

FLORIDA PUBLIC SERVICE COMMISSION
Capital Circle Office Center • 2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

M E M O R A N D U M

NOVEMBER 14, 1996

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYO)

FROM: DIVISION OF COMMUNICATIONS (WILLIAMS, O'BRY)
DIVISION OF LEGAL SERVICES (PELLEGRINI)

RE: DOCKET NO. 961039-TP; REQUEST FOR APPROVAL OF PROPOSED AGREEMENT AND PLAN OF MERGER AND RELATED TRANSACTIONS BETWEEN WORLDCOM, INC. (holder of IXC Certificate No. 1528 and ALEC Certificate No. 4040 in the name WorldCom, Inc. d/b/a LDDS WorldCom) AND MFS COMMUNICATIONS COMPANY, INC. (holder of ALEC Certificate No. 3151 in the name Metropolitan Fiber Systems of Florida, Inc., and IXC Certificate No. 2990 and Shared Tenant Services Certificate No. 3497 in the name RealCom Office Communications, Inc.).

AGENDA: 11/26/96 - REGULAR AGENDA - PROPOSED AGENCY ACTION - INTERESTED PERSONS MAY PARTICIPATE

PANEL : FULL COMMISSION

SPECIAL INSTRUCTIONS: I:PSC/CMU/WP/961039.RCM

CASE BACKGROUND

On September 4, 1996, at the request of WorldCom, Inc. and MFS Communications Company, Inc., the above docket was opened requesting approval on a proposed agreement and plan of merger between WorldCom, Inc., and its subsidiary WorldCom, Inc. d/b/a LDDS WorldCom (FPSC IXC Certificate No. 1528 and FPSC ALEC Certificate No. 4040) with MFS Communications Company, Inc. and its subsidiaries Metropolitan Fiber Systems of Florida, Inc. (FPSC ALEC Certificate No. 3151), MFS Intelnet of Florida, Inc. (FPSC IXC Certificate No. 3573), and RealCom Office Communications, Inc. (FPSC IXC Certificate No. 2990 and FPSC STS Certificate No. 3497) (Florida Operating Subsidiaries). The joint application is appended hereto as Attachment A.

DOCUMENT NUMBER-DATE
12129 NOV 14 96
FPSC-RECORDS/REPORTING

DOCKET NO. 961039-TP
DATE: November 14, 1996

DISCUSSION OF ISSUES

ISSUE 1: Should the request for approval of the proposed agreement and plan of merger and related transactions be granted?

RECOMMENDATION: Yes. (WILLIAMS, O'PRY)

STAFF ANALYSIS: WorldCom, Inc. (WorldCom), and MFS Communications Company, Inc. (MFSCC), have determined that significant economic and marketing efficiencies and enhancements will be accomplished by the merging of the two entities and establishing MFSCC as a wholly-owned subsidiary of WorldCom. WorldCom has created HIJ Corp. (HIJ), a wholly-owned subsidiary, specifically for the purpose of consummating the transaction. HIJ will merge into MFSCC. MFSCC will be the surviving entity following the merger, and will become a wholly-owned subsidiary of WorldCom.

The proposed transaction will not involve a change in the manner in which telecommunications services are provided to MFSCC customers. MFSCC will continue operating its Florida Operating Subsidiaries under their current names and no certificate holder name will change. The Florida Operating Subsidiaries will continue to operate under their tariffs on file with this Commission. MFSCC represents that the transaction will be virtually seamless to its customers and that it will notify all of its customers of the merger transaction.

The combined entity will offer its customers a full range of competitively priced services and increase competition in the local, long distance and other related market sectors.

Therefore, staff recommends that the Commission approve the proposed agreement and plan of merger and related transactions.

DOCKET NO. 951024-TP
DATE: December 07, 1995

ISSUE 2: Should this docket be closed?

RECOMMENDATION: This docket should be closed if no person whose interests are substantially affected by the proposed action, files a protest within the 21 day protest period. (PELLEGRINI)

STAFF ANALYSIS: The docket should be closed at the end of the PAA protest period, if no person whose interests are substantially affected by the proposed action, files a protest within the 21 day protest period.

