Unbundled Network Elements

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

In the Matter of Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Expedited Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration	))))))))))	CC Docket No. 00-218
In the Matter of Petition of Cox Virginia Telecom, Inc., etc.	)))	CC Docket No. 00-249
In the Matter of Petition of AT&T Communications of Virginia Inc., etc.	)))	CC Docket No. 00-251

VERIZON VA'S REBUTTAL TESTIMONY ON MEDIATION ISSUES

(CATEGORIES I AND III THROUGH VII)

UNBUNDLED NETWORK ELEMENTS

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SEPTEMBER 5, 2001

UNBUNDLED NETWORK ELEMENTS PANEL

REBUTTAL TESTIMONY ON MEDIATION ISSUES

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1 **UNBUNDLED NETWORK ELEMENTS PANEL**

2 **REBUTTAL TESTIMONY ON MEDIATION ISSUES**

3 **I. INTRODUCTION**

4 **Q. PLEASE STATE YOUR NAMES, YOUR POSITIONS, AND YOUR BUSINESS**
5 **ADDRESSES.**

6 A. (Margaret Detch). My name is Margaret Detch and my business address is 125 High
7 Street, Boston, Massachusetts. I am a Senior Specialist at Verizon Services Group with
8 product management responsibility for Unbundled Dark Fiber.

9 (Susan Fox). My business address is 2980 Fairview Park Drive, Falls Church, Virginia.
10 I am employed as a Product Manager in the Wholesale Marketing Organization in the
11 Verizon Services Corp.

12 (Steve Gabrielli). My name is Steven J. Gabrielli. My business address is 600 Hidden
13 Ridge, Irving TX. I am employed by Verizon Services Group as a Senior Product
14 Manager – Local Services Marketing.

15 (Nancy Gilligan). My name is Nancy Gilligan and my business address is 125 High
16 Street, Boston, Massachusetts. I am Senior Specialist Wholesale Markets in the Verizon
17 Services Group.

1 (Richard Rousey). My name is Richard Rousey and my business address is 600 Hidden
2 Ridge Boulevard, Irving, Texas. I am a Senior Specialist in the Wholesale Services
3 Organization in the Verizon Services Group.

4 (Alice Shocket). My name is Alice Shocket and my business address is 125 High Street,
5 Boston, Massachusetts. I am the Local Number Portability Product Manager in the
6 Verizon Services Group.

7 (Vincent Woodbury). My name is Vincent Woodbury and my business address is 1095
8 Avenue of the Americas, New York, New York. I am employed by Verizon Services
9 Corporation as Director--Regulatory Planning for Operator Services and Retail Markets.

10 (Joe Gansert). My name is Joe Gansert and my business address is 1095 Avenue of the
11 Americas, New York, New York. I am employed by Verizon as Services Group
12 Director--Technical and Cost, Regulatory Support, and my responsibilities include
13 identifying the forward-looking technologies and network architectures for Verizon's
14 cost studies.

15 **Q. ARE YOU THE SAME WITNESSES WHO FILED DIRECT AND REBUTTAL**
16 **TESTIMONY ON UNBUNDLED NETWORK ELEMENTS (UNE) NON-**
17 **MEDIATION ISSUES ON JULY 31, 2001 AND ON AUGUST 17, 2001 AS WELL**
18 **AS DIRECT TESTIMONY ON MEDIATION ISSUES ON AUGUST 17 AND**
19 **AUGUST 31, 2001?**

20 A. Yes.

1 Q. **PLEASE DESCRIBE THE PURPOSE OF THIS TESTIMONY.**

2 A. The purpose of our testimony is to rebut WorldCom's positions with regard to UNE
3 issues that had been on the mediation track, but remain unresolved.

4 The following issues will be discussed in this Rebuttal Testimony:

5 Issue IV-23-- Line Information Database (LIDB)
6 Issue IV-24--Directory Assistance Database
7 Issue IV-25--Calling Name (CNAM) Database
8 Issue IV-80 and 81--Operator Services/Directory Assistance (OS/DA)

9 **II. <u>CALLING DATABASES (ISSUES IV-23, 24 AND 25)</u>**

10 **A. Line Information Database (LIDB) (Issue IV-23)**

11 Q. **HAVE YOU READ THE DIRECT TESTIMONY OF WORLDCOM WITNESSES**
12 **CHUCK GOLDFARB, ALAN BUZACOTT AND ROY LATHROP**
13 **("WORLDCOM WITNESSES GBL") WITH RESPECT TO ISSUE IV-23, THE**
14 **PROVISION OF THE LINE INFORMATION DATABASE (LIDB)?**

15 A. Yes.

16 Q. **HOW DOES WORLDCOM PROPOSE TO ACCESS VERIZON VA'S LIDB?**

17 A. WorldCom believes it is entitled to ignore filed access tariff arrangements that provide
18 for access to Verizon VA's LIDB database for toll calls and instead account for all LIDB

1 access for toll calls as if the access were for local calls charged at the much lower
2 TELRIC rate. *See* WorldCom Witnesses GBL at 17.

3 **Q. WHAT ISSUE REMAINS BETWEEN THE PARTIES?**

4 A. The Parties have no dispute as to WorldCom's use of Verizon VA's LIDB for local
5 traffic. The remaining issue concerns interLATA and intraLATA toll traffic. WorldCom
6 attempts to portray this issue as a "use" restriction. *Id.* It is not. Verizon VA is ***not***
7 denying WorldCom access to its LIDB. Verizon VA is ***not*** restricting WorldCom's use
8 of its LIDB. Verizon VA is only insisting that WorldCom pay the proper rate, and not
9 game the system by reporting exchange access LIDB inquires under the local exchange
10 point code[1], effectively shielding these LIDB inquiries from the higher access tariff rate.

