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November 27, 2002

BY ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: *Ex Parte Presentation*
In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket Nos. 01-338, 96-98, 98-147

Dear Ms. Dortch:

On November 26, 2002, Rick Whitt and Hank Hultquist of WorldCom, Inc. ("WorldCom"), and A. Richard Metzger, Jr. and the undersigned, counsel to WorldCom, met with Ian Dillner, Jeremy Miller, Thomas Navin, Brent Olson, Gina Spade, Robert Tanner, and Julie Veach of the Competition Policy Division, Wireline Competition Bureau. During that meeting, WorldCom reiterated points that were drawn from materials filed on the public record in the above-referenced dockets, and also provided bureau staff a copy of the attached chart summarizing key WorldCom submissions to date.

Pursuant to section 1.1206(b)(2) of the Commission's rules, 47 C.F.R. § 1.1206(b)(2), this letter is being provided to you for inclusion in the public record of the above-referenced proceeding.

Sincerely,

Ruth Milkman

Attachment

cc: Ian Dillner, Jeremy Miller, Thomas Navin, Brent Olson, Gina Spade, Robert Tanner, Julie Veach

UNE TRIENNIAL REVIEW
EX PARTE CHART – WORLDCOM FILINGS
NOVEMBER 26, 2002

NO.	DATE FILED	SUBJECT CATEGORY[1]	BRIEF DESCRIPTION/AUTHOR	WORLDCOM ARGUMENTS
UNE-P				
1.	09/16/02	UNE-P	Letter from D. Sorgi to Chairman Powell re: Financial Impact of UNE-P (Sept. 16, 2002)	• Rebuttal to BOCs' claims that UNE-P has been putting pressure on their profitability, including making points that once BOC has interLATA authority, it gains LD customers more quickly than it loses local and ILEC gain of a long distance customer more than makes up for loss of a local customer resulting from provision of UNE-P. • Attaches (1) point-by-point rebuttal of BellSouth's description of the "problem with UNE-P"; (2) discussion of certain flaws in the UBS Warburg and (3) Commerce Capital Markets analyses; and (4) Legg Mason analyst report explaining relationship of UNE-P and long distance entry in evaluating impact on BOCs.
2.	10/01/02	UNE-P	Letter from D. Sorgi to Chairman Powell re: UNE-P and the Law (Oct. 1, 2002)	• UNE-P is integral to and mandated by the Act. It is not limited to serving as a transition mechanism to facilities-based competition. • Compares BOCs' reliance on UNE-P and deference to state pricing to gain 271 authority with current attempts to eliminate UNE-P. • Attaches trade press, analyst reports, and state regulator statements re: value of UNE-P
3.	10/01/02	UNE-P	FCC Presentation: "UNE-P: The Key to Local Competition" (Oct. 1, 2002), filed with letter from K. Scardino to M. Dortch (Oct. 2, 2002)	• Discusses benefits of UNE-P (differentiated products, lower prices, ensures competition in other markets like LD); extensive discussion of MCI's "The Neighborhood," its features, availability, etc. • Fact that BOCs are losing market share is indicative of competition. • Discussion of UNE-P and the *USTA* decision; lack of UNE-L competition for mass market; UNE-P's positive effect on facilities-based competition. • States have not misapplied TELRIC; rebuttal to UBS Warburg analysis, discussion of Phoenix Center study, BOC statements to analysts; FCC should not review state UNE-P pricing. • Barriers to UNE-L: hot cuts and backhaul costs; Bryant study switching cost charts; cover letter notes that the Bryant study results do not change if higher CLEC minutes of use are assumed because switching costs are driven by lines, not minutes.
4.	10/23/02	Legal UNE-P	Letter from R. Milkman to M. Dortch re: *USTA*/Legal Issues Surreply (Oct. 23, 2002)	• Magnitude of economies of scale and sunk costs differentiate local telecom business from other industries. • Ability to achieve scale in the future does not overcome impairment today; cost comparisons, including of TELRIC-based rates, are central to the impairment analysis; true "green field" investment by BOCs is rare. • Discusses appropriate geographic granularity and role of states post-USTA.