CMW

BEFORE THE
FLORIDA
PUBLIC SERVICE COMMISSION

Application of WorldCom, Inc. and
MFS Communications Company, Inc.
for Approval of Agreement and Plan
of Merger, and Related Transactions

Docket No. 961039-TI

APPLICATION

WorldCom, Inc. ("WorldCom") and MFS Communications Company, Inc. ("MFSCC"), (together the "Applicants"), by their undersigned counsel and pursuant to Section 364.33 and 364.345 of the Florida Statutes, hereby request Commission approval of a transaction whereby HIJ Corp., a wholly-owned subsidiary of WorldCom, will merge into MFSCC, and the shareholders of MFSCC will exchange each share of MFSCC common stock for 2.1 shares of WorldCom common stock. Both WorldCom and MFSCC are authorized, either directly or through certain subsidiaries, to provide a variety of telecommunications services within Florida. WorldCom and MFSCC therefore notify, and to the extent required, seek Commission approval, of the proposed merger and the related financial transactions described in detail herein. WorldCom and MFSCC currently are not affiliated with each other.

DOCUMENT NUMBER-DATE

09422 SEP-48

FPSC-RECORDS/REPORTING

ATTACHMENT "A"

The Applicants respectfully request expedited treatment of this Application to permit them to consummate the merger no later than December 1, 1996.

The Applicants submit the following information in support of this Application:

I. **THE PARTIES**

A. **MFS Communications Company, Inc.**

MFSCC, a Delaware corporation, is publicly traded on the Nasdaq Stock Market under the stock symbol MFST. Its principal offices are located at 11808 Miracle Hills Drive, Omaha, Nebraska 68154. Pursuant to Certificates of Public Convenience and Necessity issued by this Commission to Metropolitan Fiber Systems of Florida, Inc.,¹ MFS Intelenet of Florida, Inc.,² and RealCom Office Communications, Inc.³ (the "Florida Operating Subsidiaries"), MFSCC subsidiaries are authorized to provide all forms of telecommunications services throughout the State of Florida, including alternative access vendor and local exchange services.

In addition to the services provided to Florida subscribers, MFSCC subsidiaries currently operate local fiber optic networks in 45 domestic U.S. metropolitan areas, resell local and interexchange services, and are authorized by the Federal Communications Commission ("FCC") to provide interstate and international long distance services throughout the United States. MFSCC subsidiaries also operate fiber optic networks in a number of cities outside the United States.

¹ See Certificate No. 3151, Docket Nos. 930074-TP (February 24, 1993) and 950759-TX (October 11, 1995).

² See Order No. PSC-94-0883-FOF-TI (July 20, 1994).

³ See Docket No. 940571-TF (September 16, 1994).

Recently, MFSCC completed the purchase of UUNET Technologies, Inc., a leading national and international provider of a comprehensive range of Internet services, making it the world's largest Internet access provider.

Information concerning the legal, technical, managerial and financial qualifications of MFSCC and its Florida Operating Subsidiaries to provide service was submitted with the various MFSCC subsidiaries' applications for certification filed with the Commission in Docket Nos. 930074-TP, 950759-TX, 940571-TF, and the docket of Order No. PSC-94-0883-FOF-TI, and is, therefore, already a matter of record at the Commission. Tariffs of the Florida Operating Subsidiaries are also on file at the Commission. The Applicants therefore respectfully request that the Commission take official notice of those decisions and tariffs and incorporate them by reference herein.

Upon consummation of the proposed transaction, MFSCC not only expects to rely on many of its existing management and operational staff to provide service, but will also be able to draw upon the substantial expertise of WorldCom and its operating subsidiaries. Current financial information for MFSCC is attached to this Application as Exhibit A.

B. WorldCom, Inc.

WorldCom, formerly known as LDDS Communications, Inc., is a Georgia corporation publicly traded on the Nasdaq Stock Market under the stock symbol WCOM. Its principal offices are located at 515 East Amite St., Jackson, Mississippi 39201-2702. WorldCom is a nondominant telecommunications company which provides a full array of domestic and international long distance voice and data communications services to business and residential customers. WorldCom offers

service, both directly and through certain operating subsidiaries, as a reseller and, in a number of states, a facilities-based carrier providing intrastate and interstate interexchange service. WorldCom and its operating subsidiaries are authorized to offer intrastate interexchange services in 48 states, including Florida,[‡] and are authorized by the FCC as non-dominant carriers to offer domestic interstate and international services nationwide.

