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re: T-00000A-97-0238

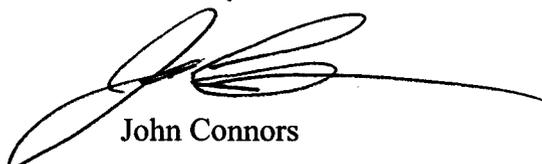
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To Whom It May Concern:

Enclosed are an original and ten copies of WorldCom, Inc.'s Brief Addressing UNE-P, UNE-Combinations, EEL's, Transport, and Switching Impasse Issues, in Docket T-00000A-97-0238, for filing with the Arizona Corporation Commission. I am also enclosing one copy with a self-addressed, stamped envelope. Please stamp this copy and return it to me in the envelope provided.

If you have any questions, please do not hesitate to call me at (303) 390-1197.

Sincerely,



John Connors

Attachments

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BEFORE THE ARIZONA CORPORATION COMMISSION

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IN THE MATTER OF U S WEST)
COMMUNICATIONS, INC.'S)
COMPLIANCE WITH SECTION 271 OF THE) DOCKET NO. T-00000A-97-238
TELECOMMUNICATIONS ACT OF 1996)
_____)

**BRIEF ADDRESSING UNE-P, UNE-COMBINATIONS, EELS, TRANSPORT
AND SWITCHING IMPASSE ISSUES OF WORLDCOM, INC.**

WorldCom, Inc., ("WorldCom") submits this brief addressing impasse issues that relate to Unbundled Network Element-Platform ("UNE-P"), Unbundled Network Element-Combinations ("UNE-combinations"), Enhanced Extended Links ("EELs"), Unbundled Dedicated Transport ("UDIT") and Unbundled Switching relating the Section 271 Checklist Items 2, 5 and 6 that arose in the fourth series of workshops. WorldCom filed the Direct Testimony of Michael A. Beach dated September 21, 2000, and Supplemental Testimony of Michael A. Beach dated April 5, 2001. This brief focuses on issues raised by WorldCom. However, WorldCom also concurred in issues raised by AT&T throughout these workshops. Therefore, WorldCom concurs in the arguments contained in AT&T's brief addressing impasse issues as well.

UNBUNDLED DEDICATED TRANSPORT

A. TR-13: Qwest is improperly imposing a local use restriction applicable to EELs to UDIT in Section 9.6.2.4.

WorldCom addressed a similar section, Section 9.7.2.9, in its dark fiber brief.

Section 9.6.2.4 of the most recently filed Statement of Generally Available Terms (“SGAT”) “Lite” provided by Qwest Corporation (“Qwest”) on April 4, 2001, provides as follows:

CLEC shall not use unbundled interoffice transport as substitutes for special or switched access services, except to the extent CLEC provides such services to its end user customers in association with local exchange services or to the extent that such UNEs meet the significant amount of local exchange traffic requirement set forth in section 9.23.3.7.2.

This section applies a standard that is relevant to restrictions placed on the use of an EEL. An EEL consists combination of an unbundled loop, multiplexing/concentrating equipment and dedicated transport.¹ This requirement was established by the Federal Communications Commission (“FCC”) in FCC Decision 00-183.² Specifically, the FCC concluded that until resolution of the Fourth Further Notice of Proposed Rulemaking, interexchange carriers (“IXC”) were precluded from converting special access services to combinations of unbundled loop and transport network elements. However, the FCC stated that this constraint did not apply if an IXC used such combinations to provide a significant amount of local exchange service, in addition to exchange access service, to a particular customer.³ As noted above, the FCC defines an EEL as a combination of an unbundled loop, multiplexing/concentrating equipment and dedicated transport.⁴

¹ See, FCC 99-238, issued in CC Docket 96-98, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, at page 12, adopted September 15, 1999.

² See, FCC Decision 00-183, issued in CC Docket No. 96-98, Supplemental Order Clarification, para. 22, at pages 12-14, adopted May 19, 2000.

³ *Id.* para. 5, at page 4.

⁴ See fnnt 1, *supra*.

