

BEFORE THE WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

In the Matter of the)
)
Continued Costing and Pricing of Unbundled) Docket No. 003013
Network Elements, Transport and) Part B
Termination)

**WORLDCOM'S COMMENTS ON THE EFFECT OF THE
EIGHTH CIRCUIT'S JULY 18, 2000 ORDER IN *IOWA UTILITIES
BOARD V. FCC* ON PART B OF THIS PROCEEDING**

WorldCom, Inc. ("WCOM") submits the following comments on the effect of the Eighth Circuit's July 18, 2000 order in *Iowa Utilities Board v. FCC* on Part B of this proceeding.

On July 18, 2000, the United States Court of Appeals for the Eighth Circuit issued its opinion in *Iowa Utilities Board V. FCC*, Case No. 96-3321, invalidating Rule 51.505(b)(1), the portion of the FCC's TELRIC pricing methodology relating to use of an efficient network configuration. At the same time, the Court approved the FCC's forward looking incremental cost approach to pricing interconnection and unbundled network elements. As a result of vacating a small portion of a larger rule, states now have greater flexibility, not less, in setting rates and should not feel constrained to await the outcome of all possible appeals before moving forward. In any case, the language of the Eighth Circuit decision is in places ambiguous and inconsistent, and has been subject to different interpretation by different parties, some claiming it calls for a costing methodology that will yield lower rates and some claiming it calls for a costing methodology that will yield higher rates.

It is premature for this Commission to consider delay of Part B of this proceeding on account of the Eighth Circuit's opinion. The Court has not yet issued its mandate and

so its decision is not yet effective. Furthermore, it is highly likely that the Eighth Circuit's decision will be stayed pending consideration of Petitions for Certiorari by the United States Supreme Court. Just as has been the case throughout the course of earlier appeals, there is uncertainty surrounding the FCC's pricing rules, but that is no reason for the state commission to defer pricing proceedings until all appeals have been exhausted. Indeed, consumers would be harmed by such delay. For these reasons, WorldCom encourages the Commission to stay the course and to proceed with the proceedings in Part B as if the Eighth Circuit's decision had not issued.

DATED this 17th day of August, 2000.

Respectfully submitted,

WORLDCOM, INC.

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