

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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OFFICE OF THE SECRETARY

April 2, 2002

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William F. Caton
Acting Secretary
Office of the Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

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Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
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| In the Matter of |) | |
| |) | |
| Provision of Directory Listing Information |) | |
| Under the Communications Act of 1934, |) | CC Docket No. 99-273 |
| As Amended |) | |
| |) | |
| The Use of N11 Codes and Other |) | CC Docket No. 92-105 |
| Abbreviated Dialing Arrangements |) | |
| |) | |
| Administration of the North American |) | CC Docket No. 92-237 |
| Numbering Plan |) | |

WORLDCOM, INC. COMMENTS

WorldCom, Inc. (WorldCom) respectfully submits these comments in response to the Commission's Notice of Proposed Rulemaking (*Notice*) in the above referenced dockets, released on January 9, 2002.¹

In the *Notice*, the Commission invited parties to comment on the proposed methods of promoting full competition and consumer choice in the retail directory assistance (DA) market. In particular, the Commission seeks comment on Telegate Inc.'s (Telegate's) proposal to enhance competition in the DA market by requiring local exchange carriers (LECs) to implement pre-subscription to 411. Additionally the Commission seeks comment on the alternative dialing methods proposed, such as 411XX, to achieve the intended goal of leveling playing field for all DA providers seeking to offer retail DA services.

WorldCom supports Telegate's proposal for 411 pre-subscription, or in the alternative 411XX (with the elimination of 411). The wireline DA market has the potential to be a vibrant one. Unfortunately, it has been dominated by the incumbent LECs (ILECs) as a result of their long-standing monopoly in the local exchange market and consequential control of the 411 dialing code. The lack of effective competition has left consumers with an essentially stale product. Pre-subscription (or 411XX) will enhance competition and innovation in the DA market, by providing competitors with the ability to offer their customers an equivalent - and in case of pre-subscription, the customary - means of accessing their service. Consequently, presubscription (or 411XX) will bring consumers not only a choice of providers, but also choices in new and exciting DA service products.

I. It is Technically Feasible for a LEC to Provide Customized Routing of 411 Calls to Alternative Directory Assistance Service Providers Using Existing Technologies.

Presubscription 411 or 411XX essentially requires customized routing.² LECs currently route 411 calls across dedicated access trunks either from the end office, or through a tandem switch, to the LEC's DA service switching platform. The switch utilizes either in-switch call screening logic, or AIN capabilities, to provide call routing instructions to the switch.³ It is technically feasible for a LEC to provide customized routing of 411 calls to alternative DA services providers using existing technologies, including advanced intelligent network (AIN) or line class codes and switch routing tables.⁴ WorldCom agrees with Telegate's position as

¹ *In the Matter of Provision of Directory Listing Under the Communications Act of 1934, As Amended, The Use of N11 Codes and Other Abbreviated Dialing Arrangements Administrations of the North American Numbering Plan*, Notice of Proposed Rulemaking, CC Docket No. 99-273, 92-105, 92-237, FCC 01-384 (rel. Jan. 9, 2002). (*Notice*).

² Caputo Declaration, ¶¶ 9-10. Customize routing includes accommodating the DA providers needs for Feature Group D (FGD) signaling and all necessary switch translations. *See UNE Remand* at XX.

³ Caputo Declaration, ¶¶ 5-7.

⁴ *Id.*, ¶¶ 11-2.

proposed by in the Celentano affidavit regarding AIN.⁵ The AIN solution is the best method for routing DA calls to an alternative DA provider selected by the customer, whether it be through pre-subscription or via a customer dialed 411XX number.⁶ Alternatively, LECs could effectively and efficiently use standard switch features and functions to support routing of DA calls to an alternative service provider.⁷

Indeed, technically, the routing required in Telegate's proposal is essentially the same as the customized routing and compatible signaling protocol the Commission, in the *UNE Remand Order*, found necessary to enable CLECs using the ILECs unbundled switching to self-provision or access alternative sources for OS/DA services.⁸ In its unbundling rules, the Commission requires incumbent LECs to provide nondiscriminatory access to directory assistance services as an unbundled network element, unless the ILEC provides the requesting carrier with customized routing.⁹ As the Commission explains:

“Customized routing permits requesting carriers to designate the particular outgoing trunks associated with unbundled switching provided by the incumbent, which will carry certain classes of traffic originating from the requesting provider's customers. This feature will allow the requesting carrier to specify that OS/DA traffic from its customers be routed over designated trunks which terminate at the requesting carrier's OS/DA platform or a third party's OS/DA platform.”¹⁰

By using pre-subscription, customers (rather than the LEC) choose the DA platform (i.e., DA provider) to which his or her 411 calls will be routed. This approach promotes retail competition. Yet, by not performing the necessary switching functions and translations

⁵ Id., ¶ 11.