Section 9.6.2.4 does not address EELs or the combination of an unbundled loop, multiplexing/concentrating equipment and dedicated transport. Rather that section addresses UDIT, which the FCC has defined as a network element. An EEL, on the other hand, is not a network element, but a combination of network elements.⁵

During the workshops Qwest has argued that its position was supported by the FCC citing paragraph 8 of its Supplemental Order Clarification that provides:

Although we have recently taken significant steps in implementing access charge reform, a number of additional considerations, discussed below, require us to extend the temporary constraint identified in the *Supplemental Order* while we compile an adequate record in the *Fourth FNPRM* for addressing the legal and policy issues that have been raised. Therefore, until we resolve the issues in the *Fourth FNPRM*, IXC's may not substitute an incumbent LEC's unbundled loop-transport combinations for special access services unless they provide a significant amount of local exchange service, in addition to exchange access service, to a particular customer. We emphasize that by issuing this clarification order, we do not decide any of the substantive issues in the *Fourth FNPRM* on the merits. (Emphasis supplied.) (Footnotes omitted.)⁶

However, even paragraph 8 does not support Qwest's position. Clearly, the FCC is addressing EELs (unbundled loop-transport combinations) in that paragraph, not UDIT or any other network element.

Therefore, Section 9.6.2.4 imposes improper limitations and restrictions on this network element by precluding the use of UDIT as a substitute for special or switched access services except to the extent a competitive local exchange carriers ("CLEC") provides "a significant amount of local exchange traffic" to its end users over the UDF. Accordingly, Section 9.6.2.4 of Qwest's SGAT should be deleted.

⁵ See, FCC Decision 99-238, issued in Docket No. 96-98, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, at para. 478, at page 216, adopted September 15, 1999; See also, Transcript dated February 21, 2001, at Page 28, line 9 through Page 29, line 18.

⁶ See, FCC Decision 00-183, issued in CC Docket No. 96-98, Supplemental Order Clarification, para. 8, at page 6, adopted May 19, 2000.

B. TR-8 and 12: Qwest is improperly disaggregating unbundled dedicated transport into various subparts.

Throughout its SGAT, Qwest improperly disaggregates unbundled dedicated transport into various subparts.⁷ This issue was also raised by AT&T in its comments and has been addressed in this record extensively by AT&T's witness, Ken Wilson. WorldCom concurs in AT&T's concerns on this issue. The FCC requirement is clear that CLECs can order UDIT between certain, specified points. In Paragraph 322 of the FCC Decision 99-238 (the "UNE Remand Order"), dedicated transport is defined as, "incumbent LEC transmission facilities dedicated to a particular customer or carrier that provide telecommunications between wire centers owned by incumbent LECs or requesting telecommunications carriers or between switches owned by incumbent LECs or requesting telecommunications carriers." As an unbundled network element, CLECs are permitted to use UDIT with none of the restrictions imposed by Qwest by its disaggregating of UDIT into separate subparts, UDIT and EUDIT. The sole effect of this disaggregation is to raise the costs of doing business for CLECs as is evident from the prices proposed in Exhibit A to the SGAT for these subparts.

As was also demonstrated by AT&T, Qwest is requiring CLECs to build triplicate facilities that are inefficient, costly, and a barrier to entry as described in three exhibits depicting the variations of constructing its network under Qwest's approach that addressed 1.) dedicated transport only, 2.) dedicated transport, and EF, UDIT, and EUDIT, and 3.) dedicated transport, and EF, UDIT, and EUDIT, and private line network. WorldCom requests that Qwest provide a single transport "pipe" where

⁷ See Direct Testimony of Michael A. Beach, dated September 21, 2000, at Page 15, Line 10 through Page 16, Line 5 and Supplemental Testimony of Michael A. Beach dated April 5, 2001, at Page 8, Line 4 through Page 10, Line 21.

services can be delivered to gain efficiencies in its network. WorldCom has agreed to pay the appropriate prices for combined services, and is not seeking TELRIC prices for relevant services such as special access. While the FCC has raised pricing issues when addressing commingling, by agreeing to pay the proper prices, WorldCom has eliminated the basis for denying a CLEC the ability to build an efficient network. WorldCom, therefore, requests the Commission allow WorldCom and other CLECs the ability to build efficient networks, without having to build triplicate facilities required by Qwest.