[1] Categories: 1) UNE-P 2) High-Capacity Loops/Transport 3) DSL/Broadband 4) Legal 5) TELRIC 6) Other

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				• One competitor is not enough to support a finding of no impairment; unused capacity may demonstrate impairment; evidence, not inference, should guide FCC's decision; "at a minimum" language should not be used to limit unbundling where impairment is found; an essential facilities test for impairment is inconsistent with the Act. • The Commission is not legally required to conduct service-specific impairment analyses; sunset provisions are inconsistent with the Act.
5.	11/04/02	UNE-P	FCC Presentation: "Delivering Local Competition to the Mass Market, Considerations for Transitioning to UNE-L-Based Strategy" by W. Huyard (Nov. 4, 2002), filed with letter from R. Milkman to M. Dortch (Nov. 5, 2002)	• Transition to UNE-L hinges on market conditions and resolution of existing barriers: line density; efficient and scalable loop provisioning; availability of TELRIC-priced EELs with concentration; elimination of commingling restrictions; and reasonable NRCs. • Includes chart of hot-cut NRCs • Second version (same title, date) includes additional chart comparing hot cut volumes to UNE-P orders
6.	11/07/02	UNE-P	Letter from R. Milkman to M. Dortch (Nov. 7, 2002), attaching Chicago Tribune Knight-Ridder article and summary: "What UNE-P Can Do for Consumers and Competition: MCI Local as Case Study"	• Article indicates that SBC and Ameritech are lowering local rates due to competition from AT&T, MCI and others • Summary sets forth UNE-P statistics, including new products and services available to various states
7.	11/08/02	UNE-P	Letter from K. Scardino to M. Carey re: Market-based Switching (Nov. 8, 2002)	• Documents BellSouth and Qwest letters seeking to limit availability of UNE switching to customers with 3 or fewer lines • Compares BellSouth "market-based" rates to its cost-based rates for switching. • Attaches carrier announcements/notifications and UNE and market rates
8.	11/13/02	UNE-P	Letter from K. Scardino to M. Carey re: DS0 EELs, filed with letter from R. Milkman to M. Dortch (Nov. 13, 2002)	• Although at present generally unavailable and priced at levels that do not permit competitors a reasonable opportunity to compete, TELRIC-priced EELs with concentration may facilitate the expansion of UNE-L competition to some markets where it would otherwise be impossible. • Compares prices (including NRCs) for DS0 EELs (without concentration) among several states. • Responds to operational issues raised by Eschelon letter dated Oct. 21, 2002
9.	11/13/02	UNE-P	Letter from M. Goldman to M. Dortch re: Summary of record on UNE-P (Nov. 13, 2002)	• Rebuts BOC claims about viability of UNE-L competition today • Impairment with regard to switching is due primarily to economic (cost disadvantages, insufficient scale) and provisioning barriers (hot cuts, scalability issues). • UNE-P is beneficial to consumers and protects competition in downstream LD market;

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				refutes BOCs' claims of lost profits (including discussing UBS Warburg, Legg Mason, Network Concepts, and JP Morgan analyst reports and the fact that such claims are really complaints about UNE rates, which should be addressed separately either by the FCC or appropriate state commission) and diminished investment by both ILECs and CLECs (including addressing claims that UNE-P decreases deployment of UNE-L, fiber loops, and facilities-based competition, including cable telephony).
10.	11/15/02	UNE-P	Letter from K. Scardino to M. Carey re: Churn, filed with letter from G. Strobel to M. Dortch (Nov. 15, 2002)	• WorldCom churn statistics for long distance (approaching 20% in early months) and local (25% within 3 months and 50% within 6 months) • Describes implications of high churn for recovery of high NRCs.
11.	11/15/02	UNE-P	FCC Paper, "The Effect of UNE-P Competition on the RBOCs' Financial Health" (Nov. 12, 2002), filed with letter from R. Milkman to M. Dortch (Nov. 15, 2002)	• Attaches paper and charts by M. Pelcovits demonstrating that the profit opportunity from long distance entry equals or exceeds the risks from CLEC entry into local markets and that the additional uncertainty faced by the RBOCs from UNE-P is small relative to historic risks.
12.	11/18/02	UNE-P	FCC Presentation, "Transitioning to Unbundled Loops: Case Study," filed with letter from R. Milkman to M. Dortch (Nov. 18, 2002)	• Describes the cost factors and timeframes for transition from UNE-P to UNE-L under two scenarios: (1) when a competitive carrier has switching, transport and collocation facilities already, and (2) when a competitive carrier has switching capacity available, but does not have transport or collocation in place for the relevant central office.
13.	11/18/02	UNE-P	Letter from D. Sorgi to W. Maher re: State Guidelines, filed with letter from R. Milkman to M. Dortch (Nov. 18, 2002)	• Describes standards and principles that the FCC could adopt and the state commissions could apply in analyzing when the conditions are right for a transition from UNE-P to UNE-L, including economic (availability and pricing of collocation, transport costs, loop migration costs, etc.) and operational barriers (existence of efficient loop provisioning process, unbundling of all loop types, resolution of CLEC-CLEC migrations, etc.)
14.	11/25/02	UNE-P	Letter from D. Sorgi to Chairman Powell re: SBC $26 Transition Plan, filed with letter from R. Milkman to M. Dortch (Nov. 18, 2002)	• Demonstrates that SBC's proposal for a "Sustainable Wholesale Market" (1) extinguishes competition for residential and small business local and long distance services; (2) decreases incentives to deploy local facilities; and (3) is inconsistent with the *USTA* decision.
High-Capacity Loops/Transport				
15.	10/01/02	Transport	FCC Presentation: "Transport Competition and Circuit Grooming" (Sep. 30, 2002), filed with letter from H. Hulquist to M. Dortch (Oct. 1, 2002)	• Reiterates proposal that requesting carriers are impaired without unbundled access to ILEC interoffice transmission facilities, except where four or more competitive providers offer transport from the end user's wire center to a relevant termination point. • Discusses back-log of circuit migration/"grooming" orders and SBC and Verizon limits on processing same; requests that FCC require SBC and Verizon to provide bill credits

