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November 9, 2001

EX PARTE

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: In the Matter of Sprint PCS and AT&T Petitions for Declaratory Ruling on CMRS Access Charge Issues, WT Docket No. 01-316; In the Matter of Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92

Dear Mr. Caton:

Today, Lisa Youngers and I of WorldCom met with Jane Jackson, Tamara Preiss, and Steve Morris of the Common Carrier Bureau, and Gregory Vadas, Elias Johnson, Joseph Levin, and Stacy Jordan of the Wireless Telecommunications Bureau. We discussed whether Commission policy either does or should authorize wireless carriers to impose access charges on interexchange carriers. The imposition of access charges in these circumstances would be a mischievous change in policy from the long-standing use of bill-and-keep for CMRS-IXC interconnection. Such a change would be utterly inconsistent with the policy direction discussed in the intercarrier compensation Notice of Proposed Rulemaking and, in any case, could only be accomplished prospectively as part of a general rulemaking. The attached material summarizes the substance of the discussion.

Sincerely,

_____/s/_____

Henry G. Hultquist
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1. Allowing CMRS providers to impose access charges on IXCs would be bad public policy.

- OPP working papers (DeGraba, Barnekov) detail "significant problems that plague" existing access charge regimes.
- CMRS-IXC interconnection has avoided these problems by exchanging traffic on a bill-and-keep basis.
- Because "competition operates more effectively when carriers recover their costs from their own end users, who can choose among competing carriers, rather than from interconnecting networks for whom the terminating carrier is a *de facto* monopolist," CMRS customers and IXC customers have realized significant benefits from this arrangement.
- According to CTIA "bill-and-keep is the most efficient economic basis for the exchange of traffic between CMRS carriers and IXCs."
- This deregulatory approach has also allowed the Commission to escape the need to regulate CMRS access charges and adjudicate complaints between CMRS providers and IXCs over access and interconnection arrangements.
- Replacement of this stable bill-and-keep regime with access charges would harm competition in CMRS and interexchange services markets. The CMRS market would suffer from diminished incentives to compete directly for end users. IXC customers would see rate increases.
- CMRS access charges would require the establishment of a regulatory regime to deal with the "terminating access monopoly."
- As of now, there is no record basis for the Commission to choose among possible regimes, nor any basis for determining the appropriate level of charges.
- Any period of regulatory uncertainty would carry significant risks for capital markets and competition.

2. CMRS access charges would be a step backwards from the direction discussed in the intercarrier compensation NPRM.

- The NPRM recognizes that a uniform bill-and-keep regime could provide significant public interest benefits.
- This is an open, pending proceeding where Commissioners want to move <u>away</u> from access charges.
- The Commission has indicated that it may approach bill-and-keep in an incremental fashion. This could potentially mean a staggered implementation (ISP-bound traffic, traffic subject to 251(b)(5), LEC-CMRS traffic exchanges, interstate access traffic).
- While WorldCom does not support this approach and has urged the Commission to implement uniform and simultaneous reform, it is incoherent for the Commission to take a step toward bill-and-keep for some traffic, and at the same time disrupt the existing bill-and-keep arrangement for CMRS-IXC interconnection.

3. If the Commission is inclined to authorize CMRS access charges, it should do so only prospectively and only in the context of a rulemaking.

- Sprint PCS does not deserve a windfall.
- IXCs have no way to recover these significant amounts for past time periods from customers.
- There is no aspect of the access regime that has ever applied to CMRS-IXC interconnection.
- The fact that in 1995 the Commission tentatively concluded that, with the establishment of "certain protections," CMRS providers should be allowed to recover access charges from indirectly interconnected IXCs, shows that the Commission did not believe then that existing rules authorized such charges, and recognized that new rules were needed.
- Since new rules were never adopted, nothing has changed.
- If adopted now, such rules could only apply prospectively.