



Attorney General
Betty D. Montgomery

93-4000-TP-FAP

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PUCO

United States Court of Appeals
for the District of Columbia Circuit
Clerk's Office
333 Constitution Ave, N.W.
Room 5423
Washington, DC 20001-2866

Re: *Worldcom Inc., v. Federal Communications Commission and United States of America*, Case No. 01-1218, consolidated with 01-1229, 01-1243, 01-1255, 01-1256, 01-1257, 01-1267, 01-1274, 01-1310, 01-1311, and 01-1313; *National Association of Regulatory Utility Commissioners, v. Federal Communications Commission and United States of America*, Case No. 01-1319; and *People of the State of California and the California Public Utilities Commission v. Federal Communications Commission and United States of America*, Case No. 01-1321.

Clerk's Office:

Enclosed, please find the original and six copies of Motion to Intervene in the above mentioned cases.

Please return one stamped copy in the enclosed self-addressed stamped envelope.

Thank you for your assistance in this matter.

Respectfully submitted,

Steven T. Nourse

Steven T. Nourse
Assistant Attorney General
Public Utilities Section
180 E. Broad St.
Columbus, OH 43215
(614) 466-4396
Fax: (614) 644-8764

STN/kja

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**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Worldcom Inc.)	Case No. 01-1218
<i>Petitioner,</i>)	
v.)	Consolidated With 01-1229,
)	01-1243, 01-1255, 01-1256, 01-
Federal Communications Commission,)	1257, 01-1267, 01-1274, 01-1310,
and United States of America)	01-1311, 01-1313.
<i>Respondents.</i>)	
)	
National Association of Regulatory Utility)	Case No. 01-1319
Commissioners,)	
<i>Petitioner,</i>)	
)	
v.)	
)	
Federal Communications Commission,)	
and United States of America)	
<i>Respondents.</i>)	
)	
People Of The State Of California, and The)	Case No. 01- 1321
California Public Utilities Commission)	
<i>Petitioner,</i>)	
)	
v.)	
)	
Federal Communications Commission,)	
and United States of America)	
<i>Respondents.</i>)	

**MOTION OF THE PUBLIC UTILITIES COMMISSION OF OHIO
FOR LEAVE TO INTERVENE**

Pursuant to 28 U.S.C. Sec. 2348, 47 U.S.C. Section 402, and Federal Rule of Appellate Procedure 15(d), the Public Utilities Commission of Ohio ("PUCO") hereby requests leave to intervene in the above-captioned proceedings. This intervention request is timely since it is being

filed within 30 days of the most recent notice of appeal in these proceedings (filed on July 16, 2001 by the National Association of Regulatory Utility Commissioners). In support of its motion, the PUCO respectfully states:

I.

The PUCO is an executive agency of the State of Ohio, with regulatory jurisdiction over public utility regulation under the laws of the State of Ohio. Pursuant to Title 49 of the Ohio Revised Code, the PUCO exercises jurisdiction over intrastate communications. More specifically as it relates to this appeal, Section 4905.04(B) of the Ohio Revised Code vests the PUCO with jurisdiction and power to perform the acts of a "State commission" under the Telecommunications Act of 1996. Ohio Rev. Code Ann. § 4905.04(B) (Baldwin 2001).

II.

State petitioners seek reversal of several key aspects of the Federal Communications Commission's "Order on Remand and Report and Order," FCC 01-131, *In the matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Intercarrier Compensation for ISP-Bound Traffic*, CC Docket Nos. 96-98, 99-68 (released April 27, 2001) (the "*Remand Order*"). This order purports to implement aspects of Sections 251 and 252 of the Telecommunications Act of 1996, to the exclusion of State commissions such as the PUCO. In the 1996 legislation, Congress was careful to reserve to the State commissions a critical role in overseeing those two sections. As noted above, the PUCO has jurisdiction under Federal and Ohio law to perform the acts and duties of a State commission under Sections 251 and 252 of the Telecommunications Act of 1996.

III.

The FCC's *Remand Order* being reviewed displaces the PUCO's jurisdiction over matters concerning reciprocal compensation for ISP-bound traffic. Accordingly, the outcome of these appeals will substantially affect the PUCO's ongoing jurisdiction over such matters. The PUCO's jurisdiction under Federal and Ohio law will be directly affected by the outcome of these appeals.

Moreover, the PUCO has previously promulgated decisions and issued orders relating to the same subject that is in dispute in this appeal (reciprocal compensation for ISP-bound traffic). Those PUCO's orders apply to several of the parties in these appeals. Some of those PUCO orders are currently being challenged in Federal district court pursuant to Section 252(e)(6) of the Telecommunications Act of 1996. See *The Ohio Bell Telephone Company d/b/a Ameritech Ohio v. Alan R. Schriber et al.*, Civil Action No. C2-99-552 (S.D. Ohio). This Court's prior decision in *Bell Atlantic Tel. Co. v. FCC*, 206 F.3d 1 (D.C. Cir. 2000) and this Court's impending decision in these appeals has been the subject of considerable debate in the district court proceedings. The outcome of the appeals before this Court could also affect the outcome of those district court proceedings. In short, the PUCO has both a direct and indirect interest in participating in these appeals.

