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February 13, 2003

Ms. Blanca Bayo, Director
Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

HAND DELIVERY

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Re: Docket No. 020412-TP

Dear Ms. Bayo:

Enclosed please find US LEC's Late-Filed Composite Exhibit 8 in the above-styled docket. Composite Exhibit 8 contains the following documents:

1. The entire record of the US LEC/Verizon Arbitration before the Pennsylvania Public Utility Commission, Docket No. A-310814F7000. Included within the record are the following:

a. Transcripts of the Prehearing Conference and Volumes I and II of the final hearing;
b. US LEC Exhibits 1-3;
c. Verizon Exhibits 1-5; and
d. The prefiled direct and rebuttal testimony of US LEC witnesses Wanda Montano and Frank Hoffman and the prefiled direct and rebuttal testimony of Verizon witnesses Peter D'Amico and Terry Haynes and the prefiled direct testimony of Verizon witness Karen Fleming.

2. The entire record of the US LEC/Verizon Arbitration before the Maryland Public Service Commission, Case No. 8922. The record includes:

a. Transcript of final hearing Volumes I, II and III;
b. US LEC Exhibits 1 through 11;
c. Verizon Exhibits 1-14; and
d. Staff Exhibit 1.

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IN RE: PETITION OF US LEC OF PENNSYLVANIA, INC. FOR ARBITRATION WITH VERIZON-PENNSYLVANIA, INC. PURSUANT TO SECTION 252(b) OF THE TELECOMMUNICATIONS ACT OF 1996 Prehearing Conference	Docket No.: A-310814F7000

COPY

Commonwealth Keystone
Building
400 North Street
Harrisburg, PA

Friday, May 17, 2002
Commencing at 10:15 a.m.

BEFORE:

LOUIS G. COCHERES, Administrative Law Judge

ALSO BEFORE:

ROBERT A. CHRISTIANSON, Chief Administrative Law Judge

REPORTER: DANIELLE M. ZAMIAS

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INDEX TO WITNESSES

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS

NONE PRESENT

INDEX TO EXHIBITS

NUMBER	FOR IDENTIFICATION	IN EVIDENCE
For the Complainant:		
	NONE OFFERED	

NUMBER	FOR IDENTIFICATION	IN EVIDENCE
For the Respondent:		
	NONE OFFERED	

P R O C E E D I N G S

JUDGE COCHERES:

Good morning, ladies and gentlemen. By now you know my name is Louis Cocheres and I am the Administrative Law Judge assigned to hear the matter of the Petition of US LEC of Pennsylvania, Incorporated for arbitration with Verizon-Pennsylvania, Incorporated pursuant to Section 252(b) of the Telecommunications Act of 1996 at Commission Docket number A-310814F7000.

We're here today by telephone generally. We have all of the major parties represented by a multitude of counsel. And I have here in the conference room with me, as you already know, the Chief Administrative Law Judge, Robert Christianson.

We're here today for our first prehearing conference in this matter and we have --- I have my own agenda to go through. But before we do that, I need to introduce for the record and for the benefit of the court reporter the various parties who are here. And I will caution you that since the court reporter is unlikely to know you by your voice to speak up and start with telling us your name so that she may properly record it. And I'm going to go

through what I think should be a list of attendees here. I will try to separate you by parties.

Representing US LEC, I have Linda Smith in Harrisburg. And with her are Mr. Rindler, Ms. Cohn and Mr. Shor in Washington D.C. And representing Verizon, I have Ms. Conover, Mr. Gay in Philadelphia and Mr. Panner in Washington D.C. Is there anyone whose name I omitted? Fine.

I'm going to assume that Mr. Gay is the lead Counsel this morning for Verizon, unless someone can tell me differently, and Ms. Smith, are you going to be lead Counsel this morning for your attorneys?

ATTORNEY SMITH:

Your Honor, I believe Mr. Shor will be doing the speaking on behalf of US LEC.

JUDGE COCHERES:

Thank you. All right, fine. Now, I want you folks to know that I have reviewed the petition, I've reviewed your prehearing memoranda and I have received by e-mail this morning, two Petitions for Admission pro hac vice on behalf of Verizon to admit Mr. Panner and Mr., forgive me, Mr. Angstreich.

ATTORNEY PANNER:

It's Mr. Angstreich.

JUDGE COCHERES:

Mr. Angstreich, right, thank you. And I assume that was Mr. Panner who responded?

ATTORNEY PANNER:

That's right, I'm sorry.

JUDGE COCHERES:

That's all right. Okay. Let's deal with those first because they are the easiest ones to deal with. If there is no objection to the admission of Mr. Panner and to Mr. Angstreich, those petitions are granted. I subscribe to Judge Weismandel's theory of pro hac vice, which is that Mr. Gay, who will remain responsible generally for this case, although we recognize that Mr. Panner and Mr. Angstreich will be participating, perhaps even in a lead counsel format, for Verizon.

Now, I have looked and I appreciate the cooperation that the parties have already shown, not only at the list of issues but my favorite topic is the schedule, the hearing schedule, the purposed litigation schedule that both of you have brought to the table. And I don't recall seeing that you have any major differences in your schedule. It will take me a moment of paper shuffling to find both of them.

ATTORNEY SHOR:

Your Honor, this is Michael Shor on

behalf of US LEC. First, on the schedule, there's only one item that US LEC included in its purposed schedule that we had not discussed with Verizon and that is simply a date by which parties should exchange objections to Discovery if there are any, recognizing that sometimes in these matters, there are some questions that arise and we thought it would be appropriate just to enter and impose a --- since we're going to do this somewhat expeditiously, a deadline for filing objections and that would give the parties time to resolve those in advance to Discovery being due.

ATTORNEY GAY:

Your Honor, we don't have a problem with that. I think the ---.

JUDGE COCHERES:

Just a moment, who's speaking?

ATTORNEY GAY:

This is Anthony Gay, Your Honor, I apologize. Where I'm from with that date, I think we want to address the second issue that I think Mr. Shor is going to refer to.

ATTORNEY SHOR:

No. Actually, the second issue is US LEC, I believe it also filed motions for pro hac vice.

I think.

JUDGE COCHERES:

Is that Mr. Shor again?

ATTORNEY SHOR:

Yes, I'm sorry. I know that we had executed some items in connection with that. Linda, I believe those were filed?

ATTORNEY SMITH:

Yes. Your Honor, those motions were filed prior to the prehearing conference. They were filed simultaneously with the petition.

JUDGE CHRISTIANSON:

With the actual inch of paper, more or less?

JUDGE COCHERES:

Just a moment, let me shuffle some papers here and look in my file.

ATTORNEY SMITH:

It was filed at the same time as the petition, but it was a separate document. It was not included within.

JUDGE CHRISTIANSON:

I vaguely remember them, yes. Well, we'll shuffle some more papers. This is Bob Christianson. Meanwhile, I just wanted to --- if we

can be off the record for a moment, if the Judge is content with that.

OFF RECORD DISCUSSION

JUDGE COCHERES:

Let's go back on the record. I apologize for the delay and I appreciate the help from my colleague and my boss. I now have the motion for pro hac vice on behalf of Mr. Rindler, Ms. Cohn and Mr. Shor, sponsored, of course, by Ms. Smith. And hearing no objection, that motion is also granted and I apologize that it took me so long to find it in such a relatively small file.

All right. Now, we were talking about schedules before I was reminded that there was more than one motion outstanding. And Mr. Shor had made the point that US LEC had included an opportunity to make objections and certainly, I don't have a problem with that. Is there a Verizon response?

ATTORNEY GAY:

Your Honor, we have no problem with the ---.

JUDGE COCHERES:

Is that Mr. Gay?

ATTORNEY GAY:

Yes. Correct, Your Honor, this is Mr.

Gay. And we have no problem with the June 12 objection date.

JUDGE COCHERES:

Fine. I had one item that I noticed was missing from both of your proposed schedules and that is a date for submitting final and best offers. Does anyone have any strong feelings on when that should be plugged into the schedule?

Hearing none, it's been a while since I've done one of these cases and ---.

ATTORNEY GAY:

Your Honor, this is Anthony Gay for Verizon. You know, to put out a proposal, we can have that at the same time as the reply testimony.

ATTORNEY SHOR:

This is Michael Shor for US LEC. If I may be guided in this instance by my local Counsel as to whether those are most appropriately filed prior to the hearing or at some point thereafter.

ATTORNEY GAY:

I will profess having a senior moment right now and I don't recall when that is typically done in Pennsylvania.

ATTORNEY SMITH:

Well, I would think that you would need

to do it prior to the briefing, but any time that you feel that it would be appropriate to do prior to the briefing would be ---.

JUDGE COCHERES:

Ms. Conover, you're perhaps the most experienced among us all. It's been a couple years since I did the next link arbitration. I remember that we had a final and best offer on the table from each side at that point and it occurs to me that it would have to come in before briefs and my only question is whether it's before or after hearing.

ATTORNEY CONOVER:

Your Honor, this is Ms. Conover. Actually, it's been done both ways and I did just check on the most recent arbitration, the Yanks arbitration. It was actually done after the hearing, really concurrently with the main brief. So if that's acceptable to you, that might make the most sense.

ATTORNEY SHOR:

This is Michael Shor for US LEC. I think it makes a great deal of sense to do it after the hearing. And if we do it at the same time, concurrently with the filing of the briefing, I think that would probably work out to everyone's advantage.

JUDGE CHRISTIANSON:

This is Christianson. Just as a thought, if a major break occurs in the case, it causes you to tell the Judge about it, but to schedule it now, it seems at the most sense after the hearing.

JUDGE COCHERES:

Yes, I'm inclined to agree about after the hearing. My concern is that each party see the final and best offer before they do the brief because it gives the opportunity for each party to include whatever argument they want about the final and best offer in their brief.

ATTORNEY SHOR:

Your Honor, Michael Shor for US LEC. In that regard, we've suggested that the post hearing brief should be filed two weeks on the receipt of expedited transcript. Perhaps we could do the final and best offer one week after the receipt of the transcript.

JUDGE COCHERES:

I like that idea. Is there anyone who has a problem with that?

ATTORNEY GAY:

It's Anthony Gay for Verizon, Your Honor. We don't have a problem with that. Once we resolve this issue, there is one other issue I'd like to

raise.

JUDGE COCHERES:

Well, I'm sure there's at least one. I will put out a procedural order on this and I will include the final and best offer as due one week after the hearing --- after receipt of the transcript and incidentally, to the best of my knowledge, we're using expedited transcripts, I think on a one-day turnover. So it shouldn't take too long to get it.

Okay. That was my main concern about the scheduling. I do note that the parties do not entirely agree as to whether there should be two rounds of briefing or one. And Mr. Gay, you are the proponent of two rounds of briefing, why don't I hear from you first.

ATTORNEY GAY:

Yes, Your Honor. This is Anthony Gay. It's our position that the post hearing briefs or the reply briefs --- post hearing reply briefs, excuse me, are necessary. Often, parties raise issues in their main briefs, which require a response or a clarification and that's why we think they're necessary. And, you know, it's my understanding that there was a concern on Mr. Shor's part, and I haven't spoken to him directly so I just want to put that out,

but it's my understanding that they were concerned about new issues being raised. That is not the purpose of post hearing reply briefs and that's not something we intend to do. The key thought is that main brief --- and while I don't have as much experience as Ms. Conover, I have experience knowing that issues are raised in main briefs that often need clarification for the benefit of both the administrative law judge and the record.

JUDGE COCHERES:

Mr. Shor, do you have any comments?

ATTORNEY SHOR:

Yes, thank you, Your Honor. US LEC's feeling on this is that these are not new issues, they're not new issues for Verizon, they're not new issues for US LEC and frankly, they're not necessarily new issues for the Commission. And it does not require the parties to ultimately go through four rounds of briefings, two rounds of post hearing briefing and then two rounds of briefing after a proposed decision has been rendered to state our positions. Verizon knows exactly what US LEC is going to contend and what it's going to argue in the briefs.

If the parties feel, after they've looked at the main briefs, that there is, in fact, something

that requires clarification, they can always ask for leave to do that. But I think that since these are not new issues, the parties can stay, can include everything in their main briefs that they need to include.

The comment that we had made, if there was a reply brief, is that we have unfortunately sometimes been involved in situations where a party does not in their main brief fully set forth the factual and legal basis for their position and they wait until their reply brief to do so, giving the other party no real opportunity, in fact, to reply.

And that is really one of the other concerns, that we've seen that too many times. I'm not going to accuse Mr. Gay or Ms. Conover of that, but it has been something that we've experienced and we feel that if there's just one round of briefing, you put everything you've got into that brief and that's it.

JUDGE CHRISTIANSON:

Well, this is Bob Christianson again. I can speak because Mr. Cocheres I go back to the old rate case days. I think we called it sandbagging back then or something like that.

JUDGE COCHERES:

Yes, we did.

JUDGE CHRISTIANSON:

I just ran and got a rules of practice. It doesn't cover that in the rules of practice, but were very strong about what goes into the reply brief, it had to relate to the main brief obviously.

ATTORNEY GAY:

Yeah, Your Honor ---.

JUDGE COCHERES:

That's Mr. Gay.

ATTORNEY GAY:

Both Chief Judge Christianson and Judge Cocheres, you know, it's not our practice to sandbag and I think, you know, Mr. Shor and I came together a while back, you may not remember, but I think, you know, I'm relatively comfortable that he won't sandbag us, you know. I think he can be comfortable that I won't sandbag him or we won't sandbag him.

But there are procedures to deal with that and I think it's important to have the schedule set up now because as you get farther down the road and then you have to make some kind of motion for leave to file reply briefs --- I mean, that's all hypothetical.

Again, we just think that reply briefs

are traditionally accepted in arbitrations, they're done in other proceedings before the PUC and, you know --- Mr. Shor, he's referring to the fact that these --- he alluded to the fact that this proceeding or arbitration is being done in other jurisdictions, but for Pennsylvania, I think we need to have some reply brief so we can deal with the issues raised here.

JUDGE COCHERES:

Well, Mr. Gay, I think what I'm going to do here is I'm just going to put this issue on a back burner for a moment because there's another way I want to come to it, somewhat more indirectly and I was premature perhaps in raising it now.

There is an issue that I think is more important than the problem of reply briefs and that is as I reviewed the prehearing memoranda, there was an interesting dichotomy that I noticed and that is that US LEC retained the flexibility in their memoranda to indicate that there were disputed issues of material fact and Verizon did not. They basically said, Your Honor, this case is all about law and policy.

And frankly, it was an issue that I had highlighted when I read the petition for arbitration because I'm having trouble seeing what facts are in dispute. The way the issues are framed, it seems to

me that the absolute vast majority of them are issues of law and policy. There may be one or two, and I don't have a specific example on mine, there may be one or two that might have some issues of fact in it, but I couldn't tell. I was willing to give US LEC the benefit of the doubt, but I think I need some more clarity on the record right now.

I noticed that you both have identified witnesses. Certainly if this is a problem that involves law and policy, I probably don't need any witnesses.

ATTORNEY GAY:

Well, Your Honor, I would need ---.

JUDGE COCHERES:

Who is this?

ATTORNEY GAY:

This is Anthony Gay, Your Honor. I would --- first, I'd like to defer to Mr. Panner on this because he's had direct discussions with Mr. Shor, but I do think this is something that is more of a law and policy matter as opposed to a factual issue. You know, I'll defer to Mr. Panner just because he's probably had more close discussions with Mr. Shor.

JUDGE COCHERES:

Actually, I think I want to start with US

LEC. What issues did you see in the list that you provided to me and was pretty much confirmed by Verizon that were factual?

ATTORNEY SHOR:

Thank you, Your Honor. This is Michael Shor for US LEC. I think that if you look at issue one, issue two and issue six right off the top of the bat, those issues, probably more than any other, will involve issues of fact. To the extent that in issue one and issue two, Verizon is contending that it incurs costs in connection with the interconnection framework that the parties agree on, then those --- not the rates, but the actual costs themselves as they are applied in the specific situation would become an issue of fact. To the extent that Verizon is arguing that it is not obtaining the revenue that it believes it might be entitled to under an issue --- under issue six, then that would also be an issue of fact.

I would agree with you that the other issues primarily are issues of law and policy. There may be some facts that would impact those, but they're certainly not major. But those three issues jump out at US LEC as ones where there could conceivably be fact questions that would need to be taken into consideration by the ALJ and the Commission in

reaching its determination.

JUDGE COCHERES:

As accepting your premise that issues one, two and six are factual based, given the opportunity to do Discovery and given the knowledge we have that Pennsylvania's not unique here, we're not inventing the wheel for US LEC and Verizon, it's my understanding that you're litigating these issues on the Verizon footprint, perhaps not in every state, but in some of them at least. Do you think it would be possible for the parties to stipulate to the factual background here for these two --- three issues?

ATTORNEY SHOR:

This is Michael Shor. I mean, we've indicated a willingness to try to do that, but it may turn out after we've completed Discovery that that just simply isn't possible.

ATTORNEY PANNER:

Your Honor, if I may, this is Aaron Panner. In my experience with these proceedings, it is true that often the facts are not disputed. As you know, probably better than I, you know, a lot of the facts that are disputed don't come down to who did what when, but come down more to issues of, you know, what are the background facts in the industry and

concerning things like power costs incurred in the network and so forth that are technical facts that an expert can do a good job of bringing onto the record. Often, there may not be a dispute about a material fact and I think what we tried to reflect in our issues is that there may not be.

For instance, there could be a dispute about a material fact that would arise if a certain claim were made about a network configuration or number assignment practices and one of the parties challenged that and that, you know, came into --- became a material issue in the proceedings, then there could actually be a dispute over who has done what, you know, what are the facts on the ground.

But I think that it's consistent with the idea that we may not have too many disputes about material fact, the need for Discovery of facts we think would be quite restricted, and yet nonetheless find it useful to hear from an expert witness who understands how things work in the network who could help to explain it on the record of the proceeding.

JUDGE COCHERES:

Mr. Panner, do you agree with Mr. Shor's evaluation that issues one, two and six are mostly likely to be the fact-based issues?

ATTORNEY PANNER:

Well, I guess I tend not to agree that there are a lot of --- as I say, as a kind of who has done what, what are the actual facts in the world kind of disputes that would lend themselves to discovery. I do agree that those are the issues where the general factual background and where expert testimony would probably be most important and most useful to the Commission.

ATTORNEY SHOR:

This is Michael Shor for US LEC. I don't --- if Verizon wants to introduce the testimony of an expert, I'm sure they have the right to do that. I don't necessarily see that as being the essential need --- I don't see that as being a real need for that. The facts are what they are, the costs are what they are. And I don't know that the Commission needs an expert to analyze that, but that's their entitlement and its their right to present their case as they please.

ATTORNEY PANNER:

I guess, Your Honor, let me correct myself. I've been a little bit loose in referring to them as experts. I guess I mean them as subject matter experts, people who understand the way that the

network is set up and works and the history of the way that some of these compensation arrangements and network architecture arrangements have been established. Those are facts that I --- I didn't mean it in the sense of an outside expert who is doing, you know --- who is testifying as an outside expert, but fact witnesses who are subject matter experts. I needed to clarify that. Thank you, Michael, for pointing that out.

JUDGE COCHERES:

Thank you. Gentlemen, let me approach this a little differently then. Tell me, Mr. Shor, how many jurisdictions is US LEC seeking to arbitrate with Verizon in right now?

ATTORNEY SHOR:

We will be --- the total number of jurisdictions that we will be litigating issues will be seven. We have filed five petitions to date, there are two more remaining to be filed.

JUDGE COCHERES:

All right. Would you tell me the first five then?

ATTORNEY SHOR:

Pennsylvania, Maryland, North Carolina, the District of Columbia, Florida.

JUDGE COCHERES:

All right. Now, in terms of the time frame that's going on here, are any of those petitions filed procedurally going ahead of this case?

ATTORNEY SHOR:

Not at this moment, although that may ultimately prove to be the case.

ATTORNEY PANNER:

And the other thing, Your Honor, that I think they're pointing out is that in North Carolina, they follow a somewhat different procedure in which pre-filed testimony is filed at the time of the filing of the petition and the answer. And so the parties have, in North Carolina, already filed some testimony on these issues.

JUDGE COCHERES:

All right. What I was trying to get to is again, in the interest of not reinventing the wheel that if we're going to have hearings that you all may have been over the ground sufficiently prior to that time in another jurisdiction that you could again either stipulate to the facts or adopt wholesale portions of the record from other proceedings into this one.

ATTORNEY SHOR:

If I may, Your Honor, this is Michael Shor for US LEC. We certainly have thought of that as a possibility. It is somewhat complicated by the fact that the Maryland and Pennsylvania arbitrations are between US LEC and the former Bell Atlantic, whereas the North Caroline and Florida are between US LEC and the former GTE.

So there are different network configurations and frankly, they would be different costs in each jurisdiction. Although I agree with you that if it is possible to stipulate in portions of records from other proceedings, then that would be in the interest of the economy and we would try to do that.

JUDGE COCHERES:

And where is the Maryland proceeding in relationship to this one?

ATTORNEY SHOR:

We have a prehearing conference scheduled for the end of May in that proceeding.

JUDGE COCHERES:

So are you trying to tell me that I'm out here not only on the cutting edge, but the bleeding edge?

ATTORNEY SHOR:

You are out on the limb, Your Honor.

JUDGE COCHERES:

Well, thank you. All right. Then I'll deal with it in that manner. Okay. Let's go back to the need for hearings then. Can I safely assume that one day should do this?

ATTORNEY SHOR:

Your Honor, this is Michael Shor for US LEC. If this thing goes beyond one day, then we would all need to be --- reconsider. I think one day would be more than sufficient.

JUDGE COCHERES:

Good. Don't wish for more, it may come true. All right. Do I have any problem out of the Verizon camp on setting it for one day?

ATTORNEY PANNER:

I think one day would make sense, Your Honor.

JUDGE COCHERES:

And that was who?

ATTORNEY PANNER:

I'm sorry, Aaron Panner.

JUDGE COCHERES:

Okay. Thank you, Mr. Panner. All right. Let's all look at our calendars. You all suggested

that we move the hearings into July, which fits nicely with my schedule. You were only one week apart, as I recall. No, I'm sorry. You were both in the week of July 15th. Currently, the only day on my calendar in the week of July 15th that is filled is July 15th. So you tell me, folks, when is a good day for all of you to come to Harrisburg, Pennsylvania?

ATTORNEY SHOR:

I think Wednesday or Thursday would be the best two days.

JUDGE COCHERES:

And who was that?

ATTORNEY SHOR:

I'm sorry. That was Michael Shor for US LEC, Your Honor.

JUDGE COCHERES:

All right. And the Verizon camp?

ATTORNEY GAY:

Your Honor, this is Anthony Gay. Either one of those days work fine for me, so we just would need to know what works with Mr. Panner's schedule actually.

JUDGE COCHERES:

Mr. Panner?

ATTORNEY PANNER:

I guess I have a small preference for Wednesday, but whatever's more convenient for everyone is fine for me as well.

JUDGE COCHERES:

Well, Mr. Panner, your small preference and mine coincide, so it will be July 17th. Does anyone have a problem with that date? All right. That will sort of be written in stone. For final and best offers, that makes it the 24th.

ATTORNEY SHOR:

Well, with the --- excuse me, Your Honor. This is Michael Shor for US LEC. Would the transcript be out the 18th?

JUDGE COCHERES:

It would be my expectation that it would be. Our court reporters are normally very good about that sort of thing and bring multiple reporters to hearings that may justify a full day's transcript and do it in shifts.

ATTORNEY SHOR:

Would that then make the one week be the 25th instead of the 24th?

JUDGE COCHERES:

All right. I'll buy into that math. And that will be final and best offers on the 25th. All

right.

ATTORNEY SMITH:

Your Honor, are you going to start the hearing at 10:00 on Wednesday, the 17th or 9:00?

JUDGE COCHERES:

I can accommodate the parties. I only need to know that you folks want to start earlier. Normally, hearings start at ten o'clock in the morning in this building, but we do make exceptions regularly for people who think they may need an earlier start time. You tell me, 9:00 or 9:30 a better time for you?

ATTORNEY SMITH:

As a lot of people will be traveling up to Harrisburg, I don't know if we'll be coming in the night before or the morning of. Michael, do you have any preference?

ATTORNEY SHOR:

I think ten o'clock is fine.

JUDGE COCHERES:

All right. Verizon?

ATTORNEY GAY:

Anthony Gay for Verizon. I think 10:00 is fine also, taking into account the potential traveling for those of us who are not Pennsylvanians.

JUDGE COCHERES:

Okay. Fine, ten o'clock it will be. All right.

JUDGE CHRISTIANSON:

The reply briefs?

JUDGE COCHERES:

Yes. I come from a background of --- I'm going to move back to the subject of reply briefs. Well, wait a minute. Let me structure the testimony for you. We find it easier and a more structured record if we retain the matrix of issues and their numbers that have been proposed in the petition and I want you to structure your testimony in the same way.

Let me tell you what the format that I used for the prior arbitrations that I've been involved in and I think it was fairly successful and it is a good outline form for the hearing as well as your briefs. And that's simply I don't care how many witnesses you're planning to bring, but we will hear the testimony in the order of the issues, not in the order of the witnesses. So if witness number one testifies on issues one, two, seven and eight, that's fine. I'll put them on the stand for issues one and two and when we get to issue number three, we'll just switch to another witness.