11 **Q. HOW DOES VERIZON VA PROVIDE ACCESS TO ITS LIDB?**

12 A. Verizon VA provides access to its LIDB as a UNE at TELRIC rates for use in completing
13 ***local*** calls. LIDB access traffic, however, is charged at access tariff rates. Verizon VA
14 identifies inquires sent to its LIDB as local or access based on the originating point code
15 provided by the carrier. Verizon VA then bills that carrier appropriately. Interexchange

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[1] "Signaling points are identified by a 24-bit binary code that is called a signaling point code or point code. A point code should be assigned [by Telecordia] to each signaling point that belongs to a United States SS7 network or group of signaling points." Bell Combination Research (now Telecordia), Generic Requirements, 246 CORE Specification of Single Systems No. 7, page 2-1. Telecordia has assigned WorldCom two signaling point codes for use when sending inquires to LIDB. One point code is for use by MCIm (local exchange service) and another is for use by WorldCom's IXC entities. MCIm has the 244XXXXXX network point codes and WorldCom has the 216XXXXXX network point codes.

1 carrier (IXC) point codes were established so that Verizon VA can lawfully bill IXCs for
2 use of its network according to the tariffed rates. Similarly, CLEC traffic is designated
3 point codes so that Verizon VA can lawfully bill according to TELRIC rates.

4 WorldCom, however, in an attempt to escape its lawful obligations and deny Verizon VA
5 its approved tariffed rates, proposes to aggregate all of its IXC affiliates' LIDB inquiries
6 under the point code designated for its CLEC traffic. Utilizing the same point codes for
7 both types of traffic, however, would effectively preclude Verizon VA from billing
8 WorldCom appropriately based on whether the traffic is access or local. Quite simply,
9 WorldCom is attempting to shirk its lawful obligation to pay the tariffed rates for its
10 access traffic.

11 **Q. IS WORLDCOM'S PROPOSAL REASONABLE?**

12 A. No. WorldCom's position is at odds with Congressional intent, the Commission's rulings
13 and, consequently, the intended scope of these proceedings as described by the
14 Commission at the Status Conference. *See* Status Conference Tr. at 13 ("I will tell you
15 this isn't going to be the forum for the commission to reconsider existing law."). As both
16 Congress and the Commission have recognized, the local service market is different from
17 the exchange access market.[2] The Commission has noted the inappropriateness of

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[2] *See, e.g.*, 47 U.S.C. § 153(16)(defining "exchange access"); 153(25)(defining "local access and transport area"); 153(26)(defining "local exchange carrier"); 153(47)(defining "telephone exchange service"); *UNE Remand Order*, at ¶¶ 485-89; *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Supplemental Order Clarification, CC Docket No. 96-98, at ¶ 14 (rel. June 2, 2000)(*Supplemental Clarification Order*)("[T]he exchange access market is legally distinct from the local exchange market").

1 WorldCom's position that WorldCom may use a UNE for an access service, at UNE
2 rates, without consideration of the "impair" standard of § 251(d)(2).

3 In the *Supplemental Order Clarification*, the Commission found that a carrier cannot
4 arbitrarily substitute a UNE for a tariffed access service. The Commission stated:

> 5 [B]efore the Supreme Court issued its decision in *Iowa Utilities Board*, we
> 6 sometimes approached an incumbent's obligation to unbundled network
> 7 elements as though it were an all-or-nothing proposition, suggesting that,
> 8 if a competitor were entitled to obtain access to an element for one
> 9 purpose, it was generally also entitled to obtain access to that element for
> 10 wholly different purposes as well.

11 *Supplemental Order Clarification* at ¶ 12. The Commission admitted that it

> 12 never specifically focused on the relationship between that issue ... and
> 13 the "impair" standard of section 251(d)(2). Now that the Supreme Court
> 14 has rejected our previous interpretation of that provision as insufficiently
> 15 rigorous, it is appropriate for us to revisit the issue.

16 *Id.* The Commission recognized that "[t]he exchange access market occupies a different
17 legal category from the market for telephone exchange services; indeed, at the highest
18 level of generality, Congress itself drew an explicit statutory distinction between those
19 two markets" and that such that a finding "would itself entitled competitors to use that
20 network element solely or primarily in the exchange access market." *Id.* at 14.

21 WorldCom would have the Commission disregard its own findings. WorldCom's use of
22 LIDB for exchange access service at UNE rates is contrary to the Act and the
23 Commission's regulations.

1 **Q. DOES PRECLUDING WORLDCOM FROM DODGING ITS PROPER**
2 **PAYMENT OBLIGATIONS FOR IXC LIDB ACCESS RESTRICT**
3 **WORLDCOM'S USE OF VERIZON VA'S LIDB OR PROVISION OF**
4 **TELECOMMUNICATION SERVICE?**

5 A. Absolutely not. WorldCom Witnesses GBL contend that Verizon VA's position
6 somehow attempts to restrict WorldCom's use of Verizon VA's LIDB. WorldCom
7 Witnesses GBL at 17-18. Quite the opposite is true. LIDB access was established solely
8 to enable carriers to validate the billing number provided by a caller when placing calls.
9 WorldCom has not alleged-- and cannot allege-- that this access has been denied.
10 Verizon VA's requirement that WorldCom not mask and misrepresent the actual nature
11 of the LIDB traffic to avoid being billed appropriately can hardly be construed as
12 implementing a "use restriction" as it is discussed in the *Local Competition Order* and the
13 *UNE Remand Order*.

14 WorldCom's proposal disregards the lawful requirements of filing and obeying access
15 tariffs. The *UNE Remand Order* unambiguously stated with respect to LIDB access:
16 "We believe that access to call-related databases, such as the LIDB ..., encourages
17 efficient network architecture deployment and promotes the ability of new entrants and
18 established competitors to provide service in the ***local exchange market***." *UNE Remand*
19 *Order*, at ¶ 411. Verizon VA's obligation to provide access to its LIDB must be read
20 strictly in the context of the Commission's stated goal for local exchange service and not
21 interpreted so as to fit into WorldCom's disingenuous use of the Commission's *Local*
22 *Competition Order* and the *UNE Remand Order*.

