ORIGINAL

Hopping Green & Sams

Attorneys and Counselors

Writer's Direct Dial Number
(850) 425-2313

RECEIVED-FPSC
03 FEB 28 PM 2:15
COMMISSION CLERK

February 28, 2003

BY HAND DELIVERY

030000-PU

Richard Moses
Division of Competitive Markets
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Undocketed -- Phone-to-Phone Internet Telephony (VOIP)

Dear Mr. Moses:

Pursuant to the staff's request at the January 27, 2003 workshop, enclosed are the original and two copies of WorldCom, Inc.'s Postworkshop Comments.

A copy of this document has been furnished to the Division of Commission Clerk for their records.

Very truly yours,

Richard D. Melson

RDM/mee

Enclosure

cc: Patricia Christensen, Office of General Counsel
Blanca Bayó, Division of Commission Clerk
Donna McNulty, WorldCom, Inc.

AUS
CAF
CMP
COM
CTR
ECR
GCL
OPC
MMS
SEC 1
OTH

DOCUMENT NUMBER-DATE
02033 FEB 28 03
FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Phone-to-Phone Internet Protocol Telephony (Voice Over Internet Protocol)	))))	Undocketed Filed: February 28, 2003

POSTWORKSHOP COMMENTS OF WORLDCOM, INC.

On January 27, 2003, the Commission Staff held a workshop to seek input regarding various issues related to phone-to-phone Internet Protocol Telephony (VOIP). WorldCom, Inc., on behalf of its operating subsidiaries in Florida, hereby files its post-workshop comments.

INTRODUCTION

One of the most important goals of the Telecommunications Act of 1996 is to allow new technology to take hold. New technology is best driven by competitors' striving to meet consumers' needs in a market environment, as history has proven that monopolies have little if any incentive to innovate. One significant application of new technology is VOIP. As a nascent technology, VOIP should not be saddled by archaic regulations of the past and should be free from regulatory constraints. Public policy of encouraging new and advanced services is best served by ensuring that the Internet is free of regulation.

THE ISSUE WITH VOIP

VOIP can be defined as an emerging set of technologies that enables integrated new services, including audio, data, and video collaboration, over Internet Protocol (IP)-based networks. This set of technology and services is a necessary component of an evolving integrated IP infrastructure that will provide enhanced data, audio, and video

customer applications. Innovative applications based on IP technology will bring the world from the 20th century into the 21st century.

CURRENT SITUATION

The "issue" with VOIP technology is really a symptom of a larger problem – that regulatory policies concerning compensation for communications services are structurally flawed to work in today's competitive environment. Specifically, the current intercarrier compensation regime is untenable, inequitable, is increasingly anti-competitive, and harms the public interest in a number of ways.

The dispute over VOIP is nothing more than a compensation issue, because the ILECs want to charge switched access charges to this type of traffic. The FCC's current policy does not allow the ILECs to assess switched access charges on Internet traffic. Consistent with this policy, VOIP is an unregulated information service, like Internet access or email. This means that VOIP providers are end users, not common carriers, and thus not required to pay carrier access charges. Instead, VOIP providers can purchase the originating and termination connections they need from local carriers, like any other retail end-user, such as IBM or the local neighborhood cleaners. The FCC has concluded that it is sound public policy to allow this nascent, innovative form of communications to develop without having to bear the burden of participating in an inefficient and non-cost-based access charge regime. Any other rule, if applied to VOIP or any other IP application, would be tantamount to a tax on the Internet, which the FCC has opposed. As clearly stated in its *Report to Congress*, all VOIP offerings are exempt from all access charges both originating and terminating.

It should come as no surprise that the ILECs want to assess switched access rates on this new technology. The ILECs' desire to assess high switched access rates for VOIP communications represents nothing more than a tax on competitors and competing technologies. The compensation debate thus illustrates the disparate treatment of intercarrier rates for essentially the same function; the legacy of the existing patchwork of compensation rules. With the bundling of different types of services by innovative carriers and the increasing use of information services, disparate rates based solely on outmoded definitions make little sense. Indeed, only a uniform compensation scheme predicated on economic costs can be sustained and defended as competitively and technologically neutral.

The chart below depicts different charges assessed on what is technically the same functionality – originating, transporting, and terminating bits of traffic that are destined for or come from another provider.

