

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

In the Matter of)	
)	
Citizens Utility Board)	NSD File No. L-01-161
Petition for Expedited Permanent)	CC Docket No. 96-98
Waiver of 47 C.F.R. Section 52.19(c)(3)(ii))	

WORLDCOM REPLY COMMENTS

As shown in the initial comments of every commenting party, the petition of the Illinois Citizens Utility Board (CUB) for a permanent waiver of mandatory 10-digit dialing throughout the geographic area served by an overlay area code, is without merit and must be denied. CUB has not even attempted to describe any circumstances peculiar to the geographic area covered by the 847 and 224 NPAs that would justify a waiver. Instead, CUB has made a broad and untimely attack on the 10-digit dialing rule itself. Elementary principles of administrative law, as well as long-standing precedent, do not permit the requested relief.

In these reply comments, WorldCom, Inc. (WorldCom) generally supports the initial comments of AT&T Wireless, the Cellular Telecommunications & Internet Association, Sprint PCS, and Verizon Wireless, all of which oppose CUB's petition. It appears that no party filed in support of CUB.

Under section 1.3 of the Commission's rules, the Commission may waive any provision of its rules upon a showing of "good cause."¹ A petitioner must show (1) that special circumstances warrant deviation from the general rule, and (2) that the deviation

¹ 47 C.F.R. § 1.3.

will serve the public interest.² Here, CUB has basically skipped over the first prong of this showing and has essentially asserted that 10-digit dialing is not in the public interest. CUB's argument does not depend on anything peculiar to 10-digit dialing in the 847 and 224 NPAs. CUB compounds this omission with significant misstatements of applicable law.

CUB's misguided argument begins with the assertion that the Commission may not "pre-empt" state jurisdiction over local dialing.³ In fact, as the 2nd Circuit of Appeals recognized, Congress has already done so.⁴ Section 251(e)(1) of the Telecommunications Act of 1996 gives the Commission *exclusive* jurisdiction over those portions of the North American Numbering Plan that pertain to the United States.⁵ As with New York, the only reason Illinois has any jurisdiction at all to implement area code relief is because this Commission delegated that authority to it. The requirement of 10-digit dialing upon implementation of an overlay is unquestionably a valid condition on the implementation of such relief. CUB is simply wrong as a matter of law.

CUB next asserts that 10-digit dialing is unnecessary to prevent a "dialing disparity."⁶ Yet it is unavoidably the case that customers who receive numbers from the overlay codes would have to dial 10 digits far more often than customers in the underlying codes. More importantly, the Commission has repeatedly found that 10-digit dialing is necessary to mitigate the anti-competitive effects of overlays. Less than a month ago the Commission reiterated its belief that "[m]andatory ten-digit dialing [] minimizes anti-competitive effects due to dialing disparities, which, in turn, avoids

² *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969).

³ CUB Petition at 8.

⁴ *NY v. FCC*, 267 F.3d 91, 107 (2001).

⁵ 47 U.S.C. § 251(e)(1).