That creates a record that enables you folks to write your briefs and for me to write my decision in a fairly orderly fashion. It completes each issue as a package and then moves on to the next issue in line. So when you're structuring your witnesses' testimony, that's the way I want to see it, clear delineation between issues. And I appreciate that there may be some overlap between issues, but I want you to accommodate this format as much as you can. And the same would be true of briefs. Does anybody have a problem with that or need to make a comment?

ATTORNEY SHOR:

Your Honor, this is Michael Shor for US LEC. Let me just interject at this moment. We advised the Commission in our prehearing memo that we have settled two issues.

JUDGE COCHERES:

Right.

ATTORNEY SHOR:

And to the extent that you would require a motion for US LEC to withdraw those two issues from the petition, I'd like to make that motion orally at this time. What I understand you to be saying is that even though those issues have been removed, we are not

going to renumber the issues to eliminate them, we will go issue six and issue eight and there just will be no issue seven.

JUDGE COCHERES:

Right. We can just make a brief reference on the record that it's settled.

ATTORNEY SHOR:

Okay.

JUDGE COCHERES:

And I will accept your motion and it is granted.

ATTORNEY SHOR:

Thank you, Your Honor.

JUDGE COCHERES:

And, you know, that way we keep --- because let's face it, folks, you're going to be litigating in multiple jurisdictions and you probably are going to have similar witnesses on similar subjects everywhere and it will keep your life in a little more order, at least in Pennsylvania. Do I hear any other comments on that subject? Good.

Hearing none, let's deal with the issue of reply briefs. I will --- I'm going to accept the suggestion of Verizon and permit reply briefs. Verizon is correct and as the Chief Administrative Law

Judge has already pointed out, we have very strict rules around here about what's to be contained in reply briefs and sandbagging is of course not to be permitted. I have no experience with the litigants in front of me that isn't good and I always give the litigants the benefit of the doubt when I'm dealing with them. I will deal most unkindly with the litigant who puts something in their reply brief that is not appropriate, including, and I've had this happen in the past, modifications to final and best offers.

So with that in mind, I think I'm almost completed with my part of the agenda, except to ask Mr. Panner and Mr. Gay how soon I can expect the Verizon answer.

ATTORNEY PANNER:

Your Honor, the answer will be filed on Tuesday, you know, the 25 days statutory deadline.

JUDGE COCHERES:

Is that Mr. Panner?

ATTORNEY PANNER:

That was Mr. Panner.

JUDGE COCHERES:

All right. Fine. I will look forward to receiving that. Now, do you think that there is any

need for, and I'm certainly not encouraging this, but I want you to understand that it is available, for us to meet informally either on or off the record between now and the hearing date?

ATTORNEY GAY:

This is Mr. Gay for Verizon, Your Honor. At the present time, I don't think so. I mean, if something comes up, I'm sure we could work it out.

ATTORNEY SHOR:

Your Honor, this is Michael Shor for US LEC. I would hope that there will not be any Discovery disputes, but at this point, that's the only substantive item that I can think of that would potentially require your attention. But we're not there yet.

JUDGE COCHERES:

Okay. I urge you not to have Discovery disputes. Most judges don't like them, I fall into that category of most judges. My format for handling those, if I must, is to set some time frame up that's convenient on short notice to the parties for a conference call and to dispose of those things as quickly and expeditiously as possible because otherwise we're simply impeding the forward progress of this case.

The other thought that I had is that in formulating your final and best offers, do you think it would be appropriate or helpful for me to comment after I have seen either your answer from Verizon or all of your pre-filed testimony or after the hearing, perhaps near the conclusion of the hearing, on the parties' positions? In other words, do a very brief evaluation without the benefit of briefs.

ATTORNEY PANNER:

Your Honor, this is Aaron Panner. I mean, for my part, I think it's always useful to know what the issues are and what the key issues are. I think it will help guide our briefing and make it more, you know, our presentation more useful. You know, certainly late on the date of the hearing, if you were to say, you know, this is kind of how I see things, I think that we would --- certainly Verizon would find that very useful.

ATTORNEY SHOR:

Your Honor, this is Michael Shor for US LEC. I have to agree it's always helpful to get a sense from the finder of fact how that entity is viewing the parties' cases. I think it would help us in preparing our final and best offer and may narrow substantially the area that you need to deal with

formally in a proposed decision.

JUDGE COCHERES:

Yes. How shall I put this? I'm of two minds on that subject and I don't always bring it up. I will tell you right now that if I decide to offer those comments, and I probably will, that I don't consider them binding. In other words, if I'm able to produce movement and settlement of issues instead of briefs, wonderful, but if I end up having briefs, it may be that in reading your briefs, I may change my mind on an issue and I want to make that perfectly clear up front.

But on the other hand, I think that sometimes a view from the top, and I've done this in other cases, helps some parties occasionally with a reality check that they need to understand. And I think I've written enough on telco issues that it shouldn't be too hard to predict where some of my viewpoints are going to come from.

But with that idea in mind, I will try, you know, to be prepared to do that at the end of the hearing on July 17th.

Now, I believe that completes my agenda. Is there anyone else who has an issue that they need to deal with? I'll start with the Petitioner.

ATTORNEY SHOR:

Thank you, Your Honor. This is Michael Shor for US LEC. I think that you have identified all of the items that we had raised in our prehearing memorandum and we are comfortable with where we are, where we have wound up on these items.

JUDGE COCHERES:

Fine. For Verizon?

ATTORNEY GAY:

This is Anthony Gay, Your Honor. Presently, we're comfortable where things stand.

JUDGE COCHERES:

All right. I will --- off the record.

OFF RECORD DISCUSSION

JUDGE COCHERES:

At any rate, gentlemen and ladies, I try to be accessible. This will be the highest priority case on my case list, not withstanding that I actually have another Verizon matter that will be tried the preceding week. But I urge you that if you have some need to talk to me to call my direct dial number, which is (717) 787-9816. And if something arises, and I'm certainly not encouraging it, but if something arises that you think needs my immediate attention and we need to set up a conference call, I'm confident

that the Chief Administrative Law Judge will allow me to move things around on my calendar to accommodate this case. It's our desire to get it done as expeditiously as possible. Which brings me to the question, does the Chief have any additional comments for us?

JUDGE CHRISTIANSON:

No, I think you've covered the ground. I think Yanks was the only one recently that's gone on to the statutory limit, we might call it. We've slipped a little bit, but I think it's good to expedite these to the degree we can and I will move things around as necessary to help out, at least reasonably so. I don't give the Judge all of his druthers, but we try to manage.

JUDGE COCHERES:

He's a good guy to work for. Ladies and gentlemen, I will also very shortly send out a test e-mail message to all of you just to make sure that I have correctly entered your e-mail addresses. Kindly respond so that when we need to use e-mail to contact each other, that will work. As far as I'm concerned, e-mail is fine as long as the hardcopy follows the next day. Does anyone else have any comments or questions?

ATTORNEY SHOR:

No, Your Honor, for US LEC.

JUDGE COCHERES:

And that was Mr. Panner?

ATTORNEY SHOR:

That was Mr. Shor.

JUDGE COCHERES:

Thank you, I'm sorry.

ATTORNEY GAY:

No, Your Honor, for Verizon and this is Mr. Gay.

JUDGE COCHERES:

Thank you. Well, that being said, I thank you all for coming and the cooperation that you've shown so far and looking forward to meeting you all on July 17th.

* * * * * * * * *

HEARING CONCLUDED AT 10:58 A.M.

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C E R T I F I C A T E

I HEREBY CERTIFY THAT THE FOREGOING PROCEEDINGS WERE REPORTED STENOGRAPHICALLY BY ME AND THEREAFTER REDUCED TO TYPEWRITING AND THAT THIS TRANSCRIPT IS A TRUE AND ACCURATE RECORD THEREOF.

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LAWYER'S NOTES

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COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Petition of USLEC of Pennsylvania, Inc., for Arbitration with Verizon Pennsylvania Inc., pursuant to Section 252(b) of the Telecommunications Act of 1996	:	Docket No. A-3108147000

Keystone Building
Plaza Level
400 North Street
Hearing Room 3
Harrisburg, PA

Wednesday, July 17, 2002
Commencing at 10:04 a.m.

BEFORE:
LOUIS COCHERES, Administrative Law Judge

REPORTER: MELISSA L. CHARLTON

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P R O C E E D I N G S

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JUDGE LOUIS COCHERES:

Good morning, ladies and gentlemen. As you're well aware by now, my name is Louis Cocheres. And I'm an Administrative Law Judge appointed to be the Arbitrator in the petition of USLEC of Pennsylvania, Incorporated, for arbitration with Verizon Pennsylvania, Incorporated, pursuant to Section 252 of the Telecommunications Act of 1996, at Commission Docket Number A-3108147000.

We're here today for what I believe will be our initial and only hearing in this matter. I do want to take a few moments to spread a few minor procedural things on the record. I always like to put on the record that I do, in fact, live in an area that is served by major utilities and that I have Verizon as my local exchange carrier. Currently I have MCI as my long distance carrier. I may want to rethink that. And I have AT&T as a cell phone carrier. I like to tell people that up front. If anyone has a problem with it, they should speak up now or forever hold their peace. Thank you.

As I indicated on the record at our prehearing conference and in my prehearing order,

I want very much to have a fairly uniform and orderly proceeding today in terms of issue presentation. I had hoped that we would be able to retain exactly the same numbering system that USLEC used in its numbering of issues in it's petition. However, I was somewhat chagrined to notice that that wasn't quite followed. But I don't think that's irretrievable. But I do want to go through this hearing issue by issue, hearing from each party for each issue before we move on to the next one. I do that for three reasons. One, it creates an orderly record; two, it means that your briefs can follow the same format; and three, it means my decision can follow the same format. And when that is all taken up as a unit to be reviewed by the Commission, hopefully the orderly record and the wisdom of it all being so organized will be evident to them.

Because the witnesses did not all testify in numerical sequence in the sense some witnesses covered some issues and some others, I will swear all of the witnesses at the beginning of this proceeding, because I expect that we are going to be jumping back and forth somewhat between the witnesses. And rather than interrupt the proceeding, I'll just have everybody stand and issue the oath that

way.

The other thing that I noticed, and I already sent an e-mail notice to all of you was that I reviewed the settlement agreement that you had submitted --- USLEC had submitted with the arbitration petition. And when I reviewed it, since it was the only copy of the agreement that I had, these little white tags indicate things that you indicated were disputed issues. Now, I know you have, in fact, settled many of these little white tags but I don't know which ones, other than to know that your testimony covered a limited number. So before we leave the room today, and I will wait until after the hearing probably, at least until after we hear from the witnesses, I will go through these, as I've highlighted them in my copy, and just touch base with you to make sure that I have covered each and every issue that needed to be disputed. And for those that are no longer disputed, you have an obligation to furnish me with a copy of the language that you have agreed to because I'm supposed to review it. I didn't review everything that's in this particular book. And but I do need to know what's already settled.

Now, in terms of already settled, the parties have advised me that at least one of the

issues is currently settled that was on the table today. And I've lost track right now off the top of my head of which witness that was, but one of the Bell witnesses, I believe it was issue number 11. Ms. Fleming's issue has been completely settled, as I understand it.

ATTORNEY PANNER:

That is correct, Your Honor.

JUDGE:

Fine. I have no problem with that. Again, that's just an example of settlement language that I will need to see as part of this proceedings. Are there any procedural issues use that I need to go on before we move on hearing witnesses testimony?

Hearing none, by my count I have four witnesses, two from each side. If you folks would please stand and raise your right hands.

WITNESSES SWORN EN MASSE

JUDGE:

All right. Now, for the purposes of the record, I'm just going to start on my left with the lady wearing the green outfit and ask her to tell me her name.

MS. MONTANO:

Wanda G. Montano.

JUDGE:

And the gentleman next to her?

MR. HOFFMANN:

My name is Frank R. Hoffmann, Jr.

JUDGE:

Moving around the table.

MR. HAYNES

Terry A. Haynes.

MR. D'AMICO:

Pete D'Amico.

JUDGE:

Fine. All right.

ATTORNEY SHOR:

I don't recall if during our prehearing conference we had already addressed and identified that we had settled issues seven and ten.

JUDGE:

Yes. I reviewed that transcript this morning. Interestingly, you did tell me that you had settled two issues but I don't think it was perfectly clear which ones they were. And I just said, fine, which was no more illuminating on the record than you were. So that would be issues seven and ten in the USLEC.

ATTORNEY SHOR:

And issue 11 as well.

JUDGE:

Okay. So we're now --- I do have a real basic question and it stems from having reviewed the agreement. The agreement that was provided to me, and I can understand why there was no effective date, because obviously it hasn't been approved but also on page one there was no date for the initial term, were you contemplating an one year, two year, 16 month? How many car payments were you expecting in this agreement? Did you have some term in mind.

MR. HOFFMANN:

It's my understanding the term of the agreement was to be two years.

JUDGE:

Mr. Hoffmann, thank you very.

ATTORNEY PANNER:

I would have to get back to you, Your Honor, on that question. And I can check it in the agreement language, but I don't know the answer.

JUDGE:

I didn't see anything in the agreement, as I read through it over the last several

days, to indicate that there was a particular time frame that the parties have in mind.

ATTORNEY SHOR:

I think because of the way that it's done is it's pegged to a specific date that once you get --- know what the effective date is, then you know what the termination date is. But you're correct, it doesn't say for a term of X years and beyond Y date if it does not do that.

ATTORNEY SHOR:

And section two, term and termination, page one, there is a date that needs to be filled in there and I appreciate that you don't have the effective date yet. But I assumed that you had at least a given amount of time available.

JUDGE:

All right. I have a procedural question for the parties to tell me about, since it's been awhile. Who goes first? The Petitioner?

ATTORNEY SHOR:

The Petitioner goes first.

JUDGE:

All right. Then as I recall you have a choice between Ms. Montano and Mr. Hoffmann.

ATTORNEY SHOR:

Your Honor, USLEC will put Mr. Hoffmann on the stand to address issues one and two collectively. And Ms. Montano, after the Cross Examination of Mr. Hoffmann, Ms. Montano will be placed on the stand just for her testimony with respect to those two issues as well.

JUDGE:

Yes. That leads to a question that I had already written down and that's that the parties seem to be treating one and two as a unit.

ATTORNEY SHOR:

That's correct.

JUDGE:

All right. Fine then Mr. Shor will you finish presenting Mr. Hoffmann.

ATTORNEY SHOR:

USLEC calls Frank R. Hoffmann.

JUDGE:

Mr. Hoffman, you've been previously sworn.

FRANK HOFFMAN, PREVIOUSLY SWORN, CALLED TO TESTIFY

DIRECT EXAMINATION.

BY ATTORNEY SHOR:

Q. Mr. Hoffmann, would you state your name and business address for the record, please?

A. My name is Frank Hoffmann. I'm located at 6801 Morrison Boulevard in Charlotte, North Carolina.

Q. By whom are you employed?

A. I'm employed by USLEC.

Q. And what is your title?

A. I'm senior interconnection manager.

Q. Did you cause to have prepared, I believe it was 21 pages of Direct testimony filed in this matter on May 31, 2002?

A. Yes, I did.

Q. If I asked you those questions today, would your answers be the same?

A. I would have one revision.

Q. What revision that is?

A. That is to change my relative to nine trunks to nine T-1s.

Q. And what page is that on; do you know?

ATTORNEY PANNER:

Frank, I think it's on page 20.

A. Thank you. Yes, you're absolutely correct, line nine, page 20, continuing onto ten. Nine trunks per day it should be changed to nine T-1s per day.

BY ATTORNEY SHOR:

Q. Other than that correction, do you have any other changes, edits or corrections to your direct

testimony?

A. No, I do not.

Q. Did you cause to have prepared seven pages --- six pages of rebuttal testimony filed in this matter on July 9, 2002?

A. Yes, I did.

Q. Do you have any changes, corrections or additions to that testimony?

A. No, I don't.

Q. If I ask you those questions today, would your answer be the same?

A. Yes, I did.

ATTORNEY SHOR:

Your Honor, USLEC respectfully moves the admission of the direct and rebuttal testimony of Mr. Frank Hoffmann into the record, subject to Cross Examine.

JUDGE:

It is the testimonies are admitted, subject to Cross Examine, and in a timely motion. Mr. Panner?

ATTORNEY PANNER:

Thank you, Judge.

CROSS EXAMINATION

BY ATTORNEY PANNER:

Q. Good morning. I'd like to start by getting your help in explaining to the Commission and Judge Cocheres USLEC's position on issues one and two. And I have here a schematic diagram of the Philadelphia LATA, the Pennsylvania portion of it, which I'll just label in a pen on the bottom VZ-1.

ATTORNEY PANNER:

If that is all right with you.

JUDGE:

That is fine, as long as you don't have a VZ-1 as part of your presentation.

(Exhibit VZ-1 marked for identification.)

BY ATTORNEY PANNER:

Q. Now, in this diagram, I have a circled towards the --- I have a large circle to represent the Philadelphia LATA; do you see that?

A. Yes.

Q. And I have a small circle at the top of the big circle that's labeled the Allentown local calling areas; do you see that?

A. Yes, I do.

Q. And I also have a slightly larger circle down at the bottom right. It's labeled Philadelphia local calling area; do you see that?

A. Yes.
Q. And I have a box inside that's Philadelphia local calling area, that's labeled the USLEC switch. Do you see that?
A. Correct, yes.
Q. Now, is it accurate to say that the USLEC switch is inside the Philadelphia local calling area?
A. I believe so.
Q. Was it your testimony that it was located --- that your switch is located in Philadelphia local calling area?
A. Could you direct me to that portion of the testimony?
Q. I'll cover that later. But you'll take it subject to check that you at least believe that the USLEC switch is inside the Philadelphia local calling area?
A. Yes.
Q. Now, in this diagram, let's suppose that the capital letters A, B, C, D represent customers. Are you with me so far?
A. Yes.
Q. Now, let's suppose that capital letter A is a Verizon customer and that capital letter D is a USLEC customer. First of all, is it accurate to say that

Verizon would have an end office within the local calling area serving that customer A?

A. I cannot respond to that. I will assume that we did.

Q. Okay. In fact, you testified, did you not, that Verizon's network uses a large number switches, each serving a relatively small area?

A. Yes.

Q. So it's likely that there would be a switch within the local calling area serving that customer?

A. It's possible, yes.

Q. If it were --- if it were not within the local calling area, it would be very close by?

A. That is also possible.

Q. Would you agree at that there are calling areas in Pennsylvania where Verizon has end offices serving customers.

ATTORNEY SHOR:

I'm going object only to the extent that he's an USLEC witness. I don't know what he knows about Verizon's network. So foundation.

BY ATTORNEY PANNER:

Q. Mr. Hoffmann, have you ever worked for Verizon?

A. Yes, I have.

Q. Okay. Do you, in fact, know whether Verizon has

any end offices in local calling areas in Philadelphia LATA?

A. Not specifically what calling area or what switch is located where, but simply by the fact that you have switches in the LATA and you have local calling areas in the LATA. I must assume that your switches are in local calling areas. Whether you have a switch in every local calling area, I do not know.

Q. Fair enough. It's at least possible then that there would be a would be a switch in that Allentown, local Allentown calling area. Do you agree with that?

A. Yes.

Q. Now, if Verizon customer A --- well, let me ask one further question before I pose my hypothetical. Is it also correct that USLEC does not have a switch in the Allentown local calling area?

A. We do not.

Q. In fact, you have only the one switch in the Philadelphia LATA, which is, subject to check, inside the Philadelphia local calling area?

A. That is correct.

Q. Now, so there would be some sort of a long line or loop or some kind of a transport facility that, if you have a customer inside the local calling area in Allentown, there would be some kind of long facility

connecting your customer to that switch?
A. We would have a facility that would connect our customer with our switch, yes.
Q. Now, suppose that a Verizon customer A were to call that USLEC's customer D inside the Allentown local calling area, first of all, A and D could be quite close together; is that correct?
A. Yes.
Q. Okay. They could be next door neighbors?
A. Correct.
Q. Okay. And if that Verizon customer A placed a call to the USLEC customer D, is it correct that somehow that call would have to be transported from the Verizon originating end office to the USLEC switch?
A. Yes. I believe Verizon would transport that call to the point of interface at Verizon's access tandem and then hand that call off to USLEC switch for termination to our customer D within the Allentown local calling area.
Q. Okay. So just to clarify that, you say Verizon would transport the call to its local access tandem and your testimony was what?
A. No. I'm sorry. You missunderstood. I stated that Verizon would route that call to the point of

interface, which USLEC has established that's your access tandem, not your local tan number.

Q. Thank you for that clarification. So it's your testimony that USLEC's point --- when you say point of interface, what do you mean?

A. I mean the physical point where our networks interconnect.

Q. And it's your testimony that that physical point is the USLEC in the Verizon access tandem?

A. Both Verizon access tandem within the Philadelphia line, yes.

Q. Now, the call would then have to be transported from the access tandem to the Philadelphia local calling area; is that correct, to USLEC switch?

A. It is my understanding that Verizon's access tandem is located within the Philadelphia local calling area, as I'm one mile away from the market tandem.

Q. Okay. Do you know if the market tandem is serving --- would be serving the call --- that Allentown local calling area call?

A. No, I do not.

Q. You've testified that the point of interface between the networks is at the Verizon access tandem?

A. Right.

Q. Is it, therefore, your testimony that the traffic from the access tandem is transported over USLEC's network from the access tandem to the USLEC switch?
A. I'm sorry. Could you repeat that again?
Q. Was it your testimony that the traffic is transported over USLEC's network to USLEC switch?
A. Initially in the Philadelphia LATA, USLEC purchased an OC-12 fiber ring, which was used to transport both parties' traffic between our IPs from my switch to your network and, conversely, from your network through the port to my IP. USLEC outgrew the capacity on that OC-12 and abandoned that facility and purchased an OC-48 from Verizon. It is my understanding Verizon currently uses the abandoned OC-12 to terminate its traffic to USLEC.
Q. Okay. Let me clarify. When you say it uses the abandoned OC-12 to terminate the traffic to USLEC, you mean to deliver it to USLEC's switch?
A. Correct.
Q. And that OC-12 is Verizon's facility or USLEC's facility?
A. That facility is Verizon.
Q. Okay. So in fact, Verizon is transporting its originating over Verizon's network to USLEC switch; is that correct?

A. Yes Verizon is using a facility which USLEC paid non-recurring charges to have installed and paid the monthly recurring charges for a 12-month period while it was in our use.

Q. But you're not paying for that facility any longer?

A. No, I don't believe.

Q. Now, does Verizon receive any compensation from USLEC for transporting a call from Verizon caller A to USLEC switch in the scenario I described?

A. I do not believe so.

Q. So your answer is no?

A. Correct.

Q. In fact, in the scenario that we're talking about here there would be no --- well, in the scenario we're talking about here, would Verizon receive any additional compensation from its caller for transporting the call to the USLEC switch in Philadelphia?

A. I do not know. That would depend on the calling plan that caller A has purchased from Verizon.

Q. So you don't know? Well, let me go back to that. Why would it depend on the calling plan?

A. I'm not sure if caller A has a flat rated service or a message rated service or some other type of

plan. I'm not familiar with Verizon's calling plans but I do know they we have several.

Q. Let me rephrase the question. Would Verizon receive any additional compensation for the call from caller A to caller D because Verizon has transferred the call to another carrier's network --- and transported the call to another carrier's network or would the charge be the same, as if the caller were served by Verizon itself?

A. I'm sorry. I'm at a loss. I do not know what Verizon charges customer A, if you have a policy of charging something if it's intranetwork versus handing it off to another carrier.

Q. Okay. Now, in your view, in the scenario that I just described where caller A places a call to caller D, would USLEC be entitled to a payment of reciprocal compensation for terminating that call D as an end user?

A. Yes.

Q. So you would actually require Verizon to pay you despite the fact that Verizon is bearing all of the cost to transport that call to the USLEC switch; is that correct?

A. Yes, that is my understanding of what federal rules require.

Q. Okay. Are you a lawyer?
A. No, sir.
Q. Okay. Now, let's suppose that instead of this set that USLEC's switch were in Allentown --- or not USLEC, but CLEC has a switch in Allentown, a single switch. Are you with me so far?
A. Yes.
Q. Okay. And suppose that most of the calls that are made between the two networks are originated and terminated to numbers associated with the Philadelphia local calling areas. Are you with me?
A. Yes.
Q. And suppose further that --- so that would mean that there would be a very large volume of traffic that Verizon would have to transport all the way up to Allentown without any compensation from USLEC; is that correct?
A. I can't comment as to the volume. But yes, you would have to transport traffic between those two areas.
Q. In my hypothetical, if it is a large volume of traffic, Verizon would be responsible for transporting all of that traffic; is that correct?
A. If the traffic were one way, yes, but if the traffic traveled in both directions, I believe that

both carriers would be carrying the calls a similar distances.

