may desire a local presence in Leesburg. While that floral shop may have the
17 ability to accept and fulfill orders for the delivery of flowers in Leesburg, it may not have
18 the ability to actually open a store in Leesburg. Moreover, customers in Leesburg are
19 more likely to call a florist with a local Leesburg telephone number, not just because it is
20 a local call, but also because there may be an expectation on the part of the caller that a
21 "local" florist would best be able to fulfill the need for a delivery of flowers in Leesburg.

22 Given this demand for FX service, it is not surprising that the market has
23 responded. Both CLECs and ILECs have made FX service offerings available and

actively compete for customers for FX service. Of course ILECs, as the monopoly local providers, were "first" to offer FX service. Verizon, like other ILECs, offers FX service.

Q. How is the jurisdiction of FX traffic determined?

A. Just as with the CLECs' FX offerings, when Verizon provides retail FX service, NPA/NXXs are assigned to end users located outside the local calling area of the rate center with which the NPA/NXX has been associated, and the jurisdiction (i.e., local vs. toll) of traffic delivered from the foreign exchange to the end user is determined as if the end user were physically located in the foreign exchange. Simply, the jurisdiction of the call is determined by comparing the called and calling party's NPA/NXXs, not the physical location of the customers.

Q. How has Verizon proposed to classify CLECs' FX services?

A. Verizon has proposed to classify CLECs' FX services as toll service.

Q. What is WorldCom's response?

A. Adoption of this position effectively would prohibit CLECs from offering FX service in competition with Verizon. Because this proposal is anti-competitive, limits choices available to consumers, and is inconsistent with the notion of parity, the benefits of competition would be eliminated. These negative consequences would take place because adoption of Verizon's position would raise the CLECs cost of providing a competitive service to a level that would effectively eliminate the CLEC's ability to offer a competing FX service.

If Verizon were permitted to characterize WorldCom's FX service as toll traffic and to apply switched access charges, such above-cost pricing ultimately would make the offering of competitive alternatives by CLECs infeasible. This would limit Verizon's end users to Verizon's FX service. The California Commission has recognized the anti-competitive effects of applying access charges to a CLEC's FX service:

> The rating of a call, therefore, should be consistently determined based upon the designated NXX prefix. Abandoning the linkage between NXX prefix and rate center designation could undermine the ability of customers to discern whether a given NXX prefix will result in toll charges or not. Likewise, the service expectations of the called party (i.e., ISPs) would be undermined by imposing toll charges on such calls since customers of the ISPs would be precluded from reaching them through a local call.

Order Instituting Rulemaking on the Commission's Own Motion Into Competition for Local Exchange Service, Rulemaking 95-04-043 at 26 (California PUC, Sept. 2, 1999) ("California Order").

As the California Commission recognized, the retail offering of FX service and its associated rating (as a local call) based on the rate centers associated with the assigned NXXs must be applied to FX offerings from CLECs. Failure to do so distorts the way in which a CLEC can make a competitive FX offering available and, as described above, would in fact eliminate competition for this increasingly important service.

For CLECs to be able to offer a competitive alternative to the Verizon FX service offerings, the traffic associated with FX service must be classified as "local" just as Verizon classifies its own FX traffic as local. Moreover, to the extent that Verizon

1 proposes this classification to avoid so-called "arbitrage" opportunities relating to ISP-
2 band traffic, while we do not agree, that issue is now moot, given the FCC's recent Order
3 regarding ISP-bound traffic.
4
5 **Q. What is standard industry practice on the jurisdiction of FX traffic?**
6 A. Standard industry practice also establishes the fact that FX traffic is local. As
7 indicated above relative to Verizon's treatment of its own FX traffic, whether a call is
8 local or not depends on the NPA/NXX dialed, not the physical location of the customer.
9 Jurisdiction of traffic is properly determined by comparing the rate centers associated
10 with the originating and terminating NPA/NXXs for any given call, not the physical
11 location of the end-users. Comparison of the rate centers associated with the calling and
12 called NPA/NXXs is consistent with how the jurisdiction of traffic and the applicability
13 of toll charges are determined within the industry today.
14
15 **Q. What is WorldCom's position?**
16 A. Reciprocal Compensation should apply to foreign exchange traffic. As discussed
17 above, this traffic is appropriately classified as local. Therefore, reciprocal compensation
18 should be applicable. This is consistent with the purpose of reciprocal compensation, to
19 compensate the terminating carrier for the costs associated with the termination of local
20 traffic that originates on another carrier's network.
21 On this point the Michigan Public Service Commission in its Order on the
22 application of reciprocal compensation to foreign exchange service made this finding:

