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December 17, 2002

By Electronic Delivery

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

Re: *Written Ex Parte*
Review of the Section 251 Unbundling Obligations of Incumbent Local
Exchange Carriers – CC Dockets No. 01-338, 96-98, and 98-147

Dear Ms. Dortch:

Pursuant to section 1.1206(b) of the Commission's rules, attached for inclusion in the record of the three above-referenced proceedings is a letter from Kimberly Scardino, on behalf of WorldCom, Inc., to Michelle Carey of the FCC.

Sincerely,

/s/ Ruth Milkman

Ruth Milkman

Attachment

cc: Christopher Libertelli
Jordan Goldstein
Thomas Navin
Robert Tanner

Matthew Brill
William Maher
Brent Olson
Linda Kinney

Daniel Gonzalez
Michelle Carey
Jeremy Miller



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Michelle Carey
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445 12th Street, S.W.
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Review of the Section 251 Unbundling Obligations of Incumbent Local
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Dear Ms. Carey:

On November 13, 2002, WorldCom, Inc. (WorldCom) submitted an *ex parte* letter in the above-referenced dockets in which it described various unresolved issues regarding the use of DS0 Enhanced Extended Links (EELs) and concluded that, at present, competitive local exchange carriers (LECs) cannot use concentrated DS0 EELs to compete with incumbent LECs in providing service to mass market residential and small business customers.¹ Since then, the Bell Operating Companies (BOCs) have filed *ex parte* letters claiming that concentrated DS0 EELs can be provisioned, but only if the competitive LEC virtually or physically collocates its own concentration equipment. Of course, an EEL that requires collocation is not really an EEL at all. As a result, the BOCs' proposals are flawed and appear to have significant anticompetitive aspects. Indeed, the BOCs' submissions confirm WorldCom's fundamental conclusion that, before concentrated DS0 EELs can be a viable strategy for serving mass market customers, a number of operational and economic issues must be resolved.²

¹ See Letter from K. Scardino, WorldCom, to M. Carey, FCC, CC Dkt. No. 01-338 (Nov. 13, 2002), attached to *ex parte* letter from R. Milkman to M. Dortch (Nov. 13, 2002) (WorldCom *ex parte*). An EEL is a combination of a loop and dedicated transport, and usually includes some type of multiplexing (*i.e.*, combining a number of channels onto a single higher-bandwidth channel). Under the FCC's rules and the Supreme Court's decision in *Verizon Communications Inc. v. FCC*, 535 U.S. 467 (2002), incumbent LECs are required to make combinations of elements, including EELs, available to competitive carriers. All comments and *ex parte* filings cited herein are from CC Docket No. 01-338.

² For example, Verizon's New York hot-cut performance would have to increase by 4400% to handle current UNE-P order volumes. See WorldCom Presentation, "Delivering Local Competition to the Mass Market," at 9 (Nov. 4, 2002), attached to *ex parte* letter from R. Milkman to M. Dortch (Nov. 5, 2002), citing Comments of New York State Department of Public Service at 4 & n.18 (Apr. 4, 2002) ("There are currently 1.8 million lines being served via UNE-P. The 56,000 hot-cut orders in 2001 consisted of approximately 157,000 lines. At that rate, it would take Verizon over 11 years to switch all the existing UNE-P customers to UNE-L.

The BOCs generally oppose the idea of DS0 EELs with concentration. In particular, with the exception of BellSouth, the BOCs state that they do not have concentration equipment in their central offices (COs).³ Thus, in order to obtain DS0 EELs with concentration, the BOCs claim that competitive LECs are required to collocate, either physically or virtually, and that either the BOC or the competitor must deploy concentration equipment, or a Digital Loop Carrier (DLC), in the targeted CO.⁴ Yet, as the Commission is well aware, the principal rationale for requiring incumbent LECs to make EELs available in the first place is that it allows competitors to extend the reach of their networks *without collocating in every central office* – a policy that is defeated if competitors are required to collocate.⁵ On that basis alone, the BOCs’ proposals are infeasible.

Even if they did not require collocation, the BOCs’ proposals are unworkable as described. For example, Verizon’s proposal states that a minimum of two DS1 circuits is required for integrated DLC “hand-offs” to the competitive carrier, even for a single voice channel.⁶ Such a requirement has enormous implications regarding the level of customer density that is required to make use of concentrated DS0 EELs economically viable.⁷ Similarly, SBC claims that it is cheaper for competitive LECs to self-provision concentrated DS0 EELs than it is for SBC to provision them.⁸ Yet, SBC’s supporting cost study, which estimates capital costs,

In addition, Verizon would need to perform hot-cuts for new CLEC customers served via UNE-L.”).

