Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of:	**)**	
	)	
National Exchange Carrier Association, Inc.	**)**	**Transmittal No. 939**
Tariff FCC No. 5	**)**	

WORLDCOM PETITION TO SUSPEND AND INVESTIGATE

WorldCom, Inc. (WorldCom), pursuant to Section 1.773 of the Commission's Rules, hereby petitions the Commission to suspend and investigate the above-captioned transmittal filed by the National Exchange Carrier Association (NECA) on June 17, 2002.[1]

---

[1] Suspension and investigation of a proposed tariff or tariff modification is warranted when significant questions of unlawfulness arise in connection with the tariff. See AT&T Transmittal No. 148, Memorandum Opinion and Order, FCC 84-421 (released Sept. 19, 1984); ITT, 73 FCC 2d 709, 719 (1979); AT&T, 46 FCC 2d 81,86 (1974); see also Arrow Transportation Company v. Southern Railway Company, 372 U.S. 658 (1963).

I. NECA Has Overstated its Revenue Requirement and Understated Projected Demand

The Commission should suspend and investigate NECA Transmittal No. 939 because NECA has overstated its revenue requirement and understated the projected demand.

In evaluating NECA's projections, the Commission should take into account the fact that NECA's methodologies have, in the last year, produced earnings that are well above the prescribed rate of return of 11.25 percent.[2] The Commission has consistently found such patterns of overearnings to be relevant to the evaluation of rate-of-return carrier tariff filings. As the Commission has explained, "[t]he track record which a LEC establishes in forecasting its expenses . . . is a legitimate and important consideration in assessing the likely accuracy of its forecasts for the future."[3]

Revenue Requirement

NECA's proposed revenue requirement is overstated because NECA has inflated projected expense growth. NECA is projecting that its common line category expenses will increase by 7.1 percent[4] and that its traffic sensitive category expenses will increase by 4.1 percent.[5] The rapid rate of growth in expenses projected by NECA is unreasonable

---

[2] NECA Form 492, filed March 29, 2002 (interstate ROR: 12.90 percent; common line ROR: 12.25 percent; switched traffic sensitive: 12.74 percent).

[3] Annual 1998 Access Tariff Filings, Memorandum Opinion and Order, 4 FCC Rcd 3638 (1989) at ¶ 30.

[4] Volume 2, Exhibit 4, page 1.

[5] Volume 2, Exhibit 4, page 2.

because it is at odds with (1) NECA's projection that there will be virtually no access line growth in the test year; (2) the present low-inflation environment; and (3) the projection of ALLTEL and other rate of return carriers that their expenses will decline[6] or increase only slightly.

Demand Growth

The Commission should also suspend and investigate NECA Transmittal No. 939 because NECA's projections of a 1.6 percent decline in multiline business lines[7] and a 2.8 percent decline in switched access minutes[8] are unreasonable. By understating both access lines and access minutes, NECA has inflated both the size of the ICLS fund and the CCL rate.

The Commission should investigate NECA's access line projections because the significant decline in multiline business lines forecast by NECA for the test year is inconsistent with recent growth patterns. The Commission should also investigate NECA's projections of a decline in access minutes. That projection is driven largely by an untested regression model that relies, for the first time, on cellular pricing as one of the variables. As an initial matter, it is doubtful that NECA's approach of "splicing" together data series from two separate sources, BLS and CTIA, yields valid results.[9] More

---

[6] ALLTEL Annual Filing, D&J at Section 2.4(1) ($157 million decrease in expenses "due to staff reductions.")

[7] Volume 3, Exhibit 1, page 1.

[8] Volume 3, Exhibit 1, page 2.

[9] Volume 3, page 6 n.6.

importantly, NECA's implicit assumption that cellular prices are falling does not appear to be valid. Both the BLS and CTIA cellular price series that NECA relies upon show that, since the second half of 2001, cellular prices have actually begun to increase.[10]

The Commission should also investigate NECA's projection of a decrease in access minutes because that projection fails to take into account the demand stimulation that will result from reform of rate of return carriers' access rate structure. The creation of the ICLS mechanism and the other rate structure changes will cause an unprecedented reduction in NECA's switched access rates.

II. Special Access Pricing

In Transmittal No. 939, NECA uses different methodologies to develop "advanced services" and "ordinary special access" rates. DSL and other advanced services rates are developed through special cost studies; by contrast, DS1 and other special access rates are developed from a residual revenue requirement calculated by subtracting advanced services revenues from the total special access revenue requirement.[11]

The Commission should investigate the special access rates proposed in Transmittal No. 939. The methodology used by NECA appears to be designed to cross-

---

[10] The BLS index increased from 86.5 in January, 2001 to 89.1 in May, 2002. http://data.bls.gov/servlet/SurveyOutputServlet?jrunsessionid=102493917262554395; Similarly, CTIA showed an increase in the average monthly bill from $45.27 in December, 2000 to $47.37 in December, 2001.

[11] Volume 5, Exhibit 12 , workpaper 3.

subsidize “advanced services” rates, for which NECA perceives some competition, with inflated rates for DS1s and other “ordinary” special access services, which are purchased primarily by IXCs and other captive customers. By using a special cost study to develop DSL rates, while assigning the residual revenue requirement to “ordinary” special access, NECA can drive down DSL rates at the expense of DS1 and other “ordinary” special access services.

The impact of the differential ratemaking approaches is best illustrated by comparing NECA’s rates to those of the large price cap ILECs. NECA’s proposed DSL rates are actually lower than those charged by the large price cap LECs -- despite rural carriers’ constant claims that the deployment of advanced services in rural areas is unusually costly and requires special subsidies. For example, NECA’s proposed ADSL rate can be as low as $20.95,[12] considerably less than SBC-ASI’s lowest ADSL rate of $30 per line,[13] which requires a longer term commitment than NECA’s rate. By comparison, NECA’s DS1 prices are far higher than the DS1 prices charged by the large price cap ILECs.

---

[12] Volume 5, Exhibit 9, page 9.

[13] SBC-ASI Tariff FCC No. 1, 1st revised page 69.

III. Conclusion

For the reasons stated herein, the Commission should suspend and investigate NECA Transmittal No. 939.

Respectfully submitted,
WORLDCOM, INC.

/s/ Alan Buzacott

Alan Buzacott
1133 19th Street., NW
Washington, D.C. 20036
(202) 887-3204
FAX: (202) 736-6492

June 24, 2002

STATEMENT OF VERIFICATION

I have read the foregoing and, to the best of my knowledge, information, and belief, there is good ground to support it, and it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on June 24, 2002.

____

Alan Buzacott
1133 19th Street., NW
Washington, D.C. 20036
(202) 887-3204

CERTIFICATE OF SERVICE

I, Alan Buzacott, do hereby certify that copies of the foregoing Petition to Reject or, in the Alternative, Suspend and Investigate, were sent via first class mail, postage paid, and by facsimile*, to the following on this 24th day of June, 2002.

Tamara Preiss**
Chief, Competitive Pricing Division
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Judy Nitsche**
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Qualex International**
c/o FCC
445 12th Street, SW
Room CY-B402
Washington, DC 20554

B. Cook*
Director, Access Tariffs & Planning
NECA
80 South Jefferson Road
Whippany, NJ 07981
FAX: (973) 884-8082

Hand Delivered**
/s/

____
Alan Buzacott