

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of:)	
)	
Verizon Tariff FCC Nos. 1, 11, 16, 16)	Transmittal No. 207
)	
Sprint Tariff FCC No. 3)	Transmittal No. 200
)	
Southwestern Bell Tariff FCC No.)	Transmittal No. 2902
)	
Pacific Bell Tariff FCC No. 1)	Transmittal No. 74
)	
Nevada Bell Tariff FCC No.)	Transmittal No. 19
)	
SNET Tariff FCC No. 39)	Transmittal No. 770
)	
Ameritech Tariff FCC No. 2)	Transmittal No. 1308

**WORLDCOM PETITION TO REJECT OR,
IN THE ALTERNATIVE, SUSPEND AND INVESTIGATE**

WorldCom, Inc. (WorldCom), pursuant to Section 1.773 of the Commission's Rules, hereby petitions the Commission to reject or, in the alternative, suspend and investigate the above-captioned transmittals filed on June 17, 2002.¹ If the Commission

¹ Rejection of a proposed tariff or proposed changes to an existing tariff is warranted when the proposal is prima facie unlawful in that it can be demonstrated that it conflicts with the Communications Act or a Commission, rule, regulation or order. See, e.g., American Broadcasting Companies, Inc. v. FCC, 633 F.2d 133, 138 (D.C.Cir. 1980); Associated Press v. FCC, 448 F.2d 1095, 1103 (D.C.Cir. 1971); MCI v. AT&T, 94 FCC 2d 332, 340-41 (1983); AT&T, 67 FCC 2d 1134, 1158 (1978), recon. denied, 70 FCC 2d 2031 (1979).

Suspension and investigation of a proposed tariff or tariff modification is

suspends, rather than rejects, the above-captioned transmittals, it should suspend those transmittals for the maximum five months permitted under the Act.

I. Costs Incurred Prior to March 31, 2000 Do Not Qualify as Exogenous

The Commission should reject, or in the alternative, suspend and investigate the Verizon and Sprint transmittals for the simple reason that these ILECs claim costs from 1998, 1999, and the first three months of 2000 that do not qualify as exogenous under the Commission's rules.

Under the Commission's price cap regime, exogenous treatment is permitted only for "those costs that are triggered by administrative, legislative, or judicial action beyond the control of the carriers."² Given that the first "administrative, legislative, or judicial action" mandating national thousands-block number pooling did not occur until March 31, 2000, when the Commission released the First NRO Order,³ any thousands-block number pooling costs incurred prior to that date cannot qualify as exogenous under the price cap rules. Certainly, a letter from the Chief of the Common Carrier Bureau to the Chairman

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).

² Policy and Rules Concerning Rates for Dominant Carriers, Second Report and Order, 5 FCC Rcd 6786, 6807 (1990).

³ Numbering Resource Optimization, Report and Order and Further Notice of Proposed Rulemaking, 15 FCC Rcd 7574 (2000).

of NANC⁴ does not constitute the requisite “administrative, legislative, or judicial action.”

Furthermore, the Commission emphasized in the First NRO Order that the special federal cost recovery mechanism would apply only to the implementation and administration of “national” thousands block pooling.⁵ Given that there was no national thousands block pooling plan prior to the adoption of the First NRO Order on March 31, 2001, it is plain that any costs incurred prior to that date are not eligible for recovery through the special federal mechanism. If Sprint and Verizon decided, on their own, to make network and OSS modifications prior to March 31, 2000 that were later found to be useful in the provision of thousands-block number pooling, but were not recoverable through any special state recovery mechanisms, those modifications must be classified as general network upgrades recoverable only through normal recovery mechanisms.

There is no merit to Verizon’s argument that the Commission’s reference to “new” costs permits it to recover any thousands-block number pooling costs incurred after March, 1998. There is nothing in either the First NRO Order or Third NRO Order⁶ to suggest that the Commission’s reference to “new costs” can be read to override the basic requirement that only those costs “triggered by administrative, legislative, or judicial action” are eligible for exogenous recovery. The “new costs” requirement simply establishes that the ILECs cannot allocate a portion of any embedded investments in

⁴ Verizon Transmittal No. 207, D&J at 3 n.7.

⁵ First NRO Order at ¶ 197.

⁶ Numbering Resource Optimization, Third Report and Order and Second Order on Reconsideration, CC Docket No. 99-200, released December 28, 2001 (Third NRO Order).

switches, SCPs, or other equipment to the new federal recovery mechanism, even if that equipment is in some sense used in the provision of thousands-block number pooling.⁷

Consequently, the Commission should disallow the \$21.9 million in cost recovery that Verizon-East claims for 1998 and 1999, as well as any portion of the 2000 costs incurred prior to March 31, 2000;⁸ the \$27,593 that Verizon-West claims for 1998 and 1999, together with any portion of Verizon West's 2000 costs incurred prior to March 31, 2000;⁹ and that portion of Sprint's costs incurred in 1998, 1999, and the first three months of 2000.¹⁰

II. All Savings Should be Deducted from Costs

Pursuant to the Third NRO Order, carriers must demonstrate that costs for which extraordinary treatment is sought exceed the costs that would have been incurred had the carrier engaged in an area code split, overlay, or other number relief that would otherwise have been required in the absence of pooling.¹¹ The Commission should reject or, in the alternative, suspend and investigate Verizon Transmittal No. 207 because Verizon has

⁷ See Telephone Number Portability Cost Classification Proceeding, Memorandum Opinion and Order, 13 FCC Rcd 24495, ¶ 18.

