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Before the
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Application by Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a/ Verizon Enterprise Solutions), Verizon Global Networks Inc., and Verizon Select Services Inc., for for Authorization to Provide In-Region, InterLATA Services in New Hampshire and Delaware	)	WC Docket No. 02-157

COMMENTS OF WORLDCOM, INC. ON THE APPLICATION BY VERIZON FOR AUTHORIZATION TO PROVIDE IN-REGION, INTERLATA SERVICES IN NEW HAMPSHIRE AND DELAWARE

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July 17, 2002

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INTRODUCTION AND EXECUTIVE SUMMARY

Verizon's Delaware section 271 application should be denied because Verizon's non-loop rates in Delaware are excessive. A benchmark comparison of Verizon's Delaware and New York non-loop rates shows that Verizon's Delaware rates are *42 percent higher* than New York's even though Delaware's costs are only 11 percent higher than New York's.[1] To defend these rates, Verizon not only lumps together all non-loop elements in a benchmark comparison to New York as it has done in the past, it also tries to shield from scrutiny its total non-loop rates by lumping them together with its loop rates in a benchmark comparison to New York. Combining loop and non-loop elements is an improper way for Verizon to attempt to defend its rates. The Commission should continue to reject this maneuver because it violates the Telecommunications Act's requirement that *each* network element must be provided in accordance with sections 251(c)(3) and 252(d)(1) and, specifically, that the rate for *each* network element "shall be based on the cost . . . of providing the . . . network element."[2]

WorldCom has consistently argued that it violates the Telecommunications Act to combine the rates for network elements in assessing whether a BOC's rates are cost-based. Any claim by Verizon that excessive non-loop rates can be offset by rates for other elements is entirely irrelevant under the Telecommunications Act. The Commission may not apply the benchmarking analysis in a way that violates the express terms of the Act.

Finally, Verizon's excessive non-loop rates in Delaware contribute to a price squeeze wherein the statewide average gross margin is only $2.56, and the gross margin for Zone 1 is

only $4.48 (with gross margins for Zone 2 and 3 being even worse). These margins prevent WorldCom from covering its costs and profitably offering local service statewide to the mass market.

Verizon's non-loop rates in Delaware are excessive, not cost-based, and violate checklist item two. Accordingly, Verizon's application for Delaware should be denied

1 These comments are limited to Delaware.
2 *See* 47 C.F.R. § 252(d)(1).

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The Commission should deny Verizon's section 271 application for Delaware because Verizon's non-loop rates are excessive. In fact, Verizon's Delaware non-loop rates are 42 percent higher than New York's non-loop rates, even though Delaware's non-loop costs are only 11 percent higher than New York's. Verizon attempts in its benchmarking analysis to hide its excessive non-loop rates by lumping them together with its loop rates. This defense is contrary to the Telecommunications Act, which requires that each element should be analyzed separately. The Commission should reject Verizon's application for Delaware or direct Verizon to bring its non-loop rates in-line with those in New York, as Verizon did for New Hampshire. As it stands, Verizon's UNE rates prevent competition from developing in Delaware because they cause a price squeeze.

In attempting to defend its UNE rates in Delaware, Verizon provides two benchmark analyses that compare its rates to the most recently adopted New York UNE rates – one analysis for loop rates and one for loop and non-loop rates combined. Frentrup Decl. ¶ 4. For both these

comparisons, Verizon demonstrates that the ratio of rates in Delaware to rates in New York is less than the ratio of the costs in those two states, as measured by the Commission's Synthesis Model ("SM") adjusted to reflect UNE costs. Frentrup Decl. ¶ 4. But Verizon does not provide a benchmark analysis for non-loop costs alone. Verizon offers no justification for choosing to not evaluate non-loop costs separately. The Commission has always analyzed loop and non-loop costs separately.[3]

Performing the benchmark analysis for non-loop costs shows that Delaware's rates are well above New York's, much less TELRIC levels.[4] Non-loop costs in Delaware are only 11 percent higher than non-loop costs in New York, according to the SM. Frentrup Decl. ¶ 5. However, Verizon's non-loop rates in Delaware are 42% higher than the rates in New York. Frentrup Decl. ¶ 5. Verizon must reduce its non-loop rates in Delaware by about 22%, or $1.75, in order to pass the Commission's benchmark test comparing these rates to those in New York. Frentrup Decl. ¶ 5. Even assuming such a reduction, non-loop rates in Delaware would still be among the very highest in the Verizon territory, despite the fact that SM costs in Delaware are in the middle of the range.[5]

