BEFORE THE WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION

IN THE MATTER OF THE PETITION OF THE WASHINGTON INDEPENDENT TELEPHONE ASSOCIATION FOR DECLARATORY ORDER	)	Docket No. UT-020667
	)	VERIZON NORTHWEST INC. STATEMENT OF FACT AND LAW

Verizon offers comments on the following matters to assist the Commission:

- Defining virtual NXX (VNXX) service;
- Identifying the impact of VNXX service on numbering resources;
- Identifying the impact of VNXX service on intercarrier compensation.

DEFINITIONS

Several terms and concepts discussed in regard to VNXX assignment, though commonly used, are often misapplied or misunderstood. In these comments, Verizon uses terms as follows:

- An "**exchange**" is a geographical unit established for the administration of telephone communications in a specified area, consisting of one or more central offices together with the associated plant used in furnishing communications within that area.
- An "**exchange area**" is the territory served by an exchange.
- A "**rate center**" is a specified location (identified by a vertical and horizontal coordinate) within an exchange area, from which mileage measurements are determined for the application of toll rates and private line interexchange mileage rates.

- An "**NPA**," commonly known as an "area code," is a three-digit code that occupies the first three (also called "A, B and C") positions in the 10-digit number format that applies throughout the North American Numbering Plan ("NANP") Area, which includes all of the United States, Canada, and the Caribbean islands. There are two kinds of NPAs: those that correspond to discrete geographic areas within the NANP Area, and those used for services with attributes, functionalities, or requirements that transcend specific geographic boundaries (such as NPAs in the N00 format, *e.g.*, 800, 500, etc.).[1]
- An "**exchange code**" is a three-digit code – also known as an **"NXX,"** an "NXX code," a "central office code" or a "CO code" – that occupies the second three ("D, E and F") positions in the 10-digit number format that applies throughout the NANP Area.[2] Exchange codes are generally assigned to specific geographic areas. However, some exchange codes are non-geographic, such as "N11" codes (411, 911, etc.) and "special codes" such as "555." An exchange code that is geographic is assigned to an exchange located, as previously mentioned, within an area code.
- A **customer's "address"** is the 10-digit code consisting of a four-digit line number ("XXXX") added to the NPA and exchange code. It identifies a specific customer located in a specific exchange and specific state (or portion of a state, for those states with multiple NPAs). This 10-digit number is also known as a customer's unique telephone number.[3]

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[1] *See* "NPA" in the *Glossary of the "Central Office Code (NXX) Assignment Guidelines,"* INC 95-0407-008, April 11, 2000.

[2] *See* "exchange code" in the *Glossary of the "Central Office Code (NXX) Assignment Guidelines,"* INC 95-0407-008, April 11, 2000.

[3] *See* "NANP" in the *Glossary of the "Central Office Code (NXX) Assignment Guidelines,"* INC 95-0407-008, April 11, 2000.

A customer's telephone number or "address" serves two separate but related functions: proper call routing and rating. Each exchange code or NXX within an NPA is typically assigned to ***both a switch***, identified by the Common Language Location Identifier ("CLLI"), ***and a rate center***. As a result, telephone numbers provide the network with specific information (*i.e.*, the called party's end office switch) necessary to route calls correctly to their intended destinations. At the same time, telephone numbers traditionally also have identified the exchanges of both the originating caller and the called party to provide for the proper rating of calls – *i.e.*, the determination whether and how much the calling party should be billed for a call.

BASIC PRINCIPLES GOVERNING THE MANNER IN WHICH CUSTOMERS ARE CHARGED FOR CALLS

One basic principle is the distinction between local calls and toll calls. The basic telephone exchange service rate typically includes the ability to make an unlimited number of calls within a confined geographic area at modest or no additional charge. This "confined geographic area" consists of the customer's "home" exchange area and additional surrounding exchanges, together designated as the customer's "local calling area."

Calls outside the local calling area, with limited exceptions noted in the paragraph below, are subject to an additional charge, referred to as a "toll" or Message Telecommunications Service ("MTS") charge. "Toll" service is generally priced at higher rates, on a usage-sensitive basis, than local

calling. The local/toll distinction is rooted in the decades-old public policy goal of assuring the widespread availability of affordable telephone service.

A second industry pricing convention is the principle that, generally, the calling party pays to complete a call – with no charge levied on the called party. There are a few exceptions, such as where a called party agrees to pay toll charges in lieu of applying those rates on the calling party (*e.g.*, 800/877/888-type "toll-free" service, "collect" and third-party billing, and Foreign Exchange or "FX" services).