There is already precedent for combining services with different prices among different jurisdictions on a single network facility. Both intrastate and interstate private line and access services are provided on a single, high capacity facility as long as each service is billed at the appropriate jurisdictional rate. Similarly, switched access facilities and special access facilities, which are technically the same type of connection are combined on single, high capacity facilities, each charged at their appropriate rates that are different from each other.

Further, WorldCom requests the Commission address the relevant pricing issues in Docket No. T-00000A-00-0194.

UNBUNDLED SWITCHING

SW-6: Qwest is improperly restricting CLECs' access to unbundled local switching in Density Zone 1 where EELs are not, in fact, available.

At section 9.11.2.5 Qwest provides that Unbundled Switching is not available in certain end offices when the end-user customer to be served has four access lines or more. In a subsequent section, section 9.11.2.5.3, Qwest provides that UNE-P (which uses Unbundled Switching) is also not available in the conditions outlined in that section.

While the FCC rules provide that Unbundled Switching is not required to be provided in the situation described by Qwest – that decision was predicated upon a CLEC being able to obtain EEL connections from Qwest and using the EEL to connect end users to switching provided by the CLEC, themselves, or another carrier other than Qwest. Thus, the ability of Qwest to deny Unbundled Switching or UNE-P in these situations should be conditioned upon Qwest’s ability to provide the CLEC an EEL connection, upon request, for those certain end offices. Lack of Qwest capacity has been a problem in the past and should not be allowed to result in the situation where competitors cannot serve an end user in these high volume end offices either through UNE-P or using EEL’s. Such a result would be an unreasonable roadblock to competition for customers in those offices.⁸

UNBUNDLED NETWORK ELEMENTS-PLATFORM

UNEP-9: Qwest is improperly creating marketing opportunities from misdirected calls by CLEC customers.

In Section 9.23.3.17, like Section 6.4.1, WorldCom is concerned that customers calling Qwest may be subjected to a “win-back” effort and that Qwest will use such inadvertent calls from CLEC customers as a marketing opportunity. WorldCom agrees with AT&T’s recommendation that the phrase “seeking such information” be added at end of this section to the end of the last sentence.⁹ This issue was briefed in the Joint Brief filed by AT&T and WorldCom addressing interconnection, collocation and resale impasse issues. WorldCom will not repeat its arguments raised in its earlier brief, but requests the

⁸ See Supplemental Testimony of Michael A. Beach, dated April 5, 2001, at Page 12, Line 3 through Line 21.

⁹ See Supplemental Testimony of Michael A. Beach, dated April 5, 2001, at Page 19, Line 16 through Page 21, Line 3.

Commission address this improper "win-back" effort in the same manner that it addresses this issue for section 6.4.1, that has similar win-back language.

UNE - COMBINATIONS

A. UNE-C-2: and CL2-12: Qwest refuses to connect UNE-combinations to finished services.

Qwest refuses to connect UNE-combinations to finished services.¹⁰ Specifically,

Section 9.23.1.2.2 now provides:

9.23.1.2.2 In addition to the UNE combinations provided by Qwest to CLEC hereunder, Qwest shall permit CLEC to combine any UNE provided by Qwest with another UNE provided by Qwest or with compatible network components provided by CLEC or provided by third parties to CLEC in order to provide Telecommunications Services. UNE Combinations will not be directly connected to a Qwest Finished Service, whether found in a Tariff or otherwise, without going through a Collocation, unless otherwise agreed to by the parties. Notwithstanding the foregoing, CLEC can connect its UNE Combination to Qwest's Directory Assistance and Operator Services platforms.

As discussed further below in the discussion on EELs, WorldCom does not believe the restriction against connecting UNE-combinations to finished services is appropriate under FCC Rule.¹¹ Further, WorldCom concurs in the arguments made by AT&T.

