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Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

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Federal Communication Commission  
Bureau / Office

01-338

August 8, 2002

In accordance to the Federal Communications Commission security guidelines for filing courtesy copies, the attached document of WorldCom, Inc.'s *Petition for Declaratory Ruling* should be forward to the following individual:

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Competition Policy Division  
Wireline Competition Bureau  
Federal Communications Commission  
445 Twelfth Street, SW  
Washington, DC 20554

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

In the Matter of )  
 )  
Petition for Declaratory Ruling of ) **QC** 01338  
WorldCom, Inc. for a ruling that ILECs ) **WTB-Docket No.**  
are Prohibited from Imposing use )  
restrictions on UNEs such as LIDB )

**PETITION FOR DECLARATORY RULING OF WORLDCOM, INC.**

WorldCom, Inc. (“WorldCom”) hereby files the instant petition for declaratory ruling seeking a determination by the Commission that incumbent local exchange carriers (“ILECs”) are prohibited from imposing restrictions on competitive carriers’ right to use unbundled network elements (UNEs”). Specifically, WorldCom respectfully requests that the Commission confirm that requesting carriers are entitled to access ILEC Line Information Database (“LIDB”) data at cost-based rates when they use such data to provide interexchange and exchange access services.

**I. BACKGROUND AND SUMMARY**

This Petition concerns the limited question of whether the Telecommunications Act of 1996 (the “Act”) and the Commission’s rules require ILECs to provide unbundled access to the Line Information Database (“LIDB”) at TELRIC rates to competitors who plan to use the information for the provision of interexchange and exchange access services. This issue was raised recently during the Commission’s arbitration of the

Virginia interconnection agreement between WorldCom and Verizon.<sup>1</sup> In its order, *the Commission* declined to rule on this issue on the ground that Verizon had not proposed any contractual language addressing it.<sup>2</sup> The Commission specifically noted, however, that “[t]o the extent that Verizon alleges that WorldCom’s access to the LIDB violates either the parties’ agreed language, their current interconnection agreement, or a rule or order of the Commission, it may raise that issue in the appropriate forum.”<sup>3</sup>

The LIDB is a database containing information including whether a subscriber number is a valid working line, telephone line type, call screening information and validation of information for calling cards.<sup>4</sup> As such, access to the LIDB is necessary for the provision of both local and interexchange calling. Per the Commission’s rules, ILECs are required to provide requesting carriers with access to the LIDB,<sup>5</sup> and competitive carriers must pay the relevant ILEC for such access. There remains disagreement, however, regarding whether different rates will apply depending upon how a competitive carrier plans to use the LIDB data.

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<sup>1</sup> *Petition of WorldCom, Inc. et al., Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia, Inc. and for Expedited Arbitration*, CC Docket Nos. 00-218, 00-249, 00-251, DA 02-1731 (rel. July 17, 2002) at ¶ 514 (the “Virginia Arbitration Order”).

<sup>2</sup> Id.

<sup>3</sup> Id. at n.1706.

<sup>4</sup> *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, First Report and Order*, 11 FCC Rcd 15499, 15679, ¶ 467 n. 1050 (1996) (Local Competition Order) (subsequent history omitted).

<sup>5</sup> 47 C.F.R. § 51.319(e)(2)(i).

In the course of the Virginia Arbitration, Verizon argued that WorldCom is not entitled access LIDB information at cost-based rates if it plans to use that information for the purpose of completing interexchange calls. Verizon contended that carriers who plan to use LIDB information for this purpose must pay non-cost-based tariffed rates. WorldCom disagreed, arguing that Verizon's proposed use restriction is contrary to federal law.

WorldCom now files this Petition in order to clarify this issue. Unfortunately, such clarification is necessary because ILECs in addition to Verizon continue to charge, or threaten to charge, WorldCom tariff-based rates when WorldCom accesses their LIDB data.<sup>6</sup> WorldCom has the right under the Act and the Commission's rules to purchase LIDB dips at UNE rates for all telecommunications services.<sup>7</sup> Indeed all requesting carriers, competitive local exchange carriers ("CLECs") and interexchange carriers ("IXCs") alike, have the right to do so.<sup>8</sup> ILEC claims that the LIDB UNE is limited to local exchange service and that WorldCom's LIDB dips for interexchange traffic should be governed by filed tariffs are inconsistent with the Act and the Commission's rules.

## **II. WORLD COM'S USE OF THE LIDB UNE CANNOT LAWFULLY BE RESTRICTED TO LOCAL CALLS**

Any proposal to restrict WorldCom's use of the LIDB UNE to local calls is completely at odds with the Act and the Commission's Rules. Section 251(c)(3) of the

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<sup>6</sup> Notably, in practice, Verizon and other ILECs have charged WorldCom the tariffed rate regardless of whether the LIDB information is being used for local or interexchange calls. Verizon's own legal arguments do not support this practice.