Q. And if it were Verizon's customer A calling USLEC's customer D, it would be Verizon carrying the call; correct? I guess I shouldn't have used those letters because I'm no longer referring to the diagram, but it's a hypothetical. But if it were Verizon's customer calling USLEC's customer, Verizon would be responsible for the transport to USLEC's switch bearing the cost in your view?

A. I'm sorry. What local calling area would be originating the call?

Q. If the call originated in Philadelphia and were terminated to a number in Philadelphia, associated with the Philadelphia local calling area, is it your position that Verizon would bear the cost of transporting that call all the way up to Allentown?

A. I'm sorry. I must have missunderstood your question. I thought you just stated that the call area, local calling area for Philadelphia, customer A, made a call to another Philadelphia number, which I would assume would be in the Philadelphia local calling --- I'm confused with your reference to Allentown here.

Q. I'm still working on the hypothetical where USLEC

has or a switch in Allentown --- I'm sorry, CLEC has a switch in Allentown then Verizon would be responsible for transporting that call up to the CLEC switch; is that right?

A. Yes, it is my understanding that it is the incumbent LEC's responsibility to transport that call that originates on their network ---

Q. And indeed ---?

A. --- to the CLEC switch in Allentown.

Q. And under the contract language that you have proposed, are you familiar with the contract terms that you proposed?

A. Yes.

Q. You have been involved with the negotiations; is that right?

A. Yes, I have.

Q. And under the language that you've proposed, a CLEC could put its switch anywhere at all within the Philadelphia LATA; is that correct?

A. Yes.

Q. And no matter where the CLEC chose to put its switch, Verizon would be responsible for bearing the cost of transporting its originating locally rating traffic to that switch without compensation; is that your position?

A. Yes. As our current arrangements dictate, Verizon is charged a non-distance sensitive entrance facility, which is flat rated.

Q. I'm not ---.

A. To go from your tandem to my switch.

Q. Just to be clear, I'm discussing now USLEC's current proposal?

A. Yes.

Q. Your proposed language?

A. Yes.

Q. And that would permit any CLEC, because it's correct that any CLEC would be able to adopt the terms of the agreement that is adopted through this proceeding; is that correct?

A. It's my understanding that that is Verizon's obligation. But it's also my understanding that I'm here today to arbitrate an agreement between Verizon and USLEC only.

Q. I understand. But thank you for that. I'm going to introduce a second little diagram which I will label VZ-2.

(Exhibit VZ-2 marked for identification.)

ATTORNEY PANNER:

And I'm sorry for not having these

pre-labeled. But since I wasn't sure of the order of the witnesses ---.

BY ATTORNEY PANNER:

Q. I have here a schematic of a local calling area that I've labeled the Allentown local calling area. And are you familiar, as a general matter with Verizon's network architecture?

A. On a high level, yes.

Q. Okay. And in fact, you testified as to what Verizon's network architecture is; haven't you?

A. Yes. I've explained that the access network is somewhat of a hub and spoke type architecture, whereas the local network is a spider web, each point connected to every other point, as I understand Verizon.

Q. What I've represented here is A, B and C are Verizon customers. Do you understand that?

A. Yes.

Q. And D is that USLEC or CLEC customer in this diagram. Do you understand the diagram generally?

A. Yes.

Q. Now, I'd like to walk through with you the functions that would be performed if caller A, Verizon customer A called Verizon customer B and both were served out of the same end offices I've represented in

this diagram. Can you tell me what function Verizon would perform --- let me back up.

Do you agree that Verizon would switch that call within its end office to deliver it from customer A to customer B?

A. That is possible, yes.

Q. What is the other possibility?

A. Again, not being an expert on Verizon routing, I would assume you could possibly, given some sort of traffic congestion you might experience, send that call to another office and back.

Q. Do you know whether typically a call that was rather from --- routed from one customer to another customer off the same end office would typically be switched within the end office.

ATTORNEY SHOR:

I'm just going to object to the extent it's continuing to call for speculation by this witness on the functions of Verizon's switches.

ATTORNEY PANNER:

I'm sure if he doesn't know, he'll inform the Court he doesn't know. He's testified to Verizon's network architecture and how that architecture is set up. If he doesn't know, he'll say he doesn't know.

JUDGE:

Objection overruled.

A. I do not know if you would typically or always switch that call within the office.

BY ATTORNEY PANNER:

Q. Well, would you agree with me that it is at least possible that it would typically or, indeed, always be switched within the end office?

A. It is a possibility that it would be, yes.

Q. And then suppose that Verizon customer A would call Verizon customer C, which is being in this diagram served out of different end offices. Are you with me?

A. Yes.

Q. And is it possible that when Verizon customer A calls customer C, that there would be originating switching out of that end office or to customer A; is that possible?

A. Yes.

Q. And then it would be transported over the trunk between the end officer and customer A and the end office serving customer C. Is that possible that it would be transported over a trunk between those two end offices?

A. Yes, it appears so.

Q. You testified that Verizon has a spider web network. Does that mean that in many cases there would be a direct trunk between end offices over which calls are transported between the two end offices?
A. Yes.
Q. And then Verizon would perform terminating switching in that end office to deliver the call to customer C?
A. Yes.
Q. Is it also possible in some circumstances that congestion over that trunk would cause the call to overflow flow through Verizon's tandem?
A. Yes, I believe it is possible. If you're experiencing congestion between the end offices which customers A and C work out of, that you would possibly route that call to, I believe, a local network.
Q. And, in fact, you testified that Verizon's local network is comprised of multiple end office connections between each and every end office and may also cause one or more local tandems used to control traffic connection; correct?

ATTORNEY SHOR:

On what page?

A. Page five, lines 19 through 21.
BY ATTORNEY PANNER:

Q. Would you agree that I've represented that your testimony there in the schematic here in this diagram?

A. Yes.

Q. Now, do you know whether --- let me go back to VZ-1, if you would, Mr. Hoffmann.

Now, just to review, if there is a call from Verizon customer A to Verizon customer D, is it correct that Verizon would be responsible, first of all for originating --- doing originating switching out of end office A?

ATTORNEY SHOR:

Excuse me. Do you mean USLEC customer D?

ATTORNEY PANNER:

Yes, I'm sorry. Let me start again since I misspoke.

BY ATTORNEY PANNER:

Q. If Verizon customer A were to call USLEC customer D, is it correct that Verizon would perform originating switching out of end office serving customer A?

A. Yes, if that was the switch where customer A received dial tone, I would agree.

Q. And then Verizon would perform transport between that end office A to USLEC's switch possibly through

one or even more tandem switches; is that correct?
A. Correct.
Q. Okay. And then assuming that D is an end user customer, USLEC would perform terminating switching; is that correct?
A. Yes.
Q. And USLEC would be compensated for that terminating switching through reciprocal compensation; is that correct?
A. Yes.
Q. So to the extent that Verizon didn't have to do the terminating switching anymore, it would be paying USLEC to perform that function; is that correct?
A. Yes.
Q. Now, do you know whether the Pennsylvania Commission has performed cost studies to determine the cost of performing various functions that you have described?
A. No, I'm not aware of the Pennsylvania Utility Commission performing cost studies.
Q. Okay. Are you familiar with --- in general with the fact that public utility commissions, state public utility commissions have held proceedings in which they have determined the cost of performing the various network functions that we've been talking

about?

A. No. It is my understanding that the Commission reviews cost studies submitted by Verizon relative to Verizon's costs.

Q. Do you agree --- let me try to repeat the question because I don't think you quite answered it. Do you agree that state public utility commissions have proceedings in which they determine the costs associated with the various network functions that you and I have been talking about?

A. I am familiar with proceedings where the Commission will set rates, but not that they necessarily establish costs.

Q. Okay. But you would agree that the Commissions have established rates based on pricing standards in the 1996 Act and FCC regulations?

A. Yes, it is my understanding that the Commission approves Verizon rates subject to those orders and rules and regulations.

Q. Okay. So it would be correct then that one could using those Commission established rates determine the difference in costs to Verizon of delivering a call from, say, caller A to caller B in the example on VZ-2 and the cost to Verizon of transporting a call from Verizon customer A to USLEC

switch in Philadelphia; is that correct?
A. Yes, I would assume that one could use the rates and underlying costs to compare those types of scenarios. But it is my understanding Verizon is responsible to transport the traffic that originates on the network to the point of interface selected by the ---.
Q. When you say they're responsible, that is a legal conclusion?
A. I did not intend it to be.
Q. What did you mean by it?
A. I mean that it is my understanding that Verizon must bear the costs associated with that traffic that is originated on their network.
Q. Again, is that a legal conclusion?
A. I do not intend it to be.
Q. Okay. Is it possible that USLEC could compensate Verizon, say to Verizon, we'd actually be happy to pay those costs and we'll compensate you? Is that theoretically possible?
A. Yes, negotiations allow for parties to agree to waive certain rules that are forwarded to them under the Act. So yes, to the extent that Verizon were to offer me something that I would feel would be worth my paying for traffic, which I do not feel that I'm

obligated, then I might consider that.

Q. Mr. Hoffmann, I just want to try to clarify for the record, when you say that Verizon must bear costs or is obligated to bear costs, is that a legal conclusion or is it something else?

ATTORNEY SHOR:

Asked and answered.

ATTORNEY PANNER:

I don't believe he's responded directly to my question. He said that he did not intend it to be. I've asked him for clarification. I don't think that he satisfactory responded to the question.

JUDGE:

Mr. Panner, even if it is a legal conclusion, it's not binding on me or the Commission.

ATTORNEY PANNER:

Thank you, Your Honor.

JUDGE:

That certainly sounds like his understanding of what your company's obligations are. It doesn't have to be mine.

ATTORNEY PANNER:

Right. Thank you, Your Honor, I guess what I wanted to clarify is he's testified to or

--- he said that he's testifying to certain network and engineering considerations. I wanted to make clear there is no engineering or technical reason that Verizon must bear this cost that this is an allocation of responsibility.

ATTORNEY SHOR:

Can I object to his speech on the record here? We've got questions and answers.

ATTORNEY PANNER:

Mr. Shor, you had an objection ---.

JUDGE:

Let me make this easy. When I'm having a discussion on the record with counsel, that is either side, we'll have a discussion, he wasn't asking the witness a question. He was talking to me and you're certainly welcome to chime in with your side. Mr. Panner, you didn't ask him that question, whether it was a technical engineering reason that there was an obligation there. You seem to be focused on legal issue. I want you to resolve that and move on.

ATTORNEY PANNER:

Okay.

BY ATTORNEY PANNER:

Q. Is there any technical offer engineering reason why Verizon must bear that obligation?
A. I would say yes.
Q. Can you tell me what it is?
A. USLEC has chosen its point of interface at the access tandem. And it is my understanding that that is USLEC's choice, and not Verizon's.
Q. Mr. Hoffmann, in the testimony we've used two terms, points of interconnection and interconnection point. You're now using a different term, point of interface. Can you explain what you mean by that?
A. By point of interface, I mean point of interconnection. I use those terms interchangeably.
Q. And your testimony now is that the point of interconnection between the parties and Philadelphia is at the Verizon access tandem?
A. Yes.
Q. Okay. I believe that --- well, I think you'll find that it's your testimony and the testimony of Ms. Montano in this proceeding that the point of interconnection is the USLEC switch. Would you agree with that subject to check?
A. If you could direct me to it, I would like to check now.
Q. Well, I guess I'll --- well, this is actually ---

there's a reference to --- I believe, there are clearer references elsewhere. Ms. Montano's testimony hasn't been admitted yet. It may be clearer in her's. But in your testimony on page ten at lines 18 to 19, it says it makes reference to Verizon's proposing to move USLEC's IP from its switch to a co-location arrangement. That suggested that it's the current IP is USLEC's switch. Would you agree?

JUDGE:

Which testimony are you in?

ATTORNEY PANNER:

This is in Mr. Hoffman's testimony on page ten.

JUDGE:

Is it in rebuttal or direct.

ATTORNEY PANNER:

His direct. I can read the sentence. I may have confused the matter by paraphrasing.

BY ATTORNEY PANNER:

Q. It says, this 76-day deadline is well beyond the 30-day transition period Verizon proposing for moving USLEC's IP from its switch to a co-location arrangement, that's at lines 17 to 19.

A. Yes, USLEC's IP is at its switch. I'm sorry, I

thought you had asked me about the point of interconnection.

Q. So are you saying that the part of point of interconnection and interconnection point are different under the current agreement?

A. For traffic delivered from Verizon to USLEC, I would answer yes.

Q. In fact, you testified that Verizon delivers traffic to USLEC switch over Verizon's facilities?

A. In Philadelphia, yes. In Pittsburgh, Verizon continues to use the OC-12, as we have not yet outgrown that facility. We purchased an OC-12 fiber ring from Verizon. And then Verizon leases transport back from USLEC to carrier traffic to our IP.

Q. Now --- but then you said that we ---.

ATTORNEY PANNER:

Can I have the Reporter read something back? Would that be all right?

JUDGE:

Yes, if she can find it.

ATTORNEY PANNER:

If you could go back to where I asked the question, is there any technical or engineering reason why Verizon should bear that cost, if you could read back his answer to that question.

OFF RECORD DISCUSSION

COURT REPORTER READS BACK PREVIOUS QUESTIONS AND ANSWERS

BY ATTORNEY PANNER:

Q. And you've testified that although it's Verizon's responsible to --- although you've chosen --- let's take the Pittsburgh LATA for a moment, you've testified that, although it's Verizon's responsibility to transport the traffic to Verizon access tandem on the point of interface, that nonetheless, Verizon bears the financial responsibility for carrying it even further from the access tandem to USLEC's switch; is that correct?

A. No. It's my understanding in Verizon terms is that it is responsible to transport your originated traffic to USLEC's IP. The point of interconnection is simply the point at which the networks are interconnected.

Q. Is it your testimony that USLEC is bearing the cost of trans --- under current arrangements, is it your testimony that USLEC is bearing the cost of transporting traffic from Verizon's access tandem to USLEC's switch, that USLEC is bearing that cost?

A. No. I would say that that cost is bearing borne by Verizon over facilities that Verizon leases from

USLEC.

Q. Okay. But you have testified that Verizon is carrying the traffic to the interconnection point at the access --- excuse me, that Verizon is transporting the traffic to the point of interconnection at the access tandem; is that correct?

A. Yes, the traffic is transported to that point.

Q. But it bears the cost for transporting it, not only to the access tandem, but even further to the USLEC switch; is that correct?

A. Yes.

Q. Is there a technical or engineering reason why Verizon should bear that cost?

A. It is my understanding that Verizon's definition of the IP is the financial point, at which Verizon must bring their traffic, just as USLEC must bring their traffic to your IPs.

Q. In your view, that is a technical or engineering reason?

A. I'm sorry. Could you re-ask the question?

Q. I've asked you about technical or engineering reasons?

A. Yes.

Q. And then I'll drop this. I've asked you about technical or engineering reasons why Verizon should

bear this cost. And you've stated that under the terms of the agreement, Verizon has to bear the cost; is that correct?

A. Correct.

Q. Okay. Are there any other technical or engineering reasons?

A. Not that I can think of.

Q. You've testified that under the terms of the agreement proposed by Verizon that Verizon is trying to dictate the physical manner in which USLEC establishes its chosen IP; is that your testimony?

A. Yes.

Q. Is it correct that under Verizon's proposed contract language that, USLEC may chose any technically feasible point of interconnection?

A. Yes, that is my understanding.

Q. So, in fact, USLEC may chose whatever physical point interconnection it wishes to under the terms proposed by Verizon?

A. Yes.

Q. You've also testified that not only that Verizon is trying to dictate the physical point, but also the manner in which USLEC testified it interconnects; is that your testimony?

A. Yes.

Q. Okay. Is it correct that under the terms proposed by Verizon that USLEC may select from several different interconnection methods?

A. Yes.

Q. Including, for example, co-location or using an entrance facility or a mid-stand meet, those different methods?

A. Yes.

Q. Are you aware of any different methods that USLEC might want to use?

A. No, I'm not.

Q. Okay. You testified in your direct testimony that under Verizon proposal USLEC would be required --- could be required to establish co-location arrangements within 30 days of a Verizon's request. Is that your testimony?

A. Yes.

ATTORNEY PANNER:

I have here, and I don't know, Your Honor, if you want this marked. It's in the records already. It's a portion of the interconnection as marked up by USLEC and submitted with their petition. I could mark it as a separate exhibit if that would be more convenient for the record.

JUDGE:

I think what you're trying to tell me is that the interconnection agreement, the proposed one was attached to the USLEC position?

ATTORNEY PANNER:

That's correct.

JUDGE:

And what you have is an excerpt from it?

ATTORNEY PANNER:

That's correct.

JUDGE:

Well, we use the word record somewhat generically around here. If you're talking about the evidentiary proceeding that you're participating in now, it is not part of the record. So I think it would be a good idea for you to make that an exhibit. We can incorporate the document, which probably based on the questions that I have about its content will ultimately be done. But at least in this proceeding thus far, go ahead and make it VZ-3.

ATTORNEY PANNER:

Thank you, Your Honor.

(Exhibit VZ-3 marked

for identification.).

BY ATTORNEY PANNER:

Q. Do you recognize this exhibit, Mr. Hoffmann?

A. Yes.

Q. Can you tell me what it is?

A. It appears to be the interconnection attachment from the interconnection agreement that Verizon and USLEC are currently negotiating.

Q. Can you turn with me to the page that has page number 63 on it?

A. Yes.

Q. And when you say that Verizon could require USLEC to establish a co-location arrangement within 30 days of Verizon's request, are you referring to section 7.1.1.3 of Verizon's proposed language, much of which has strike-throughs on it in this copy?

A. Yes.

Q. Now, I'm going to read from this, and tell me if I've read accurately. It says USLEC may maintain existing CLEC IPs, except that Verizon may request in writing to transition such to USLEC IPs to the USLEC IP described in subsection 7.1.1.1 and 7.1.1.2 above. Have I read that sentence accurately?

A. Yes, you have.

Q. Then it says, upon such request, the parties

shall negotiate mutually satisfactory arrangements for the transition to CLEC IPs that conform to subsections 7.1.1.1 and 7.1.1.2 above. Have I read that accurately?

A. Yes, you have.

Q. And then it says, if the parties have not reached agreement on such arrangements within 30 days, then some consequences follow, which I can go over in a minute. Have I read those portions of those proposed findings accurately?

A. Yes.

Q. So what is it under this agreement that the parties need to do within 30 days before other consequences are triggered?

A. Reach agreement.

Q. Okay. Reach agreement. And if they do not reach agreement, there are two options here. A, either party may pursue available dispute resolutions mechanisms initials --- excuse me, two consequences that follow. A, either party may pursue available dispute resolution mechanisms. Is that accurately read?

A. Yes.

Q. And B, USLEC shall bill and Verizon shall pay only the lesser of the negotiated intercarrier

compensation rate or the end office reciprocal compensation rate for the relevant traffic, less Verizon's transport rate, tandem switching rate to the extent that traffic is tandem switched and other costs to the extent that Verizon purchased such transport from USLEC or a third party from Verizon's originating ends office to the USLEC IP; is that correct?

A. Yes.

Q. Did you see any language in there that, in your opinion, requires USLEC to establish a co-location arrangement within 30 days?

A. Subsection B, because it is my understanding and experience in negotiating with Verizon that, number one, I will more than likely not be able to reach an agreement with you in 30 days. And number two, absent an agreement within 30 days Verizon will begin offsetting the reciprocal compensation rate that Verizon pays USLEC in the absence of a co-located point of interconnection.

Q. So your testimony is that the parties would be unlikely to agree and so the consequences outlined here, the dispute resolution mechanisms could be invoked and the transport offset would kick in? That would be likely to occur?

A. Yes.

Q. So USLEC would have to bear some of the transport costs from Verizon's end office to the USLEC switch; is that your testimony?

A. Yes. It's my understanding that I would bear all of the costs from the end office to my IP.

Q. So there is nothing in this agreement that compels you to establish a co-location arrangement within 30 days; is that right?

A. Not if I'm willing to accept a lower compensation rate than has been agreed to in the interconnection agreement; correct.

Q. Okay. And just to follow up on that a bit, in your testimony --- in your testimony, you've testified that there were a number of problems that might result if USLEC were to change its current interconnection architecture; is that correct?

A. Yes.

Q. And is it also right that those consequences would only ensue if USLEC chose to change its current interconnection architecture; correct?

A. Correct.

Q. And in fact, USLEC could maintain its current interconnection architecture under the agreement as proposed by Verizon; is that correct?

A. Yes, if we were willing to transport Verizon's

traffic from the originating end office, which my understanding is not our obligation.

Q. When you say transport the traffic, you mean --- what do you mean by that?

A. Compensate Verizon.

Q. Okay. In your testimony on page 12 at line 26, 25 to 26, you've testified that under the Verizon proposal, if USLEC does not establish a co-located IP --- this results in USLEC paying for all, emphasized, of Verizon's transport costs within the local calling areas, the words within the local calling area are in italics. Can you explain why you emphasized those words?

A. Because I think it's important to note that Verizon is asking me to carry their traffic outside of the local calling area.

Q. Can you --- Verizon --- what you've emphasized is that you would bear USLEC would bear Verizon transport calls within the local calling area. And you've just stated that that's because you think it's important to emphasize that we're asking you to bear the costs of transporting it outside the local calling area?

A. I'm sorry. I must have misspoke. I wanted to emphasize that not only are we responsible or being asked by Verizon to carry out traffic outside the

local calling area, we're also being asked to carry the traffic within the local calling area.

Q. Okay. Now, if we can go back to Exhibit Verizon One, and this is admittedly a schematic, but when you're talking about transport within the local calling area, you're talking about the portion of the line between the end office and the edge of the circle; is that correct?

A. Yes, within that darkly shaded circle that you have indicated is the Allentown local calling area.

Q. And would you, in a call from Allentown --- you may not be familiar enough with the local calling areas, but would you be willing to stipulate to the fact that the mileage of transport within the local calling area is a very small fraction of the total transport mileage involved in transporting a call from the Allentown end office to the USLEC switch?

A. I do not know that.

Q. This is a map that, unfortunately, is not so easy to read but we'll work on it together. Do you see the this is a map of the Philadelphia and Delaware exchanges. Do you know what an exchange is?

A. No. Can you define it for me?

Q. Sure. I believe an exchange is another way of referring to a local calling area.

A. Okay. I thought they were multiple exchanges within a multiple calling area.

JUDGE:

You have to speak louder. You're a very soft-spoken but I can't hear you at all when you face away from me and the Court Reporter is having difficulty as well.

ATTORNEY PANNER:

I'm sorry about the setup, Your Honor, that I've made the witness --- it's due to the setup, I'm sorry about that.

BY ATTORNEY PANNER:

Q. You're quite correct. A local calling area might include many exchanges. For the purposes of the hearing, I've pointed to Allentown, which is located towards the --- it's certainly in the northern quarter, the northern eighth of the LATA; is that correct?

A. Yes, it appears to be.

Q. Okay. And Philadelphia is the located down in this portion, Delaware, so it's down in the lower right hand portion of the Philadelphia portion of the LATA; is that correct?

A. Yes.

Q. Okay. And would you agree with me that one

could easily calculate the portion of the transport that was within the local calling area versus the portion of the transport that was outside the local calling area?

A. Yes.

Q. And would you be willing to pay for the transport from the edge of the local calling area to USLEC switch?

A. No.

Q. Okay. So, in fact, you're not willing to pay any transport at all; is that correct?

A. USLEC is willing to pay for the transport that federal rules and regulations obligate me to pay. And it is my understanding that it is not my responsible to pay for Verizon's originated traffic until it gets to my IP.

Q. I'd like to direct you to your direct testimony, page 16. And in that portion of the testimony, you quote from an FCC notice of proposed rule making; is that correct?

A. Are you referring to the top of page 16?

Q. Yes.

A. Yes. I believe that actually begins on the previous page, but I agree.

Q. Now, in the last sentence of the FCC report that

--- or notice that you've quoted there, it says, is the efficiency concern limited to those instances in which traffic between two networks is unbalanced and/or transport is required beyond a certain distance. Did I read that correctly?

A. Yes, you have.

Q. Do you believe that effect says concerns are limited to those instances where traffic between two networks is unbalanced and/or transport is required beyond certain distances?

A. I think those are at least two of the factors.

Q. Okay. What sort of a traffic imbalance would be required before you would have efficiency concerns?

A. Given the absence of federal regulations, I'm not aware that there is a traffic balance issue which would trigger USLEC's responsible to move from the current points that they are today.

Q. Well, I'm not asking you about what federal regulations require. You've made it a point that you say you've testified, that a single IP does not automatically expenses; is that your testimony?

A. Correct.

Q. But it is your testimony that it may be expensive; is that correct?

A. Yes, it's possible.

Q. And one of the factors that would affected is whether there was a traffic imbalance; is that correct?

A. Yes. That, I assume, could be one of the factors that, as stated here, the FCC is considering.

Q. And has USLEC made a proposal that would limit Verizon's obligations based on the traffic remaining imbalance or uncertain imbalance?

A. Yes. I believe that during negotiations we tried to contain or alleviate Verizon's concerns that USLEC would locate its IP. I think the term was used 80 miles away.