1 **Q. DOES VERIZON VA AGREE WITH WORLDCOM THAT "VIRTUALLY THE**
2 **ONLY APPLICATION OF LIDB IS TO PROVIDE ACCESS SERVICES" AND**
3 **THAT THE COMMISSION DESIGNATED LIDB AS AN UNE WITH THAT**
4 **KNOWLEDGE?**

5 A. No, WorldCom is in error on both counts. WorldCom Witnesses GBL state, "The FCC
6 expressly named LIDB a database subject to unbundling, and it did so knowing full well
7 that ***virtually the only application of LIDB is to provide access service***. Verizon's claim
8 that the FCC unbundled LIDB but silently at the same time ***proscribed virtually all of its***
9 ***known uses*** strains credulity." WorldCom Witnesses GBL at 18 (emphasis added).
10 These claims are inaccurate and entirely unsupported.

11 LIDB frequently applies to local calls, as Verizon VA's own experience confirms.
12 WorldCom's misapprehension suggests that WorldCom, for its own business purposes, is
13 only interested in the application of LIDB for its long distance IXC access calls. For
14 Verizon VA, local calls constitute about 30% of all alternately billed (ABS) intraLATA
15 calls completed by the Verizon customers. LIDB is used to validate the billing number
16 for each of these local ABS calls, including collect, calling card and bill-to-third number
17 calls. In Virginia, Verizon VA has completed over five million local ABS calls using
18 LIDB so far in 2001. Verizon VA has also made LIDB available as a UNE to all CLECs
19 for completion of their local calls.

20 Therefore, WorldCom is also mistaken in its assertion that the Commission designated
21 LIDB as a UNE on the assumption that LIDB is generally used only for access calls.
22 There is no record support for such a misassumption or conclusion. To the contrary, the

1 Commission has made clear that its analysis of the "necessary" and "impair" standards
2 must be applied to the particular market. *See Supplemental Clarification* Order, at ¶ 14.
3 Therefore, the Commission's decision to classify LIDB as a UNE is based on the finding
4 that access to LIDB was necessary for the local exchange market, and it must therefore be
5 provided as a UNE for that purpose. The Commission did not discuss, much less require,
6 that LIDB could be used as a wholesale substitution of access LIDB services.

7 Moreover, if WorldCom were to obtain the right to use UNE LIDB exclusively for all its
8 interLATA and intraLATA toll calls, other IXCs with a CLEC affiliate in at least one
9 Verizon state could follow suit. These IXCs could direct all their LIDB queries for long
10 distance calls originating from everywhere in the country through the CLEC's access
11 point code. This contrived access would in no way be related to the CLEC's provision of
12 local exchange services or facilities. This use by IXCs would nullify the LIDB access
13 tariffs and eliminate all revenues for such access. Such a result is contrary to the express
14 mandate of Congress in § 251(g) of the Act which recognizes that the Act does not
15 change the application of access charges unless "explicitly superseded" by the
16 Commission.[3] The Commission has not "explicitly superseded" application of access

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[3] 47 U.S.C. § 251(g) states:

> Continued Enforcement of Exchange Access and Interconnection Requirements. -- On and after the date of enactment of the Telecommunications Act of 1996, each local exchange carrier, to the extent that it provides wireline services, shall provide exchange access, information access, and exchange services for such access to interexchange carriers and information service providers in accordance with the same equal access and nondiscriminatory interconnection restrictions and obligations (including receipt of compensation) that apply to such carrier on the date immediately

1 charges and, according to the Commission's statements at the Pre-Hearing Status
2 Conference, has no intention of changing the law in this proceeding. Consequently,
3 WorldCom's proposal must be rejected.

4 **B. Directory Assistance Listing Database (DAL) (Issue IV-24)**

5 **Q. HAVE YOU READ THE DIRECT TESTIMONY OF WORLDCOM WITNESS**
6 **EDWARD J. CAPUTO WITH RESPECT TO ISSUE IV-24, THE PROVISION OF**
7 **THE DIRECTORY ASSISTANCE LISTING DATABASE?**

8 A. Yes.

9 **Q. WHAT ISSUE REMAINS BETWEEN THE PARTIES?**

10 A. The issue is whether the parties' existing Directory Assistance Listing ("DAL")
11 Agreement and its accompanying Settlement Agreement should be enforced as Verizon
12 VA supports, or ignored as WorldCom proposes. WorldCom's position on this issue is
13 one of sheer speculation-- since the "DAL Agreement ***may*** expire on November 30,
14 2002", "WorldCom seeks to include in its [proposed] Interconnection Agreement terms
15 that will govern once the DAL Agreement expires...[because] MCIm ***could*** be left

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preceding the date of enactment of the Telecommunications Act of 1996 under any court order, consent decree, or regulation, order, or policy of the Commission, until such restrictions and obligations are explicitly superseded by regulations prescribed by the Commission after such date of enactment. During the period beginning on such date of enactment and until such restrictions and obligations are so superseded, such restrictions and obligations shall be enforceable in the same manner as regulations of the Commission.

without an agreement to get access to the DAL database after November 30, 2002-- and after the opportunity to include this issue in the arbitration has passed." WorldCom Witness Caputo at 4 (emphasis added).

Q. IS WORLDCOM'S SPECULATION THAT IT MAY NOT HAVE AN AGREEMENT FOR DAL WHEN THE CURRENT TERM OF THE AGREEMENT EXPIRES REASONABLE?

A. No, such a contingency is highly improbable. First, WorldCom has had the benefits of the existing DAL agreement for the past three (3) years and Verizon VA has not sought to terminate it even when it had the opportunity to do so. Verizon VA anticipates and prefers to have a DAL agreement with WorldCom for many years to come. Second, Verizon VA maintains substantially similar DAL agreements with many other CLECs and expects to continue to maintain all such agreements in compliance with its obligations to make directory listings available on a nondiscriminatory basis as required by § 251(b)(3) and this Commission. Third, even if Verizon VA were to terminate the DAL agreement in November 2002, which it currently has no intention of doing, it would need to provide WorldCom with written notice at least 180 days before the expiration of the agreement. Pursuant to § 1 of that agreement, if "either party elects not to renew this Agreement, [WorldCom] and [Verizon VA] will in good faith negotiate an agreement to succeed this Agreement, and during such negotiations this Agreement will remain in full force and effect until the earlier of: (i) execution of a succeeding agreement by [WorldCom] and Verizon VA] or (ii) two (2) years after the date on which this Agreement would have expired." If that effort failed, either WorldCom or Verizon VA

could obtain redress, whether by regulatory complaint or otherwise, to assure continued access to directory assistance listings on reasonable terms under § 251(b)(3).