Local Exchange Carriers' ("LECs") retail tariffs and billing systems use the NXX codes of the calling and called parties to ascertain the originating and terminating rate centers/exchange areas of the call. This information, in turn, is used to properly rate the call for purposes of billing the calling party. If the rate center/exchange area of the called party, as determined by the called number's NXX code, is included in the originating subscriber's "local calling area," then the call is established as a "local" call. If the rate center/exchange area of the called party – again determined by the NXX code of the called number – is outside the local calling area of the caller, then the call is determined to be "toll." Thus, the rate centers of calling and called parties, as expressed in the unique NXX codes typically assigned to each rate center/exchange area, enable LECs to properly rate calls as either local or toll.

“VNXX” SERVICE AND "VNXX" NUMBERING

A CLEC establishes “VNXX” service whenever it assigns a customer a telephone number with an NXX code designated by the carrier for a rate center/exchange area other than the one in which its customer is physically located; such an NXX is called a “VNXX.” Indeed, the carrier may obtain an entire exchange code solely for the purpose of designating it for a rate center/exchange area in which the carrier has no customers of its own, nor facilities to serve customers of its own. Instead, the exchange code is used by the carrier for the sole purpose of assigning telephone numbers to its end users physically located in exchanges other than the one to which the code was assigned.

“VNXX” SERVICE’S EFFECT ON THE ROUTING OR RATING OF TELEPHONE CALLS

A CLEC’s assignment of numbers to end users not physically located in the exchange area associated with that NXX does ***not*** affect the routing of the call from the caller to the called party. The ILEC’s (and other CLECs’) network recognizes the carrier-assigned NXX code and routes the call to that carrier’s switch for delivery by the carrier to its end user, the called party.

The NXX assignment does, however, affect the rating of the call. The CLEC typically assigns “VNXX” codes to its customers that are expected to receive a high volume of incoming calls from ILEC customers within the exchange of that NXX, and the CLEC’s “VNXX” arrangement allows such calls to be made without the imposition of a toll charge on the calling party.

In one common arrangement, a CLEC allows an ISP to collocate with its switch, and then assigns that ISP telephone numbers associated with every local calling area within a broad geographic area – conceivably a LATA. The ISP would then be able to offer all of its subscribers a locally rated

access number without having to establish more than a single physical presence in that geographic area. If the ISP had been assigned an NXX associated with the calling area in which it is located, many of those calls would be rated as toll calls.

This is a non-traditional use of NXX codes. It confuses the rating of calls for the purpose of assessing end-user charges with the treatment of calls for inter-carrier compensation purposes. Before the widespread introduction of local competition following the adoption of the 1996 Act, the most important type of inter-carrier compensation was the access charge that interLATA long distance carriers paid to local telephone companies. Such inter-carrier compensation has always been governed by the originating and terminating points of the end-to-end call, not the NPA-NXX of the calling and called party.

For example, AT&T has offered customers interLATA FX service, described by the FCC as one "which connects a subscriber ordinarily served by a local (or "home") end office to a distant (or "foreign") end office through a dedicated line from the subscriber's premises to the home end office, and then to the distant end office." *AT&T Corp. v. Bell Atlantic-Pennsylvania*, 14 FCC Rcd 556, 587, ¶71 (1998) ("*AT&T v. BA-PA*"), *reconsideration denied*, 15 FCC Rcd 7467 (2000). An airline with a reservation office in Atlanta could provide customers in Seattle a locally rated number, but all calls would still be routed to Atlanta. The FCC ruled, in that situation, that AT&T was required to pay access charges for the Seattle end of that call – even though the call was locally rated for the caller, because AT&T was still using access service to complete an interLATA call to the called party. *Id.* at 590, ¶80. The fact that the calling party and the called party were assigned NPA-NXX's in the same local calling area was totally irrelevant to the proper treatment of the call for inter-carrier compensation purposes.

Another example is "Feature Group A" access, one method that interexchange carriers ("IXCs") use to gain access to the local exchange. In that arrangement, the caller first dials a seven-digit number to reach an IXC, and then dials a password and the called party's area code and number to complete the call. Notwithstanding this dialing sequence, the service the LEC provides is considered *interstate* access service, not a separate local call, and the IXC must pay access charges.