Q. That actually goes to my next question, which is if the interconnection point were at great distance from the location from traffic being originated, that also might be inefficient; is that right?

A. Yes, that is possible.

Q. So given that --- so you agree that there might be situations where traffic imbalance and/or distance that traffic had to be carried would cause a CLEC selection of point of interconnection to be inefficient?

A. Yes, along with other things such as technology employed, facilities availability.

Q. You've testified that it is less expensive for

Verizon to transport traffic to your chosen point of interconnection than it is for USLEC to perform that function itself; is that correct?

A. Could you direct me to my testimony, please?

Q. Sure. On page 20, lines 19 through 21, it says if the volume of traffic originated from and/or terminated to an additional Verizon tandem or end office is low, it is more efficient for such traffic to be carried on Verizon's network capacity.

A. Yes, that is my testimony. I was confused when you used the term less expensive.

Q. Okay. Why is that significant?

A. The significance is that if the traffic volume is low, it would be more efficient possibly for Verizon to combine that with other traffic on a common transport facility, as opposed to placing it on a dedicated facility, which would be underutilized.

Q. And under VGRIPS (phonetic), would Verizon perform the function that you've suggested would be more efficient for Verizon to perform?

A. I'm sorry. Under what scenario with VGRIPS.

Q. Well, under Verizon proposal, would Verizon be willing to perform the function of carrying the traffic to the point of interconnection?

A. No, I do not believe Verizon is willing to carry

the traffic to the point of interconnection, unless it is established via co-location. I believe you're only willing to carry the traffic today if you're compensated by USLEC.

Q. But Verizon would be willing to perform the function if it were compensated?

A. That is my understanding, yes.

Q. Now, from the point of view of efficiency, does it matter --- would the arrangement be more efficient if --- first of all, what do you mean by efficiency?

A. By efficiency, I would mean that a facility is being used at least at its minimum capacity. In other words, I believe we have language contained in the interconnection agreement which states that DS-1 utilization should not fall below 60 percent.

Q. And do you agree that under Verizon proposal or USLEC's proposal, that that efficiency could be gained?

A. If traffic volumes were low, yes.

Q. So in fact, the efficiency of carrying that traffic over Verizon time and transport doesn't actually say anything about who should ideally bear that cost from an engineering standpoint; is that correct?

A. No, from an efficiency standpoint, no. But it is

my understanding that it is not USLEC's obligation.
Q. So just to clarify, from an efficiency standpoint, it the doesn't matter who bears the cost. Verizon is equally consistent with efficiency, in your view, or at least as consistent with efficiency as USLEC's proposal?
A. Again, I believe that would depend on traffic volumes.
Q. How would it depend on traffic volumes?
A. It would depend on traffic volumes going to and from that end office.
Q. Can you explain what you mean?
A. Under your VGRIPS proposal, if I were to establish an end office co-location arrangement, Verizon requests the ability that that be turned into USLEC's IP, and that USLEC would then bear the responsibility of transporting that traffic. Verizon could be originating minimum traffic from that office.
Q. But to be clear, USLEC refused to perform that function or declined to perform that function; is that right?
A. Yes.
Q. And then it would bear --- it would have to compensate Verizon on an a use basis for that transport; is that right?

A. Under Verizon's current proposal, yes.
Q. And if it was a minimal amount of traffic, that compensation would be minimal; is that correct?
A. The dollar figure would probably be minimal. But the percentage of offset to the recip (phonetic) comp rate would be the same, whether there was one minute or a million.
Q. Correct. But if it's a percentage of a minimal amount, would that --- okay. Just to, again, clarify, your point is that the offset would be the same as a percentage. But if it was a minimal amount of traffic, the dollar figure at stake would be minimal; is that correct?
A. The dollar figure, yes, could be small.
Q. Okay. You've also testified that if Verizon cannot demonstrate the costs that it incurs in transporting traffic to USLEC's point of interconnection, that it should not be able to recover; is that correct?
A. I do not believe those are my exact words. But it is my understanding or belief that it is Verizon's responsible to prove if a form of interconnection is expensive.
Q. And in your testimony, I'll direct you to your testimony at page 16, there is a paragraph that be

begins line 16. I'm going to ask you some questions about it.

ATTORNEY SHOR:

What page?

ATTORNEY PANNER:

Page 16 of the testimony, beginning at line 16.

BY ATTORNEY PANNER:

Q. You've offered three reasons why Verizon's costs may be minimal. It says, it may have facilities already available. Is that what --- to carry the originating traffic. Is that your testimony?

A. Yes.

Q. It's also correct that Verizon may not have facilities available; is that correct?

A. Yes.

Q. And you have some experience with rate setting, is that correct, in your background?

A. Many years ago, yes.

Q. And was it your experience that when a new service was offered over an existing facility, that it was offered for free?

A. Local services.

Q. What was your experience in rate setting?

A. My experience was in access-based services.

Q. So if an access service was provided over an existing service, was it provided for free?

A. If by free you mean below costs, I do not believe so.

Q. By free I mean free of costs.

A. I do not believe so, no. I do not believe that a service would be offered for free where Verizon incurred the costs.

Q. So Verizon could incur a costs, even if there was an existing facility; is that your testimony?

A. Yes, that's possible.

Q. And you also testified that there may be only a deminimous traffic volume exchange for that local calling area; is that your correct?

A. Yes.

Q. It's true that there may be a very large traffic area; is that not correct?

A. Yes, that is possible.

Q. And it's also true that if there were deminimous traffic volume, the amount of compensation which USLEC would be required to pay for transport under Verizon's proposal would be very deminimous; is that correct?

A. Yes. But USLEC's position on this, as I've stated is not related to whether the costs is deminimous or rather large, that USLEC was not

believe it is our obligation to compensate Verizon for transporting that traffic.

Q. Okay. So in fact, even if Verizon bore extremely high cost, you would require --- you would say that Verizon would have to bear that cost?

A. It is my understanding that that is Federal regulations.

Q. Also to close the loop, you also say that the distance between the local calling and the CLEC IP may be minimum?

A. Yes.

Q. But it may not; is that correct?

A. Yes.

Q. And in fact, you could chose any location under your proposal within LATA; is that correct?

A. Yes, I can.

Q. And that cost may be very high; is that correct?

A. No.

Q. Why not?

A. Because as we currently do today, and as USLEC has proposed, the distance would be mitigated by the fact that USLEC charges no more than a non-distance flat rated entrance facility. So that charge would be the same if I was five miles or 80 miles.

Q. But wouldn't Verizon bear the cost of

transporting the traffic over that 80 miles?
A. It would not be a mileage sensitive cost.
Q. Is that your testimony, that USLEC would not charge mileage sensitive costs for a facility used to transport traffic from any point 80 miles away to the USLEC switch, is that correct, if it were a USLEC facility?
A. From the point of interface to USLEC's IP, yes.
Q. But you've testified the point of interface is the access tandem; correct?
A. Yes. I'm sorry. But you had mentioned any facility. I didn't want to answer based on something else that Verizon might purchase from USLEC, other than an interconnection facility.
Q. I'm just trying to clarify. You've testified that Verizon's cost depended, in part, upon the local calling area and the USLEC IP?
A. Yes. I've testified that that might be one of the factors, yes.
Q. And so wouldn't you agree that that suggests a rate if that would add costs?
A. In conjunction with the other factors, yes, I would agree.

ATTORNEY PANNER:

I have no further questions at

this time, Mr. Hoffmann. Thank you.

A. Thank you.

JUDGE:

Let's go off the record for a moment.

OFF RECORD DISCUSSION

JUDGE:

Mr. Shor?

ATTORNEY SHOR:

Yes, thank you, Your Honor.

REDIRECT EXAMINATION

BY ATTORNEY SHOR:

Q. Just a few questions, Mr. Hoffmann. Do you recall Mr. Panner asking you initially with reference to VZ Exhibit One, that USLEC would be connected to its customer D in the Allentown calling area by some sort of facility? Do you recall that?

A. Yes.

Q. How would, in fact, USLEC be connected to its customer, and let's assume from the Allentown calling area?

A. USLEC would use an a combination of the OC-48 that USLEC purchases from Verizon out of their intrastate access tariff, in conjunction with a DS-1 or DS-3 facility. More than likely purchase the FCC

tariff from the Verizon office within the Allentown local calling area.

Q. And who would be responsible for the financial costs of those facilities?

A. USLEC.

Q. And now, just let me see if you understand this. Mr. Panner has drawn a diagram which he states represents the Allentown calling area. Do you see that? It's VZ-1 and also in VZ-2?

A. Yes.

Q. And he's identify two boxes in this diagram in the Allentown calling area, which you have represented are end offices serving Allentown. Do you see those?

A. Yes.

Q. Do you know for a fact how many end offices serve the Allentown local calling office?

A. No, I do not.

Q. It could be one?

A. Yes, that's possible.

Q. And do you recall Mr. Panner asking you some questions about the transport of the call when Verizon customer A and Allentown called USLEC customer D located in Allentown; do you recall that?

A. No.

Q. And he asked you to explain how the call would go

from the Allentown calling area to USLEC switch; is that right?

A. Yes.

Q. And he discussed the transport that Verizon would incur in carrying that call to the USLEC switch; is that right?

A. Yes.

Q. How did USLEC get the call to its customer, call customer D in Allentown?

A. USLEC transports that call over the facilities that we lease from Verizon and third parties from USLEC switch to caller D in the Allentown local calling area.

Q. And who bears the cost of transporting the call to caller D?

A. USLEC.

Q. Let's reverse the situation for a minute, if you let's have USLEC caller D in Allentown call Verizon caller A in Allentown. How does USLEC get the call from caller D to Verizon?

A. USLEC would carry that call from caller D in the Allentown local calling area over the DS-1 or DS-3 loop, which USLEC purchases from Verizon and would then place that on the facility, either fiber ring or transport that we may purchase from a third party to

USLEC switch. And they transport that to Verizon's IP.

Q. Which is where, as you understand it?

A. In the Philadelphia local calling area.

Q. At its tandem?

A. Yes.

Q. So as I understand it, the call goes --- USLEC carries the call from USLEC customer D to its switch, which we agree is somewhere in Philadelphia, and then take it is to Verizon's IP and its access channel; is that right?

A. Yes.

Q. Who pays the transports cost for USLEC's transport of that call?

A. USLEC.

Q. Does Verizon pay USLEC for transporting that call?

A. They pay reciprocal compensation to terminate the call.

Q. They pay reciprocal ---?

A. I'm sorry. I got the directions confused no, USLEC pays for that. We pay for the facility that carries the call from caller D to USLEC's switch over to Verizon's IP, and then we pay Verizon reciprocal compensation to terminate that call.

Q. So not only do you incur the transport cost of taking the call from Allentown to Philadelphia and handing it to Verizon's access tandem, you also have to pay Verizon the terminating function?

A. Correct.

Q. And do you have any idea in Pennsylvania whether the traffic between USLEC and Verizon is balanced?

A. It's my understanding that the traffic is roughly in balance.

Q. So roughly the same number of calls are going from USLEC to Verizon as are coming from Verizon to USLEC?

A. That is my understanding.

Q. So roughly the transport costs that Verizon incurs are roughly the same as the transport costs that USLEC incurs?

A. That would be correct.

Q. Now, I think Mr. Panner also used the same example but kind of reversed it and had customers in Philadelphia and a switch in Allentown. I think that was a hypothetical that was used. Would there be any difference in the way the call is transported in that scenario, if a USLEC customer in Philadelphia is calling a Verizon customer in Philadelphia with the switch in Allentown?

A. My understanding, it would be the reverse of the situation you just discussed.

Q. And again, USLEC would bear the cost of transporting the call from its customers to Verizon's IP?

A. Correct.

Q. And would pay Verizon termination function for taking the calls to its customer?

A. Yes, we would.

Q. Now, at several times there was some discussions about a point of interconnection, which I think may have also been referred to as a point of interface, and an interconnection point. What is your understanding of the point of interconnection? What is it?

A. The point of interconnection, as I understand it, is the physical point at which networks interconnect.

Q. And what --- and just so I understand, your use to the phrase point of interface means the same thing?

A. Yes.

Q. And what do you understand the phrase interconnection point to mean?

A. The interconnection point is the point on the respective parties' networks wherein financial responsibility to terminate the call begins. And that

has always been Verizon's access tandems for termination of numbers or their end office for numbers that subtandem end office and, conversely, USLEC's IP has been USLEC's switch.

Q. So as you understand the traffic that USLEC originates, where does it hand that traffic off to Verizon?

A. We hand that off to Verizon at Verizon's IP.

Q. And USLEC is responsible for taking the traffic to Verizon's IP; is that correct?

A. Correct.

Q. And how many different locations has USLEC established points of interconnection or IPs with Verizon for delivery of its traffic?

A. In Pennsylvania, I believe that number would be four.

Q. And where are they?

A. In the Philadelphia LATA, that would be the market access tandem and the Fort Washington access tandem. And in Pittsburgh that would be the downtown access tandem and the Oakland access tandem.

Q. Now, I believe Mr. Panner was discussing with you some of the factors in determining the costs of transporting traffic from the local boundary to the switch; do you recall that?

A. Yes.
Q. And he discussed with you traffic volume?
A. Yes.
Q. And balance?
A. I believe so.
Q. Traffic balance. What other factors enter into the equation of determining the costs of transporting traffic?
A. The other factors, as I believe I've testified, are facilities availability, the engineering type of the facility, traffic volumes, distance. There's is a number of factors involved.
Q. Would any of those factors alone be the determining factor?
A. No, I do not believe so.
Q. And in any different situation, it could be a combination of those factors that would impact the costs?
A. Yes, that would be possible.
Q. And those factors are also in play in the concept of efficiency; is that right?
A. Yes.
Q. Do any one of those factors alone determine whether a particular method or particular route is effective or not?

A. No, I do not believe so.
Q. And so again, it's a combination of factors?
A. Yes.
Q. Now, you've talked and Mr. Panner asked you some questions about methods of interconnection. Do you recall that?
A. Yes.
Q. And he suggested that USLEC had the ability to choose several different methods of interconnection. Do you recall that?
A. Yes.
Q. And do you recall what those methods of interconnection are?
A. Yes, I believe so. I believe the three options available are to purchase an entrance type facility from Verizon, to purchase facilities from a third party or to co-locate.
Q. Now, Verizon also has a proposal that was either known as GRIPS or VGRIPS. Are you familiar with that?
A. GRIPS, yes.
Q. And under GRIPS, what does that mean?
A. The GRIPS proposal, as I understand it, requires USLEC to establish an IP in every local calling area.
Q. And VGRIPS, what does that mean?
A. Virtual geographically relative interconnection

points requires USLEC to establish its point of interface, via co-location and allow Verizon to declare any end office co-location which USLEC establishes to also be declared as an IP.

Q. And if USLEC declines to co-locate, what other option is available?

A. If we decline to relocate, there really is no option for USLEC. We are forced at that point to compensate Verizon for traffic they originate from their end office to USLEC's IP.

Q. Does USLEC co-location as a method of interconnection?

A. No, we don't.

Q. Why is that?

A. Basically, it's not part of our business plan.

Q. Are there any economic reasons?

A. Yes. Co-location is extremely expensive.

Q. And so since USLEC does not now co-locate in Pennsylvania under VGRIPS, USLEC would have to establish expensive co-location sites at any number of points selected by Verizon?

A. Yes.

Q. Alternatively, if USLEC declines, then what would happen?

A. Under the current proposal, USLEC would have to

compensate Verizon for its originated traffic from their originating end office to USLEC's IP.

Q. So if we go back to the scenario in VZ-1 where Verizon customer A is calling USLEC customer D and Verizon is carrying the traffic to USLEC's IP at its switch, currently Verizon pays for that transport; is that correct?

A. Yes.

Q. And under VGRIPS, is it your testimony that USLEC would now have to bear that cost?

A. Yes.

Q. So that in addition to paying for the transport cost when its customer D calls Verizon customer A, which you already bear; is that right?

A. Yes.

Q. You would also have to bear the cost of Verizon transport when its customer calls USLEC's customer; is that correct?

A. Yes.

Q. So USLEC, in essence, would be bearing the entire cost of transporting Verizon's traffic and USLEC's traffic; is that correct?

A. Yes.

ATTORNEY SHOR:

I have no further questions.

JUDGE:

Any Redirect?

ATTORNEY PANNER:

Just a little bit. Sorry.

JUDGE:

No need to apologize. You have the right.

REDIRECT EXAMINATION

BY ATTORNEY PANNER:

Q. You've testified that traffic between the two networks is roughly in balance; is that right?

A. Yes.

Q. What do you mean by that?

A. Roughly in balance, it's my understanding that current traffic is approximately two to three to one in the State of Pennsylvania. And for a network that's been out for basically about three years, that's about as close to balance as you can get at this point.

Q. So you're saying that USLEC receives two to three times as much traffic as it originates?

A. Correct.

Q. Do you know if USLEC actually serves any customers in Allentown?

A. I do not know. You would have to look to the

discovery responses we provided based on the rate centers where we've been assigned NXXs and have customers. I do not recall if Allentown is one of them.

Q. In your discovery responses which were not marked confidential you stated that you had an NXX code in Allentown. Does that mean that you have customers in Allentown?

A. Yes.

Q. Have you testified that you have virtual NXX arrangements in Pennsylvania?

ATTORNEY SHOR:

Objection. That's not this witness.

BY ATTORNEY PANNER:

Q. Have you reviewed USLEC's discovery responses and have you reviewed the testimony of Ms. Montano? I know those are two questions. But you can answer both, if you can,?

A. Yes, I have.

Q. Are you familiar, either of your own knowledge or from documents in this case, that USLEC provides a virtual FX service in Pennsylvania?

ATTORNEY SHOR:

Object to the extent that this

goes beyond the scope of Redirect.

ATTORNEY PANNER:

I don't think it goes beyond the scope of Redirect. He was asking about the cost that would be incurred in transporting traffic to Allentown. It is important to establish whether that is a hypothetical or whether costs are incurred.

JUDGE:

I'll allow it.

A. I'm sorry, repeat the question.

BY ATTORNEY PANNER:

Q. The question is, do you offer virtual FX service in Pennsylvania? Do you provide virtual FX service in Pennsylvania?

A. USLEC provides foreign exchange service. We do not have a service called virtual NXX. But, yes, we provide foreign exchange service in the State of Pennsylvania.

Q. So in fact, the fact that you have numbers in Allentown does not mean necessarily that you have any customers in Allentown; is that correct.

ATTORNEY SHOR:

Objection, mischaracterizes his testimony.

ATTORNEY PANNER:

I asked him if it is correct.

ATTORNEY SHOR:

He testified that he does.

ATTORNEY PANNER:

I asked him if it is correct, the fact that you --- okay. I'll allow the Judge to rule on the objection before I talk on.

JUDGE:

Thank you. Would there be a problem with him answering that question.

ATTORNEY SHOR:

Go ahead.

JUDGE:

He asked if it's correct. It seems to me there are two possible answers. One, it is correct or, two, it is not correct.

ATTORNEY SHOR:

Fine.

JUDGE:

Okay.

A. I have reviewed the discovery responses and Wanda Montano's testimony. And the manor in which the information that was provided to me for the discovery responses indicate that that NXS in Allentown is being used to provide service to customers in Allentown. My

recollection is that the six foreign exchange customers that USLEC has in Pennsylvania, none of them are in that rate center.

Q. You've said that none of the customer are in the rate center. But that doesn't mean that some of those customers might not have been assigned Allentown numbers?

A. I do not know.

Q. Are you familiar with USLEC's rate structure in Pennsylvania?

A. No, I'm not.

Q. Okay. Does USLEC --- are you familiar with --- I'll ask you a question. If you know the answer obviously you'll answer. If you don't know, you don't know you don't.

Is USLEC free to charge more to provide service to customers in Allentown than it is --- than it charges to customers who are located in Philadelphia?

A. I do not know.

Q. Is USLEC complaint with VGRIPS in --- does USLEC have arrangements with other incumbent local exchange carriers in other states that comply with your understanding of Verizon's VGRIPS proposal?

ATTORNEY SHOR:

Objection as to relevance. It

goes beyond the scope of Redirect.

ATTORNEY PANNER:

I'll withdraw the question.

BY ATTORNEY PANNER:

Q. In your understanding of VGRIPS, would a third party co-location satisfy the requirement for co-location?

A. Yes.

Q. Can you explain what a third party co-location arrangement is?

A. A third party co-location, as I understand it from the aspect of complying with VGRIPS is where USLEC uses a third party's co-location arrangement and transport to transport our traffic from our IP to the point of interface with Verizon and, conversely, Verizon hands off their traffic at that point of interface via a facility provided by that third party co-locator.

Q. So USLEC would comply with VGRIPS without establishing any co-location arrangement in Pennsylvania; isn't that correct?

A. We would have to establish arrangements with third-party co-locators, which is completely different from the interconnection architecture I've established over the last three years with Verizon.

ATTORNEY PANNER:

I have no further questions.

JUDGE:

Are we finished with this witness? Mr. Shor? Let's go off the record for a moment.

OFF RECORD DISCUSSION

ATTORNEY SHOR:

I think I just have one two follow ups to the Recross.

RECROSS EXAMINATION

BY ATTORNEY SHOR:

Q. You recall Mr. Panner asking you about the assignment and usage of NXX codes?

A. Yes.

Q. And he asked you whether the NXX assignment to Allentown was being utilized by customers physically located in Allentown?

A. Yes.

Q. Now, USLEC provided Verizon with a list of NXX codes that it utilizes throughout Pennsylvania. Do you recall that?

A. Yes.

Q. To your knowledge, does USLEC have customers physically located in the local calling areas where

those rate centers are?

A. Yes.

Q. Each and every one of them?

A. Yes.

ATTORNEY SHOR:

I have no further questions.

ATTORNEY PANNER:

No further questions.

JUDGE:

Fine. The witness is excused. Thank you for coming, sir.

A. Thank you.

JUDGE:

I can't see any point in starting the next witness before going to lunch. And my assumption is that we will come back from lunch and do Mrs. Montano's testimony on issues one and two only before we switch over to the Verizon side. Recognizing that she does go beyond one and two, I only find that interesting, but I do not want to build the record differently. So if you could all be back in your seats by about 1:30, that would probably work very well.

ATTORNEY SHOR:

In terms of timing, how long do

you intend to go today?

JUDGE:

Until we are finished.

ATTORNEY SHOR:

Thank you. I will be brief.

LUNCH BREAK TAKEN

JUDGE:

Good afternoon, ladies and gentleman. I see we have Mrs. Montano in the witness seat. Mr. Shor?

ATTORNEY SHOR:

Yes, USLEC calls Wanda Montano to the behalf of USLEC.

WANDA MONTANO, PREVIOUSLY SWORN, CALLED TO TESTIFY

JUDGE:

Ms. Montano, I know you've already taken the oath as a witness. So it's up to you and your counsel to proceed.

A. Thank you.

DIRECT EXAMINATION

BY ATTORNEY SHOR:

Q. Ms. Montano, would you please state your full name and business address for the record?

A. Wanda G. Montano, 6801 Morrison Boulevard, Charlotte, North Carolina, 28311.

Q. By whom are you employed?
A. USLEC Corp.
Q. What is your title?
A. Vice president, regulatory and industry affairs.
Q. Did you cause to be prepared 34 pages of direct testimony that were filed this proceeding on May 31, 2002?
A. Yes, I did.
Q. Do you have any changes or corrections to that testimony?
A. Yes. On page 21 at line four, the answer was that we do not currently utilize service. And we have done additional research to determine that, in fact, we do have six customers in Pennsylvania that purchase foreign exchange services from USLEC.
Q. Do you have any other changes or corrections to your testimony?
A. No, I do not.
Q. If I would ask you those questions today, your answers be the same?
A. Yes, they would.
Q. And did you cause to have prepared 14 pages of rebuttal pages that were filed in this proceeding on July 9, 2002?
A. Yes, I did.

Q. Do you have any changes or corrections to this testimony?

A. No, I do not.

Q. If I were to ask you these questions today, would your answers be the same?

A. Yes.

ATTORNEY SHOR:

Your Honor, on behalf of USLEC I respectfully move the admission of the direct and rebuttal testimony of Wanda G. Montano into the record, subject to Cross Examine.

JUDGE:

USLEC statement 2.0 and 2.1 are admitted, subject to Cross Examine and any timely motions. Mr. Panner?

ATTORNEY PANNER:

Thank you, Your Honor. Before I begin my cross examination, I'd like to clear up one matter. I'd like to move the admission of the exhibits marked VZ-1, VZ-2 and VZ-3.

JUDGE:

They're admitted without objection.

ATTORNEY PANNER:

Thank you, Your Honor.

CROSS EXAMINATION

BY ATTORNEY PANNER:

Q. Good morning, Ms. Montano.

A. Hi.

Q. You testified in your testimony that under FCC decisions, the default rule is the physical connection of the party's network and the demarcation mark indication of financial responsibility are at the same point that's in your direct testimony at page 45, line 22 to page five, line one; is that correct?

A. Yes, it is.

Q. To be clear, that's a legal conclusion; is that correct?

A. Yes, it is.

Q. And also to be clear, did you understand Mr. Hoffmann to testify that under the parties current arrangement the point of physical demarcation and the point of --- excuse me, the point of physical connection and the demarcation of financial responsibility is not the same?