Q. DOES WORLDCOM'S PROPOSAL CONTRAVENE THE OBLIGATIONS TO WHICH BOTH PARTIES HAVE AGREED TO BE LEGALLY BOUND?

A. Yes. WorldCom attempts to use this proceeding to amend the Parties' existing DAL Agreement and effectively bypass and nullify the contractual obligations that it negotiated and explicitly assumed. *See* WorldCom Witness Caputo at 5. WorldCom even recites and acknowledges that those legal obligations preclude it from raising any issue affecting the terms for provision of DAL while the DAL agreement is in effect. *See id.* Therefore, not only is WorldCom's proposal for amendment inappropriate and beyond the scope of this proceeding, it wholly flies in the face of the Parties' existing, unambiguously stated, legal obligations: "MCI agrees... ***not to file any complaints, arbitrations, arbitration appeals, declaratory, or other proceedings against [Verizon VA]*** ... in the future arising under the Telecommunications Act of 1996 ... regarding [Verizon VA's] provision of directory assistance to MCI and others...." (Emphasis added). WorldCom Witness Caputo even concedes this point when he states, "[P]ursuant to a Settlement Agreement between the parties, WorldCom ***cannot file any complaints or arbitrations*** regarding Verizon's provision of directory assistance data to WorldCom so long as Verizon complies with its obligations under the License Agreement" and affirms that WorldCom's "proposed amendment suggests changes to the terms and conditions under which Verizon provides directory assistance data to WorldCom." *Id.* The

1 Commission should not consider WorldCom's proposal as it is a blatant violation of the
2 Settlement Agreement.

3 **Q. DOES WORLDCOM OFFER A COUNTERPROPOSAL ON THE ASSUMPTION**
4 **THE COMMISSION WILL REJECT ITS PROPOSAL TO DISREGARD THE**
5 **EXISTING DAL AGREEMENT?**

6 A. Yes. Anticipating failure of its meritless claim, WorldCom proposes the following
7 language as included in its proposed interconnection agreement: "[Verizon VA] will
8 provide to MCIm, and MCIm will pay [Verizon VA] for, directory assistance data at the
9 rate and under the terms and conditions set forth in the Directory Assistance License
10 Agreement executed by the Parties on November 19, 1998, and as may be subsequently
11 amended by the Parties." *Id.* at 6.

12 **Q. IS THIS COUNTERPROPOSAL ACCEPTABLE TO VERIZON VA?**

13 A. No, the counterproposal merely seeks to accomplish what WorldCom has already
14 conceded it cannot do: change the provisions of the already effective DAL agreement.
15 First, by this request, WorldCom asks the Commission to nullify Verizon VA's right to
16 terminate or modify in the future the current DAL Agreement. Put differently,
17 WorldCom asks this Commission to order Verizon VA to comply with the terms of the
18 DAL Agreement well beyond the potential date of its termination. Verizon VA's right to
19 terminate the DAL Agreement was bargained for by Verizon VA and accepted by
20 WorldCom. That agreement also explicitly addresses WorldCom's rights and obligations
21 with respect to continuing or renegotiating additional or new terms upon its expiration or

1 termination. If Verizon VA eventually terminates or proposes to modify the DAL
2 Agreement pursuant to those terms and WorldCom believes it is not receiving appropriate
3 access to directory listings, it may seek relief at that time.

4 Second, when taken to its logical conclusion, WorldCom's argument seems to be that any
5 agreement between the Parties describing obligations under the Act should never be
6 permitted to expire because "[t]his would place Verizon at an enormous negotiating and
7 competitive advantage." *Id.* at 7. WorldCom would like to establish precedent that
8 inappropriately presumes Verizon VA will disregard its statutory obligation to negotiate
9 in good faith, and WorldCom also would like to establish complete control over the DAL
10 by having the arrangements continue indefinitely until WorldCom desires a change in
11 those arrangements. Inclusion of such a provision for DA Listings is completely uncalled
12 for and would require the Commission to treat DA Listings differently from other
13 services or products provided under an interconnection agreement that expires at a set
14 date.

15 **Q. DO YOU AGREE WITH WORLDCOM'S ASSERTION THAT DAL IS A UNE?**

16 A. No. Although the issue of whether DAL is or is not a UNE is not relevant to whether
17 WorldCom may avoid its legal obligations and insist on amendments to the effective
18 DAL agreement, Verizon VA does not agree that DAL is a UNE. WorldCom Witness
19 Caputo claims "It is clear that the DAL database is a UNE. The FCC determined that the
20 DAL database is a UNE under Section 251(c)(3) in its Local Competition First Report &
21 Order." WorldCom Witness Caputo then cites to ¶ 19 of the *UNE Remand Order* which

1 includes "Operator Services/Directory Assistance databases" as call-related databases to
2 which ILECs must offer unbundled access. WorldCom Witness Caputo then states that
3 "The FCC in that Order did not remove DAL databases from the list of UNEs."
4 WorldCom Witness Caputo at 8.

5 WorldCom, however, fails to cite ¶ 14 of the *UNE Remand Order*, which states:

> 6 The following network elements need not be unbundled: Operator
> 7 Services and Directory Assistance (OS/DA). Incumbent LECs are not
> 8 required to unbundle their OS/DA services pursuant to section
> 9 251(c)(3).... Incumbent LECs, however, remain obligated under the non-
> 10 discrimination requirements of section 251(b)(3) to comply with the
> 11 reasonable request of a carrier that purchases the incumbents' OS/DA
> 12 services to rebrand or unbrand those services, and to provide directory
> 13 assistance listing updates in daily electronic batch files.