³ See Verizon, “Triennial Review,” slide 11 (Nov. 15, 2002), attached to *ex parte* letter from W. Randolph to M. Dortch (Nov. 15, 2002) (Verizon *ex parte*); Qwest, “Triennial Review,” slide 16 (Nov. 13, 2002), attached to *ex parte* letter from C. O’Connell to M. Dortch (Nov. 14, 2002) (Qwest *ex parte*); SBC, “UNE-Loops/Special Access Network Impact Overview,” slides 6-8 (Nov. 13, 2002), attached to *ex parte* letter from J. Bennett to M. Dortch (Nov. 14, 2002) (SBC *ex parte*); BellSouth, “Concentrated DS0 EELs,” slide 1, attached to *ex parte* letter from W. Jordan to M. Dortch (Nov. 25, 2002) (BellSouth *ex parte*).

⁴ See Verizon *ex parte*, slide 10; Qwest *ex parte*, slide 16; SBC *ex parte*, slides 6-8.

⁵ See *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, 15 FCC Rcd 3696, ¶¶ 288-289 (1999).

⁶ Verizon *ex parte*, slide 9. While this requirement might not have a significant effect on the economics where a competitive LEC has several thousand end user customers in a single CO, it would likely present an insurmountable obstacle in those COs where competitors have few customers.

⁷ See generally PACE Coalition *et al. Ex Parte* Letter (Dec. 11, 2002) (describing impairment created by geographic dispersion of mass market residential and small business customers).

⁸ SBC also argues that requiring competitors to collocate their own concentration equipment will allow them to combine unbundled, concentrated loops with special access transport in a cost effective manner. SBC *ex parte*, slide 2. As WorldCom has explained, there

tells only half the story.⁹ To gain a complete picture of all the costs incurred by competitive carriers, the study would have to take into account recurring charges, non-recurring charges, and operational costs.

SBC further claims that requiring competitive LECs to purchase and collocate their own loop concentration equipment will provide incentives for carriers to invest and build efficient networks, which “employ concentration and multiplexing as close to the end-user as economically feasible.”¹⁰ Effectively, SBC assumes that competitive LECs can immediately obtain the economies of scale enjoyed by incumbent LECs. At present, however, because of their much smaller share, competitive LECs can compete only by placing their switches much farther from customers on average than incumbent LECs place their switches, and by avoiding the need to collocate at every central office. While this does require competitive LECs to pay substantial backhaul costs that the incumbents can avoid, that is in fact one of the benefits of concentrated DS0 EELs – they reduce competitors’ costs. Moreover, given that incumbent LECs deployed their switches and other equipment assuming 100% market share, it is highly unlikely that it would ever be efficient for any competitor to collocate its equipment at every incumbent LEC central office.

BellSouth’s proposal, which relies on concentrated loops offered via a TR-008 interface, raises other issues.¹¹ First, the TR-008 interface is outdated because it is limited to a maximum concentration of 2:1.¹² Second, it is a low density unit that would be inappropriate for COs in which competitors have a higher penetration of end user customers. Third, use of TR-008 would raise a number of operational difficulties, including provisioning and mechanized loop testing issues. In addition, WorldCom’s switches do not support the TR-008 interface, and it would be prohibitively expensive for WorldCom to retrofit its switches to support line cards compliant with the outdated TR-008 standard.

Another critical issue that is inadequately addressed by the BOCs is how DS0 EELs will be provisioned when the end user is served by an incumbent LEC remote terminal (RT) DLC

is no need for competitive LECs to collocate in order to combine unbundled loops with unbundled transport or with special access. *See* WorldCom Reply Comments at 33-34 (July 17, 2002); *see also* WorldCom, “Legal and Policy Considerations with Respect to EELs” at 14-15, attached to *ex parte* letter from R. Milkman to M. Dortch (Nov. 18, 2002).

⁹ Specifically, SBC estimates that its capital costs to transition UNE-P lines and provide loop conversion without concentration to competitors would be approximately \$480 per line. SBC *ex parte*, slide 7. In comparison, SBC estimates that competitive LECs can collocate their own concentration equipment, which can be combined with special access, for a capital investment of only \$246 per line. *Id.*, slide 8.

¹⁰ *Id.*, slide 3.

¹¹ BellSouth *ex parte*, slide 1.

¹² *See id.*

platform.¹³ RT-based platforms are becoming entirely too prevalent to be ignored. This issue must also be resolved for DS0 EELs to be a meaningful solution.

In sum, the BOCs' submissions not only fail to offer a viable proposal, such as offering DS0 EELs with concentration on a line-by-line basis, but they also fail to respond to the numerous operational and economic issues surrounding use of DS0 EELs with concentration. As WorldCom indicated previously, TELRIC-priced DS0 EELs with concentration could *potentially at some point in the future* enable competitors to serve additional residential customers via their own switches in certain markets, provided that these pricing and technical issues are first resolved.¹⁴ At present, however, DS0 EELs do not offer a basis for concluding that competitive carriers are not impaired without access to unbundled switching.

Please contact me if you have any additional questions.

Sincerely,

/s/ Kimberly Scardino

Kimberly Scardino
Senior Counsel
(202) 736-6478

¹³ See, e.g., Verizon *ex parte*, slide 9.

¹⁴ See WorldCom *ex parte*.