<sup>7</sup> 47 C.F.R. § 51.309 (a), (b).

<sup>8</sup> See id.

Act provides that a requesting carrier can use unbundled network elements for the provision of any telecommunications service.<sup>9</sup> In the Local Competition Order, this Commission ruled that “section 251(c)(3) provides that requesting telecommunications carriers may seek access to unbundled elements to provide a ‘telecommunications service,’ and exchange access and interexchange services are telecommunications services.”<sup>10</sup> The Commission reaffirmed this principle in the UNE Remand Order, and again expressly refused to read a use restriction into the Act.<sup>11</sup>

Notably, in both the Local Competition Order and the UNE Remand Order, ILECs argued that allowing the use of UNEs for the purpose of providing exchange access services would allow competitors to circumvent the ILECs’ higher access tariffs.<sup>12</sup> The Commission rejected these policy/pricing arguments, ruling that the Act unambiguously permits interexchange carriers to use UNEs to provide exchange access services.<sup>13</sup> The analysis should be no different with respect to LIDB. Ostensibly, the ILECs believe that

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<sup>9</sup> 47 U.S.C. § 251(c)(3).

<sup>10</sup> See Local Competition Order ¶ 356.

<sup>11</sup> *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Report and Order*, 15 FCC Rcd 3696, 3875 ¶ 484 (1999) (UNE Remand Order); see also 47 C.F.R. § 51.309(a) (preventing ILECs from placing use restrictions on CLECs’ access to UNEs “that would impair the ability of a requesting telecommunications carrier to offer a telecommunications service in the manner the requesting telecommunications carrier intends”). In only one instance has the Commission allowed a use restriction on a UNE, the enhanced extended link, which was only on an interim basis while the Commission addressed particular issues. *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Supplemental Clarification Order*, 15 FCC Rcd 9587, ¶¶ 17-18 (2000).

<sup>12</sup> See Local Competition Order ¶ 349; UNE Remand Order ¶ 483.

<sup>13</sup> See Local Competition Order ¶ 359; UNE Remand Order ¶ 484.

it is inappropriate to allow requesting carriers to access the LIDB database for purposes of providing interexchange or exchange access services because doing so will deprive them of higher tariff-based revenues. This argument should again be rejected because the Act unambiguously requires this UNE to be provided at cost-based rates.

In sum, the law plainly entitles WorldCom to access the LIDB database as an unbundled network element for use in the provision of all telecommunications services,<sup>14</sup> and the Commission should confirm that ILECs cannot charge a higher rate for that UNE simply because it is used to provide interexchange or exchange access services.

### **III. RESTRICTIONS ON LIDB UNE AS APPLIED TO SOME CARRIERS AND NOT OTHERS CONSTITUTES UNLAWFUL DISCRIMINATION**

Use restrictions violate the Act's requirement that ILECs provide "nondiscriminatory access to network elements on an unbundled basis."<sup>15</sup> Verizon, for example, allows interexchange carriers to use LIDB in connection with toll calls, and Verizon uses LIDB to offer the LIDB functionality to IXCs as a service in its access tariff. Since Verizon offers this service to IXCs, the Act's nondiscrimination provisions requires Verizon to provide WorldCom with the same opportunity to access the LIDB network element in order to provide exchange access service.

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<sup>14</sup> WorldCom and other competitive carriers would be impaired in the interexchange and exchange access market without access to the LIDB database. The Commission has already concluded that a requesting carrier's ability to provide the services it seeks to offer is impaired without unbundled access to the incumbent LECs call related databases. UNE Remand Order ¶ 402. As the Commission recognized, "there are no alternatives of comparable quality and ubiquity available to requesting carriers as a practical, economic and operational matter, for the incumbent LECs' call-related databases." Id. ¶ 410.

<sup>15</sup> 47 U.S.C. § 251(c)(3).

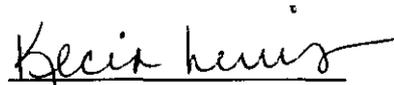
Moreover, use restrictions violate the regulatory requirement that a CLEC's access to a UNE must be equal to that which the ILEC provides to itself.<sup>16</sup> Verizon has access to LIDB for billing its toll as well as local traffic. To deny the same access to WorldCom is plainly unlawful. In sum, WorldCom is legally entitled to access the LIDB database as an unbundled network element for use in the provision of all telecommunications services, including interexchange and exchange access.

#### IV. CONCLUSION

For the foregoing reasons, WorldCom respectfully requests that the Commission expeditiously grant its Petition for Declaratory Ruling.

Respectfully submitted,

WORLD.COM, INC.



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Dated: August 8, 2002

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<sup>16</sup> See 47 C.F.R. § 51.311(b)

## Certificate of Service

I, Lonzena Rogers, do hereby certify, that on this eighth day of August, 2002, I have caused a true and correct copy of WorldCom, Inc.'s *Petition for Declaratory Ruling* to be served hand delivery on the following:

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