C. Designated Contacts

The designated contacts for questions concerning this Application are:

For MFSCC:

Jean L. Kiddoo, Esq.
Phyllis A. Whitten, Esq.
Swidler & Berlin, Chartered
3000 K Street, N.W., Suite 300
Washington, D.C. 20007
(202) 424-7834 (Tel)
(202) 424-7645 (Fax)

with a copy to:

Terrence J. Ferguson, Esq.
MFS Communications Company, Inc.
11808 Miracle Hills Drive
Omaha, Nebraska 68154
(402) 231-3435 (Tel)
(402) 231-3545 (Fax)

[‡] See Docket No. 890308-TI (July 19, 1989); Docket No. 931179-TI (August 9, 1994).

For WorldCom:

Brad E. Mutschelknaus, Esq.
Marieann Z. Machida, Esq.
Kelley Drye & Warren LLP
1200 19th Street, Suite 500
Washington, D.C. 20036
(202) 955-9600 (Tel)
(202) 955-9792 (Fax)

with a copy to:

Richard J. Heitmann, Esq.
WorldCom, Inc.
515 East Amite Street
Jackson, Mississippi 39201
(601) 360-8970 (Tel)
(601) 360-8971 (Fax)

II. REQUEST FOR APPROVAL OF MERGER AND RELATED TRANSACTIONS

MFSCC and WorldCom have determined that they will realize significant economic and marketing efficiencies and enhancements by merging the two entities and establishing MFSCC as a wholly-owned subsidiary of WorldCom. Accordingly, MFSCC and WorldCom have negotiated an Agreement and Plan of Merger (the "Agreement") whereby the shareholders of MFSCC will exchange each share of MFSCC common stock for 2.1 shares of WorldCom common stock. A copy of the Agreement is attached hereto as Exhibit B.

Upon consummation of the merger and related transactions described herein, the Applicants expect that MFSCC will continue operating its Florida Operating Subsidiaries under their current

names and no certificate holder name will change.^{2/} Moreover, the proposed transaction will not involve a change in the manner in which the companies provide telecommunications services, and the Florida Operating Subsidiaries will continue to provide high quality, affordable telecommunications services to the public. As such, this transaction will not in any way disrupt service nor cause inconvenience or confusion to the customers of any MFSCC company. Indeed, the transaction will be virtually seamless to MFSCC customers in terms of the services they receive and all customers will be notified of the merger transaction.

WorldCom is financially well-qualified to consummate the proposed transaction. WorldCom is the nation's fourth largest interexchange carrier. In 1995, WorldCom had revenues of approximately \$3.64 billion. A copy of WorldCom's most recent SEC Form 10-Q is attached hereto as Exhibit C. WorldCom is led by a highly-qualified team of management personnel, all of whom have extensive backgrounds in telecommunications. In addition, MFSCC management personnel will continue to be involved in the management of MFSCC after the merger.

A. The Merger

Upon closing, the proposed transaction will allow HIJ Corp., a wholly-owned subsidiary of WorldCom created specifically for purposes of consummating the transaction, to merge into MFSCC. As part of that merger, the stockholders of MFSCC will exchange each issued and

^{2/} The trade name of WorldCom will change from "LDDS WorldCom" to "MFS WorldCom." Where necessary, WorldCom will notify the Commission and file tariffs with its new name upon closing of the transaction. There is no current intent for the names of the other WorldCom operating companies to change as a result of this merger.

outstanding share of common stock of MFSCC for 2.1 shares of WorldCom common stock.² MFSCC, as the surviving entity following the merger, will become a wholly-owned subsidiary of WorldCom and, to the extent required, the Applicants respectfully request that the Commission approve such transfer. WorldCom and MFSCC will hold meetings of their shareholders to obtain approval of the proposed merger. Following the transaction, WorldCom's Board of Directors will be comprised of an odd number of directors, with WorldCom designating one more director than MFSCC.

B. The Issuance of Securities

In order to complete the transaction and in compliance with federal and state securities laws, WorldCom will issue additional shares of WorldCom common stock and preferred stock. To the extent required, the Applicants respectfully request that the Commission grant WorldCom authority to issue the number of shares which are determined to be required to complete the merger as provided for in the Agreement. A Form S-4 registration statement will be filed with the Securities and Exchange Commission to register the issuance of the stock, and WorldCom will hold a meeting of its shareholders to approve the amendment of WorldCom's Articles of Incorporation to increase the number of authorized shares of WorldCom stock and to approve the issuance of the stock in the merger transaction.

