

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

In the Matter of

Review of the Section 251 Unbundling
Obligations Of Incumbent Local Exchange
Carriers

WorldCom Petition for Declaratory Ruling

CC Docket No. 01-338

OPPOSITION OF VERIZON

WorldCom asks the Commission to declare that it is entitled to have access to Verizon's¹ line information database (LIDB) and those of other incumbent LECs at UNE rates in connection with WorldCom's provision of interexchange services. Such a declaration would be inconsistent with the Commission's regulations, which require LECs to provide such access pursuant to their interstate access tariffs. The 1996 Act expressly preserved these regulations when it created the UNE regime, and Verizon and WorldCom are required to obey them until the Commission changes them in a rulemaking proceeding.

WorldCom's request is also inconsistent with section 251 and the Commission's implementation of the UNE requirements of the Act. Even though the Commission concluded that local service providers should have access to LIDB as a UNE, it has made no such finding as to access for use in providing interexchange services. Moreover, an interexchange carrier could

¹ The Verizon telephone companies are the local exchange carriers affiliated with Verizon Communications Inc., listed in Attachment A.

never meet the Act's "impair" test for LIDB access as a UNE. An interexchange carrier could never demonstrate that failure to provide access to LIDB as a UNE would impair its ability to offer interexchange services because interexchange carriers have actually been providing interexchange services for years without such access — access pursuant to LEC tariffs has been more than adequate.

For these reasons, WorldCom's petition must be denied.

The Commission's LIDB Rules and Orders Require Denial of WorldCom's Petition.

Section 69.120(b) of the Commission's rules establishes a LIDB rate element, a charge to be "assessed upon all carriers that access validation information from a local exchange carrier line information database to recover the costs of the database." LECs were also to assess an access charge to recover the cost of transport to the LIDB and the use of their signaling transfer point facilities. Amazingly, WorldCom's petition does not even mention this regulation.

This regulation did not appear by accident. The Commission adopted it in 1992 at the request of WorldCom (then MCI) and other interexchange carriers. In that 1992 order, the Commission found that LIDB access was incidental to and part of "the LECs' provision of local exchange access service."² It, therefore, held, "We conclude that LIDB query services should be recoverable under the new LIDB Access element...."³ If LIDB access was part of exchange access in 1992, it still is, as nothing has changed to alter that categorization.

WorldCom's predecessor MCI was once of the more vocal proponents of requiring LECs to tariff LIDB access. It told the Commission, "LIDB validation service and the provision of

² *Policies and Rules Concerning Local Exchange Carrier Validation and Billing Information for Joint Use Calling Cards*, 7 FCC Rcd 3528 ¶ 19 (1992).

³ *Id.* ¶ 94(1992)

BNA are integral to exchange access and must be tariffed.”⁴ MCI also told the Commission that “[t]ariffing LIDB validation service also will tend to assure that it will be provided in a non-discriminatory and reasonable manner.”⁵ And, in fact, it has done just that, and MCI/WorldCom have enjoyed tariffed LIDB access now for years without complaint.

**The 1996 Act and the Commission’s UNE Rules and Orders
Require Denial of WorldCom’s Petition.**

Nothing has happened since 1992 to disturb the Commission’s conclusions in that order or the regulations adopted in it.

While the 1996 Act did establish new obligations on incumbent LECs to provide UNEs, section 251(g) at the same time expressly continued the existing access charge regime “until such restrictions and obligations are explicitly superseded by regulations prescribed by the Commission.” Section 69.120(b) has not been superseded and remains on the books today. Verizon is required to assess its LIDB access charge elements, and WorldCom is required to pay those charges.

Contrary to WorldCom’s repeated suggestions,⁶ the Commission’s original *Local Competition Order* and *UNE Remand Order* did not replace access charges with UNEs or otherwise allow WorldCom to avoid paying access charges for services it uses to provide

⁴ [MCI] Reply Comments, *Policies and Rules Concerning Local Exchange Carrier Validation and Billing Information for Joint Use Calling Cards*, CC Docket No. 91-115 at 6 (filed Sept. 16, 1991); [MCI] Comments, *Policies and Rules Concerning Local Exchange Carrier Validation and Billing Information for Joint Use Calling Cards*, CC Docket No. 91-115 at 8 (filed Aug. 15, 1991).

⁵ [MCI] Comments, *Policies and Rules Concerning Local Exchange Carrier Validation and Billing Information for Joint Use Calling Cards*, CC Docket No. 91-115 at 8 (filed Aug. 15, 1991).

⁶ *E.g.*, Petition at 2, 3, 4-5.

interexchange services. As the Commission held in its original order, “Nothing in this Report and Order alters the collection of access charges paid by an interexchange carrier under Part 69 of the Commission’s rules, when the incumbent LEC provides exchange access service to an interexchange carrier.”⁷ And the court of appeals agreed with the Commission and rejected the proposition access charges must immediately be replaced by UNE rates, “In other words, the LECs will continue to provide exchange access to IXCs for long-distance service, and continue to receive payment, under the pre-Act regulations and rates.”⁸

This is perfectly consistent with the Act and the Commission’s actions implementing section 251. While the Commission has found that ILECs must provide LIDB access to other local service providers as a UNE, it has made no such finding as to interexchange carriers. In fact, the Commission has made it clear that just because it requires access to some network element under section 251(c)(3) for use in one market does not mean that it will automatically require similar access for use in a different market:

“Contrary to the views of some commenters, section 251(d)(2) does not compel us, once we determine that any network element meets the ‘impair’ standard for one market, to grant competitors automatic access to that same network element solely or primarily for use in a different market.”⁹

⁷ *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 11 FCC Rcd 15499 ¶ 30 (1996). Similarly, “Pursuant to section 251(g), LECs must continue to offer tariffed interstate access services just as they did prior to enactment of the 1996 Act. We find that the reciprocal compensation provisions of section 251(b)(5) for transport and termination of traffic do not apply to the transport or termination of interstate or intrastate interexchange traffic.” *Id.* ¶ 1034.