⁶ Id.

⁷ Id., ¶¶ 12-17.

⁸ Id., ¶¶ 9-10. See also *UNE Remand*, para. 462 (“We agree that customized routing is necessary to access alternative sources of OS/DA for competitors not deploying their own switches. [Parties to the *UNE Remand* proceeding] state that a key component of providing carriers with a choice of competitive OS/DA suppliers is the availability of line class codes in the unbundled switching elements.”)

⁹ 47 C.F.R. § 51.319(f).

necessary to support this routing, ILECs are able to limit competition in the wholesale DA service and retail markets.¹¹ In the end, only the customers of switch-based CLECs have an alternative to the ILEC wholesale product for DA services.

II. LEC Monopoly Over the 411 Abbreviated Access Code for Directory Assistance Services Constitutes a Distinct Barrier to Entry for Alternative Directory Assistance Providers.

Dialing 411 is widely recognized by consumers as a means to obtaining DA services. Consumers' ability to access this service through a customary, familiar and convenient means gives the 411 provider a distinct and significant advantage over alternative DA providers. In allowing US West to offer region-wide DA on an integrated basis, the Commission acknowledged the consumer benefits and demand for using this nationally recognized telephone number for their DA service.¹² By virtue of their dominance in the local market, the ILECs control the provision of DA services via the 411 dialing code. Well over 90% of local customers that dial 411 will be directed to the ILEC DA platform. This is particularly true for residential and small business customers where UNE-P is the predominate form of providing local service by CLECs.

When it required dialing parity for telecommunications services, Congress clearly determined that service providers needed to be on equal footing with regard to dialing in order to compete in the retail market effectively. European regulators have also recognized the unfair

¹⁰ *UNE Remand*, para. 441, n. 867.

¹¹ "Lack of a customized routing solution that enables competitors to route traffic to alternative OS/DA providers would therefore effectively preclude competitive LECs from using such alternative providers." *UNE Remand*, para. 462.

¹² US West Forbearance Order, para. 51.

advantages for incumbents by the dominant use of an abbreviated, well-recognized incumbent access code.¹³ Access to 411 is clearly an element of DA service necessary for competition.

III. The Market is Ripe for Competition; Competition Spurs Demand and Innovation.

“Directory Assistance is a lucrative business.”¹⁴ One analyst has predicted that the overall U.S. DA market will nearly triple in the next five years from \$1.6 billion in revenues in 2001 to \$4.63 billion in 2006.¹⁵

Pre-subscription for 411 (or 411XX, with the elimination of 411) will motivate more competitive DA providers to enter the retail wireline DA market, which includes the national and enhanced DA markets as well as the local DA market. Evidence from other countries demonstrates that parity, in terms of dialing codes, encouraged more competitors to enter the market.¹⁶ The Commission has already found that when consumers are allowed to pre-select their service provider and have their call routed to that provider by a standard dialing configuration, it opens markets to a greater number of competitive service providers, including smaller providers, consistent with Congressional objectives.¹⁷

The likely advantage of this competition will be an increase in the demand for the service itself.¹⁸ This is because competition spurs a higher quality, more reasonably priced, and innovative service. As Oftel points out, an increased competitive environment will lead to a

¹³ “[T]he need to use a much longer number than the very short and well known 192 code puts new entrants at a serious competitive disadvantage compared to existing networks.” Statement issued by Director General of Telecommunications, Office of Telecommunications (Oftel), *Access codes for directory enquiry services*, para. 1.4 (Feb. 19, 2001); *Ex parte* submission of Telegate, CC Docket No. 99-273 (Sept. 21, 2001)(Oftel Statement).

