

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

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In re :
 :
WORLDCOM, INC., et al., : **Chapter 11 Case No.**
 : **02-13533 (AJG)**
 :
 : **(Jointly Administered)**
 :
Debtors. :
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**STIPULATION AMONG THE OBJECTING PARTIES AND THE DEBTORS
CONCERNING THE AMENDED PLAN AND THE SUPPLEMENT**

WHEREAS, on July 21, 2002 (the “Petition Date”) and November 8, 2002, WorldCom, Inc. and certain of its direct and indirect subsidiaries (the “Debtors”) commenced cases under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”). By Orders dated July 22, 2002 and November 12, 2002, the Debtors’ chapter 11 cases have been consolidated for procedural purposes only and are being jointly administered. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code;

WHEREAS, on April 14, 2003, the Debtors filed a disclosure statement (the “Disclosure Statement”) and chapter 11 plan of reorganization (the “Plan”). The Disclosure Statement was approved by the Bankruptcy Court as containing adequate information pursuant to section 1125 of the Bankruptcy Code at a hearing on May 22, 2003;

WHEREAS, on July 9, 2003, the Debtors filed a Supplement to Debtors’ Disclosure Statement (the “Supplement”) and Amended Joint Plan of Reorganization (the “Amended Plan”), and on August 4, 2003 the Debtors filed a Second Supplement to

Debtors' Disclosure Statement (the "Second Supplement" and collectively with the Supplement, the "Supplements");

WHEREAS, the Amended Plan and Supplement provide for, *inter alia*, (i) the merger of Intermedia Communications, Inc., one of the Debtors, into a subsidiary of WorldCom, with such subsidiary being the surviving entity (the "Intermedia Merger"), (ii) the merger of WorldCom, as reorganized, into a wholly-owned subsidiary that is incorporated in Delaware (the "WorldCom Merger" and, together with the Intermedia Merger, the "Mergers"), and (iii) the consolidation of the Debtor-entities and businesses that comprise WorldCom's local exchange carrier business (the "CLEC Consolidation");

WHEREAS, the Supplement provides that the Debtors believe that certain state regulatory laws, including the regulatory laws of the approximately 31 state Public Utility Commissions (the "PUCs") are preempted pursuant to section 1123 of the Bankruptcy Code and state regulatory review is preempted by section 525 of the Bankruptcy Code. The Supplement also provides that, outside the bankruptcy context, some of the transactions contemplated by the CLEC Consolidation and the Mergers would be subject to the jurisdiction of certain of the 50 state PUCs;

WHEREAS, the Amended Plan provides that the CLEC Consolidation and the Mergers, and any mergers, transfers of assets, dissolutions, consolidations, and other transactions contemplated by the CLEC Consolidation and/or the Mergers, will be approved and effective as of the effective date of the Plan without the need for any further state or local regulatory approvals;

WHEREAS, on July 28, 2003, the California PUC (the "CPUC"), the California Department of Justice (the "CDOJ") and the PUCs and agencies of numerous

other states, including: State of Montana; State of Hawaii, Department of Taxation; Paul G. Summers, Attorney General and Reporter on behalf of the Tennessee Regulatory Authority; State of Minnesota, Department of Commerce and Office of the Attorney General; State of Vermont; State of West Virginia ex rel. Darrell V. McGraw, Jr., Attorney General; State of Missouri, Jeremiah W. Nixon Attorney General; State of Illinois, Lisa Madigan, Attorney General of the State of Illinois on behalf of the People of the State of Illinois; State of South Dakota; State of Oregon and the State of Arkansas (the “Other Objecting States,” and together with the CPUC and the CDOJ, the “Objecting Parties”) filed or joined in a Limited Objection to the Amended Plan and Supplement (“Limited Objection”) disputing that sections 1123 and 525 of the Bankruptcy Code preempted their state and local regulatory authority and preempted regulatory review under state and local regulatory laws; and

WHEREAS, the parties hereto are entering into this stipulation to resolve the Limited Objection;

NOW, THEREFORE, the Objecting Parties and the Debtors, by the undersigned, hereby stipulate and agree as follows:

1. The Debtors agree to and recognize the jurisdiction of the state regulatory enforcement authorities, including, but not limited to, the PUCs, over the Debtors’ operations, including any transactions contemplated by the CLEC Consolidation and the Mergers to the extent provided under state law, and to the extent not pre-empted by operation of the United States Bankruptcy Code.