² The merger will not constitute a *de facto* transfer of control of WorldCom. Although 54% of WorldCom common stock will be issued to MPS shareholders at the consummation of the contemplated transaction, the stock is widely and publicly held and lacks any voting agreements or other arrangements that would allow any one stockholder or group of stockholders to exert control over a larger percentage of shares than each stockholder individually owns. In addition, at least 11% of the current MFSCC shareholders already own WorldCom shares.

C. The Credit Facility Agreements

In addition, as subsidiaries of WorldCom, MFSCC and its operating subsidiaries, including the Florida Operating Subsidiaries, will be required to execute a guaranty of WorldCom's pre-existing Amended and Restated Credit Agreement in the amount of \$3.75 billion, executed on June 28, 1996. MFSCC has entered into two senior discount notes with a current accreted value of approximately \$1.3 billion (and a principal amount due at maturity of approximately \$1.72 billion), credit facilities providing for borrowings of up to \$390 million in the aggregate, and equipment lease transactions involving up to an aggregate of roughly \$60 million. These obligations, or the equivalent thereof, will remain with the merged companies following the merger and, to the extent required, the Applicants respectfully request that the Commission approve such obligations.

III. PUBLIC INTEREST CONSIDERATIONS

Consummation of the proposed transaction will serve the public interest by bringing together WorldCom, one of the fastest growing interexchange carriers, with MFSCC, which through its subsidiaries is a leading provider of local and long distance communications services for businesses and government. The combination of WorldCom's extensive expertise and presence in the long distance marketplace with MFSCC's position through its subsidiaries as the nation's largest competitive local exchange carrier and Internet access provider should provide great benefits to the public. The combined entity will offer its customers a full range of competitively priced services, thereby increasing competition in the local, long distance, Internet and international market sectors. Moreover, the transaction will provide MFSCC and WorldCom the opportunity to strengthen their competitive positions with greater financial resources, which will benefit consumers through

improved service and lower rates, thereby invigorating competition in Florida. By combining both their resources and experienced management, the merger of WorldCom and MFSCC will allow the companies to offer consumers a viable alternative to the most powerful players in the telecommunications market.

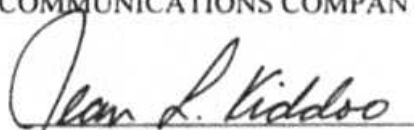
V. CONCLUSION

For the reasons stated herein, the Applicants request that, to the extent required, the Commission authorize the merger described herein and the related transactions described herein, to permit the Applicants to consummate the transaction no later than December 1, 1996.

Respectfully submitted,

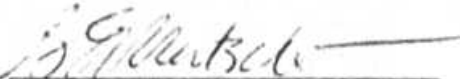
WORLDCOM, INC.
MFS COMMUNICATIONS COMPANY, INC.

By:



Jean L. Kiddoo, Esq.
Phyllis A. Whitten, Esq.
SWIDLER & BERLIN, CHARTERED
3000 K Street, N.W., Suite 300
Washington, D.C. 20007
(202) 424-7834

By:



Brad E. Mutschelknaus, Esq.
Maricann Z. Machida, Esq.
KELLEY DRYE & WARREN LLP
1200 19th Street, Suite 500
Washington, D.C. 20036
(202) 955-9600

THEIR COUNSEL

Dated: September 3, 1996

From: Kay Flynn
To: Tommy Williams
Subject: fwd: 961039

===NOTE=====9/09/96==5:07pm==
CC: Nonnye Grant
.....

Tommy, please look at the docket title I came up with for this docket (it is a long one) and let me know what you think. Should the name change be included in the docket title, or will they file later for name changes where appropriate? Kay

Fwd-by:=-Tommy=William=9/10/96==7:52am==
Fwd to: Kay Flynn
.....

I would take the name change out. It is my understanding that will be filed later when the merger is complete.

Fwd-by:=-Kay=Flynn=====9/10/96==7:56am==
Fwd to: Tommy Williams
.....

Does the rest of the title (though ridiculously long) look okay?

Fwd-by:=-Tommy=William=9/10/96==7:57am==
Fwd to: Kay Flynn
.....

Looks fine, let's go with it.

Fwd-by:=-Kay=Flynn=====9/10/96==7:57am==
Fwd to: Tommy Williams
.....

ok