¹⁴ Olga Kharif, *Street Wise – Metro One: Is the Future Calling?* Business Week Online (Nov. 30, 2001) (“Business Week Article”).

¹⁵ *Id.*

¹⁶ Oftel Statement, pp. 3-4.

¹⁷ *Dialing Parity Order*, para. 50.

¹⁸ See, Oftel Statement, Annex B., B.8. [In Ireland and Germany “. . . consumers have made increase use of the wider range of DQ services [similar to the U.S.’s DA service] offered in a competitive environment.”]

wide range of innovative services.¹⁹ Indeed, when given the choice, consumers are demanding more innovative products than just number listings. “Customers want the operator to find them the nearest florist, make restaurant reservations, or help find a name that goes “something something – smith.”²⁰ Pre-subscription offers consumers the benefits associated with competitive choice, while also providing them the same ease of use and familiarity as 411.

IV. The Commission has the Authority to Order 411 Pre-subscription or 411XX.

A. Implementation of dialing parity and nondiscriminatory access for directory assistance services

Congress not only granted the Commission the authority, but also the task, of adopting regulations that implement the requirements of section 251 of the Telecommunications Act of 1996, including the requirements of section 251(b)(3) for dialing parity and nondiscriminatory access to DA.²¹

Section 251(b)(3) entitles all telephone exchange and toll service providers to dialing parity, i.e., the ability to offer telecommunications services without the use of access codes by customers of the such services.²² As the Commission noted, DA is a service that Commission precedent regulates as any other telecommunication service under Title II of the Communications Act.²³

Section 251(b)(3) also obligates LECs to provide all such providers nondiscriminatory access to DA, which the Commission has concluded to mean access to elements of DA service

¹⁹ OfTel Statement, B.12.

²⁰ Business Week Article.

²¹ 47 U.S.C. § 251(d)(1). *See also, Dialing Parity Order*, ¶1.

²² Since section 251(b)(3) refers to telephone exchange service and telephone toll service providers, and not the service itself, the reference pertains to the “person” not the “telecommunications service” in the dialing parity definition.

²³ Notice, ¶ 7.

that are necessary to the competitive provision of DA.²⁴ Providing the elements necessary for a wholesale DA market is not sufficient to ensure competition in the retail market, particularly when the prime element for retail competition – equal access for customers – is missing.

Allowing a LEC that has won a local customer to offer DA services via the 411 code does not sufficiently meet these obligations. The definition of dialing parity specifically requires that the customer have a choice of telecommunication service providers (without the use of an access code) that includes, but is not limited to, their LEC. Moreover, such a limitation completely disregards the specific reference to telephone toll service providers as one of the “persons” for which the dialing parity and nondiscrimination obligations in section 251(b)(3) apply.

Thus, so long as LECs offer directory assistance services through 411, LECs have a statutory duty to provide all competing providers of telephone exchange and telephone toll service equal access to the 411 code for their DA offerings. Pre-subscription is a means for the Commission to accomplish the implementation of these statutory obligations.

B. The Commission's plenary authority over all aspects of the North American Numbering Plan, includes the authority to mandate 411 pre-subscription or other dialing arrangements that the Commission finds will promote the public interest.

Section 251(e)(1) of the Act states, in part, that “[t]he Commission shall have exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States.”²⁵ Commission and appellate court decisions show that the Commission’s jurisdiction under this section includes, *inter alia*, abbreviated dialing codes, call routing, and local dialing patterns. Indeed, the Commission’s plenary authority under this section extends to all aspects of the numbering plan, including the dialing and routing of directory assistance calls.

²⁴ Notice, ¶ 9, citing SLI/DA Order and Notice, 14 FCC Rcd. at 15618.

The Commission has found that section 251(e)(1) gives it authority to determine the assignment of all N11 codes.²⁶ The Commission has exercised this authority to make national assignments of particular N11 codes.²⁷ It is noteworthy that in assigning 211 to provide access to community information and referral services, the Commission specifically required each provider of telecommunications to “take any steps necessary (such as reprogramming switch software) to complete 211 calls from its subscribers to the requesting entity in its service area.”²⁸ In effect, the Commission ordered service providers to do whatever is needed to ensure that 211 calls are routed appropriately, as determined by the Commission. A mandate of 411 pre-subscription is little more than a requirement that directory assistance calls be routed as needed to ensure that subscribers reach their chosen directory assistance provider. Thus, the authority to mandate 411 pre-subscription falls squarely within the Commission’s 251(e)(1) authority as exercised in the assignment of 211.