A. I believe that's what Mr. Hoffmann said, but I'd like to clarify that. USLEC's position is that for traffic that Verizon terminates to USLEC, both the POI and the IP are at our switch. Traffic in the opposite direction, we deliver that traffic to you at your

tandem. The term IP is something that Verizon has created for the context of this agreement and does not exist in any legal or regulatory documentation.

Q. Okay. That is fine. But it is certainly possible to talk about a different physical connection from the demarcation of financial responsible, that is certainly possible to talk about?

A. Certainly.

Q. In your testimony on page six, at lines five to six, you say that the Act and the FCC recognize that new entrances such as USLEC must be able to determine the most efficient location for the exchange of traffic. Is that your testimony?

A. Yes, it is.

Q. Is that a legal conclusion?

A. I would consider it both a legal and a business conclusion as well, because those are the rules that are set in place under which we operate.

Q. So it would be correct to say it's a legal conclusion?

A. I answered it. I said it was both a legal and a business conclusion.

Q. In what way is it a business conclusion and not a legal conclusion?

A. Because the industry in which both of our

companies operate is regulated by state utility commissions as well as it's FCC. And their decisions are interpreted by the courts. Those becomes the rules of the road for any company that chooses to operate in this environment and offer services. Therefore, it becomes the frame work for our business plan.

Q. Is that framework a legal framework or is it something else?

A. I consider it to be both.

Q. You say that USLEC must be able to determine the most efficient location for the exchange of traffic. What do you mean by the most efficient location?

A. The location at which point we will exchange traffic with our partners, such as Verizon.

Q. What does the term most efficient location mean?

A. I think it is a technical description in terms of what technically works.

Q. Can you be more specific? So any arrangement that technically works is the most efficient?

A. Not necessarily.

Q. How would you distinguish a more efficient from a less efficient technically possible arrangement?

A. I think we would look at the network design of what we are purchasing from Verizon and other vendors,

the vendor which we are providing service to our customers to determine, based on that, what works in terms of the closest or point of interconnection to a network.

Q. The closest point of interconnection to what?

A. Your network.

Q. To our network?

A. To our partner's network.

Q. So I just want to --- you've testified --- you've chosen the words that are the most efficient location.

A. Uh-huh (yes).

Q. You're testifying that the most efficient location is the location --- well, let me back up. You've testified that Verizon has a ubiquitous network in the Philadelphia LATA; didn't you?

A. Yes, I have.

Q. Just to clarify that, do you know if Verizon provides services to all areas in the Philadelphia LATA?

A. It is my understanding that Verizon is the incumbent LEC in that territory, yes.

Q. Subject to check, is it possible that there are actually independents who also provide services?

A. Yes, I believe Commonwealth Telephone also

provides service in that LATA as well.
Q. So it would actually be --- there are some portions of the LATA where Verizon provides services? Do you believe that that's correct?
A. Yes.
Q. So when you say that a place is closer to Verizon network, what do you mean?
A. Based on the services that we are purchasing from Verizon in order to service our customers, which as Mr. Hoffmann has described, is an OC-48 ring, and we purchase that out of your special access tariff from the wholesale part of your business, then we will interconnect with you at some point off of that ring network. And so we look at that ring design and where it goes. We typically run it through your tandem offices so we can make sure that we have done an efficient design of our network to efficiently exchange change traffic between the two companies.
Q. So for traffic originated by Verizon, you would pick up the traffic at various points on Verizon's network where it was most efficient?
A. It is not our responsible to pick up Verizon's traffic, it is your responsibility to deliver traffic to me at my point of interconnection.
Q. I'm not asking you about what our responsibility

is. I'm asking about what the current arrangements are. You testified that you would have a point of interconnection in various places on Verizon's network?

A. The points of interconnection that you're describing are for the traffic that I originate that I deliver to Verizon.

Q. And now I'm asking you about the traffic that Verizon customers originate. How would you decide what the most --- how would you decide what the most efficient place is to pick up that traffic?

A. We determine what the IP is and we have selected our switch at the IP.

Q. And why is that the most efficient point?

A. Because we believe that that is our legal right to make that decision.

Q. Okay. Do you doubt that Verizon --- strike that.

You've testified that the requirement that USLEC designate an end office co-location as an interconnection point would require USLEC to mirror Verizon's architecture; is that your testimony?

A. Yes, it is.

Q. First of all, does USLEC have any co-location or anything in the Philadelphia LATA?

A. No, we don't.
Q. Now, if you were co-located in a particular end office, would you by definition already have facilities in place in that location?
A. I don't understand your question.
Q. Okay. What don't you understand?
A. What you mean by facilities.
Q. Would you have some kind of facility, any kind of equipment in place at that co-location rate?
A. Typically when a CLEC built the co-location cage at a CO, there is some equipment that they install there.
Q. Okay. And would that equipment be connected to your network in some way by some kind of transport facility?
A. If USLEC's business plan included co-location, then, yes. But since our business plan does not include co-location, you know, it's a theoretical question.
Q. Okay. So the dispute over section 7.1.1.3 is purely theoretical?
A. I couldn't consider that to be theoretical because you're asking us to include language in the interconnection agreement that would allow you to force us to change the way that we do business by

requiring us to co-locate.

Q. Under 7.1.1.3, under your understanding?

A. Would you give me a copy, please? I'm not going to ---.

Q. Certainly. This has been previously entered as Verizon Exhibit Three. Excuse me, I may have confused you because I referred to the wrong section. I'm glad you brought the agreement in front --- so I can put the agreement in front of us so we can correct the record. I'm really referring to 7.1.1.2,, which is the provision that refers to a situation where USLEC had a co-location site.

A. Okay.

Q. And it says here that the beginning of the section is at anytime that USLEC establishes the co-location site at a Verizon end office. Have I read that correct?

A. Yes.

Q. So this would only apply in a situation where USLEC establishes an end office co-location arrangements?

A. If you take it out of context, yes. If you leave it in context to 7.1.1.3, our concern is that Verizon could force us to do this.

Q. Okay. Is that your concern is that Verizon

could force you to do that, even if you didn't chose to establish an end office co-location arrangement?

A. Absolutely.

Q. And that's your main concern?

A. I wouldn't characterize it as a main concern. It's one of our concerns.

Q. What are your other concerns?

A. There is the issue with the 30 days in terms of negotiating things. And if you look at the track record we have with negotiating anything with Verizon, it's nothing that can be done in 30 days. And secondly, we have an existing architecture for which we are paying you special access retail rates. And I'm sure that the wholesale side of your business would not be pleased to leave that business. And we do not want to disrupt our network and our customers. And again, the track record that we had with Verizon, anytime we've tried to re-groom our network or move customers is that customers go out of service. You guys do not do a very good job of moving customers around for us.

Q. Again, getting back to the language of 7.1.1.2, it begins --- it says at any time that USLEC establishes a co-location site at a Verizon end office. Is that what that language says?

A. Yes.
Q. Okay. Now, would this provision apply in any circumstance, in your understanding, with this provision 7.1.1.2 apply in any circumstance where USLEC did not establish a co-location or site at a Verizon end office?
A. I believe my earlier answer was that if you take that paragraph out of context, no. But if you leave it in connection to the agreement, yes.
Q. And can you explain to me how that paragraph would apply in context?
A. If you read the next paragraph, the concern that we have is that --- except that Verizon may request in writing to transition such USLEC IPs. You can request it in writing, I can say no. Then we go into dispute resolution. And we continue to have this issue. I have an existing network architecture. It works. It is not broken. Why do I need to change?
Q. Okay. Just to be very clear, if I were to say to you that provision 7.1.1.2 applies only in a circumstance where USLEC establishes a co-location site at a Verizon end office, either standing alone or in context, would that eliminate your objections to 7.1.1.2?
A. Based on the track record of six years that I've

been dealing with Verizon, no, I have no level of confidence.

Q. Thank you. But if I were to say that aside from the fact that you might not take it as true, if it were true, would you have any other objection to that provision?

A. Well, our objection would be the language at the end of the paragraph that says that Verizon will pay us last year transport rate, tandem switching rate and those issues. We would not agree to that rating schedule.

Q. Do you have any --- and I apologize if this is asked and answered. I want to make sure it's clear on the record. But do you have any plans to establish an end office co-location site during the term of this agreement in Philadelphia or Pittsburgh LATA?

A. Not at this time.

Q. Okay. Do you agree that there are some circumstances where an incumbent LEC may require a separate point of demarcation or where it would be appropriate for the state Commission to require a CLEC to establish a point of financial do mark indication different from the physical point of interconnection in the LATA.

ATTORNEY SHOR:

Objection as to form. It's a compound question.

ATTORNEY PANNER:

I'll try to rephrase it.

BY ATTORNEY PANNER:

Q. Do you agree that there are circumstances where a state commission could require a CLEC to establish a point of financial demarcation, as you've referred to it in your testimony, different from the physical point of interconnection of the two networks?

A. I don't think it's my right to speculate on what any state commission might or might not do. That's within their purview, within the frame work of their statute and their rules.

Q. Have you testified that there are circumstances where it would be appropriate for a state commission to establish a separate IP where CLEC requires an extensive form of interconnection?

A. Is there something in my testimony that you would like me to look at?

Q. Well, it's on page two. There's a question and answer that begins on line 12. And then there was an answer at line 16 to 18?

A. Is this rebuttal or direct?

Q. I'm sorry. It's in your rebuttal. I apologize.

A. Okay.
Q. So we're discussing the bottom of page two. I've referred you to the question and then the answer at line 16 to 18. You testified that there are circumstances where a state commission may require a CLEC to establish a separate IP from it's point of interconnection?
A. Yes.
Q. Did you sponsor a question in discovery concerning the location, the NXX codes that USLEC has in service in the Philadelphia LATA?
A. Yes, I did.
Q. Do you know if USLEC is able to charge more when it serves a customer that is located further from its switch for providing a local service?
A. USLEC is a non-dominant carrier and, as such, has no market power. We use market-based pricing and we have to charge our customers in accordance with what the market will bear. I doubt they would let me charge them more than you would charge them.
Q. I'll ask it again. Do you charge your customers more, depending on how far they are located from your switch in the Philadelphia LATA?
A. We do market-base price. Assuming that Verizon, and I am speaking solely from memory, that Verizon has

zoned pricing, based on how far customers are in density zones. If we are pricing against those density zones then, yes, we may charge differently based on those zones. It may also be a function of what Verizon charges us for the underlying facility. However, I am not the marketing person for USLEC.

Q. Let me try to establish --- you've made a statement about what Verizon charges. Are you familiar with Verizon local exchange rates in Pennsylvania?

ATTORNEY SHOR:

Objection. I believe that mischaracterizes the witness' testimony.

ATTORNEY PANNER:

You can --- if you'd like to read back the answer, you can decide whether you want to maintain the objection. I would say she that she did talk about the Verizon charge to the customer.

ATTORNEY SHOR:

The last answer was what Verizon charges her.

A. I general know about the tariffs. I am not an expert on them.

BY ATTORNEY PANNER:

Q. Do you know if Verizon charges a greater rate for

basic local service based on the customer's distance from the end office serving the customer?

A. No, I do not.

Q. Do you know if Verizon can charge more when a customer makes a call that is delivered to a USLEC customer, Verizon has to route that call over a distance USLEC switch?

A. I have no idea what your pricing policies are.

Q. So you don't know whether, in fact, Verizon has any mechanism to recover the increased cost of delivering a call to the USLEC switch?

ATTORNEY SHOR:

Objection, assumes facts not in evidence.

BY ATTORNEY PANNER:

Q. Mr. Hoffmann testified, did he not, that he wanted to calculate the difference in costs between delivering a call within the local calling area for Verizon and the cost of transporting a call to the USLEC switch, less the termination compensation payments that Verizon would have to make; did he not?

A. I believe so.

Q. And it's at least theoretically possible that that amount might be --- that that might result in the fact that it is more expensive for Verizon to

transport the traffic.

ATTORNEY SHOR:

Objection. Speculation.

ATTORNEY PANNER:

I think it's a legitimate question. Could it be more expensive?

JUDGE:

I'll allow it. Overruled.

A. Anything is possible.

ATTORNEY PANNER:

I'm going to mark this VZ-4. I should note that it's a portion of USLEC's Pennsylvania local tariff. I believe that file tariffs are judicially noticeable. And this is a portion of the tariff only. It's not the complete tariff. And the tariff was --- so this is a portion of the tariff, not the complete tariff.

(Exhibit VZ-4 marked for identification.)

BY ATTORNEY PANNER:

Q. First of all, do you recognize this document?

A. Yes, I do.

Q. Can you tell me what it is?

A. It is the tariff that we had filed with the Pennsylvania Public Utility Commission.

Q. Can you please turn to --- as I say, it's an excerpt from the tariff but it should be in order. Could you turn to section four, original page two? You'll see that the section numbers in the original page numbers are at the top right. And this is entitled section four, exchange access service; is that correct?

A. Yes, it is.

Q. And it says 4.2 explanation of rate schedules; is that correct?

A. Yes, it is.

Q. Now, is it correct that your rate schedule is dependent on the distance of the customer's serving wire center from the USLEC switch?

ATTORNEY SHOR:

Your Honor, I'd like to object at this point to this document because Counsel has told me that it's a portion of a tariff. Counsel has told me what he thinks it is. But there are obviously pages that are missing here that this witness does not have an opportunity to refer to, does not have an opportunity to direct her attention to. And I think that asking this witness to draw conclusions based on this document that he has proffered is inappropriate.

JUDGE:

Mr. Panner, do you have the whole document present?

ATTORNEY PANNER:

I do, although I'm afraid there are pieces pulled out of it. I should note that this is --- actually, this document is available on USLEC's website.

JUDGE:

Well, we don't have this available in this hearing room right now. Mr. Shor, the normal remedy that we impose for this kind of objection is to put the whole tariff in. I would prefer not to do that just because, undoubtedly, it's just going to clutter the record. But what I'm going to do is I'm going to allow, based on Mr. Panner's representations the questioning to continue. During the break, I will rely on you and Mr. Panner to get together, to review the entire document. And if you have some problem with any portion of the document which is missing and that is not part of the excerpt, you will certainly be permitted during Redirect to introduce whatever you think is necessary.

ATTORNEY SHOR:

Thank you.

ATTORNEY PANNER:

Madam Court Reporter, could you read back the last question?

COURT REPORTER READS BACK PREVIOUS QUESTION

A. It appears from the tariff that it is.

ATTORNEY PANNER:

I have nothing further as to these issues, I should say.

ATTORNEY SHOR:

Your Honor, just in light of your request earlier regarding the procedure and the order for witnesses, the testimony that we submitted from Ms. Montano addressed all of her witnesses. And we felt it would be more appropriate just to submit it all at once.

JUDGE:

Yes. And I do understand that and I appreciate that she addressed all of the issues that were the forthcoming from your side of the fence, and I have no problem with that. It's just a situation where I'd like to hear Verizon's side of the story on issues one and two next. I also appreciate that --- did you say you finished Cross Examine.

ATTORNEY PANNER:

Yes.

JUDGE:

Fine. I think it would be appropriate now to take a break, for you and Mr. Panner to discuss that tariff, and if you have Redirect for Ms. Montano --- wait a minute. I'm sorry before we go there, sometimes I have questions for witnesses. And I do. Would you turn to page nine of the testimony.

ATTORNEY SHOR:

Direct?

JUDGE:

Direct. And I would like you to focus on lines 20 and 21. Do you see that?

A. Yes, sir.

JUDGE:

On lines 20 and 21 you are suggesting that the Verizon proposal is inconsistent with both FCC rules and Commission precedent. Do you see that?

A. Yes.

JUDGE:

And when you speak of the Commission, what commission are you talking about?

A. The Pennsylvania Commission.

JUDGE:

And when you speak of Commission

precedent, what precedent are you talking about?

A. It's my understanding that we relied upon Sprint, the focal and the third circuit decisions.

JUDGE:

Fine. Move on to page 29, please.

A. I'm sorry?

JUDGE:

Page 29.

A. Thank you.

JUDGE:

And this is more of a question in lieu of resolving some confusion that I have. Because you did not quite number your issues the same way you did in your petition. I lost track of which issues were settled and which weren't.

A. Okay.

JUDGE:

On page 29, line 13 is that issue which you have marked as issue number seven settled on advice of counsel? The answer is yes.

ATTORNEY SHOR:

Yes.

JUDGE:

Fine. , that's what I needed to

---.

A. That's not right.

ATTORNEY PANNER:

That's not right.

ATTORNEY PANNER:

It should be issue eight. It should be issue eight subject to Mr. Shor's agreement.

ATTORNEY SHOR:

That is correct.

JUDGE:

Okay. So it is issue number eight because that's when I read it, I labeled it --- I noticed it was labeled issue seven. I labeled it eight and then I couldn't figure out whether it was settled or not.

ATTORNEY SHOR:

I'd like to tell you that it was settled, but it wouldn't be in a way that was favorable, I'm sure.

JUDGE:

Well, that's what I needed to know. Is it settled? And the answer is no. And it was issue eight. That's what I really needed to know. Fine. Now, having finished that examination, is there any continued Cross Examination.

ATTORNEY PANNER:

No, Your Honor.

JUDGE:

Fine. Now, let's take that break. And I'll let you and Mr. Panner signal when you're ready and Redirect can continue.

ATTORNEY SHOR:

I'd just like to see what he has for the whole tariff.

ATTORNEY PANNER:

Sure.

ATTORNEY SHOR:

And ask only if the portions that are missing are the portions that are included here in Exhibit VZ-4 or whether there are other aspects or portions of the tariff that are not here at all.

ATTORNEY PANNER:

The only portion of the tariff that, I'm not sure it exists because it's not included here, is on your website the table of contents indicate that there is a section 11 which is maps. And that was not on the website.

JUDGE:

Let's go off the record for this discussion.

OFF RECORD DISCUSSION

ATTORNEY SHOR:

USLEC is satisfied with the portion of the tariff that is identified as VZ-4 and we'll withdraw the objection. With that tariff, we have a very short Redirect.

REDIRECT EXAMINATION

BY ATTORNEY SHOR:

Q. Ms. Montano, do you recall a question from Mr. Panner concerning the ability of a state commission to accept a separation from the point of interconnection or point of financial demarcation in a network?

A. Yes, I do.

Q. What do you understand to be the factors involved in making that decision?

A. The preparation and submission of cost studies by the incumbent.

Q. To your understanding, is there a standard that must be met in order for that separation to be met?

A. There has to be a proof that there is a difference in the cost structure.

Q. That it's the same, more or less?

A. It is more expensive.

Q. To your knowledge, have you seen any evidence in this record from Verizon that USLEC's choice of

interconnection is expensive?

A. No, I have not.

ATTORNEY SHOR:

I have nothing further.

JUDGE:

Mr. Panner?

RECROSS EXAMINATION

BY ATTORNEY PANNER:

Q. Just one thing, Ms. Montano, if I may. Your statement as to what Verizon is required to show, is that your understanding of what the legal requirements are?

A. Yes, it is.

ATTORNEY PANNER:

I have nothing further.

JUDGE:

If there is nothing additional for the witness, the witness is excused at this time with the idea that she will be returning to the witness stand to testify on the remaining issues.

ATTORNEY SHOR:

Your Honor, with respect to issue one and two, USLEC rests its case.

JUDGE:

Fine, thank you.

ATTORNEY PANNER:

Your Honor, if I could just clean up one thing on the record, I'll try not to do this again, I'd like it move the admission of --- there being no objection, I'd like to move the admission of Exhibit VZ-4.

JUDGE:

It's admitted without objection.

JUDGE:

All right. Mr. Panner, do you have a witness for me on issues one an two?

ATTORNEY PANNER:

Verizon would like to call Mr. Pete D'Amico on issues one and two, Your Honor.

PETE D'AMICO, PREVIOUSLY SWORN, CALLED TO TESTIFY

JUDGE:

Mr. D'Amico, I would only remind you that I administered the witness oath to you earlier. You continue to be bound by that oath?

A. Okay.

JUDGE:

Mr. Panner?

ATTORNEY PANNER:

Thank you

DIRECT EXAMINATION

BY ATTORNEY PANNER:

Q. Would you please state your name and business address?

A. My name is Pete D'Amico. My business address is 417 Seventh Avenue, Pittsburgh, Pennsylvania.

Q. And who employs you?

A. Verizon.

Q. And what is your title?

A. I'm a senior specialist in the interconnection product management group.

Q. And did you cause to be prepared 18 pages of direct testimony that was filed in this matter on May 31st, 2002?

A. Yes.

Q. Do you have any corrections that you wish to make to your testimony that was submitted on May 31st?

A. No.

Q. If these same questions were asked of you today, would your answers be the same?

A. Yes.

Q. Did you also cause to be prepared ten pages of rebuttal testimony?

A. Yes.

Q. And it was filed on July 9th, 2002?

A. Correct.

Q. Do you have any correction to make to that testimony?
A. No.
Q. If those same questions were asked of you today, would your answers be the same?
A. Yes.

ATTORNEY PANNER:

We offer the direct and rebuttal testimony of Pete D'Amico, subject to Cross.

JUDGE:

The direct and rebuttal testimony of Mr. D'Amico is admitted subject to Cross Examination and any timely motions. Mr. Shor?

ATTORNEY SHOR:

Your Honor, the Cross Examination will be handled my colleague, Ms. Finn.

JUDGE:

All right. Thank you?

CROSS EXAMINATION

BY ATTORNEY FINN:

Q. Mr. D'Amico, as I understand your testimony, you believe that Verizon's proposal complies with FCC rules; is that correct?
A. Yes. I believe I mentioned that in my direct testimony.

Q. And so it would be fair to state that you are generally familiar with the FCC's rules?

A. Yes, high level, very high level.

Q. Now, would you agree with me that the FCC has rules that an ILEC must offer the CLEC the opportunity to interconnect at one technically feasible point per LATA?

A. Yes.

Q. And in that regard, you have testified that VGRIPS gives USLEC the right to chose a single physical connection to Verizon network in each LATA; correct?

A. Correct.

Q. And so in this manner you think that VGRIPS complies with the single technically feasible POI per LATA?

A. Yes, because VGRIPS actually addresses the financial responsibility of the transport, when Verizon delivers calls to the USLEC in this case outside of the local calling area.

Q. And to address the transport responsibility by establishing separate points that you're calling the interconnection point or IP; correct?

A. Correct.

Q. And you testified that USLEC, under VGRIPS, has

the option to chose its IP; is that correct?
A. There is language in the VGRIP proposal that address where the USLEC IP is. And depending on where it is, there is also language that states whether or not it's geographically relevant or not. So in answer to your question, yes, USLEC has options under Verizon's VGRIP proposal that impact their interconnection point.
Q. And as I understand it, the first such option as defined by Verizon's VGRIPS proposal is that USLEC may establish an IP via co-location at each Verizon tandem where USLEC assigns numbers?
A. Yes, that's Verizon's proposal. And the design of that was to address a central point where the parties could agree on the financial responsibility for the exchange of the traffic.
Q. And would you agree --- I can't remember which one testified, Mr. Hoffmann or Ms. Montano talked about the fact that Verizon has two access tandems in both the Philadelphia and the Pittsburgh LATAs?
A. I would --- I'm not sure. I'm sure that there's two in Pittsburgh, since that's where I'm from. Philadelphia, I believe, that's the case as well.
Q. Okay. Let's take Pittsburgh, since you're familiar with Pittsburgh. So you're saying that the

physical IP after two Verizon tandems is a north central location. Is that your testimony?

A. Yes.

Q. And you understand that today Verizon delivers its traffic to an IP at USLEC's switch?

A. Yes. That is the way I understand.

Q. And that is one location within the LATA; correct?

A. I believe it's in downtown Pittsburgh.

Q. So by central location, you're not saying to what point?

A. No, when I say central location, in looking at the LATA as a whole, there are numerous local calling areas. And a CLEC is able to have NXX codes or prefixes that have those rates assigned to them throughout the LATA. And so what VGRIP is trying to address is the situation where traffic would be coming in from all points within the LATA, that we would be billing or charging our end user a local haul. But yet we would be hauling it as though it were a toll call. And so the tandems are central locations where Verizon has facilities coming in and out of them that in our proposal we are willing to transport outside the calling area to that point.

Q. So you're talking about central locations on

Verizon?
A. Yes.
Q. And as part of preparing --- in your testimony, did you ever testify to the distance that USLEC switch is from the Verizon tandems?
A. I don't think so. I may have heard or read somewhere that it was fairly close. But I wasn't sure if that was Philly or the Pittsburgh scenario.
Q. So you didn't actually go and look at part of that structure and determine what the distance is that you're transporting traffic from the tandem to the USLEC switch today?
A. Again, the issue isn't the distance from the tandem. The issue is the distance from the originating local calling area into the USLEC switch.
Q. But your tandem is a central location, according to your testimony?
A. Our tandem is a central location, yes.
Q. And it's possible that USLEC switch can be located within a mile of your central location?
A. Sure. It could be further than that as well.
Q. And so that's the first option. Can we call that --- it's a co-location tandem; correct?
A. Yes.
Q. So can we call that a physical IP?