> The Commission rejects the proposal to reclassify FX calls as non-local for reciprocal compensation purposes. Ameritech Michigan has not explained whether, or how, the means of routing a call placed by one LEC's customer to another LEC's point of interconnection affects the costs that the second LEC necessarily incurs to terminate the call.

In re: Application of Ameritech Michigan to revise its reciprocal compensation rates and rate structure and to exempt foreign exchange service from payment of reciprocal compensation, Case No. U-12696, Opinion and Order at 10 (Jan. 23, 2001). Just as the method for determining the jurisdiction of FX traffic must be applied equally and consistently between ILECs and CLECs, so too must the obligation remain with the originating carrier to compensate the terminating carrier for the termination of FX traffic.

It is also important to note that a CLEC's offering of FX service is consistent with the Commission's rules regarding points of interconnection and an originating carrier's responsibility for transport of its traffic. As discussed above, the FCC has made clear that a CLEC is allowed to select the point of interconnection and may establish one or more such POIs in a single LATA. Additionally, each carrier is responsible for delivering local traffic to the designated POI(s). A CLEC's offering of FX service does not place any additional burdens on the ILEC. The costs to the ILEC for transporting traffic to the POI are the same whether or not the call is an FX call. The CLEC's FX offerings do not require the ILEC to perform any additional functions or meet any additional obligations other than those called for in the FCC's rules with regard to POI and transport requirements.

Q. Does it matter that FX calls are not subject to access charges?

A. Yes. FX calls should also be subject to reciprocal compensation because they are not subject to access charges. As the Commission's recent ISP Order made clear, Section 251(b)(5) literally requires reciprocal compensation for the transport and termination of all telecommunications, not just local traffic. See 47 U.S.C. § 251(b)(5). In the ISP Remand Order, the Commission ruled that 251(g) excluded certain traffic from the reach of (b)(5). FX traffic was not excluded, and so plainly is covered by reciprocal compensation.

ISSUE III-1, III-2

Is Verizon obligated to accommodate indirect interconnection between Telecommunications Carriers by providing transit service? (Attachment IV, Sections 10.1-10.6)

Q. What contract language has WorldCom proposed on this issue?

A. WorldCom has proposed contract language which addresses the provision of transit service and indirect interconnection. Section 10 of Attachment IV provides contract terms governing the provision of transit service. These terms provide that intraLATA transit traffic will be routed over Local Interconnection Trunk Groups; that Verizon will terminate third party traffic destined to its network which has been transited by WorldCom; that Verizon will transit traffic delivered from WorldCom destined to third party carriers; that Verizon will transit traffic delivered from third party carriers destined to WorldCom's network; that when either WorldCom or Verizon uses the

other's network to transit a third party call, it shall pay the tandem transit switching rate; that Verizon will transit SS7 signaling information.

Q. What is "transit traffic"?

A. Transit traffic is traffic originated by one carrier, delivered to a second carrier for forwarding to a third carrier, which is then terminated by the third carrier. As can be seen, the originating and terminating carriers are indirectly interconnected, via the equipment of the second carrier, frequently its tandem switch.

Q. What is WorldCom's position on indirect interconnection?

A. Indirect interconnection is the most efficient form of interconnection available to two carriers that exchange only minimal amounts of traffic with one another. This form of interconnection allows the carriers to avoid the fixed cost of an interconnection facility that may be used only minimally, and to instead pay a tandem switching rate which applies only when traffic actually is exchanged. The use of an indirect interconnection also permits CLECs to avoid the unnecessary expense of negotiating multiple interconnection arrangements with the plethora of other CLEC's, independent telephone companies, and CMRS providers with which it may exchange a small amount of traffic. Finally, and perhaps most importantly, this form of interconnection furthers the public policy of ensuring that all subscribers of one carrier are able to call all subscribers of other carriers.

