

LAWLER, METZGER & MILKMAN, LLC

2001 K STREET, NW  
SUITE 802  
WASHINGTON, D.C. 20006

RUTH MILKMAN  
PHONE (202) 777-7726

PHONE (202) 777-7700  
FACSIMILE (202) 777-7763

January 29, 2003

BY ELECTRONIC DELIVERY

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

Re: *Ex Parte Presentation*, 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 January 28, 2003, Donna Sorgi, Kimberly Scardino, and Henry G. Hultquist of WorldCom, Inc. ("WorldCom"), and the undersigned, counsel for WorldCom, met with Christopher Libertelli, Legal Advisor to Chairman Powell. During that meeting, WorldCom representatives discussed the various issues raised in the above-captioned proceeding, as detailed in the attached presentation.

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,

/s/ Ruth Milkman

Ruth Milkman

Attachment

cc: Christopher Libertelli



# Triennial Issues

January 28, 2003

# Switching (UNE-P)

- Record shows CLECs are impaired nationwide in every CO regardless of size without access to switching—economic and operational impairment
  - BOC Fact Report on existence of CLEC switches is wrong—grossly exaggerates CLEC presence; CLEC switches used for business services
- States should be charged with resolving economic and operational barriers
  - Economic: 1) hot cut fees; 2) collo rates; 3) alternatives to collo, including DS0 EELs w/ concentration; 4) transport rates
  - Operational: 1) efficient, scalable, reliable loop provisioning process, including bulk hot cuts; 2) ability to unbundle all loop types, including DLC; 3) resolution of CLEC-CLEC migrations; 4) commercial availability of DS0 EELs with concentration
- Once barriers addressed, states should determine whether impairment exists
  - If cost disparity between UNE-P and UNE-L costs in MiCRA model is more than 5%, CLEC impaired; If cost disparity between UNE-P and UNE-L costs in MiCRA model is less than 5%, presume CLEC not impaired assuming operational issues are resolved.
- **Any elimination of switching prior to resolution of barriers will result in elimination of competition, even in most dense COs**

# Switching (UNE-P)

- Transition is possible but only where economic and operational barriers are removed
- Once transition begins, UNE-P must always be available for acquisition unless and until electronic loop provisioning is implemented

# Broadband

- CLECs are impaired on nationwide basis without:
  - DSL loops
  - Line Sharing
  - Line Splitting (UNE-P and UNE-L)
  - Fiber-Fed NGDLC loops

# Hi-cap Loops & Transport

- There are zero competitive providers of high-capacity loops for 90% of relevant buildings.
  - Nationwide impairment for DS-1 and DS-3 loops
- There are zero competitive transport providers for 87% of BOC wire centers.
  - Route-by-route is only rational, granular inquiry.
  - States should look for at least 4 providers on a route.
  - Cannot infer broad “contestability” from narrow facilities deployment.

# Use Restrictions Are Discriminatory and Unjustifiable

- No basis in impairment:
  - Feasibility of competitive hi-cap provisioning unrelated to what retail service is offered.
- Special access tariffs irrelevant:
  - Statute requires access at cost-based rates when competitive provisioning is infeasible.
  - BOC LD entry exacerbates impairment.
- Extension of use restrictions to standalone UNEs would harm competitive access providers.

# Strong State Role

- States best suited to perform granular analysis
- BOC rates and practices differ in the states and regions