A. Sure.

Q. Okay. I want to call it physical IP because we also have this concept of a virtual IP. That's the second option, the virtual IP?

A. Somehow they've gotten numbered. But you know, we'll call them the second option.

Q. Let's call it the physical IP option versus the virtual IP option and then I won't screw up the numbers. How about that?

A. That's fine.

Q. So the physical IP option is a physical connection between type of networks; correct?

A. Yes.

Q. Now, I believe Mr. Panner discussed with Mr. Hoffmann USLEC has a number of methods of interconnection it can choose from under this contract?

A. Yes, I remember that.

Q. But you just testified that the physical IP has to be co-location; isn't that correct?

A. Again, that's part of the VGRIP proposal. One of the arrangements that a CLEC could enter into under this proposal is to have a physical co-location arrangement where Verizon would drop off the charge, yes.

Q. But in order to establish a physical IP under VGRIPS, USLEC cannot use an entrance facility?

A. I'm not sure what an entrance facility is. I mean, I know what an entrance facility is, but it means different things to different people. So could you clarify what you mean by entrance facilities?

ATTORNEY SHOR:

Was the contract Verizon ---?

ATTORNEY PANNER:

The interconnection is Verizon Three.

ATTORNEY FINN:

Would you mind sharing that with the witness?

BY ATTORNEY FINN:

Q. Could you please turn to page 52?

A. I'm there.

Q. Section 2.1.3.

A. Okay.

Q. USLEC may use any of the following methods for interconnection with Verizon. Do you see that?

A. Yes.

Q. And it lists three things there doesn't it?

A. No.

Q. Co-location facility established by USLEC?

A. Correct.
Q. Co-location or entrance facility established by a third party that is used by USLEC?
A. Correct.
Q. And the third option here is entrance facility and transport obtained by Verizon?
A. Okay.
Q. So those are the options I'm talking about.
A. Okay.
Q. So is it your testimony that USLEC can use co-location to establish the physical IP?
A. Use co-location, yes.
Q. And I understand from the discussion earlier that USLEC can also use third party co-location to establish in physical IP; correct?
A. Yes.
Q. But this third option, this entrance facility option, under the VGRIPS proposal, as you've written it in the contract, USLEC may not use this option to establish physical IP?
A. Not the way that this proposal is drafted at this point, correct.
Q. Okay. Now, are you familiar with the FCC rules that requires Verizon to offer CLEC any technically able method of interconnection?

A. Yeah, I've heard it.
Q. Okay. So in defining the physical IP under VGRIPS and limiting that physical IP to co-location, isn't it true that Verizon was not complying with this ---?
A. No. Again, the IP deals with the financial aspects of it. So either Verizon would physically take the traffic to USLEC's switch or point of interconnection and then you get into, well, how can Verizon be compensated for the transport when it hauls it outside of a calling area. As far as your question about, are there other ways that we could physically meet at the tandem, I suppose there are, we haven't drafted language that would address another physical IP at the tandem, other than the co-location regimen.
Q. But you've drafted language that addresses another method of interconnection in section 2.1.3?
A. Yes.
Q. Another physical method of interconnection?
A. Which address the point of interconnection, as opposed to the VGRIP section which addresses the financial aspect of the transport.
Q. Right, but didn't you also agree with me that the physical IP is also a physical demarcation between the networks? Isn't that what a POI is?

A. A POI is a physical point where the networks twist the wires. If you will.
Q. Okay. And is there a physical POI at a co-location cage where the networks twist the wires?
A. Sure. If that is where, in that example, the POI and the IP would be in the same location. You could also have a situation where the POI, a point of interconnection, and the IP, the interconnecting point are in two different locations.
Q. And did you hear USLEC's witness' testimony earlier today that they do not co-locate in Verizon in the State of Pennsylvania today?
A. Yes, I did hear that.
Q. So would it be safe to say that the current network architecture does not comply with the physical IP option of the VGRIPS; isn't that correct?
A. Correct.
Q. Can you turn to page six of your testimony, please?
A. Sure.

JUDGE:

I'm assuming the direct?

ATTORNEY FINN:

Direct, thank you.

BY ATTORNEY FINN:

Q. Starting around line 12, you discuss your interpretation of the Commission's ruling in the Verizon/Sprint arbitration; right?

A. Yes.

Q. Based on your testimony, isn't it your understanding that the Sprint IPs do not actually have to be at Verizon tandems?

A. Under the Sprint arbitration decision, no, they do not have to be tandem.

Q. So in fact, if they're not at the tandems, the Spring IPs could be at the Sprint switch; correct?

A. Yes, based on this result.

Q. Move to the virtual IP option?

A. Okay.

Q. The virtual IP option can only be established at a Verizon end office; correct?

A. What would happen is when Verizon transports the traffic from a local calling area to a distant point, and the example that we like to use a lot, even though we're in Harrisburg is from Allentown to Philadelphia which is, I believe, 40 or 50 miles between the two. So in that case, Verizon would be carrying that traffic outside of a calling area to Philadelphia. And then the compensation arrangement would kick in, I guess.

Q. Mr. D'Amico, I think I asked you if the virtual IP is only the Verizon end office. Is the virtual IP at the Verizon end office?

A. Yes.

Q. It's not at the Verizon tandem?

A. No.

Q. So we could have a physical IP at the tandem but we can't have a virtual IP at the tandem?

A. Yes.

JUDGE:

I'm sorry. What was the question there? You can have a physical IP at the tandem but not a ---?

ATTORNEY FINN:

Virtual IP.

JUDGE:

All right.

BY ATTORNEY FINN:

Q. Can you turn to page ten of your testimony, direct, please?

A. Okay.

Q. This was actually your Philadelphia/Allentown example we're discussing here?

A. Here we go.

Q. So just walking through, you say here, if USLEC

agrees to pick up traffic at Verizon tandem, if it locates case its POI there --- well, let's stop there for a second. USLEC has a POI with Verizon tandem today; correct?

A. Which LATA? In Philly?

Q. In Philly. We'll use Philly.

A. It's my understanding that the POI is at USLEC switch. Verizon has built facilities all the way to the USLEC switch in Philadelphia. So I would say that the POI is at the USLEC switch.

Q. So that's the delivery of Verizon's originated traffic to USLEC?

A. Yes.

Q. But USLEC also has a POI at the Verizon tandem for the delivery of USLEC's originated traffic to Verizon?

A. Actually, I would say that the POI in that scenario is also the USLEC switch because USLEC is purchasing or leasing facilities from Verizon.

Q. So by leasing the facilities, USLEC doesn't become the owner of those facilities for purposes of network demarcation?

A. I'm not sure if you're getting into semantics on that. I would still look at it as the POI is at the switch, even though USLEC is paying for those

facilities or leasing those facilities, those are still Verizon --- part of Verizon's network.

Q. Okay. Turning back to your testimony here on the bottom of page ten?

A. Okay.

Q. If USLEC agrees to pick up traffic at Verizon tandems, by pick up here, do you mean financially pickup?

A. Can you help me with the line number?

Q. I'm sorry, line 20.

A. Okay. Yes.

Q. Now, starting the very last sentence, line 23.

A. Okay.

Q. If USLEC chose to place its POIs in places that were not at the VGRIP location, Verizon would deliver its traffic to USLEC's chosen POI location, but would recover the additional transport and other costs for delivering the traffic to that location. I read that correctly?

A. Yes, that was good.

Q. I'd like to focus on additional transport?

A. Okay.

Q. So on the prior page, you said if USLEC agrees to pick up financially traffic at Verizon tandems but now you're saying if they don't agree to pick them up at

the tandems, you're going to move the financial demarcation point and recover your additional transport costs?

A. Yeah. Again, it's part of the compromise proposal. Under the one scenario, Verizon is hauling traffic outside of local calling area. But it's willing to do that to meet at a central location, in particular the location arrangement at the tandem. If that doesn't occur, then Verizon is still hauling traffic from the originating point to the POI that is outside of the local calling area. And so the language then talks about, well, how can Verizon be compensated as far as costs? And that's where you get into that financial piece of it.

Q. But so you're willing to haul the traffic to the tandem, the central location only if USLEC is co-located there?

A. That is the proposal, yes.

Q. And if they refuse co-location, if they want to use an entrance facility as their physical method of interconnection, you are not willing to haul the traffic to the tandem?

A. Again, that option hasn't been, I guess, kicked around very much. It may have come up in a lot of talks. But at this point, this is our proposal.

Q. Okay. Understood. Under the physical IP, you've stated that you'll be paying for a portion of transport outside of the local calling area; correct?
A. Yes.
Q. Under the virtual IP, I think you've also stated that USLEC would be paying for a portion of the transport inside the local calling area; correct?
A. Right. Right now, the language states that that measurement, if you will, for the transport recovery is based on the than the originating end office.
Q. Okay. So can we turn back to page ten?
A. Sure.
Q. And look at the sentence that be begins on line 13?
A. Okay.
Q. And can you just read that sentence, please, into the record?
A. It starts if the CLEC elects not to?
Q. Yes.
A. If the CLEC elects not to establish a POI at the VGRIP locations, then Verizon will deliver its traffic to another CLEC designated location and the CLEC will be financially responsible for the transport outside of the local calling area.
Q. So those last couple of words outside the local

calling area, that's not exactly correct; is it?
A. No. Well, I guess you're trying to break that apart to say that that's implied with only outside of the local calling area?
Q. Yes.
A. I think what I meant there was the measurement as defined in our proposal which would be between the originating end office and the and the USLEC point of interconnection.
Q. I'm sorry. Can you say that again?
A. If you read this in the purest sense, you may be inclined to think that it is from the border, the boundary the USLEC point of interconnection. And I apologize if that is what misleading. But in reality, the proposal in the language is from the originating end office, which may or may not be at the edge of that local calling area.
Q. Right, okay. I just wanted to clarify that. Thank you.
A. Okay.
Q. And we talked about the central location earlier?
A. Yes.
Q. So you were asking for the opportunity under VGRIPS to kind of aggregate Verizon traffic and pick a central location on the Verizon network. And at that

Verizon network you'll deliver the traffic; correct?
A. Yes.
Q. And am I correct in stating that under VGRIPS, USLEC is not permitted to pick a central location on USLEC's network to aggregate traffic and ask Verizon to pick it up there?
A. Could you run that question by me? I got my ---.
Q. Under VGRIPS, if the USLEC customers are originating the call, is USLEC permitted to ask Verizon to come to a central location on USLEC's network to pick up USLEC's traffic?
A. So you're talking about traffic in the other direction.
Q. Correct.
A. Actually, VGRIP address the delivery of Verizon's traffic to a CLEC. So I kind of put that in a little box, if you will. However, in the other direction, Verizon has established its tandems and its end offices to serve that call party as its interconnection point throughout the LATA.
Q. So USLEC has to both pick up Verizon traffic on Verizon's network and deliver USLEC traffic to Verizon network; is that correct?
A. Well, they have to deliver it to Verizon's IP, yes, that is correct. USLEC doesn't have to pick up

the traffic. Again, Verizon would deliver it but then you get into the financial aspect of it.

Q. So financially, they have to pick it up?

A. Yes.

Q. They have to pickup the tab?

A. There is some financial obligation under certain arrangements.

Q. And the Verizon IPs where USLEC delivers its traffic, they are at the Verizon tandems?

A. For traffic that is tandem routed, if you will. There is two ways that traffic can be delivered on Verizon's network. One is if it goes to the tandem, Verizon will then take it from the tandem and deliver to the end office that subtandems that tandem. Just maybe to give a high level, in case people aren't familiar with tandems. Think of a tandem as a hub or the middle of the spoke and then the middle of the wheel. And all of these spokes go out with end offices around them?

A. So that would be one option where the traffic could get delivered to the tandem. The second option would be a direct end office trunk to that Verizon end office that serves the subscribers from that end office.

Q. So in that case --- in a direct trunking

environment, the Verizon IPs would be that end office serving those calling parties?

A. Yes.

Q. Okay. And today, is it your understanding that USLEC bears financial responsibility for delivering its originating traffic to the Verizon IP, whether it be located at the tandem or the end office?

A. Yes. That's the arrangement. And then they are charged the appropriate reciprocal compensation rate based on tandem or end office route.

Q. And it is also your understanding that USLEC bears that responsibility even if it's call originates --- if it switches in another local calling area?

A. Yes. What happens is USLEC decides --- first they decide where they want their switch to be and then they also decide where they want to deliver the traffic and how they want to deliver the traffic to Verizon.

Q. And today under the parties' current arrangement, Verizon delivers its originating traffic to USLEC's switch; correct?

A. I believe that is the case in Philadelphia. I'm not sure about the Pittsburgh, based on what Mr. Hoffmann said this morning. I know there are plans to install a direct facility into --- or there may be

plans to install a direct facility into the USLEC switch or we may be riding the USLEC facility, in which case I believe we may be getting billed for some transport charges.

Q. So maybe just to put it more simply, right now Verizon is financially responsible for delivering its originating traffic to USLEC's switch?

A. Yeah, because the current agreement doesn't really have any framework around where the USLEC IP is, designated as their switch.

Q. And today, Verizon bears that responsibility whether or not the switch is in the local calling area where the Verizon call originated?

A. Yeah, that's why we're here. That's been going on, not only with USLEC, but with other CLECs. And we're bringing it up as an issue and a concern and we're trying to come up with proposals such as VGRIP that can address how Verizon can recover its costs.

Q. And as I understand your testimony, the basis, the reason why you think you have the right to move the IP is that a single point per LATA is expensive?

A. It is expensive in situations where Verizon is hauling traffic from local calling areas outside of that location, yes.

Q. So your definition of expensive is as soon as it

leaves the local calling area?
A. I guess my definition of expensive is Verizon hauling traffic outside of the local calling area to a distant point of interconnection into the CLEC establishes as their interconnection point and yet we're charging our end users a local call. So there is kind of a disconnect there. It looks like it's one thing but in reality it's being called 50 or 60 miles away.
Q. Where in your testimony can I find an explanation of what costs your local rates cover?
A. I don't think I get into that depth, mainly because I'm not sure all of the ins and outs of how the local exchange tariffs are derived. But I do know that when Verizon customer A calls Verizon customer B in the local calling area, the call originates or terminates within that local calling area. When Verizon customer A calls Verizon customer B in, you know, Allentown to Philadelphia, then that would be an inter-LATA call.
Q. It would be an inter-LATA toll call if they're both Verizon customers?
A. Yes. Sure.
Q. Okay. But does the routing of the call, that doesn't necessarily change the jurisdiction of the

call; does it?
A. Well, again I wasn't trying to change the jurisdiction. I was just trying to point out that Verizon is charging this call, as though it's a local call, but hauling this call to a distant point. And that transport piece is a cost and Verizon is not recovering that cost.
Q. But you have nothing in your testimony that says --- strike that.
Isn't there a difference between a local rate and what it costs Verizon to provide that local service?
A. I'm not sure I know the answer to that, because I just don't know that much about local rates.
Q. Okay. But you submitted cost studies in this Docket?
A. No, we haven't submitted any cost studies. What we've tried to do is, in the situation where there is transport, we've pointed to the union tariff, the unbundled network element tariff in Pennsylvania. And we've looked at the interoffice costs for interoffice unbundled dedicated transport, I believe.
Q. But you don't have figures on the amount of traffic that's exchanged between USLEC and Verizon in your estimate; do you?
A. No, I don't.

Q. And you don't have figures on the amount of that traffic that's exchanged, that never leaves the local calling area; do you?

A. No, no. The language that we've tried to put together was designed to address the situation, both for USLEC and other carriers into this particular agreement. And if there isn't a problem, then there isn't anything that's needed to be done. So looking at specific, you know, minutes and other aspects, we're looking at this more at a higher level.

Q. But you've testified that you have an interconnection area where you're hauling your traffic outside the local calling area to USLEC?

A. Correct.

Q. And you've testified that that's a problem?

A. Correct.

Q. But you haven't quantified that problem; is that correct?

A. No, I have not.

Q. And Mr. D'Amico, in order for a form of interconnection to be expensive, doesn't there have to be a benchmark to which to compare it to measure what is expensive?

A. I'm not sure. I mean, I guess any point where Verizon is incurring these costs outside of the local

calling area, that is a situation that we're trying to address. There are some cases where the magnitude is very high with other CLECs are cumulative with all CLECs. And there may be situations where it's relatively low. So I'm not sure that I answered your question. But that was the best job I can.

Q. Just to make sure I understand, it's your testimony that as soon as it leaves the local calling area, it's is an expensive cost that you think Verizon should be able to recover?

A. Yes. And also, there is language that talks about, you know, USLEC can keep its existing interconnection points, however, Verizon can ask for blah, blah, blah. I understand USLEC saying, you know, I'm not sure I trust you because as soon as we sign this, you're going to ask for that. But I mean, there could be situations where we look at the existing IPs or the existing arrangements. And it stays the same. We've tried to draft this language so that, here are some guidelines and then the operation folks who look at the network workings can decide if the problem is there and if they need to correct it.

Q. So Mr. D'Amico, if you know what the typical Verizon local calling area distance is?

A. No. I would imagine it varies.

Q. Okay. But whether the calling area is ten miles wide or 50 miles wide, it's not expensive until it crosses that boundary; is that correct?

A. There could be other reasons where it's expensive within that local calling area. In other words, it still could be within this local calling area but you know, there is a mountain and we have to go to the top of the mountain or something odd. But looking specifically at this scenario without any extreme circumstances, VGRIP is designed to address that expense --- that expensive arrangement when it's hauled outside of a calling area.

Q. Did you just say that it might be more expensive to haul a local call inside of a local calling area because of terrain or distance or something maybe that it would be better to haul it long distance?

A. No. I think what I wanted to say was, you can't assume, just because the interconnection was within the local calling area, that there couldn't be other circumstances that would make it expensive as well.

Q. But Verizon is willing --- let me ask it this way under FCC rules, do you think Verizon has an obligation to bear the costs of delivering the traffic to a CLEC if that delivery point is within the local calling area?

A. I think you're asking me an interpretation of the FCC rules. And I kind of like to stay away from that. I mean, I'd like to --- it's my understanding that would satisfy the FCC rules. But again, that's me as a product manager as opposed to me as a fine attorney.

Q. Understood. Well, if Verizon bearing the transport cost within the local calling area, is consistent with FCC rules? Is it your testimony that Verizon can also refuse to bear those costs within the local calling area?

A. No.

Q. Actually, under the virtual IP option, aren't you shifting calls within the local calling to USLEC or are you refusing to ---?

ATTORNEY PANNER:

Asked and answered.

ATTORNEY FINN:

Okay. I'll withdraw.

BY ATTORNEY FINN:

Q. Mr. D'Amico, let's turn to rebuttal page eight, please?

A. Okay.

Q. On this page at the bottom, you're citing to the FCC Intercarrer Compensation rule making; correct?

A. Like line 18, starting there?
Q. Right.
A. Yes, I mentioned this NPRM thing.
Q. So you've read the NPRM?
A. Not the whole thing.
Q. So you've read the NPRM?
A. Not the whole thing. But I've dabbled on parts of it. It's been a while. I'm sure there's going to be a ruling on it soon.

ATTORNEY FINN:

Your Honor, I'd like to introduce USLEC Exhibit Number One.

JUDGE:

So marked.

(USLEC Exhibit One marked for identification.)

BY ATTORNEY FINN:
Q. Mr. D'Amico, does this document look familiar?
A. Yeah.
Q. Does it look like it's the NPRM that you cite on page eight of your testimony?
A. Yeah.
Q. I should have mentioned, these are just excerpts. Can you please turn to, I'm sorry, paragraph 114?

A. Okay.
Q. And you see about halfway through that paragraph where it starts, assuming?
A. Uh-huh (yes). Yes.
Q. Can you read from there to the end of the paragraph, please?
A. Assuming that the ILEC receives reciprocal compensation for transporting terminating traffic, how precisely does the distant POI unfairly burden the LEC? Is the efficiency concern limited to those instances in which traffic between two networks is unbalanced and/or where traffic is required beyond a certain distance? We seek comment on these questions and any other issues related to the interplay between our single POI rules and our reciprocal compensation rules.
Q. Mr. D'Amico, is it your understanding that these questions in this paragraph are part of the FCC's efforts to investigate allocation of transport responsible between.

ATTORNEY PANNER:

I object. I think it goes beyond the scope of his Direct.

ATTORNEY FINN:

Well, I think he's sitting this

NPRM as supports that Verizon can allocate the transport under its ---.

ATTORNEY PANNER:

I didn't understand your question maybe.

JUDGE:

Let me simply overrule your objection, okay.

ATTORNEY FINN:

I'm sorry. Can you read the question back.

COURT REPORTER READS BACK PREVIOUS QUESTION.

BY ATTORNEY FINN:

Q. Between LEC, interconnect LEC.

A. It appears that they are asking for questions --- they're asking for comments on some of these questions and other issues related to this.

Q. So the FCC has asked about the distance, traffic balance ---

A. Uh-huh (yes), yes.

Q. --- and other issues; correct?

A. In this paragraph, yes.

Q. Okay. And yet you've testified that it's Verizon's position that, as soon as it leaves the local calling area, Verizon shouldn't have to pay,

unless it agrees to pay if we establish a physical IP?
A. Yes. Again, we're trying to address the situation where Verizon is hauling traffic outside local calling area, to a point of interjection where the CLEC is determined.
Q. And so the FCC appears to be examing a number of factors to determine how to allocate transport responsibility; correct?
A. Yes, it looks like based on some of these questions, sure.
Q. So in other words the FCC is not examining solely the question of whether ILECs transporting the call outside of the local calling area?
A. In this paragraph, I don't see the match to that specific question, although again they say any other issues related to the interplay.
Q. So presumably this is an issue that Verizon raised before the FCC?

ATTORNEY PANNER:

Objection.

JUDGE:

And the basis is?

ATTORNEY PANNER:

Foundation.

JUDGE:

Thank you.

ATTORNEY FINN:

The foundation is he said any other issues that parties may want to raise before the FCC.

JUDGE:

I didn't hear him testify at all about what Verizon's position in front of the FCC was going to be on this. So I'm going to agree with Mr. Panner and sustain the objection.

ATTORNEY FINN:

Okay.

BY ATTORNEY FINN:

Q. Mr. D'Amico, are you aware what Verizon's position on this NPRM is?

A. I don't know all of the --- I wasn't part of the drafting for who our response was to this NPRM or if we're involved.

Q. Mr. D'Amico, would you expect Verizon to take inconsistent positions before a State Public utility Commission the FCC.

ATTORNEY PANNER:

Objection, argumentative.

ATTORNEY FINN:

I'm just asking what he thinks

Verizon might do. I don't think it was argumentative. I'm sorry.

JUDGE:

I don't think it's argumentative either. But there isn't too far you can go in this direction.

ATTORNEY FINN:

Understood.

JUDGE:

He can answer this if he knows the answer.

A. I would think that would raise questions. But I don't know how they set the policy, state versus regulatory FCC issues.

BY ATTORNEY FINN:

Q. Okay. Thank you. I'll stop. Mr. D'Amico, are you familiar with the FCC file reports?

A. Less than --- not very much, no.

Q. Are you familiar with the concept that the rates ILEC charge CLECs are subject to the '96 Act standards?

A. Again, it seems like there's a lot of activity. There has always been a lot of activity when I hear the word tolerate. And I don't know what the latest impact is on that. I believe I read somewhere, maybe

in our discovery or something, or somewhere else, that when Verizon files its union rates in, I guess, Pennsylvania and other states, I think it said they're telecompliant. But again, I'm not really the expert on that.

ATTORNEY FINN:

I'd like to mark another exhibit, USLEC Number Two.

(USLEC Exhibit Two marked for identification.)

JUDGE:

So marked. Tell us what it is.

ATTORNEY FINN:

Well, this is an excerpt of the FCC rules, 47 CFR.

JUDGE:

Let me make it perfectly clear that I only want an excerpt of the rules. I don't want all of them in the record.

BY ATTORNEY FINN:

Q. Mr. D'Amico, what I've handed you is an excerpt of the Federal Communications Commissions Rules, which are found in 47 CFR?

A. Okay.

Q. Are you familiar with these rules?

A. Yeah. It's been awhile since I've studied them but, yes, I've seen these before.

Q. Okay. Can you turn to subpart F, pricing of elements, please?

A. What does that mean?

Q. I'm sorry. It's at the top of the page, it says subpart F.

JUDGE:

It's about the second or third page back.

A. I got you.

BY ATTORNEY FINN:

Q. Okay. 51.501, scope A, can you read that, please.

ATTORNEY PANNER:

Your Honor, I'm going to object to this line. I'm not aware of anything in Mr. D'Amico's testimony that addresses the application of --- if I'm mistaken about that then I'll stand corrected, but I don't believe that he's testified to that application.

ATTORNEY FINN:

Well, I think he's testified to costs. He talked about Verizon's costs and how Verizon should be able to recover its transport costs. And in order for Verizon to recover its

transport costs, I think they have to comply with FCC rules in order to recover the costs. And so I wanted to explore whether or not Mr. D'Amico has adequately testified to costs in his testimony.

ATTORNEY PANNER:

I don't understand how his understanding of the FCC's telrate (phonetic) rules would be relevant to that.

JUDGE:

Do you want to explain how you think it's relevant.

