LAWLER, METZGER & MILKMAN, LLC

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

A. RICHARD METZGER, JR.
PHONE (202) 777-7729

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

January 31, 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 30, 2003, Donna Sorgi, Henry G. Hultquist, and Kimberly Scardino of WorldCom, Inc. ("WorldCom"), and the undersigned, counsel for WorldCom, met with Matthew Brill, Senior Legal Advisor to Commissioner Abernathy, and Greg Costa, Legal Intern to Commissioner Abernathy. During that meeting, WorldCom representatives described the company's position on a variety of issues pending in the above-captioned proceeding. These views previously have been presented in written submissions in this proceeding and are summarized in the attached presentation, which was provided to Mr. Brill.

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/ A. Richard Metzger, Jr.

A. Richard Metzger, Jr.

Attachment

cc: Matthew Brill
Greg Costa

WORLDCOM℠

Triennial Issues

January 30, 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 <u>only</u> 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 <u>zero</u> competitive providers of high-capacity loops for 90% of relevant buildings.
  - Nationwide impairment for DS-1 and DS-3 loops
- There are <u>zero</u> 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 <u>cost-based</u> 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