Verizon's excessive non-loop rates in Delaware are especially puzzling in light of the fact that, for purposes of its joint Delaware/New Hampshire section 271 application, Verizon reduced its non-loop rates in New Hampshire by about 18% to ensure that those rates would benchmark

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3 *See, e.g.*, Application of Verizon et al. for Authorization To Provide In-Region, InterLATA Services in Pennsylvania, CC Docket No. 01-138, Memorandum Opinion and Order, 16 FCC Record 17419, 17458 at ¶ 66 (2001),; Application of Verizon et al. for Authorization To Provide In-Region, InterLATA Services in Massachusetts, CC Docket No. 01-9, Memorandum Opinion and Order, 16 FCC Rcd 8988, 9000-02, at ¶¶ 23-27 (2001); Application of Verizon et al. for Authorization To Provide In-Region, InterLATA Services in New Jersey, CC Docket No. 02-67, Memorandum Opinion and Order (rel. June 24, 2002) at ¶ 51.

4 It continues to be our position that non-loop elements should be analyzed separately, but for sake of argument here we look at total non-loop costs, which works to the advantage of Verizon.

to the New York rates.[6] Frentrup Decl. ¶ 6. Verizon should do the same thing for Delaware, and it is unclear why it has not.

Verizon has not provided enough information to allow us to perform a full TELRIC assessment of its non-loop rates. Frentrup Decl. ¶ 7. Specifically, Verizon has not provided with this application a full list of all inputs used in setting the non-loop rates. Frentrup Decl. ¶ 7. Absent this information, WorldCom cannot identify specific input errors that have led to the excessive rates. Frentrup Decl. ¶ 7. However, we do know that the rates were set in July 1997 based on a filing made at the end of 1996. Thus, the data used to set these rates is over 5 years old. In addition, the PSC in its Phase II proceeding adopted an overhead factor of 5.95 percent for setting certain non-recurring and other rates, but did not require Verizon to use this factor to adjust the non-loop rates set in Phase I, where a 10 percent overhead factor was used. Frentrup Decl. ¶ 7. To reduce the overhead factor to 5.95 percent, Verizon used regional, rather than state-specific information, and assigned more costs directly to specific rate elements rather than to overhead. Frentrup Decl. ¶ 7. It is inconsistent for Verizon to use two different methods to set overhead factors. Frentrup Decl. ¶ 7. In light of its excessive non-loop rates, Verizon should explain why it is not using the lower overhead factor for non-loop rates.

As seen in Attachment 1 hereto, Verizon's excessive non-loop rates in Delaware contribute to a price squeeze that prevents WorldCom from profitably providing local service to the mass market throughout the state. We perform a price squeeze analysis by subtracting the costs of leasing UNEs from the monthly revenue a carrier would receive if it provided a standard measured product, with one feature, at the same retail price Verizon charges. From that amount,

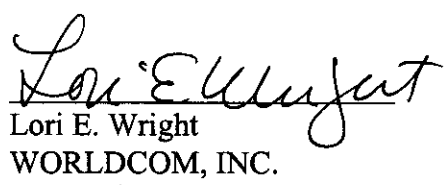
5 For the states in which Verizon has received section 271 authorization, non-loop costs range from $3.51 in Rhode Island to $5.52 in Vermont, while costs in Delaware are $3.88.

i.e., the gross margin, a carrier must then cover its own internal costs. The statewide gross margin is a mere $2.56 in Delaware. In Zone 1, the most urban zone, the gross margin is only $4.48; in Zone 2, the gross margin is only $1.42, and in Zone 3, it is negative $2.12. None of these margins are sufficient to cover a CLEC's cost in leasing the elements and its own internal costs. As WorldCom has explained previously, internal costs typically include customer service costs, costs associated with customers who don't pay their bills, billing and collections, overhead, marketing, and other operational costs, and exceed $10 per line per month, even apart from significant up-front development costs.[7] Until Verizon reduces its non-loop rates in Delaware, a price squeeze prevents local competition from developing for the mass market throughout the state.

CONCLUSION

Verizon's Delaware section 271 application should be denied.

Respectfully submitted,



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6 *See* Hickey/Garzillo/Anglin New Hampshire Declaration at ¶ 29.
7 *See, e.g.,* Huffman Decl. at ¶¶ 8-12, WorldCom Comments, *In re Application for Verizon New England for Authorization to Provide In-Region, InterLATA Services in Vermont,* CC Docket No. 02-7 (filed Feb. 6, 2002).

Certificate of Service

I, Lonzena Rogers, do hereby certify, that on this seventeenth day of July, 2002, I have served a true and correct copy of WorldCom, Inc.'s Comments in the matter of WC Docket No. 02-157 on the following via electronic transmittal:

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