THE PRINCIPLE THAT INTER-CARRIER COMPENSATION IS GOVERNED BY THE ORIGINATING AND TERMINATING POINTS OF THE END-TO-END COMMUNICATION AND RECIPROCAL COMPENSATION

The FCC has always held that reciprocal compensation does not apply to interexchange traffic, whether interstate or intrastate, but only to traffic that remains within a single local calling area. The FCC confirmed this in its April 2001 *ISP Remand Order*,[4] when it ruled that reciprocal compensation does not apply to "exchange access, information exchange access, or exchange services for such access." 47 C.F.R. §51.701(b)(1). As the FCC has made clear, this includes all "provision of exchange services for the purpose of originating or terminating interexchange telecommunications." 16 FCC Rcd at 9158, ¶37 n.65. Whether a particular call is interexchange does not depend on the telephone number, it depends on whether the call remains within the local calling area or travels outside it.

[4] Order on Remand and Report and Order, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 16 FCC Rcd 9151 (2001), *remanded*, *WorldCom, Inc. v. FCC*, No. 01-1218 (D.C. Cir. May 3, 2002). Although the D.C. Circuit remanded the *ISP Remand Order* to permit the FCC to clarify its reading, it left the order in place as governing federal law. *See WorldCom, Inc. v. FCC*, No. 01-1218, slip op. at 5 (D.C. Cir. May 3, 2002).

There can be no dispute that "VNXX" traffic involves interexchange telecommunications. In such an arrangement, a caller located in one local calling area places a call to a called party located in a different local calling area. The manner in which the called party's carrier assigns telephone numbers cannot change that fact, even though it does change the billing consequences for the calling party.

If the Commission allows the use of VNXX services, it would need to also ensure the proper rating of calls, which includes ***access charges*** for calls destined to non-local termination points. In addition, it should be crystal clear that such calls are not subject to reciprocal compensation under the FCC's current rules.

VNXX ASSIGNMENT'S EFFECT ON CALL RATING AND ROUTING

When an ILEC's customer initiates a call to a CLEC VNXX, the ILEC's switch sees the NXX code as being assigned to the exchange area/rate center of the originating caller or to an exchange area within the originating caller's local calling area and, therefore, does not rate the call as a toll call. In fact, the call is delivered by the CLEC to its end user located ***outside*** the local calling area of the originating customer, and toll charges properly apply and would be assessed if the Verizon billing system could distinguish a VNXX number as a non-local number. The CLEC, however, does not terminate the call within the local calling area of the originating caller. Rather, the CLEC simply takes the traffic delivered to its switch and delivers the calls to its "VNXX" subscriber, often located in the same exchange as its switch – if not physically collocated with the CLEC at its switch.

In short, the CLEC gets a free ride for interexchange traffic on the incumbent's interoffice network. Verizon incurs essentially all of the transport costs, yet is denied an opportunity to recover its costs either from its originating subscriber or from the CLEC. There can be little doubt why some

CLECs have embraced "VNXX" service to the exclusion of other service arrangements. So long as a CLEC bears the cost of transporting the traffic that it receives from Verizon beyond the local calling area where that traffic originated, CLECs will have less opportunity to shift transport costs to Verizon. But CLECs has refused to accept an agreement that would require CLECs to bear these transport costs.

CLECs have heavily marketed "VNXX" arrangements and are compensated by their customers for providing this functionality. That is part of the reason that CLECs' effort to collect reciprocal compensation for this traffic is particularly inappropriate as a matter of sound regulatory policy. CLECs are already being compensated by their own customer for the receipt of these calls, just as an ILEC is compensated for providing a customer a traditional FX arrangement, and just as a long distance carrier is compensated for providing a customer a toll-free number. It does not make sense to require the calling party to bear the costs of this arrangement, but that is what CLECs are seeking to achieve.

In a VNXX environment, Verizon is providing the service of originating the call for transport to the called party's carrier. By definition, in a "VNXX" arrangement, a subscriber is willing to pay its carrier for a "virtual presence" in a distant exchange. The ability to receive calls from that exchange – calls originated on Verizon's network – is therefore valuable to a CLEC subscriber. And, of course, a CLEC is able to offer that service only by virtue of Verizon's network – CLECs may have no facilities at all in the relevant local calling area.

