



Federal Communications Commission
Washington, D.C. 20554

December 19, 2003

DA 03-3846

Arthur V. Belendiuk
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Jim Lamoureux
Senior Counsel
SBC Telecommunications, Inc.
1401 I Street NW
4th Floor
Washington, DC 20005

Re: WC Docket No. 02-215

Dear Messrs. Belendiuk and Lamoureux:

In response to an investigation by the staff of the Wireless Telecommunications Bureau (Bureau) into facts and circumstances that may have triggered application of section 1.935 of the Commission's rules,¹ on October 3, 2003, SBC Telecommunications, Inc. (SBC) filed a "Request for Approval to Withdraw an Opposition not Asserted" in the license transfer proceeding involving WorldCom, Inc. (WorldCom).² The filing included two attachments consisting of a settlement agreement between SBC and WorldCom, and a supporting affidavit.³

On October 9, 2003, WorldCom (dba MCI) filed a letter and two attachments, consisting of a certification in connection with the agreement with SBC and a supporting affidavit.⁴

¹ 47 C.F.R. § 1.935. Section 1.935 provides, in pertinent part, that a party that has threatened to file an opposition to an application and then agrees to refrain from filing that opposition must obtain approval of any related settlement agreement.

² Letter from Jim Lamoureux, Senior Counsel, SBC Telecommunications, Inc., to Marlene H. Dortch, Secretary, Federal Communications Commission (filed Oct. 3, 2003).

³ SBC requested confidential treatment of the settlement agreement and affidavit; these documents are subject to a *Modified Protective Order*. In the Matter of WorldCom, Inc. and its Subsidiaries (debtors-in-possession), Transferor, and MCI, Inc., Transferee, Applications for Consent to Transfer and/or Assign Authorizations and Licenses, WC Docket No. 02-215, *Protective Order*, DA 03-3545 (WTB, CWD rel. Nov. 4, 2003) (*Protective Order*), *modified by Order*, DA 03-3745 (WTB, CWD rel. Nov. 21, 2003) (*Modified Protective Order*).

⁴ Letter from Dennis Guard, Attorney, MCI, to Marlene H. Dortch, Secretary, Federal Communications Commission at 1 (filed Oct. 9, 2003). MCI requested confidential treatment of the certification and affidavit; these documents are subject to the *Protective Order*.

On October 15, 2003, Margaret Snyder filed a Fourth Supplement to Petition to Deny Transfer of Licenses, Authorizations, and Certifications of WorldCom, Inc. and Request to Inspect Documents (Snyder Fourth Supplement).⁵ On November 4, 2003, the Bureau issued a *Protective Order*, which enabled Mr. Belendiuk, Ms. Snyder's counsel, to review all of the documents specified in Ms. Snyder's Fourth Supplement.⁶ Ms. Snyder also requested that the Commission investigate whether WorldCom may have violated section 1.935.⁷

On December 1, 2003, Ms. Snyder filed a Sixth Supplement to Petition to Deny Transfer of Licenses, Authorizations, and Certifications of WorldCom, Inc. (Snyder Sixth Supplement). Ms. Snyder alleges that WorldCom abused the Commission's process by inducing SBC to withhold unspecified information from the FCC, and argues that the Commission should investigate whether SBC's agreement with WorldCom violates section 1.935.⁸ The Bureau has reviewed SBC's agreement with WorldCom, the documents filed by these parties, and the evidence concerning potential threats to oppose WorldCom's applications. We find that there is insufficient evidence to conclude that SBC made the type of threat covered by section 1.935 and, therefore, the agreement is not covered by the rule. The Bureau greatly appreciates the parties' cooperation with the staff's inquiry into this matter.

Accordingly, SBC's Request for Approval is hereby DISMISSED, and Ms. Snyder's Fourth and Sixth Supplements regarding SBC's agreement with WorldCom are hereby DISMISSED as MOOT.⁹

Sincerely,

John B. Muleta
Chief
Wireless Telecommunications Bureau

CC: Dennis Guard, MCI

⁵ Ms. Snyder filed a Petition to Deny in this proceeding on August 7, 2003. *See generally* Margaret F. Snyder, Petition to Deny Transfer of Licenses, Authorizations, and Certifications of WorldCom, Inc., WC Docket No. 02-215 (filed Aug. 7, 2003).

⁶ The *Protective Order* was modified to prohibit copying of certain documents submitted by SBC in this proceeding. *See supra* n.3.

⁷ Snyder Fourth Supplement at 4.

⁸ Snyder Sixth Supplement at 10.

⁹ In separate rulings today, the Bureau dismisses Ms. Snyder's Fourth and Sixth Supplements as moot regarding certain WorldCom agreements with BellSouth and Verizon. *See* Letter from John Muleta, Chief, Wireless Telecommunications Bureau, to Arthur V. Belendiuk, counsel to Ms. Snyder, and Stephen L. Earnest, Regulatory Counsel, BellSouth Corporation, DA 03-3844 (rel. Dec. 19, 2003) and Letter from John Muleta, Chief, Wireless Telecommunications Bureau, to Arthur V. Belendiuk, counsel to Ms. Snyder, and Ann H. Rakestraw, Assistant General Counsel, Verizon, DA 03-3845 (rel. Dec. 19, 2003).