1 **Q. Why is transit service important?**

2 A. Transit service is an important service because it allows new entrants, through a
3 single point of interconnection with Verizon, to not only exchange traffic with Verizon
4 but also with all other carriers in the area. Without transit service, each LEC would have
5 to directly interconnect with each and every other carrier in the region. This would be a
6 very time consuming, expensive, and unnecessary process.

7

8 **Q. What is Verizon's position on providing transit service?**

9 A. Verizon's position is that it reserves the right to unilaterally cease providing
10 transit service. Verizon also limits the availability of transit service to traffic that does
11 not exceed one DS1 level volume of calls.

12

13 **Q. What is WorldCom's response to Verizon's position?**

14 A. Verizon's proposal is not reasonable. The cost of a physical interconnection
15 between two companies for one DS-1's worth of traffic would be disproportionate for
16 that small level of demand. Having to dedicate a piece of transmission equipment, which
17 in today's network one would rarely install hardware below one DS-3 or 28 DS-1's
18 capacity, would be woefully underutilized at a 3.5% rate (1 out of 28 DS1's). Verizon's
19 proposal would create many small scale, yet high cost per circuit, duplicate functioning
20 networks that would create inefficiencies in CLEC networks.

1 **Q. What does the Act provide on the issue of direct and indirect**

2 **interconnection?**

3 A. Section 251 (a) of the Act imposes upon each telecommunications carrier the

4 duty to "interconnect directly or indirectly with the facilities and equipment of other

5 telecommunications carriers." The concept of indirect interconnection necessarily

6 involves the use of a third carrier's facilities to connect the two interconnecting carriers.

7 If the third carrier, in this case Verizon, can unilaterally refuse to provide transit service,

8 it can frustrate the Congressional mandate that carriers can interconnect 'indirectly'.

9 That is, if Verizon can refuse to provide transit service, it can prevent indirect

10 interconnection from occurring.

11

12 **Q. What has the FCC said about direct and indirect interconnection?**

13 A. The FCC has addressed the issue of indirect interconnection and has said that

14 telecommunications carriers subject to section 251 (a) are permitted to interconnect either

15 directly or indirectly, based upon their most efficient technical and economic choices.[14]

16 The Commission noted for example that two non-incumbent LECs could interconnect

17 with one another indirectly via interconnection with an incumbent LECs network. The

18 Commission also noted that "direct interconnection, however, is not required under

19 section 251 (a) of all telecommunications carriers." [15] The Act does not mandate direct

20 interconnection between non-dominant carriers--and there is no basis for Verizon's

21 attempt to compel such direct interconnection.

22

[14] Local Competition Order, ¶ 997. As previously noted, indirect interconnection via Verizon's tandem switch is an efficient choice for carriers that exchange minimal amounts of traffic.

1 **Q. What is WorldCom's position on direct or indirect interconnection?**

2 A. In sum, WorldCom has the duty to interconnect, with other CLECs for example,
3 either directly or indirectly. Section 251 (a). However, direct interconnection is not
4 required. Therefore, indirect interconnection remains as the efficient method of
5 interconnection between CLECs for example, and as noted above, Verizon can prevent
6 this indirect interconnection from occurring if it refuses to provide transit service. In
7 doing so, it would frustrate the mandate of section 251 (a).

8 There are other reasons as well why the Commission should require Verizon to
9 provide transit service. First, as an ILEC Verizon is obligated to provide interconnection
10 with its network for the transmission and routing of telephone exchange service and
11 exchange access. Section 251(c) (2). The transit service proposed by WorldCom is
12 interconnection with Verizon's network for the transmission and routing of telephone
13 exchange service. Second, the provision of transit service is nothing more than the
14 provision of tandem switching for the routing of traffic between carriers. Tandem
15 switching is an unbundled network element which Verizon must provide. As noted
16 above, the contract language proposed by WorldCom provides that Verizon will receive
17 the tandem switching rate for this function.

18

19 **Q. What does WorldCom request of the Commission on this issue?**

20 A. The Commission should adopt the contract language proposed by WorldCom and
21 specifically reject Verizon's attempt to limit, condition, or eliminate its obligation to
22 provide transit service.

23

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[15] Id.