14 *UNE Remand Order*, at ¶ 14, Executive Summary. The Commission further stated:

> 15 The record indicates that carriers are entitled to access to incumbent LEC
> 16 database information and updates, such as competitive LECs and
> 17 interexchange carriers like MCI WorldCom, Sprint and AT&T, offer
> 18 directory assistance on a wholesale basis to other competitive LECs.
> 19 Additionally, we note that third-party OS/DA providers are often able to
> 20 purchase incumbent LEC OS/DA database information and updates. We
> 21 are therefore not persuaded that lack of unbundled access to incumbent
> 22 LEC databases used in the provision of OS/DA necessarily results in
> 23 quality differences that would materially diminish a requesting carrier's
> 24 ability to offer service.

25 *UNE Remand Order*, at ¶ 457. Furthermore, the Commission subsequently clarified ¶ 19
26 which WorldCom cites and confirmed that the obligation to provide nondiscriminatory
27 access to DAL arises not under 251(c)(3) as WorldCom claims, but under § 251(b)(3),
28 which applies to all LECs, Verizon VA and WorldCom alike. The Commission has since

1 held that § 251(b)(3) is the source of the ILECs' obligation to provide DAL[4] and then
2 declined to adopt any specific pricing requirements.[5]

3 Verizon VA complies with its obligation to provide Directory Assistance Listing in
4 accordance with the requirements of § 251(b)(3). For all these reasons, WorldCom's
5 position has absolutely no merit. The Commission should require WorldCom to adhere
6 to the terms of the Settlement Agreement and the existing DAL Agreement and exclude
7 any consideration of access to directory assistance in this arbitration.

8 **C. Calling Name Database (CNAM) (Issue IV-25)**

9 **Q. HAVE YOU READ THE DIRECT TESTIMONY OF WORLDCOM WITNESS**
10 **MICHAEL J. LEHMKUHL WITH RESPECT TO ISSUE IV-25, THE**

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[4] *See Provision of Directory Listing Information under the Telecommunications Act of 1934, As Amended*, CC Docket No. 99-273, First Report and Order, FCC 01-27, at ¶ 9 (rel. January 23, 2001)("Accordingly, in the *UNE Remand Order*, we acknowledged that issues remained concerning the quality and accessibility of alternative directory assistance sources (such as compiled directory assistance databases), and reiterated that requesting carriers had to have the ability, under Section 251(b)(3), to obtain nondiscriminatory access to any other LEC's directory assistance databases.").

[5] *Id.* at ¶ 33 ("Finally, we invited comment on whether a reasonable rate should be determined by the method that we adopted for directory publishing. As we discuss in paragraph 9 above, during the comment period for this proceedings, we concluded in the *UNE Remand Order*, that UNE pricing was no longer required for directory assistance and therefore removed the service from the list of UNEs."); ¶ 35 ("Section 251(b)(3) of the Act and the Commission's rules prohibit LECs from charging discriminatory rates, for access to DA databases, to competing directory assistance providers that fall within the protection of that section (i.e., those that provide telephone exchange service or telephone toll service). Thus, LECs must offer access to their DA database at rates that do not discriminate among the entities to which it provides access. Further, failure to provide directory assistance at nondiscriminatory and reasonable rates to DA providers within the protection of section 251(b)(3) may also constitute an unjust charge under section 201(b).").

1 **PROVISION OF ACCESS TO VERIZON VA'S CALLING NAME ("CNAM")**
2 **DATABASE?**

3 A. Yes.

4 **Q. WHAT IS THE ISSUE THAT REMAINS BETWEEN THE PARTIES?**

5 A. The issue is whether Verizon VA must provide WorldCom with its entire CNAM
6 database in a bulk, downloadable format, or whether Verizon VA may provide access on
7 a "per-query" basis as it does for itself and all CLECs as well as independent telephone
8 companies and LECs operating outside of Verizon VA's service areas.

9 **Q. DOES WORLDCOM WITNESS LEHMKUHL PROVIDE ANY VALID**
10 **SUPPORT FOR WORLDCOM'S POSITION?**

11 A. No, WorldCom cites a few state commission decisions, but omits mention of other state
12 commission decisions that have rejected WorldCom's claim and ruled that a CNAM data
13 dump is not required. Beyond these state decisions, the only alleged specific legal
14 support for WorldCom's contention that Verizon VA should be required to provide
15 WorldCom with its entire CNAM database comes from a DA order having nothing to do
16 with the CNAM database. The Commission's *Directory Listing Order* prohibited ILECs
17 from restricting access to the DA database by restricting access to per-query access only.[6]

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[6] *In the Matters of Implementation of the Telecommunications Act of 1996, Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Provision of Directory Listing Information*, Third Report and Order in CC Docket No. 96-115, Second Order on Reconsideration in CC

1 *See* WorldCom Witness Lehmkuhl at 5. This Order, however, does not address CNAM
2 in any respect and certainly does not override or alter the Commission's explicit ruling in
3 the *UNE Remand Order* that access to CNAM is to be provided via signaling query.
4 Moreover, directory listings materially differ in purpose and use from CNAM.

5 **Q. IS VERIZON VA MEETING ITS LEGAL OBLIGATION BY PROVIDING**
6 **WORLDCOM WITH ACCESS TO ITS CNAM DATABASE ON A PER-QUERY**
7 **BASIS RATHER THAN DOWNLOADING ITS ENTIRE CNAM DATABASE TO**
8 **WORLDCOM?**

9 A. Yes. Applicable law requires only that Verizon VA provide WorldCom with access to its
10 CNAM database on a per-query basis. Although access to databases has been classified
11 as a UNE under § 251(c)(3) of the Act, obtaining the databases themselves has not.
12 Downloading databases has always been treated by the Commission not as a UNE but
13 under the "non-discriminatory access" provisions of § 251(b)(3). WorldCom already
14 receives non-discriminatory access to this information: it receives per query access in the
15 same way Verizon VA uses that database, and in the same way that the information is
16 available to other CLECs. Specifically, Rule 51.319(e)(2)(A) states:

17 For purposes of switch query and database response through a
18 signaling network, an incumbent LEC shall provide access to its
19 call-related databases, including but not limited to, the Calling
20 Name Database, 911 Database, E911 Database, Line Information
21 Database, Toll Free Calling Database, Advanced Intelligent

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Docket No. 96-98, and Notice of Proposed Rulemaking in CC Docket No. 99-273, ¶ 153 (rel. September 9, 1999)(*Directory Listing Order*).