Some CLECs have suggested that "VNXX" service is an application of state-of-the-art technology. Verizon strongly disagrees. VNXX service is not necessary to provide customers toll-free calling nor does it utilize any new or breakthrough technology to accomplish its function. The fact is that

the CLEC number assignment causes originating ILECs like Verizon to treat the call at the originating switch as a local call for end-user billing and switch routing purposes. This is much like how Verizon would transport a toll call or an originating access call – existing services for which Verizon would be compensated by the originating toll user or the interexchange access customer, respectively. The only thing that's "new" here is the new scheme to manipulate intercarrier transport and compensation in a manner to shift the costs of providing this toll-free number service to the originating ILEC. There is no aspect of the "VNXX" service that would be considered new or state-of-the-art from a technology perspective.

Enforcing the FCC's rules will promote competition, not impede it. CLECs will remain free to market its "VNXX" service and receive whatever compensation for that service that their end-users are willing to pay. But Verizon should not be required to subsidize that service by paying reciprocal compensation on traffic that is interexchange. In other words, Verizon's local customers should not have to defray the costs of providing this service to end-users that are located outside the exchange. Enforcing the rules will simply prevent CLECs from exploiting a potentially lucrative regulatory arbitrage opportunity, to the detriment of competition.

OTHER STATE COMMISSIONS' ACTIONS ON "VNXX" SERVICE

The Florida Commission recently confirmed that "VNXX" traffic is not subject to reciprocal compensation because it does not physically terminate in the same local calling area in which it originates.[5] Although the Florida Commission ruled that CLECs may assign telephone numbers to end

[5]*See* Staff Memorandum, *Investigation into Appropriate Methods to Compensate Carriers for Exchange Carriers for Exchange of Traffic Subject to Section 251 of the Telecommunications Act*

users physically outside the rate center to which a telephone number is homed,[6] it agreed with its Staff's conclusion that compensation for traffic depends on the end points of the call – that is, where it physically originates and terminates – not on "the NPA/NXXs assigned to the calling and called parties."[7] The Florida Commission agreed, that "calls to VNXX customers located outside of the local calling area to which the NPA/NXX is assigned ***are not local calls for purposes of reciprocal compensation***."[8]

A number of other state commissions have also held that reciprocal compensation does not apply to VNXX traffic because it does not physically originate and terminate in the same local calling area, including Connecticut,[9] Illinois,[10] Texas,[11] South Carolina,[12] Tennessee,[13] Georgia,[14] and Missouri.[15]

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of 1996, Docket No. 000075-TP ("Reciprocal Compensation Recommendation"), Issue 15 at 69, 71, 96 (Florida PUC Nov. 21, 2001), approved at Florida PUC Agenda Conference (Dec. 5, 2001).

[6] *Id.* at 90-96.

[7] *Id.* at 88-89; Florida PUC Agenda Conference Approval (Dec. 5, 2001), Issue 15.

[8] Reciprocal Compensation Recommendation at 94.

[9] Decision, *DPUC Investigation of the Payment of Mutual Compensation for Local Calls Carried Over Foreign Exchange Service Facilities*, Docket No. 01-01-29, at unnumbered page 43 (Conn. Dept. of Pub. Util. Control Jan. 30, 2002) ("The purpose of mutual compensation is to compensate the carrier for the cost of terminating a local call *"and" since these calls are not local*, they will not be eligible for mutual compensation.") (emphasis added).

[10] Arbitration Decision, *TDS Metrocom, Inc., Petition for Arbitration of Interconnection Rates, Terms, and Conditions and Related Arrangements with Illinois Bell Telephone Co. d/b/a Ameritech-Illinois Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Docket No. 01-0338, at 48 (Ill. Comm. Comm'n Aug. 8, 2001); Arbitration Decision, *Level 3 Communications, Inc. Petition for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Illinois Bell Telephone Company d/b/a Ameritech Illinois*, Docket No. 00-0332 (Ill. Comm. Comm'n Aug. 30, 2001) ("FX traffic does not originate and terminate in the same local rate center and therefore, as a matter of law, cannot be subject to reciprocal compensation.").

[11] Revised Arbitration Award, *Proceeding to Examine Reciprocal Compensation Pursuant to Section 252 of the Federal Telecommunications Act of 1996*, Docket No. 21982, at 18 (Tex. PUC Aug. 31, 2000) (finding FX-type traffic "not eligible for reciprocal compensation" to the extent it does not terminate within a mandatory local calling scope).