The PUCO's participation will not prejudice any party to these appeals. The PUCO is filing this request for intervention for the purpose of supporting the merit brief that will be filed by the existing State petitioners, consistent with the conditions already imposed by the Court for

that brief. As a related matter, the PUCO has no objection to the current expedited briefing schedule. Thus, no party is prejudiced by the PUCO's intervention.

Based on the above, the PUCO is entitled, under 28 U.S.C. Section 2348 and FRAP 15(d), to intervene in these appeals. Therefore, the PUCO respectfully requests that its motion for leave to intervene in the above-captioned proceeding be granted.

Respectfully submitted,

Betty D. Montgomery
Attorney General
Duane W. Luckey
Chief, Public Utilities Section



Steven T. Nourse
Jodi J. Bair
Assistant Attorneys General
Public Utilities Section
180 East Broad Street
Columbus, OH 43215-3793
(614) 466-4395
On Behalf of the Public Utilities
Commission of Ohio

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of August 2001, that a copy of the foregoing document was served by first class mail, postage prepaid on the following parties:



Steven T. Nourse
Assistant Attorney General

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

J. B. Ramsay, S. M. Barklind
NARUC
1101 Vermont Avenue, Suite 200
Washington, DC 20005

L. N. Bourne, J. E. Ingle
Federal Communications Commission
445 12th Street, SW, Room 8-A741
Washington, DC 20554

Theodore B. Olson, Solicitor General
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

T. F. O'Neil III, A.H. Charnes,
Mark B. Ehrlich
MCI WorldCom, Inc.
1133 19th Street, NW
Washington, DC 20036

R. D. Vandiver, C. B. Miller
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0562

D. M. Bradford, D.B. Berrilli, Jr.
J.L. Kelley, J.J. Hamill
Jenner & Block
601 13th Street, NW
Washington, DC 20005

T. C. Whitehouse, T. Jones
Wilkie Farr & Gallagher
1155 21st Street, NW, Suite 600
Washington, DC 20036-3384

J. Nakahata, T. Simeone, J. Juhnke
Harris, Wiltshire & Grannis LLP
1200 Eighteenth Street, N.W.
Washington, DC 20036

C.A. Bischoff, R.M. McDowell, J. Lee
Competitive Telecommunications Assoc.
1900 M Street, Suite 800
Washington, DC 20036

A. D. Lipman, R.M. Rindler
Michael W. Fleming
Swidler Berlin Shereff Friedman, LLP
3000 K Street, NW, Suite 300
Washington, DC 20007-5116

David A. Gross
AirTouch Communications
1818 N Street, NW, Suite 800
Washington, DC 20036

C. C. Hunter, C. M. Hannan
Hunter Communications Law Group, PC
1620 I Street, NW, Suite 701
Washington, DC 20006

M. D. Hays, L. H. Phillips
J.G. Harrington
Dow, Lohnes & Albertson, PLLC
1200 New Hampshire Avenue, NW, Suite 800
Washington, DC 20036-6802

M. E. Glover, L.W. Katz
Bell Atlantic Corporation
1320 North Courthouse Road
Arlington, VA 22201

Jonathan Jacob Nadler
Squire, Sanders & Dempsey
1201 Pennsylvania Avenue, NW
Washington, DC 20044

M. Evans, S. Lev, A. Panner, S. Angstreich
Kellogg, Huber, Hansen, Todd & Evans
1301 K Street, NW, suite 1000 West
Washington, DC 20005

A. Kramer, D. Janas, J. Farber, J. Tignor, G. Kwan
Dickstein, Shapiro, Morin & Oshinsky, LLP
2101 L Street, NW
Washington, DC 20037

Law Offices of Curtis T. White
4201 Connecticut Avenue, NW, Suite 402
Washington, DC 20008

John H. Harwood, II
W.T. Lake, L.R. Charytam
Wilmer, Cutler & Pickering
2445 M Street, NW
Washington, DC 20037

James P. Young, David L. Lawson
Sidley & Austin
1722 Eye Street, NW, Suite 600
Washington, DC 20006

M. C. Rosenblum, S.C. Garavito
Teresa Marrero
AT&T Corp.
295 North Maple Avenue
Basking Ridge, NJ 07920

Robert B. McKenna, Jr.
U.S. West Communications, Inc.
1020 Nineteenth Street, NW, Suite 700
Washington, DC 20036

M.R. Sutherland, J.G. Harralson
BellSouth Telecommunications, Inc.
1155 Peachtree Street, NE, Suite 1700
Atlanta, GA 30309

R. Aamoath, G. Morelli
Kelley, Drye & Warren
1200 Nineteenth Street, NW, Suite 500
Washington, DC 20036

Christine M. Crowe
Paul, Hastings, Janorsky & Walker
1299 Pennsylvania Avenue, N.W., 10th Floor
Washington, DC 20004

Edward Hayes, Jr., Hayes & Associates
1155 Connecticut Avenue, NW, 3rd floor
Washington, DC 20006