> Network Databases, and downstream number portability databases ***by means of physical access at the signaling transfer point linked to the unbundled databases.***

(Emphasis added). The Commission defined this particular UNE narrowly to include access to databases at the STP and this Rule makes it clear that the CLEC must be allowed to access the ILEC's call-related databases on a "query" basis instead of requiring the ILEC to provide a complete download of the information contained in the database. Although § 251(c)(3) of the Act states that Verizon VA may not restrict WorldCom's use of a UNE to provide telecommunications service, the Commission has defined this particular UNE to be limited to access at the STP, which would not include downloading of the entire database. The Commission has expressed concern with privacy issues related to access [of] these call-related databases. In Subsection (E) of its rules, the Commission states: "An incumbent LEC shall provide a requesting telecommunications carrier with access to call-related databases in a manner that complies with section 222 of the Act." Section 222 related to the privacy of customer information. As recognized by the California Commission, the "language the [Commission] placed in Subsection (E) above shows the [Commission's] intent that access to information be granted in a way that protects customers' privacy. In order to protect customers' privacy, a carrier should not be permitted to save any information obtained from routine database queries." *Application by Pacific Bell Telephone Company (U 1001 C) for Arbitration of an Interconnection Agreement with MCImetro Access Transmission Services, L.L.C. (U 5253 C) Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Final Arbitrator's Report, Application 01-01-010, at 62 (filed January 8, 2001). Verizon VA currently meets its obligations pursuant to ¶ 402 of

1 the *UNE Remand Order* by offering competitors nondiscriminatory unbundled access to
2 its CNAM database.

3 **Q. IF VERIZON VA IS MEETING ITS LEGAL OBLIGATIONS, WHAT IS THE**
4 **DISPUTE?**

5 A. WorldCom contends that in order for it to function on an equivalent basis with Verizon
6 VA, WorldCom must have a download of Verizon VA's CNAM database to provide
7 Caller ID services. However, nothing in the Act, nor any Commission Order, can
8 reasonably be read to obligate Verizon VA to provide an electronic download of any call-
9 related database, including CNAM. Moreover, WorldCom Witness Lehmkuhl offers no
10 evidence or testimony to support his claim that per query access to the CNAM database is
11 insufficient to allow WorldCom to achieve service at parity to Verizon VA.

12 WorldCom relies on the Commission's decision mandating the physical transfer of
13 Directory Assistance databases and suggests that the same principle should apply to the
14 CNAM database. WorldCom argues that since the Commission prohibits ILECs from
15 restricting access to per-query access for DAL, the same obligation should exist for
16 CNAM as "the CNAM database is also a call-related database." *See* WorldCom Witness
17 Lehmkuhl at 5-6. This argument is without merit because WorldCom's "analogy"
18 between the obligations of Verizon VA to provide access to DAL and its obligations to
19 provide access to CNAM is specious. WorldCom Witness Lehmkuhl apparently believes
20 that it is reasonable to infer that because the Commission mandates physical sharing of
21 directory assistance databases, the Commission should extend the same reasoning to the

1 CNAM database. The Commission's Orders, however, clearly delineate between an
2 incumbent's obligations for sharing Directory Assistance databases, which must be
3 physically transferred on request, and CNAM databases, for which access must be
4 provided only on an unbundled basis.[7]

5 It would be disingenuous to have this Commission presume that the body of evidence
6 developed in conjunction with DAL regulations is applicable to CNAM. The
7 Commission, after extensive consideration of the uses of DAL by competing providers
8 with their own operator bureaus, determined that DAL should be made available via data
9 transfer. A CLEC operator may need to check multiple or alternative spellings or offer
10 alternative listings and the providing DA provider may wish to create its own search
11 logic, sorting or classifications of listings to enable efficient searches.[8] No such findings
12 have been made with respect to CNAM. For example, in the DAL proceeding,
13 WorldCom stated, "[b]ecause the ILECs have demonstrated the technical feasibility of
14 providing access to DA [directory assistance] and OS [operator services] databases, these

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[7] *Cf. In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, *Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, CC Docket No. 95-185, First Report and Order, at ¶¶ 484-492 (rel. August 8, 1996)(CNAM); *Directory Listing Order* at ¶¶ 152-153 (Directory Assistance); *UNE Remand Order* at ¶¶ 400-416 (CNAM), ¶¶ 438-464 (Directory Assistance).

[8] *See Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers, Area Code Relief Plan for Dallas and Houston Ordered by the Public Utilities Commission of Texas, and Administration of the North American Numbering Plan*, Second Report and Order, and Memorandum Opinion and Order, CC Docket No. 96-98, 11 FCC Rcd 19392, at ¶¶ 141-43 (1996).

1 databases should be available to all new entrants."[9] No such technical feasibility has
2 been established for Verizon VA's CNAM technology.

3 Furthermore, the CNAM database and the DA database are used for two different
4 services. The DA database is used to provide an inquiring caller with directory listing
5 information. A DA operator works interactively with a caller, searching the DA listing
6 until the requested listings are found. The Commission ruled that access to DAL does not
7 require any transfer of nonpublished and nonlisted numbers. Because of the potential
8 uncertainty of the caller's request for DA listings, it is more helpful for the CLEC
9 operator to have the entire database with which to search. On the other hand, the CNAM
10 database effects the Caller ID service. CNAM is used to automatically retrieve the one
11 name associated with a specific number, without any human intervention, on a call-by-
12 call basis, including many numbers not included in DAL. With CNAM, there are no
13 operator searches. Accordingly, this practical difference between these databases is
14 consistent with the Commission's requirement, and holdings of several state
15 commissions, that the DA database be physically transferred and the CNAM database be
16 queried. *See, e.g.*, *Re Metro Access Transmission Services LLC*, Docket No. 000649-TP,
17 PSC-01-0824-FOF-TP, PUR Slip Copy, 2001 WL 460666 (Fla. P.S.C. March 30,
18 2001)("[WorldCom] offered no evidence or testimony to support [its] claim that mere
19 access to the CNAM database is insufficient to allow WorldCom to achieve the same
20 service efficiencies as BellSouth" and "WorldCom has not demonstrated that it would be
21 impaired if it did not have physical custody of BellSouth's CNAM database").