The 2nd Circuit Court of Appeals has found that the Commission’s authority under this section extends to all dialing patterns, local and interstate.²⁹ In that case, the New York Public Service Commission had argued that the Commission did not have authority to mandate that callers dial 10-digits to complete local calls. The appellate court rejected this argument, and held that the Commission’s reasonable interpretation of what constitutes “numbering administration” or “North American Numbering Plan,” as used in section 251(e)(1), is entitled to deference.³⁰ Here, a finding that the Commission’s authority over the numbering plan includes the authority to determine how directory assistance calls should be dialed and routed, would plainly be a

²⁵ 47 U.S.C. § 251(e)(1).

²⁶ *N11 First Report and Order*, 12 FCC Rcd at 5579-80.

²⁷ *See, e.g.*, In the Matter of the Use of N11 Codes and Other Abbreviated Dialing Arrangements, CC Docket No. 92-105, *Third Report and Order on Reconsideration* (rel. July 31, 2000).

²⁸ *Id.* at ¶ 21.

²⁹ *People of the State of New York & Public Service Commission of the State of New York v. Federal Communications Commission*, 267 F. 3d 91, 103 (2nd Cir. 2001).

reasonable interpretation of the statutory language. The Commission should find that its plenary authority over the numbering plan extends to the determination of how directory assistance calls should be dialed and routed in order to promote the public interest.

C. Section 201(b) confers the Commission with broad authority in implementing the provisions of Act and promoting the public interest.

Section 201(b) states that the “Commissioner may prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of this Act.”³¹ Pre-subscription is consistent with the fundamental objective of the Act, which is promoting competition in all telecommunication services, not just local service. As discussed below, pre-subscription is necessary for competition in the DA market, and competition in the DA market confers a significant benefit to consumers. Additionally, allowing customers a separate choice for DA and local provider without the use of access codes, promotes competition in both the DA and local market. The ability to choose a separate provider for these services means better service to consumers in both markets because the provider can no longer rely on its provision or dominance in one service to win the customer for both.

Furthermore, a fundamental goal of the Act is “. . . to promote innovation and investment by all participants in the telecommunications marketplace.”³² Pre-subscription will not only encourage more competitors to enter the market, it will also allow providers to serve customers off of their own platform, encouraging competitors to develop novel and innovative products.

³⁰ *Id.*

³¹ 47 U.S.C. 201(b).

³² UNE Remand, para. 103.

Pre-subscription serves the public interest. As the Commission has recognized, consumers benefit from the vigorous competition and convenience resulting from pre-subscription.³³ Competition in the wholesale services means the local exchange *carrier* has a choice in how it provides DA services to its local customers.³⁴ Competition in the retail market means *consumers* have a choice of providers. When consumers have limited or no choice in providers, they lose the cost saving benefits and diversity competitive service providers can offer.

Respectfully submitted,

WOLRDCOM, INC.

Date: April 1, 2002

_____/s/_____
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³³ Dialing Parity Order, para. 22.

³⁴ As discussed above, without customized routing wholesale DA service is also limited.

Certificate of Service

I, Lonzena Rogers, hereby certify, that on this first day of April, 2002, that I have filed electronically with Federal Communications Commission Office of the Secretary copy of WorldCom, Inc.'s Comments in the matter of CC Docket No. 99-273 and attachments to be filed and have caused a true and correct to be served on other parties listed via hand delivery:

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Lonzena Rogers

* Hand Delivery

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DECLARATION OF EDWARD J. CAPUTO

on behalf of WorldCom, Inc.