2. The Plan and the Supplement shall retain language that the Debtors may seek to preempt state review of the Mergers and CLEC Consolidation under the doctrine of implied preemption. See e.g., *Baker & Drake, Inc. v. Pub. Serv. Comm'n (In re Baker & Drake, Inc.)*, 35 F.3d 1348 (9th Cir. 1994).
3. Subject to the provisions of Paragraph 7 below, the Debtors do not rely on the theory of express preemption pursuant to Sections 1123 and/or 525 of the Bankruptcy Code in asserting that it is not necessary to receive regulatory authorization to effectuate the CLEC Consolidation and the Mergers, and hereby agree that, upon entry of the order approving this stipulation, any reference to express preemption under Sections 1123 and 525 of the Bankruptcy Code, or otherwise, in the Supplement and the Amended Plan pertaining to the police and regulatory authority of federal, state or local regulators shall be deemed struck and of no force and effect, and all parties shall be prohibited from relying on such language.
4. To the extent the Mergers and CLEC Consolidation or any other matters are covered by state law and regulation, the Objecting Parties assert that no preemption applies to their review. Where the Debtors disagree, the Debtors agree to seek a determination by the Bankruptcy Court, after notice and a hearing as provided herein, as to whether implied preemption precludes review by any

particular state of the Mergers and CLEC Consolidation or any other matters covered by state law.

5. The Debtors filed on August 20, 2003, an application (the “Exemption Application”) with the CPUC seeking an exemption from state review of the Mergers and the CLEC Consolidation pursuant to section 853(b) of the California Public Utilities Code, provided, however, that such Exemption Application is not and shall not be deemed a waiver by the Debtors of any and all claims that review of the Mergers and the CLEC Consolidation is preempted as described herein. On or before September 19, 2003, to the extent required by applicable state law, the Debtors shall also file with the PUCs of Other Objecting States applications for approval or exemption from review of the Mergers and CLEC Consolidation (collectively with the Exemption Application, the “Exemption Applications”).
6. The CPUC staff and the staff of the PUCs of the Other Objecting States (to the extent applicable) shall use their best efforts to process the Exemption Applications expeditiously.
7. In the event that the Debtors file Exemption Applications and the CPUC or the PUCs of the Other Objecting States have not approved the Debtors’ Exemption Applications on or before November 19, 2003, or in the event that circumstances transpire which, in the Debtors’ sole discretion, cause the rendering of a

final decision by November 19, 2003 to be unlikely, or in the event a State which has heretofore not objected seeks to assert jurisdiction over the CLEC Consolidation and/or the Mergers, the Debtors reserve any and all rights to reassert that approval by any of the PUCs of the CLEC Consolidation and/or the Mergers is preempted under the doctrine of implied pre-emption or express pre-emption as described herein, and reserve the right to bring this issue before the Bankruptcy Court, provided that the Debtors shall give no less than 14 days written notice, served by facsimile or electronic mail, to all Objecting Parties, the PUCs and any state which heretofore has not objected and seeks to assert jurisdiction over the CLEC Consolidation and/or the Mergers.

8. The PUCs reserve any and all rights to dispute the Debtors' assertion that the PUCs' review of the CLEC Consolidation and/or the Mergers is preempted.
9. The Objecting Parties, upon entry of an order approving this stipulation, shall withdraw without prejudice the Limited Objection, and related joinders thereto, and may renew the Limited Objection and related joinders if the Debtors renew their preemption contentions as provided herein.
10. Each person who executes this stipulation by or on behalf of each respective party warrants and represents that he or she has been

duly authorized and empowered to execute and deliver this stipulation on behalf of such party.

11. The Bankruptcy Court shall retain jurisdiction to hear and determine all matters respecting whether state regulatory review of the transactions contemplated in the Amended Plan and Supplements relating to the CLEC Consolidation and/or Mergers is preempted as described herein.
12. This Stipulation may be executed in identical counterparts, each of which shall constitute an original and all of which shall constitute one and the same.

SO ORDERED, this 26th day of September, 2003

s/ Arthur J. Gonzalez
HONORABLE ARTHUR J. GONZALEZ
UNITED STATES BANKRUPTCY JUDGE

Dated: September 19, 2003

STIPULATED AND AGREED:

/s/ Alfredo R. Perez

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