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[9] *Directory Listing Order*, at ¶ 151.

1 One other major difference between the two databases is that CNAM includes the whole
2 universe of operating numbers, without distinction as to whether they are published or
3 not. Thus, a CNAM data dump would enable WorldCom to secure customer specific
4 information that it is not lawfully allowed to obtain as part of its access to DAL. In
5 addition, the DA database contains information that the subscribers know will be made
6 public, such as the names, addresses and phone numbers of the end-users. Verizon VA's
7 CNAM, however, contains billing information and shows the subscriber's carrier,
8 including this information for unlisted numbers. If WorldCom were to have access to
9 such information, it could easily target a competitor's top customers by determining
10 which customers have several lines. This information is competitive information to
11 which WorldCom has no right. Due to Verizon VA's commitments to CLECs and ITCs
12 that choose to store information in Verizon VA's CNAM database, Verizon VA cannot
13 use that information to its competitive advantage. No such safeguards exist precluding
14 WorldCom's misuse of that information. If WorldCom is concerned about Verizon VA
15 misusing its information, it can choose to store its data in another company's CNAM
16 database or not at all.

17 **Q. DOES WORLDCOM EXCEED ITS RIGHTS UNDER THE ACT AND THE**
18 **COMMISSION'S ORDERS BY DEMANDING ACTUAL PHYSICAL**
19 **POSSESSION OF VERIZON VA'S CNAM DATABASE?**

20 A. Yes. WorldCom continues to exaggerate Verizon VA's lawful obligations. WorldCom
21 contends that Verizon VA should be required to provide "batch access" because "the
22 database resides in Verizon's own facilities and ... it enjoys a level of ***control and access***

1 that MCIm does not." WorldCom Witness Lehmkuhl, at 4 (emphasis added). This
2 contention is absurd. The law requires that Verizon VA provide to WorldCom ***access*** to
3 its existing UNE facilities-- it does not require that Verizon VA provide WorldCom with
4 ***control*** or actual physical possession of its facilities. It is important to be precise that
5 WorldCom is entitled to access the information in the CNAM database and that Verizon
6 VA must provide that access in a nondiscriminatory manner. This information is
7 currently available to CLECs in the same manner as it is available to Verizon VA and
8 that is the extent of Verizon VA's obligation. In fact, the Commission has specifically
9 considered the merits of query based access to call-related databases and recognized that
10 "[q]uery and response access to a call-related database is intended to require the
11 incumbent LEC only to provide access to its call-related database as is necessary to
12 permit a competing provider's switch ... to access the call-related database functions
13 supported by that database. The incumbent LEC may mediate or restrict access to that
14 necessary for the competing provider to provide such services as are supported by the
15 database." *Local Competition Order*, at ¶ 484 n. 1127.

16 **Q. WOULD A CNAM DATA TRANSFER RAISE ANY OTHER CONCERNS?**

17 A. Yes, a CNAM data transfer would raise a whole host of significant issues, including
18 technical development, customer privacy and commitments made to other CLECs which
19 would have to first be resolved. As we have recounted, while CNAM does not include
20 subscriber addresses, it includes significant information not available in DAL, including
21 unlisted or unpublished account information and the identity of each line number's
22 providing LEC (account owner). Also, Verizon VA has committed to other LECs that

1 choose to store their data in CNAM that their data will not be transferred in bulk to others
2 and only via per query to provide caller identification services.

3 Moreover, no mechanism for extraction is in place since Verizon VA does not use the
4 database other than by per query. To fulfill WorldCom's request for an electronic
5 download of the CNAM database, Verizon VA would be required to develop new
6 computer programs, address the issue of how to update continuously the downloaded
7 database, and perform whatever other work is necessary to make the data available to
8 WorldCom. Notably, WorldCom has not even alleged in this proceeding that providing a
9 complete dump of its CNAM database would even be technically feasible for Verizon
10 VA. Moreover, even if WorldCom were willing to compensate Verizon VA for such
11 work, which WorldCom has no offered to do in either its proposed language or its
12 testimony, there is no lawful basis to compel Verizon VA to devote otherwise limited
13 resources to provide WorldCom with something that is neither required, nor necessary.

14 These are just a few concerns, but demonstrate the extensive undertaking that would be
15 entailed if WorldCom's proposal was accepted by the Commission. Verizon VA's
16 experience since the passage of the Act has shown that per query database access to
17 CNAM has been well accepted in the industry and WorldCom's request is unique and not
18 well founded in fact or applicable law.

19 **Q. IS THERE EXISTING CASE LAW ON THIS ISSUE?**

20 A. Yes. WorldCom cites two decisions in support of its contention that the Commission
21 should require Verizon VA to provide WorldCom with physical possession of its CNAM

1 database. *See* WorldCom Witness Lehmkuhl, at 9 (citing *In the Matter of the Application*
2 *of Ameritech Michigan for Approval of Cost Studies and Resolution of Disputed Issues*
3 *Related to Certain UNE Offerings*, Case No. U-12540, at 21 (March 2001)("Michigan
4 Decision") and *Petition of MCImetro Access Transmission Services, LLC and MCI*
5 *WorldCom Communications, Inc. for Arbitration of Certain Terms and Conditions of*
6 *Proposed Agreement with BellSouth Telecommunications, Inc. Concerning*
7 *Interconnection and Resale Under the Telecommunications Act of 1996*, Order, Docket
8 No. 11901-U (February 6, 2001)("Georgia Decision")). The Michigan decision is devoid
9 of analysis because the issue was never contested or briefed by Ameritech Michigan.
10 The Georgia Decision is premised on specific findings of fact that WorldCom was
11 actually experiencing a delay by using BellSouth's "dip-by-dip" process of accessing
12 BellSouth's CNAM database, a fact that has not been demonstrated here.