⁸ Verizon Transmittal No. 207, Appendix A, WP Incremental Investment/Expense-East.

⁹ Verizon Transmittal No. 207, Appendix B1 and B2, WP Incremental Investment/Expense-West.

¹⁰ Sprint Transmittal No. 197, Exhibit 4 and Exhibit 5.

¹¹ Third NRO Order at ¶ 40.

failed to correctly offset the cost savings against thousands-block number pooling costs.

In computing its exogenous adjustment, Verizon has subtracted only a portion of the estimated savings, which it describes as the “interstate” savings, from the estimated costs. In the case of Verizon-East, for example, Verizon has subtracted only \$562,718 of the \$2,034,767 in estimated savings, using an interstate allocation factor of 27.7639 percent;¹² and Verizon-West has subtracted only \$238,900 of the \$1,260,710 in estimated savings.¹³

Verizon’s proposal to subtract only the “interstate” portion of the cost savings is inconsistent with the Commission’s requirements. Verizon appears to assume that the Third NRO Order requires only the “costs” associated with thousands-block number pooling to be allocated exclusively to the interstate jurisdiction, while the “savings” can be separated between the jurisdictions. The Third NRO Order makes clear, however, that the special separations rule requiring direct assignment to the interstate jurisdiction applies to the “net” cost change, not simply to the unadjusted “costs.” In particular, the Third NRO Order states that “carriers must show that costs for which extraordinary treatment is sought exceed the costs that would [otherwise] have been incurred” and that “[o]nly extraordinary upward costs will be subject to direct assignment to interstate access for separations purposes under the federal cost recovery mechanism”¹⁴ In other words,

¹² Verizon-East Transmittal No. 207, Appendix A, WP NPA Relief Costs-East.

¹³ Verizon-West Transmittal No. 207, Appendix B1 and B2, WP NPA Relief Costs-West.

¹⁴ Third NRO Order at ¶ 40.

the special separations rule adopted in the Third NRO Order requires the ILECs to first to compute the “net” cost change and then allocate the net cost change, if any, to the interstate jurisdiction.

III. OSS Costs

Pursuant to the Third NRO Order, the burden is on the carrier to overcome the presumption that no additional recovery is justified. Verizon and Sprint have failed, however, to demonstrate that their claimed OSS costs are allowable under the Third NRO Order’s cost recovery guidelines. In the Third NRO Order, the Commission made clear that OSS costs incurred as an “incidental consequence” of thousands-block number pooling are not eligible for recovery.¹⁵

Many of the OSS modification costs claimed by Verizon should be disallowed because they were incurred merely as an incidental consequence of thousands-block number pooling. In particular, Verizon is claiming costs associated with “adapting other systems to the presence of thousands block number pooling,” including various ordering, provisioning, and maintenance systems such as SOAC, SOP, PAWS, Service Express, LiveWire Gateway, SSNS, XEA, Request Manager, Request Broker, NSDB/WFA, STARMEM, Predictor, CaseWorker Platform, CRIS, CABS, Billing Express, and ITORP.¹⁶ Those costs may not have been incurred “but for” number pooling, but the costs are still ineligible for recovery because the systems at issue are not “directly involved

¹⁵ Third NRO Order at ¶ 45.

¹⁶ Verizon Transmittal No. 207, Appendix A, Figure 1, pp. 4-13.

in the provision of thousands-block number pooling.”¹⁷ Certainly, nothing in Transmittal No. 207 demonstrates that these systems are used “to identify, donate, and receive blocks of pooled numbers, to create and populate the regional databases and regional copies of these databases, and to adapt the procedures for querying these databases and for routing calls so as to accommodate a number pooling environment.”¹⁸

IV. SBC Switch Upgrade Costs

The Commission should suspend and investigate SBC’s thousands-block number pooling tariffs because the switch upgrade and network upgrade costs claimed by SBC are far higher than those claimed by other ILECs, with the exception of Qwest. SBC is claiming switch upgrade costs of \$11.8 million for SWBT, \$14.6 million for Pacific Bell, and \$12.0 million for Ameritech.¹⁹ By comparison, Verizon has claimed no switch upgrade costs and BellSouth claimed only \$12,277 in switch upgrade costs.²⁰ Qwest has also claimed high switch upgrade costs, but those upgrade costs were one of the issues designated for investigation by the Commission in the Qwest Designation Order.²¹

¹⁷ Id. at ¶ 45.

¹⁸ Id. at ¶ 44. See also Qwest Designation Order at ¶ 14.

¹⁹ Ameritech Transmittal No. 1308, Workpaper AIT, page 1 of 3; Pacific Bell Transmittal No. 74, Workpaper PB, page 1 of 3; SWBT Transmittal No. 2902, page 1 of 3.

²⁰ BellSouth Transmittal No. 623, WP Capital, line 89.

²¹ Qwest Tariff FCC No. 1, Transmittal No. 120, Order Designating Issues for Investigation, WCB Docket No. 02-117, released May 23, 2002, ¶¶ 2-5 (Qwest Designation Order).

V. Conclusion

For the reasons stated herein, the Commission should reject or, in the alternative, suspend and investigate the above-captioned transmittals.

Respectfully submitted,
WORLD COM, INC.

/s/ Alan Buzacott

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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.

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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.

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/s/

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