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				for circuits that are not groomed by the requested date.
16.	10/07/02	High-Capacity Loops	FCC Presentation: "Hi-Cap Competition", filed with letter from R. Milkman to M. Dortch (Oct. 7, 2002)	• Rebuts BOCs' claim that CLECs serve up to 95% of customer lines on alternative last-mile facilities; includes statistics regarding CLEC and WorldCom last-mile deployment. • Explains why FCC should lift EELs use restrictions and co-mingling ban. • Also addresses "no facilities" rejects, and Verizon's refusal to convert special access chan terms to loops.
17.	10/30/02	High-Capacity Loops Transport	Letter from H. Hultquist re: Loops/EELs/Transport, filed with letter from R. Milkman to M. Dortch (Oct. 30, 2002)	• Rebuts BOC claims re: CLEC use of last-mile facilities to reach business customers; even where competitive fiber is deployed, it reaches no more than 11% of buildings where there is demand for high-capacity circuits. • BOCs' estimates of total CLEC fiber route miles are irrelevant to granular impairment analysis necessary for transport; explains flaws in BellSouth's proposal that FCC eliminate unbundling where there are 3 or more competitive providers on either end of a transport route (must be able to serve both ends of route). • Rebuts BOCs' argument that FCC should eliminate unbundling of high-capacity circuits wherever BOCs have obtained pricing flexibility for special access. • Attaches 5 state comparison of special access and UNE prices for high-capacity circuits; 67-80% of differential for five and ten-mile DS1s is due to mileage charges.
18.	11/18/02	High-Capacity Loops Transport Legal	Memorandum, "Legal and Policy Considerations with Respect to EELs," filed with letter from R. Milkman to M. Dortch (Nov. 18, 2002)	• Discusses *CompTel* decision; in light of CLEC dependence on ILEC last-mile facilities, it would be pointless for the FCC to conduct service-specific impairment analyses. • The concerns that led to the temporary restrictions on EELs (such as fears of undermining universal service or the ability of CAPs to invest) can no longer justify the EELs restrictions. • Sets forth policy reasons for lifting the restrictions, including driving special access prices to cost, eliminating the potential for a price squeeze, and eliminating substantial administrative burdens. • Responds to BOC claims regarding lost special access revenues and the relevance of competition in downstream businesses that depend on special access. • Shows that lifting the prohibition on commingling will enhance the efficiency of network deployment and responds to claims to the contrary by Qwest.
DSL/Broadband				
19.	10/22/02	DSL/ Broadband	Letter from K. Scardino to M. Dortch re: DSL Competition (Oct. 22, 2002).	• No meaningful alternatives to ILECs for either business or residential broadband services. Consumers face at best, a duopoly, and, at worst, a monopoly. If CLECs cannot offer broadband services, competition for information services will be diminished. • Absent line sharing and access to ILEC loop facilities, competitors will be unable to offer DSL at a competitive price.