Based on my personal knowledge and on information learned in the course of my business duties, I, Edward J. Caputo, declare as follows:

1. My name is Edward J. Caputo. I am Director of Operator and Directory Services for WorldCom. In this role I am responsible for Service Operations, Technical Support, Product Development, and Regulatory Support for Operator and Directory Services. I coordinate the activities of Marketing and Engineering organizations that develop and deploy local and long distance operator services and directory assistance services. My business address is 601 South 12th Street, Arlington, Virginia, 22202

2. I attended the University of Maryland in College Park, Maryland and earned a Bachelor of Science degree in Business Management. I have held management positions in the telecommunications field for the last 11 years. Prior to that I, held management positions in the Information Technology and Finance field. I have had

management responsibilities at WorldCom and its predecessor entity, MCI, since 1990 in the area of Operator and Directory Services.

3. The purpose of this affidavit is to provide comments in support the technical feasibility of 411 pre-subscription and use of 411XX Numbers, proposed by Telegate, in the Notice of Proposed Rulemaking (FCC 01-384). I will address current DA network deployment, the proposal for network deployment of pre-subscribed DA, and the proposed use of 411XX Numbers for competitive DA.

CURRENT DIRECTORY ASSISTANCE NETWORK DEPLOYMENT

4. Directory Assistance (DA) refers to a service in which users are provided with telephone numbers and, in some instances, addresses of individual telephone exchange service subscribers. The information provided to users is obtained from databases that contain the names, addresses, and telephone numbers of the telephone exchange service subscribers within particular geographic areas that do not elect to have unpublished numbers.

5. Local subscribers access local directory assistance by dialing the abbreviated dialing code, 411. When a caller dials 411, the Local Exchange Carrier (LEC) End Office (EO) switch performs a screening function on the dialed digits to determine how the call should be routed. In cases where 411 dialing is supported, the switch uses either in-switch screening logic or, in some cases, LECs use AIN capabilities, known as triggers, to provide call routing instructions to the switch.

6. If in-switch call screening is utilized, the switch examines the digits that were dialed and once the switch determines the dialed string, it consults screening tables within the switch to determine appropriate routing. If the switch utilizes AIN triggers,

then when the switch detects a digit string of 411 it temporarily suspends the call and sends a query, via the SS7 signaling network, to an element known as a Service Control Point (SCP). The SCP returns instructions, which provide the switch with directions on how the call is to be routed.

7. In today's environment most, if not all, LECs route 411 calls across dedicated access trunks either from the EO switch, or through a tandem switch to the LECs' DA service switching platform. This is because Incumbent LECs control the vast majority (over 90%) of all subscriber lines in any given switch in their own local network and dedicated trunks provide an efficient method of transporting DA calls to their DA platform.

8. Most of the LECs' DA platforms are equipped with Voice Response Units (VRU), Automatic Call Distributors (ACD), Directory Operator Call Centers and Call Handling workstations with an integrated Directory Assistance search and retrieval system and a Directory Assistance listing database. When a call is routed to the LEC's DA platform it is usually answered by a VRU. The VRU collects city, state and listing information from the caller and passes this information on to the DA operator. The DA operator searches the DA database for a listing and, if found, the DA operator releases the caller back to the VRU which provides the listing quote.

ALTERNATE LOCAL DIRECTORY ASSISTANCE CALL ROUTING

9. Presubscription requires that the LEC route DA calls in a different manner than they do today. Customized routing is necessary to change the routing of 411 calls to the ILEC's trunk, and instead, route the calls to the customer's DA provider's DA platform. The Commission envisioned this form of customized routing, in the UNE

Remand Order, for routing the 411 calls of a switch-less competing LEC's customer to an alternative DA provider or the CLEC's self provisioned platform.

10. As the Commission explained customized routing would allow the requesting CLEC to designate the trunks to which the ILEC must route the OS/DA traffic:

"Customized routing permits requesting carriers to designate the particular outgoing trunks associated with unbundled switching provided by the incumbent, which will carry certain classes of traffic originating from the requesting provider's customers. This feature would allow the requesting carrier to specify that OS/DA traffic from its customers be routed over designated trunks which terminate at the requesting carrier's OS/DA platform or a third party's OS/DA platform." *UNE Remand Order* at fn 867.

Except with pre-subscription or 411XX, the alternative provider will be selected by the customer rather than by the competing LEC.

