

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

In the Matter of:)	
)	
Verizon Telephone Companies)	Transmittal No. 250
Tariff F.C.C. Nos. 1, 11, 14 & 16)	
)	

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

I. Introduction

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 transmittal filed by the Verizon Telephone Companies (Verizon) on October 11, 2002.¹

In Transmittal No. 250, Verizon proposes to substantially revise its interstate access tariffs' regulations governing the determination and verification of Percent Interstate Usage (PIU) factors.

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 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).

Most importantly, Verizon proposes to (1) amend its interstate access tariffs' definition of "interstate" traffic; and (2) require customers to provide call detail record directly to Verizon, rather than to an independent auditor, for verification of PIUs.

As with the recent LEC efforts to revise the security deposit provisions of their interstate access tariffs, Verizon is seeking to modify, without adequate justification, longstanding tariff provisions that reflect a careful balance struck by the Commission. There is simply no merit to Verizon's claim that deviations between customer-reported PIUs and the jurisdictional split for traffic for which calling party number (CPN) is available suggest widespread misreporting of PIUs.² Given that the customer base associated with traffic for which CPN is passed is very different from the customer base associated with traffic for which CPN is not passed,³ there is no reason to expect that the jurisdictional split would be the same for both types of traffic.

² Verizon Transmittal No. 250, D&J at 4-6.

³ For example, CPN may not be passed with traffic that originates on special access facilities. Given that such traffic is typically associated with large business customers, there is no reason to expect that such traffic would have the same jurisdictional split as the residential and small business traffic that originates over switched access arrangement.

Similarly, Verizon should not have been surprised that its customers were reluctant to respond to letters asking they describe “market factors” that might explain deviations between the PIU supplied by the customer and the PIU expected by Verizon.⁴ IXC’s have every reason to maintain as proprietary information about their traffic patterns and any “market factors” that might affect those traffic patterns. Those “market factors” could include the composition of the IXC’s customer base and the extent to which the IXC uses its own facilities or those of other CLECs to terminate access traffic.

In any event, the Commission has already given Verizon all the tools that it needs to verify customers’ PIUs. Since 1989, Verizon has been authorized to request, once a year, that its customers make available for inspection call detail records from which the customer’s reported PIU can be derived.⁵ Those verification provisions were designed, after a lengthy process that included referral to a Joint Board, to “strike[] an appropriate balance between the needs of the LECs and states on the one hand and the concerns of the IXC’s on the other.”⁶ The Commission should not permit Verizon to now upset that carefully-crafted balance.

The Commission should reject or, in the alternative, suspend and investigate Verizon Transmittal No. 250 because the proposed tariff amendments are unreasonable in violation of Section 201(b) of the Act and violate Commission orders governing PIU measurement and

⁴ Verizon Transmittal No. 250, D&J at 5-6.

⁵ Determination of Interstate and Intrastate Usage of Feature Group A and Feature Group B Access Service, Memorandum Opinion and Order, 4 FCC Rcd 8448, 8450 ¶ 15 (1989) (1989 Order)

verification.

II. Verizon’s Proposed Definition of “Interstate” Traffic for FGD is Unreasonable

⁶ Id.

In Transmittal No. 250, Verizon proposes to amend its interstate access tariffs' definition of interstate traffic. In computing a PIU for FGD, customers would be required to "consider every call that originates from a calling party in one state and terminates to a called party in a different state to be interstate communications."⁷ In contrast, for FGA and FGB, customers would be required to develop the PIU using the entry/exit surrogate (EES) method, i.e., "as though every call that enters a customer network at a point within the same state as that in which the called station is situated is an intrastate communication and every call that enters a customer's network at a point in a state other than that where the called station is situated is an interstate communication."⁸

While Verizon's proposed tariff language is less than clear, Verizon apparently intends that the EES method may only be used in the development of the PIU factor for FGA and FGB. That restriction would represent a marked change from Verizon's current tariff, which permits the EES method to be used in the development of all PIU factors, including those for FGC and FGD traffic.⁹

Verizon's proposal to restrict the use of EES to the development of the PIU factor for FGA and FGB is inconsistent with Commission orders. When the Commission adopted the EES method in 1985, it did not in any way restrict the use of that method to PIU development for FGA and FGB; to the contrary, the Commission stated that it was "**of the view that interstate usage generally ought to be estimated using the entry-exit**

⁷ Verizon Transmittal No. 250, Tariff FCC No. 1, Original Page 2-15.1, Section 2.3.10(A)(1)(a).

