WORLDCOM℠

January 31, 2003

*By Electronic Filing*

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

Re: *Written Ex Parte*
UNE Triennial Review – CC Docket No. 01-338
Local Competition – CC Docket No. 96-98
Deployment of Advanced Wireline Services – CC Docket No. 98-147

Dear Ms. Dortch:

In a recent *ex parte* filing, SBC claims to have "enhanced" its previous margin-based analysis of impairment with respect to unbundled switching.[1] This analysis suffers from all of the same flaws as SBC's previous analysis, as discussed in WorldCom's January 27 *ex parte* filing.[2]

Specifically, in its January 28 filing, SBC claims to have extended its model to evaluate competitive LEC profitability on an MSA basis. According to SBC, its analysis demonstrates that competitors can use UNE-L profitably to serve MSAs throughout SBC's territory because "even if some smaller wire centers may not be profitable . . . in the aggregate CLECs can profitably serve the collection of wire centers within an MSA."[3] SBC bases this claim on the premise that any losses that competitive LECs will incur serving customers in unprofitable central offices will be offset by profits made from serving customers in larger, more profitable central offices. Thus, SBC argues that the

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1 Letter from James C. Smith, SBC, to Chairman Michael Powell, FCC (Jan. 28, 2003) ("*SBC Jan. 28 ex parte*"). (All *ex parte* filings referenced herein were filed in CC Docket No. 01-338.)

2 "WorldCom Response to SBC and BellSouth Critique of MiCRA Model," attached to letter from Gil M. Strobel to Marlene H. Dortch (Jan. 27, 2003) ("*WorldCom Jan. 27 ex parte*").

3 *SBC Jan. 28 ex parte* at 1.

Commission should find that there is no impairment even in those offices where the competitive LEC earns a negative margin. This argument defies logic. The reality is that rational competitors will seek to avoid serving those central offices that are unprofitable, thereby limiting the number of competitive choices available to consumers.

In addition, SBC's model itself shows that competitive LECs suffer a cost disadvantage in serving residential customers via UNE-L. In fact, in its previous filing WorldCom understated the cost disparity derived from SBC's own model. Using the cost estimate SBC provided in its January 14 *ex parte*,[4] a competitor relying on UNE-L would face a cost disadvantage of ***$11.79 per line*** in serving residential customers in a wire center with 5,000 residential lines (assuming a 5 percent share). To develop an estimate of the cost difference between providing UNE-L and UNE-P as presented in the SBC's January 14 *ex parte*, WorldCom added the collocation, GR-303, hot cut switch and transport costs reported by SBC for Michigan, California and Texas as well as some additional nonrecurring charges and a loop cross-connect charge that SBC claims are assessed on UNE-L but not UNE-P. The results were then averaged and the average UNE-P rates for those states (excluding the loop costs) were subtracted from that average.[5] The resulting disadvantage clearly constitutes impairment.

Finally, SBC's January 28 *ex parte* underscores the fact that there is considerable variability in the magnitude of the cost disadvantage faced by competitive LECs, and that this variability occurs within states as well as between states. Compare, for example, SBC's calculation that a competitive LEC with a 5 percent share would have costs of $28.91 per line in the Sacramento MSA[6] to its previous calculation that the average costs for a competitive LEC with a 5 percent share in California would be $44.31 per line.[7] As WorldCom has previously explained, this variability between states and within states strongly supports the need for state commission analysis of impairment with respect to unbundled switching.[8]

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[4] Letter from James C. Smith, SBC, to Chairman Michael Powell, FCC (Jan. 14, 2003) ("*SBC Jan. 14 ex parte*"). WorldCom has previously explained that SBC understates competitive LECs' costs. *WorldCom Jan. 27 ex parte* at 12-16.

[5] *SBC Jan. 14 ex parte*, Att. 3 at 4-7. Adding the hot cut costs and UNE-L-specific additional charges noted by SBC, and using the specific UNE-P rates for the three states analyzed in SBC's *ex parte*, resulted in a cost disparity of $11.79 per line, rather than the $6.86 that WorldCom had originally estimated. *See WorldCom Jan. 27 ex parte* at 10, n.41.

[6] *SBC Jan. 28 ex parte* at Table A ($50 price less $21.09 margin = $28.91 cost).

[7] *SBC Jan. 14 ex parte* at Table A ($50 price less $5.69 margin = $44.31 cost).

[8] *See, e.g., WorldCom Jan. 27 ex parte* at 11.

For the reasons explained above, as well as those explained in WorldCom's January 27 *ex parte*, the Commission should reject SBC's misguided attempt to convince the FCC that competitive carriers would not be impaired without access to UNE-P.

Respectfully submitted,

/s/ Chris Frentrup
Chris Frentrup
Senior Economist

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