11. It is technically feasible for a LEC to provide customized routing of 411 calls to alternative DA service providers using existing technologies, including advanced intelligent network (AIN) or line class codes and switch routing tables. WorldCom agrees with the position of Telegate as proposed by Mr. Celentano in his affidavit dated March, 2000, regarding AIN. It would be easier to utilize an AIN based methodology for routing 411 calls to an alternate provider selected by the caller. This is true whether the Commission decides that this should be done via pre-subscription or supported via a customer dialed 411XX Number.

12. While AIN is one way, it is not the only technically feasible approach. While AIN may be easier, WorldCom believes that LECs could effectively and efficiently use standard switch features and functions to support pre-subscription and/or customized routing of 411XX dialed calls.

WORLDCOM'S PROPOSED CUSTOMIZED ROUTING SOLUTION

13. As a CLEC, WorldCom has requested that LECs provide customized routing of 411 calls of its local customers, served via unbundled local switching, to existing WorldCom FGD trunks to its Long Distance network. WorldCom's proposal for customized routing of 411 calls is essentially the same, in concept, as Telegate's 411 pre-subscription proposal. It would also support routing to an alternate DA provider on calls dialed 411XX.

14. WorldCom's proposal requires LECs to route WorldCom's DA traffic using line class codes and other switch software features to shared access, FGD trunks to WorldCom's Long Distance Network. A LEC's switch will translate each WorldCom's customers' 411, call into a 10-digit number that the LEC will route like any other long-distance call it sends to WorldCom's Long Distance, FGD trunks. WorldCom has requested that LECs perform all switching functions and translations necessary to support this routing. LECs would then send these WorldCom calls, along with all other WorldCom long-distance (customer-originated 1+ calls where the WorldCom customer is PIC'd to WorldCom) to WorldCom's existing FGD trunks.

15. WorldCom's proposal requires that its customers' DA calls be translated into a new 10-digit number that the switch will send to WorldCom's long-distance FGD trunk groups. Routing tables in the switch will read the new 10-digit number as a 1+ call that goes to WorldCom as the customer's PIC'd long-distance carrier, and will send it to WorldCom's appropriate FGD trunk group.

16. WorldCom has tried to obtain customized routing in Arizona, California, Connecticut, Colorado, Virginia, Ohio, Missouri, Texas, Minnesota, Washington, and

Illinois. While WorldCom has not yet received customized routing in any of these states from any of the LECs that service them, it is interesting to note that many of them now claim to provide customized routing of 411 as part of their ICA's to CLECs. Qwest in Arizona, Colorado and Minnesota claims to provide customized routing via Line Class Codes and switch table routing and translations.

17. Today, WorldCom provides extensive DA services to its local facilities-based customers, and long distance customers. WorldCom strives to enhance its brand image by delivering feature consistency as well as reliable high quality with respect to automated and live operator handling. WorldCom prefers to control product content and delivery in all markets in which it participates in order to protect the value and image of its brand.

18. Through customized routing and pre-subscription or 411XX, WorldCom and other DA providers can offer more consumers their self-provisioned DA product. Self-provisioning would also allow the provider to directly control DA service offerings to their customers, enabling them to develop and deploy new and innovative services. WorldCom wants the opportunity to offer more consumers its self-provisioned DA services. In order to do so, LECs need to provide customized routing to direct WorldCom's DA customers' calls to WorldCom's DA platform.

SUMMARY

19. Customized routing of 411 calls is technically feasible using either an AIN approach or, as WorldCom has pointed out, using existing features and functions such as line class codes, switch translations and routing tables. A number of LECs have previously indicated that they will support 411 customized routing to requesting CLECs

via both of these methods. The Commission should order that 411 be opened to competitive providers via 411 pre-subscription or 411XX.

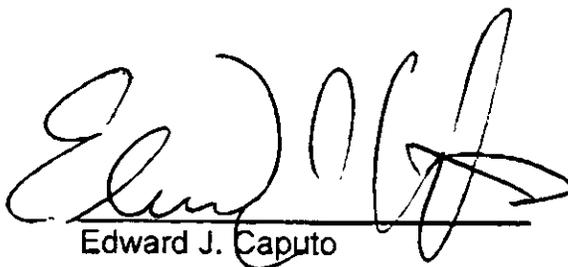
I, Edward J. Caputo, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed on April 1, 2002

Edward J. Caputo

I, Edward J. Caputo, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed on April 1, 2002



Edward J. Caputo