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20.	10/24/02	DSL/ Broadband	FCC Presentation: "WorldCom DSL," by L. Rogers (Oct. 24, 2002), filed with letter from R. Milkman to M. Dortch (Oct. 25, 2002)	• Describes distinguishing aspects of WorldCom DSL for business users, benefits of line sharing for business customers. • Line sharing ensures continued competition for information services.
21.	10/31/02	DSL/ Broadband	Letter from K. Scardino to M. Dortch re: NGDLC issues (Oct. 31, 2002)	• CLECs are impaired with access to fiber-fed NGDLC facilities, including the loop and packet transport to and from the RT. • Rebuts BOCs' argument that alternatives, such as access to existing copper loops and collocation at the RT, are adequate. • Relies on public representations in other arenas and actual deployment figures to rebut BOCs' claims that unbundling reduces their incentive to invest in fiber-fed facilities; in addition to saving the BOCs money, fiber-fed NGDLCs facilities extend the reach of their DSL service. • Explains why availability of wholesale ILEC broadband services is inadequate (precludes differentiation, not protected by 251). • FTTH and DGDLC are distinct technologies that should be addressed separately. • If the BOCs can make a showing that fiber-fed xDSL loops warrant different cost inputs from what is being applied today, they should make such arguments in state cost proceedings. The Commission should not let unsubstantial claims about improper cost calculations delay or interfere with unbundling such loops in the Triennial.
Legal				
22.	10/23/02	Legal	Letter from R. Milkman to M. Dortch re: *USTA*/Legal Issues (Oct. 23, 2002)	• Magnitude of economies of scale and sunk costs differentiate local telecom business from other industries. • Ability to achieve scale in the future does not overcome impairment today; cost comparisons, including of TELRIC-based rates, are central to the impairment analysis; true "green field" investment by BOCs is rare. • Discusses appropriate geographic granularity and role of states post-USTA. • One competitor is not enough to support a finding of no impairment; unused capacity may demonstrate impairment; evidence, not inference, should guide FCC's decision; "at a minimum" language should not be used to limit unbundling where impairment is found; an essential facilities test for impairment is inconsistent with the Act. • The Commission is not legally required to conduct service-specific impairment analyses; sunset provisions are inconsistent with the Act.
23.	10/24/02	Legal	Letter from Access Integrated *et al.* re: State Role (Oct. 24, 2002)	• FCC should enlist help of states to conduct granularity analysis. • Includes framework for "state role in unbundling determinations," including (1) preservation of state law authority; (2) FCC may find impairment exists on a nationwide

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				basis for a particular UNE; (3) when faced with insufficient evidence to find impairment on a nationwide basis, the FCC shall turn to the states to conduct detailed fact finding and issue a decision; (4) limit frequency of ILEC petitions to "de-list" UNEs; (5) processes for non-action by state.
24.	11/18/02	High-Capacity Loops Transport Legal	Memorandum, "Legal and Policy Considerations with Respect to EELs," filed with letter from R. Milkman to M. Dortch (Nov. 18, 2002)	• Discusses *CompTel* decision; in light of CLEC dependence on ILEC last-mile facilities, it would be pointless for the FCC to conduct service-specific impairment analyses. • The concerns that led to the temporary restrictions on EELs (such as fears of undermining universal service or the ability of CAPs to invest) can no longer justify the EELs restrictions. • Sets forth policy reasons for lifting the restrictions, including driving special access prices to cost, eliminating the potential for a price squeeze, and eliminating substantial administrative burdens. • Responds to BOC claims regarding lost special access revenues and the relevance of competition in downstream businesses that depend on special access. • Shows that lifting the prohibition on commingling will enhance the efficiency of network deployment and responds to claims to the contrary by Qwest.
TELRIC				
25.	10/23/02	TELRIC	Letter from Chris Frentrup re: TELRIC (Oct. 23, 2002)	• Explains why FCC should ignore BOC requests that it provide guidance on TELRIC in Virginia arbitration and should instead decide the arbitration based on record evidence before it. • Refutes BOCs' arguments re: (1) depreciation rates; (2) cost of capital; (3) fill factors; (4) network evolution; (5) inapplicability of TELRIC to non-recurring charges; (6) meaning of "long run".
Other				
26.	10/25/02	Building Access	Letter from R. Milkman to M. Dortch, attaching "Building Access Issues in the UNE Triennial Review" (Oct. 25, 2002)	• Discusses barriers to entry that are faced by CLECs but not ILECs, including unreasonable and discriminatory treatment faced by CLECs when seeking access to commercial buildings and multi-tenant dwelling units.
27.	11/06/02	LIDB	Letter from M. Goldman to M. Dortch re: LIDB Use Restrictions (Nov. 6, 2002)	• ILECs cannot impose use restrictions on LIDB under current FCC rules; this conclusion is not affected by the *CompTel* ruling.