



CONSUMER ADVOCATE DIVISION
STATE OF WEST VIRGINIA
PUBLIC SERVICE COMMISSION
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Charleston, West Virginia 25301
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January 31, 2005

FILED VIA ECFS

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Room TW B204
Washington, DC 20554

Re: *I/M/O Petition of WorldCom, Inc. Petition for Declaratory Ruling That West Virginia's Definition of Customer of Record is Inconsistent with the FCC's Rules, CC Docket No. 94-129*

Dear Ms. Dortch:

On March 12, 2004, WorldCom, Inc. ("WorldCom") filed a petition with the Commission, requesting that the Commission preempt certain rules regarding carrier change verification requirements promulgated by the Public Service Commission of West Virginia ("WVPSC"), codified at 150 *W. Va. Code State Reg.* ("C.S.R.") § 150-6-2.8.b.

On June 11, 2004, the Consumer Advocate Division of the Public Service Commission of West Virginia ("WVCAD") filed comments in response to WorldCom's petition, indicating that the WVCAD joined in the WVPSC's Staff June 10, 2004 motion to the Commission, which requested that the Commission hold this proceeding in abeyance pending the outcome of proceedings pending before the WVPSC on exactly the same issue. Those proceedings were initiated by AT&T Communications of West Virginia, Inc. ("AT&T") and are docketed as WVPSC Case No. 04-0555-T-P. Verizon West Virginia Inc. ("Verizon-WV"), Sprint Communications Company, L.P. ("Sprint"), and WVCAD were granted intervenor status in that proceeding.

The Commission has not issued a decision on WorldCom's petition to date.

The purpose of this letter is to advise the Commission of developments in WVPSC Case No. 04-0555-T-P. A hearing was held before an administrative law judge ("ALJ") on October 14, 2004, at which time the parties indicated that they had reached a settlement on many – all in the case of Sprint – of the carriers' concerns regarding the application of C.S.R. § 150-6-2.8.b to both business and residential telecommunications customers. The parties filed an executed Stipulation of Partial Settlement ("Settlement") with the WVPSC on October 28, 2004. A copy of the Settlement is being provided herewith. The Settlement provided for temporary, and limited, relief from the "customer of record" requirements of C.S.R. § 150-6-2.8.b. Under the parties' agreement, changes in business service could be processed without violating the WVPSC's rules so long as the carriers sought and obtained the name, title and position of persons authorizing such changes. Changes in residential service could be processed so long as the changes are authorized by either the customer of record or the customer of record's spouse. Eighteen months after the Settlement's effective date, the carriers are to file with the WVPSC certain information regarding alleged slamming incidents. Other parties to the Settlement then have sixty days within which to file comments responding to the carriers' informational filings and indicating whether the WVPSC's rules should be amended or waived. Other carriers may opt into the Settlement's terms.

At the October 14, 2004 hearing before the WVPSC's ALJ, Verizon-WV and AT&T indicated that they still sought a broader expansion of the term "customer of record" in C.S.R. § 150-6-2.8.b, to enable anyone claiming to be authorized by the "customer of record" to be able to submit changes in residential service. WVCAD and the WVPSC's Staff opposed this additional expansion of the state rule.

On January 14, 2005, the WVPSC's ALJ issued a recommended decision, concluding that the carriers ought to be granted a waiver from the "customer of record" requirements in C.S.R. § 150-6-2.8.b in accordance with their requests. The ALJ declined to grant the declaratory ruling the carriers sought, however. A copy of the ALJ's January 14, 2005 decision can be accessed at: http://www.psc.state.wv.us/orders/2005_01/040555ah.htm. In accordance with *W. Va. Code* § 24-1-9(c), both the WVPSC Staff and WVCAD timely filed exceptions to the ALJ's January 14, 2005 decision. A copy of WVCAD's exceptions is attached hereto. The timely filing of exceptions by any party to a recommended decision stays the effectiveness of such decisions:

When no exceptions are filed within the time specified, such recommended order shall become the order of the commission five

days following the expiration of the period for filing exceptions unless the order is stayed or postponed by the commission.

W. Va. Code § 24-1-9(e).

In light of the foregoing procedural developments in WVPSC Case No. 04-0555-T-P, WVCAD renews its support of the WVPSC Staff's June 10, 2004 motion to hold WorldCom's proceeding in abeyance.

Very truly yours,

/s/
Patrick W. Pearlman
Deputy Consumer Advocate

Attachment: (1) Stipulation of Partial Settlement, WVPSC Case No. 04-0555-T-P (Filed Oct. 28, 2004)
(2) WVCAD's Exceptions to the ALJ's January 14, 2005 Recommended Decision (Filed Jan. 31, 2005).