⁸ *Competitive Telecommunications Ass’n v. FCC*, 117 F.3d 1068, 1073 (8th Cir. 1997).

⁹ *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, 15 FCC Rcd 9587 ¶ 15 (2000) (footnote omitted).

Thus, the Commission explained,

“That provision asks whether denial of access to network elements ‘would impair the ability of the telecommunications carrier seeking access to provide the services that it seeks to offer.’ Although ambiguous, that language is reasonably construed to mean that we may consider the markets in which a competitor ‘seeks to offer’ services and, at an appropriate level of generality, ground the unbundling obligation on the competitor's entry into those markets in which denial of the requested elements would in fact impair the competitor's ability to offer services.”¹⁰

WorldCom, of course, could never satisfy the “impair” test for access to LIDB for use in providing exchange access and interexchange services, as WorldCom and its predecessors were successfully providing those very services for years before the Commission adopted its UNE regime. This fact conclusively demonstrates that lack of UNE pricing for such access will not “impair the ability of the telecommunications carrier seeking access to provide the services that it seeks to offer.”

This is not a case in which WorldCom is already buying a UNE, like a local loop, to provide local service and then wants to use that same facility to provide interexchange service. The service WorldCom is buying is exactly the same service it has been buying since 1992, the ability to send individual queries to and receive responses to them from LEC LIDBs. WorldCom used that service to provide interexchange service in 1992, and it continues to do so today. The fact that it is now also sending individual queries in connection with its provision of local service does not allow it to get the UNE rate for its interexchange queries and responses. It must still pay the tariffed rate for those queries, and the fact that it might pay a different price for other queries does not change that.

¹⁰ *Id.* (footnote omitted).

The Other Points in WorldCom’s Petition Are Without Merit.

WorldCom complains that Verizon and other LECs continue to charge it “tariff-based rates when WorldCom accesses their LIDB data.”¹¹ The Commission’s rules require Verizon and the other LECs to do exactly that. WorldCom claims that the Commission’s rules give it a right “to purchase LIDB dips at UNE rates for all telecommunications services.”¹² Section 69.120 is clear that WorldCom has no such right.

WorldCom says it needs this relief in order to get access to LIDB data “at cost-based rates.”¹³ But that’s precisely what WorldCom has today. Price cap LECs, like Verizon’s predecessors, were required to pass the Commission’s “new services test” in establishing the initial rates for LIDB access. This test required that those rates be cost based — that they “reflect reasonable direct costs and overhead loadings” of providing the service. The rates approved by the Commission passed that test, and the Commission found them “to be just and reasonable.”¹⁴ WorldCom’s petition does not contain any specific complaint about any carrier’s current LIDB rates, but if WorldCom has any such complaint, the Act and the Commission’s rules give it ample recourse.

Finally, WorldCom claims that it is being discriminated against by having to pay the access charge rate for its interexchange use of LEC LIDBs.¹⁵ This is nonsense, as other interexchange carriers are paying the same tariffed rate as WorldCom, as WorldCom itself

¹¹ Petition at 3.

¹² Petition at 3.

¹³ Petition at 1.

¹⁴ *Local Exchange Carrier Line Information Database*, 8 FCC Rcd 7130 ¶ 13 (1993).

¹⁵ Petition at 5-6.

admits.¹⁶ In fact, WorldCom is asking for a discriminatory exemption from the rules that apply to other interexchange carriers, as all interexchange carriers pay this access tariff rate when they buy the service in connection with their interexchange services. Not satisfied with the same deal as these other interexchange carriers, WorldCom instead want a different, better, deal — UNE rates. Rather than there being any discrimination under Verizon’s understanding of the Commission’s rules, WorldCom wants the Commission to construe these rules so that it gets a better price than its interexchange competitors for the same LIDB access used in connection with its provision of interexchange services. The Commission should not require such discrimination.

Conclusion

The Commission should deny WorldCom’s petition.

Respectfully submitted,



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¹⁶ It says that Verizon “offer[s] the LIDB functionality to IXC’s as a service in its access tariff.” Petition at 5.

THE VERIZON TELEPHONE COMPANIES

The Verizon telephone companies are the local exchange carriers affiliated with Verizon Communications Inc. These are:

Contel of the South, Inc. d/b/a Verizon Mid-States
GTE Midwest Incorporated d/b/a Verizon Midwest
GTE Southwest Incorporated d/b/a Verizon Southwest
The Micronesian Telecommunications Corporation
Verizon California Inc.
Verizon Delaware Inc.
Verizon Florida Inc.
Verizon Hawaii Inc.
Verizon Maryland Inc.
Verizon New England Inc.
Verizon New Jersey Inc.
Verizon New York Inc.
Verizon North Inc.
Verizon Northwest Inc.
Verizon Pennsylvania Inc.
Verizon South Inc.
Verizon Virginia Inc.
Verizon Washington, DC Inc.
Verizon West Coast Inc.
Verizon West Virginia Inc.