ATTORNEY FINN:

Well, I think he's testified that it costs Verizon more to transport the costs of local calling air and they want to recover that.

JUDGE:

He certainly testified repeatedly that they want reimbursed for that cost.

A. I mentioned it a couple of times.

ATTORNEY FINN:

And he's also testified that additional transports cost more. I guess I'm looking for the cost basis and I'm trying to explore it through the FCC rules.

JUDGE:

Did he provide a cost basis that you were able to find in his testimony.

ATTORNEY FINN:

No, he did not.

JUDGE:

Well, if he didn't provide one, then the issue is the legal one; isn't it? If he provided no factual basis in your estimation as Counsel for USLEC, then didn't he reduce the issue to being a legal one, if at all?

ATTORNEY FINN:

Okay. I'll withdraw the question. Thank you.

JUDGE:

Thank you.

A. Do I still need this?

BY ATTORNEY FINN:

Q. No. Okay. Can we please turn to page two of your rebuttal testimony?

A. Yes.

Q. Beginning on line six, are you with me?

A. I'm with you. Line six, page two.

Q. You state, if, as is the case with many state LECs, these six customers are internet service providers, then it is likely that they have been

assigned numbers in all or nearly all of the NSX codes that USLEC has obtained; correct?

A. That's what it says, yes.

Q. Mr. D'Amico, what is the basis for that statement?

A. Well, it's been my experience as a product manager, that we have situations with CLECs that serve ISP providers. And that what they do is there will be 40 or 50 NXS codes and then they'll have individual numbers within those 40 or 50 codes. And folks will dial into the internet and Verizon will transport that traffic to that point of interconnection and then they'll hand it off to the ISP that a lot of times is very close to where that U.S. --- where that CLEC is located.

Q. So as to USLEC, you do not have any facts to support this statement?

A. No, that's why I started with if, a little word.

Q. And are you aware that USLEC has submitted supplemental discovery responses to Verizon verifying that its six foreign exchange customers are not ISP?

A. Ask me that again.

Q. Are you aware that USLEC has submitted supplemental discovery responses to Verizon verifying that USLEC's six foreign exchange customers are not

ISPs?
A. I think I heard that, but I didn't store it because that gets more into the FX issue. The point here I was trying to make was about the situation. But subject to check, I would agree with that.
Q. Okay. But you were using this example to make a point on issues one and two; correct?
A. Sure. Yeah.
Q. And now, this example is false as to USLEC?
A. Again, assuming that that supplemental thing came in, yes, at this time that would not be the case for USLEC, however, that could change in the future, I guess.
Q. Okay. Let's see. The next sentence, moreover, it is likely that these six customers are located at or only a very short distance from USLEC switches and account for the vast majority of the traffic that Verizon sends to USLEC. Do you see that statement?
A. I see that.
Q. And again, that statement, because you're using it is likely, that was not based on facts about USLEC's network?
A. Correct.
Q. And, in fact, are you aware that as part of those supplemental discovery responses, USLEC has verified

that none of its customers are collocated at the switches in Pennsylvania?

A. Should I look at those responses or just say subject to check? Yes.

Q. Okay.

JUDGE COCHERE:

Take your time.

A. Thank you.

BY ATTORNEY FINN:

Q. So if that is the case then this statement with respect to USLEC is false?

A. At this time, yes.

Q. All right. Let's turn to page six of your rebuttal, please.

A. Okay.

Q. Line 12.

A. Line 12.

Q. Thus, it is clear that under USLEC's proposal Verizon would, and this is in quotes, incur specific costs for which it is not already compensated by the services it provides its customers that originate its traffic, closed quotes.

A. Yes.

Q. What is the basis for this statement?

A. The basis being an example or basis being how

many situations do I know of that this is occurring in?

Q. Well, you're talking about specific costs here?

A. Right. I think what I'm saying is that --- and it gets back to that --- it's a local call, we're getting local rates from our end user and the piece that's going outside is the piece that I'm addressing.

Q. But you have haven't addressed --- you haven't put a dollar figure on the records?

A. No. Gosh, no.

Q. And also --- I'm sorry if we discussed this earlier, but we discussed the relationship between your customers rates and Verizon's costs. And you're not clear what that relationship is?

A. Right.

ATTORNEY FINN:

Just a moment, Your Honor. I'm sorry.

JUDGE:

Certainly.

SHORT BREAK TAKEN

BY ATTORNEY FINN:

Q. Mr. D'Amico, on pages nine and ten of your rebuttal testimony you say TSR Wireless order?

A. Yes, but can I go back just to clear up the

record for a second on that previous question you just asked me?

Q. I think that's your Counsel's job on Redirect.

A. Okay. All right. Page ten?

Q. Page nine and ten, you said the TSR Wireless order; correct?

A. Okay.

Q. Are you generally familiar with that order?

A. Again, they all start to bleed together after a while, but, yes.

Q. So it's your testimony that in TSR the FCC held that the recip comp rules apply to traffic exchange between LEC and paging carriers?

A. Yeah, this particular one addressed TSR Wireless, which is, I believe, a pager carrier, or was. It probably still is.

Q. And you state that the FCC did not address the issue of whether CLEC must be financially responsible, but TSR is about a paging carrier, not a CLEC; right?

A. Right.

Q. And do you know if TSR addressed the issue of when a paging carrier must be financially responsible?

A. I can't recall the whole aspects of it.

Q. Do you know if the FCC's rules, reciprocal compensation rules apply to both CLEC and to paging

carriers?

A. Yes, but I believe they may have kind of carved them out a little differently with something about MTA.

Q. Right. Are you aware that in a LEC, the paging carrier scenario, that MTA is the equivalent of a local calling area?

ATTORNEY PANNER:

Objection, calls for a legal conclusion to which he hasn't testified.

ATTORNEY FINN:

Well, he testified about some differences and that difference being the MTA and so I'm trying to clarify the difference.

JUDGE:

You did open the door. Objection overruled.

A. Again, I know there is the term MTA in the MTC order and it applies to wireless. As far as all of the nuances about that and why the MTC stated what they stated, I'm not sure?

ATTORNEY FINN:

Can we have a moment?

JUDGE:

Certainly.

OFF RECORD DISCUSSION

BY ATTORNEY FINN:

Q. I'm sorry to jump around here. Can we go back to page eight of your Direct testimony?

A. As soon as I find it. Yes, page eight. Okay.

Q. Beginning at line four, you stated that under USLEC's suggested approach Verizon would be required to carry the call many miles through multiple switches on its way to USLEC's POI; correct?

A. Yes.

Q. And the reason Verizon has to carry the call through multiple switches because that is how Verizon designed its network; correct?

A. Actually when I say multiple switches, it could either mean switched, physically switched through the switch or is passing through that wire center. But, yes, based on Verizon's network, that's the way it would be run.

Q. And USLEC had nothing to do with Verizon's network design; correct?

A. Correct.

ATTORNEY FINN:

Okay. I'm done with Cross. Thank you.

JUDGE:

All right. Are you sure you're done now?

ATTORNEY FINN:

Nothing further, Your Honor.

JUDGE:

Thank you. I think Verizon should have a couple minutes to discuss its witness. And I need one or two minutes off the record with Ms. Finn and Ms. Smith.

OFF RECORD DISCUSSION

JUDGE:

Go back on the record. Before I let you do that, I actually have a question, if I can find it. Mr. D'Amico, would you turn to page two of your rebuttal testimony, please.

A. Okay.

JUDGE:

Looking at the bottom of the page, your question beginning on line 16 and your answer beginning on line 19, do you need a minute to take a look at that?

A. Hold on a second.

JUDGE:

I'll take that to be a yes.

A. Yes. Okay. I'm ready.

JUDGE:

If I understand your point for that question and answer, it is to emphasize that USLEC is handing traffic to Verizon at more than one POI; is that right?

A. Yes.

JUDGE:

However, it is accepting Verizon originated traffic only at its switch in each LATA; is that right?

A. Yes.

JUDGE:

And my question for you then is sort of almost a double negative, but do I understand you correctly that you are not suggesting that it is not technically feasible for USLEC to receive Verizon originated traffic at those particular POIs?

A. Correct, it is technically feasible.

JUDGE:

Fine. That's all I needed to know. Thank you. Now, Counselor.

REDIRECT EXAMINATION

BY ATTORNEY PANNER:

Q. Mr. D'Amico, you'll recall that Ms. Finn asked you if a USLEC customer in Allentown called a Verizon

town customer in Allentown, who would bear the cost of transporting that call from Allentown to the Verizon POI connection?

A. Yes, I recall that.

Q. And you testified, did you not, that USLEC, if the USLEC customer originated the call, would carry the call to the Verizon tandem or the Verizon end offices, as the case may be?

A. Correct.

Q. Now, if a call is going from a USLEC customer in Allentown to a Verizon customer in Allentown, how far is that call going end to end?

A. What's happening is because USLEC has decided to locate their switch in Philadelphia, even though the parties may be across the street, USLEC has to carry that call to their switch in Philadelphia and then carry it back. So it's really --- you know, the reason that situation is occurring is because of the location of where USLEC has put its switch.

Q. So it's really the location of USLEC's switch that has caused those costs?

A. Yes.

Q. And did you understand Ms. Montano to testify this morning that if USLEC has higher costs for serving a customer far from its switch, that it's free

to charge more for that service?
A. Yes, I do remember that was the tariff thing. And my listening to that was that it sounds like if a USLEC customer --- you know, the distance that it's located from the USLEC switch impacts what they pay.
Q. And in the case of a Verizon customer, does Verizon receive greater compensation for carrying that call or if it has to go all the way to ---.

ATTORNEY FINN:

Objection.

JUDGE:

Let him finish the question.

ATTORNEY FINN:

Sorry.

ATTORNEY PANNER:

A little bird tells me what the objection is going to be.

BY ATTORNEY PANNER:

Q. Let me start the question over again.
A. Yeah. Start over.
Q. Can Verizon charge more for a call that must be transported to the USLEC switch than it does if the call is carried and delivered entirely on Verizon's network within the local calling area?

ATTORNEY FINN:

Objection.

JUDGE:

Now, what's the ground?

ATTORNEY FINN:

Leading.

ATTORNEY PANNER:

Actually, Your Honor, I don't think it was leading. I posed a hypothetical question and I asked him whether there would be an additional charge posed. It's an open-ended question. He can answer yes or no. I understand how it's leading. I didn't suggest facts that are not in evidence or anything else.

JUDGE:

I agree. Objection overruled.

BY ATTORNEY PANNER:

Q. I'll say it again.

A. No, I got it.

JUDGE:

Please don't.

A. I was just trying to figure out if I should say something or not. I usually write one on my left hand and one on my right. Again, although I'm not a local exchange tariff whiz, I believe the way it works is if a Verizon customer calls a Verizon customer in that

local calling area, you know, that's the rate.

If the Verizon customer calls a USLEC customer, because the rates that are associated with USLEC NSX is Allentown, then the same rates would apply.

BY ATTORNEY PANNER:

Q. If Verizon agrees to a particular term with USLEC, as an interconnection product manager, are you familiar with whether other CLECs could adopt those same terms?

A. Yes. Without getting into all of the rules of what they call MFNing, they are opting into a contract, other carriers are able to opt into or take advantage of those same terms or conditions is my understanding.

Q. And in your experience as a product manager in Pennsylvania, are there CLECs who serve mostly or many ISP customers?

A. Yes.

Q. And then I want to also, just to clarify something that Ms. Finn was asking you about and my Co-Counsel helpfully handed to me and then I promptly turned away from it, on page two of your rebuttal testimony, okay, at line six, are you asserting there that USLEC does, in fact, have six customers who are internet service providers?

A. No. Again, the word if creates a hypothetical and, you know, it also addresses, where I say that is the case --- that is the case with many other LECs, that this situation based on my experience occurs and if it isn't occurring today with Picker (phonetic) CLEC, it could occur tomorrow just because of the way the contract language is written. It kind of opens up a loophole, if you will, or maybe encourages that type of activity.

Q. And also another CLEC could opt into that agreement, is that your understanding?

A. Yes, correct.

Q. Okay. And just to clarify also, when you say, moreover, it is likely that these six customers are located at USLEC switches, were you speaking there as a factual assertion or as a hypothetical?

A. That was tied to the first spot of the if. It was just a continuation.

ATTORNEY PANNER:

I have nothing further, Your Honor.

ATTORNEY FINN:

Can I have a moment, please?

JUDGE:

Certainly.

ATTORNEY FINN:

I think I have just one or two questions, Your Honor.

JUDGE:

I normally don't impose limits.

ATTORNEY FINN:

Understood.

RECROSS EXAMINATION

BY ATTORNEY FINN:

Q. Mr. D'Amico, you and Mr. Panner were just talking about Verizon's rates and what Verizon can charge its customers; correct?

A. Yes.

Q. And I think you were talking about whether or not Verizon could vary that rate based on the distance it has to carry the traffic? Did I understand that correctly?

ATTORNEY PANNER:

I object on the basis it mischaracterizes prior testimony.

JUDGE:

I disagree. The objection is overruled.

A. Do you want to ask that again or do you want me to say something?

BY ATTORNEY FINN:

Q. Do you remember what the question was or do you want it read back?

A. Would you read it back?

COURT REPORTER READS BACK PREVIOUS QUESTION

A. What we were discussing was two scenarios, one Verizon's situation and that's governed by our local exchange tariff, and Verizon to USLEC situation and that too is governed by Verizon's local exchange tariff. So I think the point that I was trying to make was that I'm not sure of what the rates are and how they're developed and all of that, but they would treat that call the same way as far as billing the end user, the Verizon end user.

Q. Okay. So are you familiar with Verizon's rate structure, local calling rate structure?

A. No, other than to the billing system when it bills that end user, it looks at the --- that that call to Allentown looks like a call to Allentown. I guess it doesn't know that it's going to a USLEC, wherever it's going to.

Q. Are you familiar with Verizon's extended area service?

A. No.

ATTORNEY PANNER:

Objection.

ATTORNEY FINN:

I'm done. Thank you. Nothing further. I'm sorry, just a moment. Your Honor, I think since Mr. Panner asked about the location of USLEC customers and whether or not they were ISPs, we'd like to introduce as an exhibit to get it into the record the supplemental discovery response that we talked about earlier.

ATTORNEY PANNER:

I object, Your Honor, we haven't --- well, they haven't laid a foundation for it. They --- there is nothing in there --- I mean, there has been no --- there has been no foundation for this response and it hasn't been properly introduced by a witness.

ATTORNEY SHOR:

Can I respond to that?

ATTORNEY PANNER:

They've had control of the information from the beginning. They could have put it in their testimony from beginning.

JUDGE:

Now do you have a response?

ATTORNEY SHOR:

Can I please respond?

JUDGE:

Yes.

ATTORNEY SHOR:

The parties had various discovery disputes that we attempted to resolve and we ultimately didn't resolve that.

JUDGE:

Yes, and I appreciate that.

ATTORNEY SHOR:

And we did it in a way that provided more information for both of us. There have been questions that Mr. D'Amico has been asked and answered by both USX Counsel and his Counsel concerning virtual and foreign exchange customers, the location of those customers and the types of customers and that was followed up on Redirect. And in Recross we are simply introducing as an exhibit marking and showing, if he wants to say he's never seen it or whatever and we have to deal with it separately, we'll deal with it separately. But I think an appropriate foundation has been laid.

JUDGE:

Well, you may be right that an appropriate foundation has been laid, but more

importantly than that, you already have the information of record in this proceeding, because during Cross Examination by Ms. Finn, Mr. D'Amico accepted subject to check all of her representations about the contents of the supplemental discovery, therefore, it is on the record. I don't see that Verizon could have any grounds for disputing it unless they are about to examine that supplemental discovery and say, no, it doesn't say that. I somehow am inclined to believe that Ms. Finn had no reason to misrepresent her own discovery to the opposite side.

So with that in mind, I find that it is immaterial that you've offered that particular exhibit and it's not necessary to put it in the record. Is there anything else for this witness?

ATTORNEY FINN:

Nothing further.

JUDGE:

Fine. This witness having testified only on issues one and two is excused.

ATTORNEY PANNER:

Your Honor, is it all right if Mr. D'Amico now leaves and goes to the airport?

JUDGE:

Yes, certainly.

OFF RECORD DISCUSSION

ATTORNEY SHOR:

Your Honor, as a matter of cleanup, you had asked earlier regarding the numbering in Ms. Montano's testimony and I double checked and I think the item on page 31 that is identified as issue eight should now be remarked as issue nine.

JUDGE:

And that's in her Direct testimony?

ATTORNEY SHOR:

Yes. I think it's 31 at the bottom or it may be --- depending on how it got marked is the issue --- the identification of the issue at the very bottom.

JUDGE:

Yes, I had already marked it issue number nine.

ATTORNEY SHOR:

Are you ready for the next witness?

JUDGE:

No, actually we have one more bit of old business with Ms. Finn.

ATTORNEY FINN:

Yes. I can't find the one I wrote on, but I think I just found another one, so we'll write on it again.

JUDGE:

And now that you've written on it would you like to move it into evidence?

ATTORNEY FINN:

Yes, Your Honor. USLEC would like to move USLEC Exhibit One into evidence.

JUDGE:

Admitted without objection. Is USLEC Exhibit Number Two identified and withdrawn?

ATTORNEY FINN:

Yes, USLEC Exhibit Number Two is identified and withdrawn.

JUDGE:

Fine. All right. Now, I believe we are back to Ms. Montano, who by virtue of her prior appearance continues to be under oath and is now responsible for the remainder and numerical order of the issues that are left in this proceeding. And Mr. Shor, I find it hard to be believe you would need to do much introduction, but whatever you think is necessary.

ATTORNEY SHOR:

Ms. Montano is available for Cross Examination on issues three, four, five, six, eight and nine.

JUDGE:

Yes. And I quite agree. Mr. Panner.

ATTORNEY PANNER:

Thank you.

WANDA MONTANO, PREVIOUSLY SWORN, RECALLED TO TESTIFY

RECROSS EXAMINATION

BY ATTORNEY PANNER:

Q. Ms. Montano, on issues three and four, you've testified that Voice Information Services traffic --- and this is your Direct testimony, on page --- I apologize. On page 12, line 22 and then going over to page 13, line one, you've testified that Voice Information Services traffic, as defined in the agreement, quote, cannot be characterized as interstate or intrastate exchange access, information access or exchange services for exchange access or information access, is that your testimony?

A. Yes, it is.

Q. Is that a legal conclusion?

A. It is my understanding of the issue.

Q. Is it a legal conclusion?

A. I think the legal conclusions are for the Judge to draw, not for me.

Q. Is it a legal conclusion?

ATTORNEY SHOR:

Asked and answered.

ATTORNEY PANNER:

I disagree. It hasn't been answered.

BY ATTORNEY PANNER:

Q. It's a simple yes or no. Is it a legal conclusion or is it not a legal conclusion?

ATTORNEY SHOR:

Asked and answered.

JUDGE:

I'm at the point in the day where I don't particularly care. If it's a legal conclusion, I'll deal with it any way I want. If it's not a legal conclusion, I'll regard it as factual text.

BY ATTORNEY PANNER:

Q. I'll pass on now to issue five. Ms. Montano, do you know what it means for USLEC to receive traffic from Verizon's network?

A. Are you talking about the testimony that begins on page 16?

Q. I'm simply asking the question, do you know what it means for USLEC to receive traffic from Verizon's network?

A. Based on the definition that you guys have proposed in the interconnection agreement?

Q. If I say to you that USLEC has received traffic from Verizon'S network, do you know what I mean?

A. No, because we don't use that word. We use originating and terminating.

Q. So your testimony is that you do not know what it means?

A. Not in terms of an industry standard term, in terms of how traffic flows.

Q. Okay. I'd like to go on to issue six. Does USLEC --- first of all, can you describe for me what a traditional FX service is?

A. My understanding of foreign exchange service is that a customer has a location in one calling area and would like for customers of their business in a calling area to be able to make a local call to them rather than a toll call.

Q. And do you know how Verizon provisions a traditional FX service?

A. No, I do not.

Q. Okay. Now, does USLEC offer FX service?

A. Yes, we do.
Q. Now, would you agree that it's possible to provision FX service by offering switching service out of an end office and then provisioning a dedicated line from that end office to a customer location in a different local exchange? Would that be possible?
A. Can you break that into smaller pieces?
Q. Sure. In a traditional --- have you read the testimony of Mr. Haynes?
A. Yes, I have.
Q. In that testimony, I believe he describes a traditional FX service as one in which --- and I'll try to break it down for you, one in which a customer purchases service in a foreign end office and then purchases transport from that end office to the customer location in a different exchange. Do you understand that?
A. Yes, I do.
Q. Okay. Does USLEC offer FX service in this fashion?
A. Yes, we do.
Q. So you offer service in a fashion where you have --- you have a customer who is located in --- okay. Let me break that down. When you offer FX service, is your switch --- do you require --- is your switch

always in the exchange area associated with the NXX code assigned to the customer?

A. No, it is not.

Q. So it might well be true that the switch is quite distant from the local exchange area associated with the assigned NXX code; is that correct?

A. Yes.

Q. And, in fact, you would offer FX service, offering NXX codes associated with any NXX code in the LATA where you have assigned numbers out of one switch in the LATA; is this correct?

A. That's correct.

Q. Now, compared to offering --- if you offer FX service, do you impose an additional charge?

A. Yes, we do.

Q. Do you know how much that charge is?

A. I believe it's $1,000 a month, plus $500 non-referring charge, plus hunting fees. There are antilog trunk fees as well, I believe of $12 a month.

Q. Okay. Now, what additional costs do you have when you're --- I'll withdraw that question.

I'm going to go to the board here and I'll try to ---.

OFF RECORD DISCUSSION

BY ATTORNEY PANNER:

Q. I'm going to draw a schematic here. I'm going to call this exchange area A. And I'm going to call this exchange area B. And we're going to have a customer here, we'll call him customer X. I'm going to have a customer here, we'll call her customer Y. Now, can you tell me is the call from X to Y a local call?

A. That would depend on what Verizon's tariff says is the calling area between A and B.

Q. But as I've described this, this is outside the exchange area for the subscriber X. So it's in a different exchange area, no EAS, nothing fancy. It's just there is a local exchange area here, a local exchange area here, a call connect, a call Y, is that a local call?

A. Could you define exchange area for me because we've talked about local calling areas and serving wire centers, that's a term that I don't understand.

Q. Okay. A local exchange area is an area in which calls between customer stations are considered local ---

A. Okay.

Q. --- where the stations are located within the exchange area. Is the call from X to Y --- and I believe that's paraphrasing the way that's defined in the tariff subject to check. But is a call from X to

Y a local call?

A. As you've defined it, yes.

Q. X is in exchange area A?

A. Uh-huh (yes).

Q. Y is in exchange area B, a different exchange area?

A. Yes.

Q. Is a call from X to Y a local call?

A. I don't believe so.

Q. Okay. So the answer is no?

A. That's correct.

Q. Okay. Well, what if the NPA/NXX of the X customer and the Y customer are, in fact, associated with the same local calling area? In other words, you could have a customer here, Y, right, who has an NPA, an assigned NPA/NXX associated with the local calling area A, ---

A. Okay.

Q. --- would it still be an interexchanged call?

A. No, that would be a foreign exchange call.

Q. It can be a local call?

A. It would be a local call because the customer has purchased foreign exchange.

Q. So in your view that would be defined as a local call?

A. Yes.
Q. Would the reciprocal compensation apply to that call?
A. Yes.
Q. Okay. In fact, so X --- let me just clarify one thing. Even if USLEC's switch is here and Verizon is the one transporting the traffic all the way to here, not only in your view is Verizon not entitled to any compensation for this transport, Verizon must pay USLEC to deliver that call to Y; is that correct?
A. I believe that that pricing structure would apply regardless of whether your company is offering the foreign exchange or mine. The traffic flows in both directions, so, yes.
Q. Okay. So the answer is, yes, we would have to pay you in that circumstance?
A. Yes. And you would have to pay me in the opposite direction.
Q. Okay. That's fine.
A. I'm sorry. Let me correct that. I would have to pay you in the opposite direction.
Q. That's fine. That's what you think we're entitled to?
A. That is the way the networks work today and that is the way the rules are today.

Q. Okay. And you're charging an extra, you said I think it was, 500 ticks and $1,000 a month or 1,000 ticks, $500 a month, to deliver the call from this customer Y for this FX service; is that correct?
A. The charges that we apply to the customer have to do with the facility that the customer purchases from us to get from one calling area to the other.
Q. But, in fact, the customer in my example is located right next to your switch, isn't he, or she? Y is she. So Y is located right next to your switch in my example; isn't she?
A. Yes.
Q. And yet you're charging her extra to provide this FX service; is that correct?
A. That's the nature of the service, yes.
Q. Thank you. Now, let me ask you one more question. You've testified, have you not, --- let me ask you one further question. You've testified, have you not, that the NPA/NXXs of these two customers is the same, that it's a local call but it's reciprocal compensation; is that correct?
A. I'm sorry. Could you restate that?
Q. You've testified that --- and I didn't really say that exactly right, so thanks. If the NPA/NXXs of the two customers are associated with the same local

calling area, that it's a local call but it's reciprocal compensation, is that your testimony?