[12] Order on Arbitration, *Petition of Adelphia Business Solutions of South Carolina, Inc. for Arbitration of an Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Communications Act of 1934, as Amended by the Telecommunications Act of 1996*, Docket No. 2000-516-C, at 7 (S.C. PSC Jan. 16, 2001) ("Applying the FCC's rules to the factual situation in the record before this Commission regarding this issue of 'virtual NXX,' this Commission

The Pennsylvania Commission has required CLECs to assign its customers "telephone numbers with NXX codes that correspond to the rate centers in which the customers' premises are physically located."[16] That Commission had explained its rationale as follows:

> [E]ach CLEC must comply with BA-PA's local calling areas. This is imperative to avoid customer confusion and to clearly and fairly prescribe the boundaries for the termination of a local call and the incurrence of a transport or termination charge, as opposed to termination of a toll call in which case an access charge would be assessed.[17]

The Maine Public Utility Commission ordered a CLEC, Brooks Fiber, to return 54 NXX codes it was using in a "VNXX" capacity and rejected Brooks' proposed "VNXX" service. The Commission found that Brooks had no facilities deployed in any of the locations to which the 54 NXX codes were nominally assigned. As such, it rejected Brooks' arguments that it was using the codes to provide local service, and concluded that Brooks' activities had "nothing to do with local competition."[18] It found that Brooks' "extravagant" use of the 54

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concludes that reciprocal compensation is not due to calls placed to 'virtual NXX' numbers as the calls do not terminate within the same local calling area in which the call originated.").

[13] Interim Order of Arbitration Award, *Petition for Arbitration of the Interconnection Agreement Between BellSouth Telecommunications, Inc. and Intermedia Communications, Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Docket No. 99-00948, at 42-44 (Tenn. Regulatory Util. Comm'n June 25, 2001).

[14] Final Order, *Generic Proceeding of Point of Interconnection and VNXX Issues*, Docket No. 13542-U, at 10-12 (Ga. PSC July 23, 2001) ("The Commission finds that reciprocal compensation is not due for VNXX traffic.").

[15] Arbitration Order, *Application of AT&T Communications of the Southwest, Inc., TCG St. Louis, Inc., and TCG Kansas City, Inc., for Compulsory Arbitration of Unresolved Issues With Southwestern Bell Telephone Company Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Case No. TO-2001-455, at 31 (Mo. PSC June 7, 2001) (finding VFX traffic "not be classified as a local call").

[16]Focal Order II at 10-11.

[17]MFS II *Order* at *26.

[18]*Investigation Into Use of Central Office Codes (NXXs) by New England Fiber Comm., LLC d/b/a/ Brooks Fiber, etc., Order Requiring Reclamation of NXX Codes and Disapproving Proposed Service*, Docket Nos. 98-758 & 99-593, at 13 Tab 1 (Maine PUC June 30, 2000)

codes "solely for the rating of interexchange traffic" was patently unreasonable from the standpoint of number conservation.[19] The Commission further observed that Brooks' likely reason for attempting to implement an "FX-like" service, instead of a permissible 800 or equivalent service, was Brooks' "hope that it might avoid paying Bell Atlantic for the interexchange transport service provided by Bell Atlantic."[20]

The Illinois Commission is investigating the impact on number utilization resulting from two CLECs operating in the 618 NPA who have jointly requested nearly 1.5 million numbers and are utilizing only a few hundred of these numbers. Since number pooling was not deployed in the 618 NPA when these two CLECs became operational, each CLEC was required to request a 10,000 number block in each rate center in order to provide VNXX service. The 618 NPA has 243 rate centers so it is possible that a small CLEC could request 243 blocks of 10,000 numbers each to provide VNXX service to all customers within the geographic area served by the 618 NPA.

The FCC's *ISP Remand Order* addresses only termination rates, and only with regard to Internet-bound traffic. It does not resolve lost toll revenue and transport cost issues associated with "VNXX" assignments. These issues are not limited to Internet-bound traffic and are not directly related to termination rates. "VNXX" assignment shifts transport costs to Verizon and makes toll calls to which toll charges properly apply appear as though they are local calls.

CONCLUSION

[19] *Id.* at 16.

[20] *Id.* at 12.

Based on Verizon's experience with VNXX number assignment in other states, CLECs use these types of numbers to shift network cost to the incumbent LEC (ILEC) and simultaneously the CLECs seek reciprocal compensation from the ILEC for calls that ***appear*** to be local to the ILEC billing system. If the commission requires CLECs to process VNXX calls as intralata toll calls, it is very likely that CLECs will no longer have a strong interest in deploying service utilizing VNXX numbers.

Respectfully submitted this 21st day of June, 2002.

VERIZON NORTHWEST INC.

By _____

Charles H. Carrathers III
Vice President and General Counsel
P.O. Box 152092
HQE02H20
Irving, TX 75038
972-718-2415