SIZABLE RANGE OF DISPARATE INTERCARRIER RATES**

- Large ILEC switched access (interstate): 0.6 cents/min.
- Small ILEC switched access (interstate): 2.6 cents/min.
- Large ILEC switched access (intrastate): 2.5 - 5 cents/min.
- Small ILEC switched access (intrastate): 5-10 cents/min.
- CLEC switched access (interstate): 1.8 cents/min.
- Rural CLEC switched access (interstate): 2.4 cents/min.
- CLEC switched access (intrastate): 3.0 cents/min.
- CMRS switched access: zero (for now)
- Cable telephony access: same as CLEC rates
- Reciprocal compensation traffic (BellSouth-FL): 0.13 cents/min.
- ISP dial-up (local business lines): $40.00/month

** Rates are per single end (originating or terminating). Rough estimates intended only for purpose of general comparison.

Switched access functions cost the same for interstate and intrastate access and UNE switching yet the rate is significantly higher. In addition to showing the wide range of

rates for the same functionality, most of these charges have no basis in actual, economic cost. Now that most of the large ILECs are in the interLATA market, the situation is exacerbated because they are able to levy their above-cost intercarrier compensation charges on their competitors while enjoying cost-based access themselves. Because market forces cannot be relied upon to discipline termination charges, such charges must be based on economic costs.

TRANSITION FROM OLD 20TH CENTURY TO NEW 21ST CENTURY REGIME

The Telecommunications Act of 1996 was monumental Lilaying the foundation for opening the local markets for competition. In a pre-Act regime, local exchange companies were monopolies that were dependent upon rate-of-return regulation for the setting of prices. In a post-Act regime, those same price-capped companies no longer are subject to rate-of-return regulation nor should they be.

With the passing of the legislation, the nature of the role of regulator changed, too. Indeed, regulators are not engaged in rate-of-return ratemaking proceedings, nor are they charged with ensuring ILECs remain whole throughout the competitive process. Regulators are charged with establishing and enforcing policies that encourage market forces to meet consumers' needs in innovative and cost-effective ways. Such policies must embrace the task of regulating bottleneck facilities such as the last mile, because it is through control of such facilities that the ILECs can exercise their substantial market power to the detriment of competition. Such a policy focus would encourage both the introduction of new telecommunications services and technological innovation. Importantly, regulators should not continue policies that provide preferential treatment to ILECs, for example, treating the ILECs as if they are still entitled to the perks that were

afforded to them as monopoly providers. Likewise, the current patchwork of intercarrier compensation rules should be revamped so as to eliminate archaic schemes designed to keep ILECs whole – schemes implemented during the ILECs monopolistic reign. Regulators should not be cajoled into applying uneconomically high switched access charges to IP technology, even when applications include audio on either end.

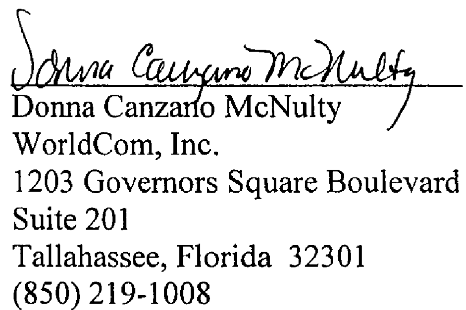
SOLUTION

The optimal solution is to discard this outdated patchwork of intercarrier compensation rules for a simple, rational, cost-causative, technology neutral approach. The current intercarrier compensation regime should be reformed substantially such that compensation is based on economic (i.e., market) costs instead of on the basis of artificial constructs such as jurisdiction, market sector or technology of traffic. The key to a rational and sustainable compensation regime is that the chosen methodology applies to *all* traffic regardless of the jurisdiction. Indeed, the goal of reform is to eliminate artificial distinctions among different types of traffic and to create a uniform intercarrier compensation regime such as a single cost based per-minute charge for call termination, or single cost-based rate per connection charge, or bill-and-keep. Moreover, policymakers must embrace the concept of regulating bottleneck facilities, such as the last mile, not the services themselves.

Accordingly, WorldCom recommends that the FPSC should refrain from subjecting the transmission of audio communications over the public Internet or private IP networks to switched access charges. WorldCom also recommends that the FPSC should eliminate the artificial distinctions of an archaic compensation scheme and should

develop a fair, nondiscriminatory, cost-based method of applying uniform termination charges regardless of the type of service offered or technology employed.

Respectfully submitted this 28th day of February, 2003.



Donna Canzano McNulty
WorldCom, Inc.
1203 Governors Square Boulevard
Suite 201
Tallahassee, Florida 32301
(850) 219-1008

Attorney for WorldCom, Inc.