13 Several state commissions, however, support the per query access position Verizon VA
14 advocates, a fact that WorldCom does not discuss. *See, e.g., Re MCImetro Access*
15 *Transmission Services, LLC*, Docket No. P-474, Sub 10, Slip Copy, 2001 WL 468490
16 (N.C.U.C. April 3, 2001); *Re MCImetro Access Transmission Services LLC*, Docket No.
17 000649-TP, PSC-01-0824-FOF-TP, PUR Slip Copy, 2001 WL 460666 (Fla.P.S.C. March
18 30, 2001); *Re Southwestern Bell Telephone Company*, Case No. TO-99-227, 208 P.U.R.
19 4th 1, 2001 WL 490508 (Mo.P.S.C. March 15, 2001); *Application by Pacific Bell*
20 *Telephone Company (U 1001 C) for Arbitration of an Interconnection Agreement with*
21 *MCImetro Access Transmission Services, L.L.C. (U 5253 C) Pursuant to Section 252(b)*
22 *of the Telecommunications Act of 1996*, Final Arbitrator's Report, Application 01-01-
23 010, at 63 (filed January 8, 2001).

1 The two decisions that WorldCom cites should be disregarded. First, as noted, the
2 Georgia Commission only required BellSouth to turn over the entire CNAM database
3 because it found that WorldCom suffered a delay in accessing BellSouth's CNAM
4 database on a per "dip" basis. In this arbitration, however, WorldCom describes possible
5 delays to the CNAM database, but offers no factual evidence that it has ever experienced
6 delays using Verizon VA's query access. Further, WorldCom complains that it lacks the
7 control it needs to ensure increased quality of service to its customers. WorldCom
8 Witness Lehmkuhl, at 7-8. Yet, it offers no evidence that having the electronic download
9 it seeks would improve service, nor that any of its customers have experienced any
10 problems. In fact, Verizon VA knows of no such complaints by WorldCom customers.
11 WorldCom has not presented any study or analysis that would quantify its alleged
12 "delay" to its customers if Verizon VA does not provide an electronic download of the
13 CNAM database, nor has WorldCom presented any evidence to suggest that the delay, if
14 any, associated with per query dips into Verizon VA's CNAM database is discernable to
15 customers. In short, WorldCom has not shown that per query access inhibits its ability to
16 provide the services supported by Verizon VA's CNAM database. *See Local*
17 *Competition Order*, at ¶ 484 n. 1127.

18 **Q. DOES WORLDCOM WITNESS LEHMKUHL'S TESTIMONY IDENTIFY ANY**
19 **COMPETITIVE DISPARITY THAT WOULD ACTUALLY RESULT FROM**
20 **WORLDCOM ONLY HAVING QUERY ACCESS TO THE CNAM DATABASE?**

21 A. No. WorldCom speculates as to how Verizon VA's "restrictions" might inhibit
22 WorldCom's ability to "develop the capability to offer CNAM database services to other

1 carriers via other process methods that could be more efficient and less costly," or that
2 Verizon VA's offering of batch access to its CNAM database would increase innovative
3 and competitive offerings because it would provide incentive for Verizon VA "to upgrade
4 its CNAM service or the technology that drives it." WorldCom Witness Lehmkuhl, at 9.
5 WorldCom offers absolutely no support for these contentions.

6 WorldCom also contends that Verizon VA "garners critical proprietary and competitive
7 information through the dip process." *Id.* at 9. In the first place, WorldCom thus
8 concedes that the content of CNAM includes proprietary information and, for that reason
9 alone, batch transfer should not be required. In the second place, however, WorldCom
10 has provided no evidence that Verizon VA has garnered any proprietary or competitive
11 advantage through its own per dip queries or otherwise. Verizon VA also commits to
12 other carriers electing to store their CNAM data that use of their data will be restricted
13 and protected. Batch transfer to WorldCom would nullify those commitments.
14 WorldCom also claims that bulk access "provides an incentive to Verizon to avoid setting
15 their database query price too high". *Id.* WorldCom, however, has never complained
16 that Verizon VA's query price actually is too high.

17 WorldCom should not be permitted to impose upon Verizon VA additional unbundling
18 obligations based upon such speculative and unsupported theories. Accordingly, as other
19 state commissions have ruled against WorldCom on this same issue based on its
20 unsupported claims of delay, the Commission could not make any factual finding in this
21 proceeding supporting WorldCom's argument. *See, e.g., Re MCImetro Access*
22 *Transmission Services, LLC*, Docket No. P-474, Sub 10, Slip Copy, 2001 WL 468490

(N.C.U.C. April 3, 2001)("The [North Carolina Utilities Commission] agrees with BellSouth and the Public Staff that neither [the Act], nor the FCC Rules require BellSouth to provide an electronic download or a magnetic tape of the CNAM database to MCIm. Therefore, the [NCUC] concludes that BellSouth is not required to provide the CNAM database via electronic download, magnetic tape, or via similar convenient media as requested by MCIm."); *Re MCImetro Access Transmission Services LLC*, Docket No. 000649-TP, PSC-01-0824-FOF-TP, PUR Slip Copy, 2001 WL 460666 (Fla.P.S.C. March 30, 2001) ("However, when asked if any analysis had been performed to quantify any delay resulting from the scenario he described, [WorldCom's witness] responded, 'No, and I don't believe it is necessary.'"); *Re Southwestern Bell Telephone Company*, Case No. TO-99-227, 208 P.U.R. 4th 1, 2001 WL 490508 (Mo.P.S.C. March 15, 2001)(finding that "no CLEC presented evidence questioning [Southwestern Bell's] ability to satisfy this checklist item [Nondiscriminatory access to Databases and Associated Signaling Necessary for Call Routing and Completion]."); *Application by Pacific Bell Telephone Company (U 1001 C) for Arbitration of an Interconnection Agreement with MCImetro Access Transmission Services, L.L.C. (U 5253 C) Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Final Arbitrator's Report, Application 01-01-010, at 63 (filed January 8, 2001)("MCIm's request for bulk access to the databases as a UNE ... is rejected.").