⁸ Id

⁹ Verizon Tariff FCC No. 1, Section 2.3.10(A)(1)(c).

surrogate.¹⁰

¹⁰ MCI Telecommunications Corporation; Determination of Interstate and Intrastate Usage of Feature Group A and Feature Group B Access Service, Memorandum Opinion and Order, released April 16, 1985, at ¶ 20 (1985 Order).

Verizon's proposed limitations on the use of EES are unreasonable because, for certain types of traffic terminated over FGD, a customer will be unable to determine definitively the "true" endpoints of a call. After all, the PIU factor is used in precisely those situations where the customer cannot determine the calling party's location from the signaling information.¹¹ As the Commission has noted, situations in which an IXC may not be able to determine definitively the calling party's location may include, among other things, "the use of 'leaky' PBXs, resellers or private networks."¹² In such circumstances, when customers cannot definitively determine the calling party's location, the entry-exit surrogate is the only practical method that customers would have for determining the PIU for traffic terminated over FGD.¹³ Consequently, Verizon's proposal to

¹¹ Verizon Transmittal No. 250, original page 2-25.2, Section 2.3.10(A)(1)(b).

¹² 1985 Order at ¶¶ 11, 20 n.17

¹³ See, e.g., Determination of Interstate and Intrastate Usage of Feature Group A and Feature Group B Access Service, Recommended Decision and Order, 4 FCC Rcd 1966, 1973 (1989) ("While the IXCs do not, in many cases, have the means to identify the state of origin of calls that transit FGA or FGB access lines, they can, and readily do, determine the

preclude the use of EES in the development of the PIU for FGD is unworkable and, therefore, unreasonable.

III. Verizon's Proposed Elimination of the Independent Audit Option is Contrary to the 1989 Order

points at which such calls enter their networks and terminate.”)

In Transmittal No. 250, Verizon proposes far-reaching changes to the verification provisions of its PIU regulations. Most importantly, Verizon proposes to eliminate the provision in Verizon's existing tariff that permits the verification to be conducted by an independent auditing firm;¹⁴ under Verizon's proposed tariff language, customers would instead be required to provide the call detail records directly to Verizon.¹⁵

The Commission should reject or, in the alternative, suspend and investigate Verizon Transmittal No. 250 because Verizon's proposal to eliminate verifications conducted by an independent auditor is contrary to the Commission's requirement, adopted in 1989, "that [PIU] audits be conducted by independent auditors if the LEC and the IXC or the IXC alone is willing to pay the expense."¹⁶ Provisions implementing the independent audit requirement have been found in the interstate access tariffs of Verizon and every other ILEC for over a decade.

Moreover, the proposed tariff language is unjust and unreasonable because the call detail records that Verizon expects

¹⁴ Verizon Tariff FCC No. 1, Section 2.3.10(B).

¹⁵ Verizon Transmittal No. 250, Tariff FCC No. 1, Section 2.3.10(B) ("The customer shall supply the data to the Telephone Company within 30 days of the Telephone Company request.")

¹⁶ Determination of Interstate and Intrastate Usage of Feature Group A and Feature Group B Access Service, Memorandum Opinion and Order, 4 FCC Rcd 8448, 8450 ¶ 15 (1989) (1989 Order); 1989 Recommended Decision at ¶ 76.

its customers to hand over to Verizon are proprietary. The Commission adopted the requirement that verifications be conducted by independent auditors because “the use of such auditors would significantly reduce concerns about the proprietary nature of the data being audited without sacrificing reliability.”¹⁷ Given that Verizon has now obtained interLATA authority in most of its in-region states, and is therefore a direct competitor with most of its customers, the need for independent auditors to conduct the PIU verification is, if anything, more acute now than in 1989.

IV. Conclusion

For the reasons stated herein, the Commission should reject or, in the alternative, suspend and investigate Verizon Transmittal No. 250.

Respectfully submitted,
WORLDCOM, INC.

/s/ Alan Buzacott

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

¹⁷ Id.

October 18, 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 October 18, 2002.

/s/ Alan Buzacott

Alan Buzacott
1133 19th St. 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, to the following on this 18th day of October, 2002.

Tamara Preiss**
Chief, Pricing Policy Division
Federal Communications Commission
445 12th St. SW
Washington, D.C. 20554

Judy Nitsche**
Federal Communications Commission
445 12th St. SW
Washington, D.C. 20554

Richard T. Ellis*
Director, Federal Affairs
Verizon
1300 I St. NW
Suite 400 West
Washington, DC 20005

***Via Facsimile to (202) 336-7866**

Hand Delivered**

Alan Buzacott