Jonathan E. Canis
Ross A. Buntrock
Kelley Drye & Warren LLP
1200 19th Street, NW, Fifth Floor
Washington, DC 20036

E. S. Levine, G. T. Dumas
Public Utilities Commission of California
505 Van Ness Avenue
San Francisco, CA 94102

T. A. Livingston, J. E. Muench
Mayer, Brown & Platt
190 South LaSalle Street
Chicago, IL 60603

Richard Metzger
Focal Communications Corporation
1120 Vermont Avenue, NW
Washington, DC 20005

Thomas J. Sugrue
F.C.C., Wireless Telecom. Bureau
445 12th Street, S.W.
Washington, DC 20554

Adam Krinsky
F.C.C., Office of Cmsnr. Tristani
445 12th Street, S.W., Room 8-C302
Washington, DC 20554

Peter Tenhula
Office of Chairman Powell
Federal Communications Commission
445 12th Street, S.W., Room 8-B201
Washington, DC 20554

L. M. Van Wazer
F.C.C., Office of Cmsnr. Copps
445 12th Street, S.W., Room 8-A302
Washington, DC 20554

Bryan Tramont
F.C.C., Office of Cmsnr. Abernathy
445 12th Street, S.W., Room 8-A204
Washington, DC 20554

B. Boykin, J. Seiver, K. Stanley, C. Savage
Cole, Raywid and Braverman
1919 Pennsylvania Avenue, NW, Suite 200
Washington, DC 20006

Christopher J. Wilson
Cincinnati Bell Telephone Company
201 East 4th Street, Room 102-620
Cincinnati, OH 45201

S. J. Devine, R. B. McKenna, C. J. Brown
Qwest Corporation
1020 19th Street, N.W., Suite 700
Washington, DC 20036

L. Lancetti, C. McKee, S. McNeil
Sprint Spectrum L.P., d/b/a Sprint PCS
401 9th Street, N.W., Suite 400
Washington, DC 20004

M. K. Kurtis, J. K. Blask, L. L. Leibow
Kurtis & Associates, P.C.
2000 M Street, N.W., Suite 600
Washington, DC 20036

Douglas Brandon
AT&T Wireless Services, Inc.
1150 Connecticut Avenue, N.W.
Suite 400
Washington, DC 20036

F. Joyce, C. McLaughlin
601 Pennsylvania Avenue, N.W.
North Building, 11th Floor
Washington, DC 20004

R. L. Hoggarth, Esq., A. E. Gincarolo, Esq.
Personal Communication Industry Assoc.
500 Montgomery Street, Suite 700
Alexandria, VA 22314

Kris Monteith
Common Carrier Bureau
Federal Communications Commission
445 12th Street, S.W., Room 5-A223
Washington, DC 20554

Dorothy T. Attwood
F.C.C., Common Carrier Bureau
445 12th Street, S.W.
Washington, DC 20554

Douglas G. Bonner, Esq.
Sana D. Coleman, Esq.
Arent, Fox, Kintner, Plotkin & Kahn PLLC
1050 Connecticut Avenue, N.W.
Washington, DC 20036

G. Phillips, J. Bueggeman, R. Toppins
SBC Communications Inc.
1401 Eye Street, N.W., Suite 1100
Washington, DC 20005

Jane Mago
Acting General Counsel
Federal Communications Commission
Room 8-A741
445 12th Street, S.W.
Washington, DC 20554

John Ashcroft
Attorney General of the United States
United States Department of Justice
Tenth Street and Constitution Avenue, N.W.
Washington, DC 20530

L. Malone, C. Patka, D. Dean
Public Svc. Cmsn. of New York
Three Empire State Plaza
Albany, New York 12223-1350

C. D. Bennet, R.E. Tuttle
Bennet & Bennet
1000 Vermont Avenue, N.W.
Tenth Floor
Washington, DC 20005

Lawrence E. Sarjeant, Julie E. Rones
Linda L. Kent, John W. Huner
United States Telephone Association
1401 H Street, N.W., Suite 600
Washington, DC 20005

Ed Shakin
Verizon
1320 North Courthouse Road, 8th Floor
Arlington, VA 22201

Mike Duke
KMC Telecom Holdings, Inc.
1755 North Brown Road
Lawrenceville, GA 30043

Glenn B. Manishin
Stephanie A. Joyce
Patton Boggs LLP
2550 M Street, N.W.
Washington, DC 20037

S. S. Miller
Public Svc. Cmmsn. of Maryland
6 Saint Paul Centre
Baltimore, MD 21202

W. Rooney, Jr.
Global Naps, Inc.
Ten merrymount Rd.
Quincy, MA 02169

B. Mutschelknaus
Kelley Drye & Warren
1200 19th St., N.W., Suite 500
Washington, DC 20036

D. Royster
Starpower Communications, LLC
1130 Connecticut Ave., Suite 400
Washington, Dc 20036

J. M. Askin
Assoc. for Local Telecom. Svcs.
888 17th St., N.W.
Washington, DC 20006

Sumner N. Smith
US LEC Corp.
Three Morrocroft Centre
6801 Morrison Blvd.
Charlotte, NC 28211