B. CL2-13 and UNE-C-8: Qwest is limiting its obligation to build certain facilities for CLECs in sections 9.19, 9.1.2, 9.23.1.4-6.

In section 9.19, Qwest agrees to construct network capacity, facilities, or space for access to or use of UNEs, only upon Qwest's determination of the acceptability of an individual financial assessment, which Qwest performs. Qwest should not be able to make this unilateral decision without the ability of the CLEC to challenge the decision

¹⁰ See, Direct Testimony of Michael A. Beach, dated September 21, 2000, at Page 6, Line 10 through Line 23.

¹¹ See, 47 C.F. R. § 51.309(a).

should Qwest decide that the financial assessment does not make the project acceptable to Qwest. Specific provisions should be added to allow the CLEC to challenge Qwest if the decision is made not to construct, through appropriate dispute resolution procedures.¹²

ENHANCED EXTENDED LINKS

EEL-10: Qwest is improperly imposing a restriction the use of EELs in Section 9.23.3.7.2.7.

In section 9.23.3.7.2.7 Qwest states that it will not provision an EEL combination (that is a combination of loop and transport elements) or convert Private Line/Special Access to an EEL if Qwest records indicate that service “will be connected directly to a tariffed service”. WorldCom challenges this position.¹³ FCC Decision 00-183 provides that an EEL must meet the local use restrictions contained. Paragraph 28 of that decision states:

We further reject the suggestion that we eliminate the prohibition on “co-mingling” (*i.e.* combining loops or loop-transport combinations with tariffed special access services) in the local usage options discussed above. We are not persuaded on this record that removing this prohibition would not lead to the use of unbundled network elements by IXCs solely or primarily to bypass special access services. We emphasize that the co-mingling determinations that we make in this order do not prejudice any final resolution on whether unbundled network elements may be combined with tariffed services. We will seek further information on this issue in the Public Notice that we will issue in early 2001. (footnotes omitted)

Qwest refuses to commingle UNE combinations with tariffed services even if the CLEC pays retail rates for special access circuits. If CLECS agree to pay retail rates, Qwest acknowledged that the only reason for not allowing CLECs the opportunity to commingle services is an administration issue which Qwest argues will make sorting out

¹² See Supplemental Testimony of Michael A. Beach, dated April 5, 2001, at Page 19, Line 1 through Line 11.

¹³ See Supplemental Testimony of Michael A. Beach, dated April 5, 2001, at Page 16, Line 9 through Line 16.

traffic for billing purposes difficult. AT&T demonstrated that the administration issues raised by Qwest are no different than sorting traffic for other types of circuits which Qwest is routinely required to do or any more difficult than requiring a CLEC to demonstrate that an EEL is being used "significant amount of local exchange traffic." This section of the SGAT should be removed or modified.

Finally, in Washington, Qwest agreed to add the following language to its SGAT, which WorldCom requests be imported into the Colorado SGAT.

CLEC shall not use EUDIT as a substitute for Switched Access Services, except to the extent CLEC provides such services to its end users customers in association with local exchange services. Pending resolution by the FCC, Qwest will not apply the local use restrictions contained in 9.23.3.7.2.

CONCLUSION

For the foregoing reasons, Qwest cannot be found to be in compliance with the requirements found in Checklist Items 2, 5 and 6 of the Section 271 Checklist until it has modified its SGAT to properly address its legal obligations.

Dated: May 17, 2001

WORLDCOM, INC.

By:

THOMAS F. DIXON

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(BY J.C.)

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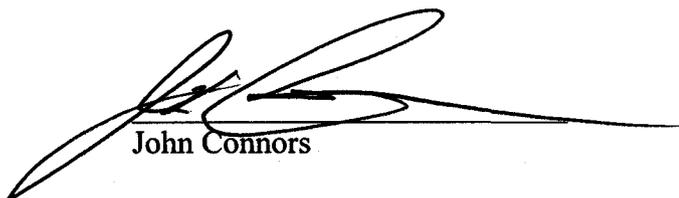
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