A. Yes, it is.

Q. Now, suppose that I told you that customer Y was located in South Carolina and customer X was located in Pennsylvania, would your conclusion change that it's a local call?

A. Yes, my conclusion would change, but USLEC wouldn't offer that service to its subscribers.

ATTORNEY PANNER:

Your Honor, I'd like to mark Exhibit VZ-5.

JUDGE:

So marked.

(Exhibit VZ-5 marked for identification.)

JUDGE:

What is it?

ATTORNEY PANNER:

It is a printout of a page from the USLEC website describing the long distance and toll free services that USLEC offers.

ATTORNEY SHOR:

Do you have one more?

ATTORNEY PANNER:

Sure.

ATTORNEY SHOR:

Thank you.

BY ATTORNEY PANNER:

Q. Okay. Can you turn to page two and go down to the third bolded heading. And I'm going to read that. It says, local toll free trademark service, is that correct, is that the heading?

A. Yes.

Q. It says local toll free service allows your customers in another city to make a local call to you, is that correctly read?

A. Yes.

Q. And it says USLEC's local toll free service lets you establish local phone number across the USLEC footprint, is that what it says?

A. Yes.

Q. What is the USLEC footprint?

A. I did not write this so I have no idea who the author is or what was meant. I can speculate that in --- when we, within the company talk about footprint, it's the 14 states that we provide service in.

Q. Then it says this unique inbound calling service allows anyone to place a, quote, free, end quote, local call to you from anywhere within USLEC's

territory with you picking up the charges at a lower cost; is that correct?

A. Yes.

ATTORNEY PANNER:

I have no further questions.

ATTORNEY SHOR:

Just a minute.

REDIRECT EXAMINATION

BY ATTORNEY SHOR:

Q. Just a couple of questions on Redirect, Ms. Montano. In the diagram that was drawn, Mr. Panner was asking you about the charges that USLEC assesses on to its FX customers for service; do you recall that?

A. Yes.

Q. And he proposited (phonetic) to you the situation where the FX customer is located, I think he put it, near the USLEC switch; do you recall that?

A. Yes, sir.

Q. Do you know whether any of USLEC's FX customers in Pennsylvania are located near the USLEC switch?

A. Yes, I believe they are.

Q. What's that distance?

A. I believe it is less than five miles.

Q. And are there others that are located at greater

distances?

A. Yes, there are.

Q. What are those distances?

A. I think there is one at 12 miles.

Q. And do you have any recollection what the average distance is?

A. No, I don't, but I believe it's in the discovery that we submitted.

Q. And with respect to the information from the website that you were just asked about, do you know how that service is provisioned?

A. I believe it is provisioned as an enhancement to our toll free service, inbound 800 service.

Q. So that it could, in fact, be a corollary to the 800 service that USLEC also offers?

A. Yes.

Q. Are you aware of any customers in the Pennsylvania area who utilize this service to permit customers to call them outside of the State of Pennsylvania?

A. No, I'm not.

ATTORNEY SHOR:

I have nothing further.

ATTORNEY PANNER:

Just one thing.

RECROSS EXAMINATION

BY ATTORNEY PANNER:

Q. You said it's a corollary to your 800 service?

A. Uh-huh (yes).

Q. But the switch would nonetheless recognize it --- Verizon's switch would nonetheless route it and rate it as a local call; is that correct?

A. From the ---.

ATTORNEY SHOR:

Objection, calls for speculation by the witness as to how Verizon's switch would read it. She says she is guessing as to how it's provisioned.

ATTORNEY PANNER:

Your Honor, she has testified extensively about how in the industry calls are rated and routed.

JUDGE:

Ms. Montano, try to answer the question to the best of your ability.

A. Yes, sir. My speculation on how we provide this service is that the customer would have an 800 number or an 8XX number. Your switch would see that, it would do the appropriate dip into the impact database and determine whether or not that call would get

routed either to the customer's interexchange pick or would get routed to us over USLEC Net, which is our long distance service.

BY ATTORNEY PANNER:

Q. When you hear the phrase local phone numbers, do you think that that phrase includes 800 numbers?

A. It could.

Q. Okay. And would you have to pay access charges on such calls?

A. It depends on how it's routed. If this particular customer --- because we also have a long distance product, if they were pic'd, P-I-C apostrophe D, they pic'd us to be their long distance service, then we would carry that traffic on our network because we have a backbone network that connects our switches and deliver it to the customer on the other end, in which case no access charges would apply because I would be the sole carrier of the call.

If the customer is pic'd to Verizon for a long distance service or AT&T or anyone else, then, yes, access charges would apply.

COURT REPORTER READS BACK PREVIOUS ANSWER

BY ATTORNEY PANNER:

Q. Just to clean up the record. Do you know if USLEC pic'd an interexchange carrier for a Verizon

local customer if USLEC has to pay access charges on long distance traffic that that customer originates?

A. Let me see if I can restate your question because I'm not sure I understand it. Are you asking whether a Verizon local customer could pick USLEC as their long distance carrier?

Q. Okay. Well, that's part of it.

JUDGE:

That's the first part.

A. The answer is yes.

BY ATTORNEY PANNER:

Q. Okay. And if that were the case, would USLEC have to pay access charges to Verizon on long distance calls made by that customer?

A. Yes.

Q. Okay. So, in fact, access charges --- whether access charges are due doesn't depend on whether USLEC is pic'd by XC or not?

A. It depends on the call routing.

ATTORNEY PANNER:

Okay. I have nothing further.

JUDGE:

Any Redirect on that basis?

ATTORNEY SHOR:

No.

JUDGE:

The witness is excused and thank you for coming.

OFF RECORD DISCUSSION

JUDGE:

And do you want to introduce this witness to us?

ATTORNEY PANNER:

Sure.

TERRY HAYNES, PREVIOUSLY SWORN, CALLED TO TESTIFY

DIRECT EXAMINATION

BY ATTORNEY PANNER:

Q. Can you state your name and business address?

A. Yes. I'm Terry Haynes, 600 Hidden Ridge, Irving, Texas and the ZIP is 75038.

Q. Who is your employer?

A. I'm employed by Verizon as a manager and the regulator person.

JUDGE:

And Mr. Haynes, I want to welcome you to the hearing this morning and also remind you that early this morning you took your oath as a witness?

A. Yes, sir.

JUDGE:

And you continue to be in that position now.

A. I understand.

JUDGE:

Thank you. Could you give your title, please?

A. Manager of the state regulatory.

BY ATTORNEY PANNER:

Q. Did you cause to have prepare for this proceeding this 20 --- well, 20 pages of Direct testimony?

A. Yes, I did.

Q. Dated May 31st, 2002?

A. Yes.

Q. Do you have any corrections to make to that testimony?

A. No.

Q. If those same questions were asked of you today would you give the same answers?

A. Yes, I would.

Q. Did you cause to have prepared 14 pages of rebuttal testimony that was filed on July 9th, 2000?

A. Yes, I did.

Q. Do you have any corrections to make to that?

A. None to that.

Q. If you were asked the same questions today would

you give the same answers?

A. Yes, I would.

ATTORNEY PANNER:

I offer his testimony subject to Cross Examination.

JUDGE:

The Direct testimony of Mr. Haynes and the rebuttal testimony of Mr. Haynes are admitted subject to Cross Examination and any timely motion. And we have one small old business thing to clean up and that is VZ Exhibit Five.

ATTORNEY PANNER:

Thank you, Your Honor. I'd like to move admission of Verizon Exhibit Five.

JUDGE:

Admitted without objection.

Mr. Shor.

ATTORNEY SHOR:

Thank you, Your Honor.

CROSS EXAMINATION

BY ATTORNEY SHOR:

Q. Mr. Haynes, my name is Michael Shor. I'm here as Counsel for USLEC of Pennsylvania. I'd like to ask you a few questions this afternoon, please.

Mr. Haynes, to your knowledge does Verizon offer a

service known as foreign exchange in Pennsylvania?

A. Yes, they do.

Q. And how does that work?

A. It's my understanding that it is provisioned in a manner --- I'll try to use some examples. Let's use the Allentown, Philadelphia example. They seem popular today. If I had an Allentown customer that wanted to have a virtual or foreign exchange presence in the Philadelphia location, that customer would negotiate with Verizon for that service. As part of that service they would lease a loop (phonetic) that would connect the location in Allentown with the location in Philadelphia. And they would have a virtual presence, if you will, from the Philadelphia location back to Allentown or you could turn it around and use it the other way. So it would involve having a lease to loop plus a local service number type of service.

Q. So as I understand it, Verizon would assign a telephone number to a customer who is physically located in Allentown?

A. Yes.

Q. And has an NPA/NXX that is associated with the Philadelphia local calling area?

A. That's correct.

Q. Okay. And in essence, that gives that Allentown customer what we called a virtual presence in the Philadelphia calling area?

A. Yes. Their physical location would still be in Allentown, but the loop that they would pay for that connects the two towns together would be the compensation Verizon would get in lieu of what would normally be toll calls.

Q. And that arrangement allows customers in Philadelphia to call the Allentown customer without incurring a toll charge; is that correct?

A. That's correct. We get our compensation and that loss that we experience is recovery for the cost for that loop that's leased between the two points.

Q. Do you have any idea approximately how many customers in Pennsylvania utilize Verizon's foreign exchange service?

A. I don't know. We were trying to find an easy way to get that information in our system. I understood that was a data request. I don't think we got it, but we were looking for it.

Q. Do you generally have an idea across Verizon's footprint how many people utilize foreign exchange service?

A. Percentage-wise it's extremely small. I had a

chance to look into it awhile back for another situation and it turned out to be much less than one percent of our total customers.

Q. But that could still be a fairly substantial number of customers even though it's a small percentage of Verizon's total customer base?

A. Yes. If you have a base of 70 million nationally, it would be a big number. If you have a base of whatever it is locally --- I don't know the exact numbers.

Q. Do you have any idea what the Verizon customer base is in Pennsylvania?

A. I think I remember reading somewhere around six million customers. I don't know that to be --- I wouldn't swear to that, but it's just a rough number.

Q. Math has never been one of my strong points, but one percent of six million is 1,000.

ATTORNEY PANNER:

It would be something with a six in it.

BY ATTORNEY SHOR:

Q. So it's something less than 6,000?

A. I would probably agree it's something less than 6,000.

Q. So it's within the range of maybe 4,000 to 6,000

customer utilize it?
A. Again, I just remember the number in Florida being much less than one percent. I don't remember if it's .8, .5. I don't recall.
Q. Now, to your knowledge, is Verizon's foreign exchange legal in Pennsylvania?
A. It's my understanding that it's a tariff service that we express to the Commission and the Commission approved it.
Q. Okay. And as I understand it, Verizon has been billing and collecting reciprocal compensation from CLEC whose customer have been calling Verizon's FX customers?
A. That is an understanding that I would agree with and I want to elaborate on that understanding. The system that we have in place was built --- and I'd have to get some information, historical information to confirm how it is here in Pennsylvania, but I know from my experience, which is more former GT than former Bell Atlantic, we have had a system in place for a very long time that was built from the idea that a call that originated at one NPA/NXX and terminated another NPA/NXX compared those two to determine if it was going to be treated as a local or if it was going to be treated as an access call. And that was based

on the premise that we didn't have other providers like CLEC. We had us, then ILEC, another ILEC which we principally exchanged traffic with and that was generally balanced, roughly 50 percent one way, 50 percent the other so there wasn't an issue, concerned on our part.

So our billing system wasn't built to take into consideration the possibility that we might have a lot of traffic going one way. And elaborating on that, I guess what I'm trying to say is that if we had a literal comparison of the termination and origination point, by our definition a call that originates in one place and terminates in another that's not local at that point should be entitled to access.

So I believe I expressed in my testimony that has been submitted that we would be willing to work with a CLEC. And we, in fact, offered to do that, as an example. We said we realized we have traffic that's coming from you to us and vice versa. In those situations where we've been treating that as recip comp, we'd be willing to work to get a measurement established to put in a tool that would allow us to compensate with access rather than recip comp.

Q. Thanks. But I just want to see if I can do a short form summary. The answer is that, yes, Verizon

has been billing and collecting recip comp from CLEC for calls to Verizon's FX customers?

A. Yeah, just based on the fact that the system doesn't have a way to differentiate at this point.

Q. And, in fact, because the billing system and the routing system can't distinguish?

A. It doesn't have a tool built into it, that's correct.

Q. Okay. It looks at the NPA/NXXs and if they're associated with the same local calling area it's rated to the originating caller as a local call?

A. That's correct.

Q. And if the NPA/NXX is assigned in one instance to --- if the NPA/NXX as the calling party is associated with the CLEC and the NPA/NXX of the call party is associated with Verizon foreign exchange customer, Verizon will bill that CLEC recip comp?

A. Right. Once again, because the system has no intelligence to do otherwise.

Q. Now, does Verizon offer a service known as Enhanced Intellilink, PRI hub service in Pennsylvania?

A. Yes, they do, that's my understanding.

Q. Can you tell me how that service works?

A. I can give a broad description. I'm not a literal expert but I've had the experts tell me a

little bit about it. As I understand, we have two services that are very similar in terms of --- not only that and something else called IPRS. So you've got the service you just described and another one. In both cases, as I understand, the service is a local customer is trying to reach lease services by the ISP termination. So they try to get ahold of the internet service provider.

So we have an end user that dials into the switch and that switch recognizes the number being dialed as one that's part of the service that an ISP has paid for. And it routes that call or that communication to a hub and the hub then hands off via the dedicated loop that the ISP pays for, the traffic that's destine for the internet. And the compensation we receive in that case, I know there is a state tariff for the service you described and there is a federal tariff for the other services, but both services we receive compensation. The transport portion of that based on the monthly rates that the customer for the service would pay --- so we got a rate that's including that transport ---.

Q. Now, to your knowledge, does the customer who purchased the service, are they given NPA/NXXs that are associated with local calling areas?

A. Yes, they are.
Q. So it's not a 1-800 or a 1-500 type service ---
A. As I understand ---.
Q. --- in this particular one?
A. In the example I just described, I believe it has an add-on if they want to use it, that being the customer, of having 1-500 options, it's my understanding generally they chose the local numbers, but it does have an option.
Q. And to your knowledge, do any of the ISPs that that service is sold to, co-locate with Verizon in any of its switches?
A. Honest to goodness, my understanding of the general arrangement of it, I don't know. I know we have the hubs, but I'm not sure how far they are located away from those hubs, where it passes off. I do know they have a link, but I don't know how far those links run before it reaches the ISP. I don't know.
Q. Is it possible that some of those customers are co-located with ---?
A. It's certainly possible, yes.
Q. Let me finish the question.
A. I'm sorry.
Q. It's possible that some of those customers are

co-located within Verizon switches?

A. It's certainly possible. If they've leased space from us I would think it's an arrangement they can secure.

Q. To your knowledge, is it possible for the ISP customer, the end user customer, to be located outside of the LATA within which the local calling numbers are assigned?

A. As I understand the infrastructure that's in place, let me use Pennsylvania since it's what we're addressing, for the structure here we have 30 some hubs deployed across the state and they have links in from the various local central offices to those hubs. Once it reaches those hubs, I believe the ISP provider can order its dedicated loop and it can be any length it wants to be at that point because they're buying a loop, not necessarily from us. They can buy it from anybody. And we simply took it to that loop and sent it to wherever it terminated.

Q. So you don't necessarily know where it terminates?

A. No, I don't, honestly. Somebody that's a product expert may have some idea, but I don't.

Q. So to your knowledge could it possibly terminate outside of the LATA where the local calling numbers

are assigned?
A. In my understanding of it, theoretically it could. I don't have the precise knowledge about any perimeters that might have been established to prevent that. I just don't know the details.
Q. Thank you. And like Verizon's foreign exchange service, in essence, this gives the Enhanced Intellilink customer a virtual presence in a calling area where it has no physical locations?
A. Well, the similiatries between the two that I find significant to me is that in both cases Verizon is compensated for the transport that it's provided across the distance because our concern has been around the issue of whether or not transports are going to be provided free of charge and several CLECs have asked us to provide it versus being compensated to be transported to go some distance.
Q. But focusing on the service that's provided to the ISPs --- and let's stick with our Allentown and Philadelphia example. We can have an ISP that's located in this instance in Philadelphia.
A. Right.
Q. And maybe they're located in Allentown because the real estate costs are cheaper. But let's put them in Allentown and they want a Philadelphia number and

they choose, for whatever reason, to utilize this service, it gives that ISP in Allentown a virtual presence, if you will, in Philadelphia?

A. Yeah. Physically speaking, the way I'd understand that example, we have a hub somewhere close to Allentown. It may not be in Philadelphia. It may be fairly close to Allentown. It's based on quantity of hauls coming into the hub. And they would have an arrangement where the end user that's using an ISP would call into our switch and the switch would then hand off to the hub, however close it might be, it could be as far away as Philadelphia but my guess is based on having, I think 38 hubs in the state, it would be fairly close to Allentown.

Q. But the question is it gives the ISP located in Allentown a virtual presence in Philadelphia? People can call that number in Philadelphia and think that the ISP is located there?

A. Let me back up and be sure I'm understanding you. Because maybe what you just said and what I'm saying are at odds with each other. If we have an Allentown end user trying to reach somebody subscribing to this service, they're going to have a number that appears to be local to Allentown. And when it connects it's going to hand off to hub fairly

close to Allentown based on the number of products we have in the state. And then from that hub it will go over to a dedicated loop somewhere. It may go to Philadelphia if that's where your device is located. It may stay in Allentown as you indicated if they have cheap real estate.

Q. We're not necessarily looking at how it's routed or routed rather, but it gives --- the end user, in essence, gets a presence in a calling area where it does not have a physical facility?

A. Well, it would have a one-way presence there, that would be similar --- one way when you compare it to FX. FX that we provide, forces two ways, it works both directions and it's voice service where this is focused on ISP only.

Q. And it's a data service?

A. Yes, strictly focused on data service.

Q. And it allows customers in Philadelphia to call an ISP located in Allentown without incurring the cost of a toll charge?

A. Yes, if you turn the situation around it would be possible to do that.

Q. To your knowledge, is Verizon's Enhanced Intellilink PRI hub service legal in Pennsylvania?

A. It's my understanding it's a service that's been

approved.

Q. And without getting into numbers, is it your understanding that there are some customers in Pennsylvania who utilize that service?

A. I think we did some discovery on that and I understood that we got data from Pittsburgh, which was like five or six customers and there is just a handful around Philadelphia.

ATTORNEY SHOR:

Would you mind marking that portion of that answer as confidential? I did not ask for ---.

JUDGE:

Go off the record.

OFF RECORD DISCUSSION

JUDGE:

Our off the record discussion reflected that Counsel for USLEC was trying earnestly to honor his commitment to treat confidential information as confidential, however, Verizon has kindly waived it for that brief answer.

ATTORNEY SHOR:

Thank you.

BY ATTORNEY SHOR:

Q. And as I understand it, Mr. Haynes, Verizon has

billed and collected reciprocal compensation from CLEC whose customers may have called Enhanced Intellilink customers served by Verizon?

A. To the degree that it's occurred, I have to deal in theory rather than practices, I don't know if there have been any actual costs terminated. But in theory, it could have been.

Q. Were you involved in the preparation of Verizon's supplemental responses to USLEC's discovery?

A. I reviewed the answers, in some cases I contributed.

ATTORNEY SHOR:

Okay. Let me mark as USLEC --- we marked Two and withdrew it, so USLEC Three. And I regret to tell you that I'm not competent enough to have the proper number of copies. So if we could share some. This is one for you.

BY ATTORNEY SHOR:

Q. Have you had a chance to look at this document before?

A. Yes, I have. In fact, I brought a copy with me. I think I've got one if we need an extra.

Q. If you would turn to page 12, please.

A. Yes.

Q. Interrogatory Number 74, do you see that?

A. Yes, I do.
Q. Let me just read this into the record and let you tell me if I did it correctly. Have you ever billed or received reciprocal compensation for calls received from customers of CLEC or other LEC for termination to your customers who have purchased or subscribed to FX-like services, do you see that, please explain your answer?
A. Yes, I do.
Q. And I will represent to you subject to reviewing the document, that Enhanced Intellilink was identified as an FX-like service.
A. Yes.
Q. Do you see the Answers to see response to Interrogatory Number 59?
A. Yes, I do.
Q. If you go back to page ten, do you see the response to Interrogatory 59?
A. Yes.
Q. Let me read that into the record, please. If a CLEC customer originated a call to a Verizon FX customer with an assigned NXX code associated with the same local calling area as the NXX code of the originating CLEC customer, Verizon would ordinarily bill, paren, and therefore, also receive, closed

paren, reciprocal compensation on such a call, do you see that?

A. Yes.

Q. Now, that answer has been incorporated into the Answer to Interrogatory Number 74.

A. Yes.

Q. So would you agree with me then that Verizon has billed and received reciprocal compensation for calls from CLEC to Enhanced Intellilink customers?

A. I think we're both saying the same thing, meaning that actually if it's happened --- I would agree that if that would have been billed --- but I don't know if it has happened.

Q. I was interpreting this as saying that it has happened?

A. No. In this case, I think the way this is worded, I think I had a hand in wording it, because none of us knew for sure if it had taken place. So if it occurred this way, then it would be handled that way.

Q. That's fair. Now, I think you mentioned this earlier, does Verizon offer internet protocol routing service in Pennsylvania?

A. It's my understanding they do.

Q. And for simplicity sake we will refer to that as

IPRS?

A. Yes.

Q. And how does that service work?

A. In essence, what we've just described is very similar, the differences with IPRS is that it has additional functionality built into the service. It's a federally tariffed rather than state tariffed product. And they actually do management of the system. As a contrast to the other service, it's my understanding talking to the product manager, that if --- IPRS not only get this inactivity into the hub, they also do network managing in the process. So they get a higher level of access to their internet service provider and internet service provider benefit from that enhanced management. They have somebody watching the network at all times to make sure if there is an outage or a blockage starting to occur that they can take care of that. The other service, that's not the case. They have the delivery, but they don't have this other enhancement management of the process.

JUDGE:

Excuse me. Just for my neophyte understanding, enhanced management is the watching the line?

A. Yes. That's the part that I understand about.

There may be more features that I'm not an expert on, but that was a significant feature, the product manager ---.

JUDGE:

Your level of expertise is far above mine, please continue, Counsel.

ATTORNEY SHOR:

Thank you.

BY ATTORNEY SHOR:

Q. And with IPRS, again, Verizon assigns a telephone number to a customer in Allentown, ---

A. Yes.

Q. --- who may be physically located in Philadelphia?

A. Yes.

Q. And allows individuals in Philadelphia to call that number, ---

A. Yes.

Q. --- as if it was a local call?

A. That is correct.

Q. Okay. And to your knowledge, is that service legal in Pennsylvania?

A. To my understanding, it's a federally tariffed product, but I'm not aware of any issues that have grown up in Pennsylvania.

Q. Okay. And to your knowledge, are there some customers in Pennsylvania who utilize that service?
A. Once again, this is probably the secret number we had awhile ago, but there is a small number of customers, I understand, in the Pennsylvania area.
Q. And again, Verizon has billed and collected reciprocal compensation for calls from CLEC customers to Verizon's IPRS customer?
A. And this would be the same theoretical answer I gave a minute ago. To the degree that it's occurred, the system would have handled it that way. There are many sections I believe it would have been held with a recip comp type charge applied to it, because that's how the system is designed.
Q. Now, with your FX service, foreign exchange, your Enhanced Intellilink, your IPRS service, in each of those services you have Verizon assigning --- and telephone numbers with NPA/NXXs that are not physically --- that do not correspond with the location where the customer is located?
A. That is correct.
Q. Now, I'd appreciate if you could clarify an aspect of your testimony, if you would, please.
A. Yes.
Q. And let me direct you to some statements that you

made. First on page 15 of your Direct testimony, and I'm hoping I've got this right, at lines one to three, you state, in essence, that USLEC will remain free to market its virtual NXX service?

A. I'm sorry. Bear with me. Apparently I picked the wrong one or I printed out something different than yours. Page 15, lines one through three?

Q. Where it says at the end USLEC will remain free to market its virtual NXX service and receive whatever compensation for that service its end users are willing to pay, do you see that?

A. Yes, I do.

Q. And now on that same page at lines 10 to 12, you state that USLEC could offer the service, referring to the foreign exchange service, and it will continue to provide the same benefits to USLEC's customers, do you see that?

A. Yes, I do.

Q. Now, on page seven of your Direct testimony, at lines 12 to 13, you state that, quote, such virtual NXX assignments are not permitted in Pennsylvania, but they do occur in other states, do you see that?

A. Yes, I do.

Q. And on page ten of your Direct testimony, at line 15, you state that it is improper for USLEC to assign

virtual NXX codes --- is it ten.

ATTORNEY SHOR:

I'm reading the question.

BY ATTORNEY SHOR:

Q. You were asked whether it is improper for USLEC to assign virtual NXX codes to its customers and you say yes?

A. Based on my understanding of an order ---.

Q. And then finally, on page ten of your rebuttal, at lines nine to ten, you state that if virtual FX arrangements are consistent with other regulatory requirements, and you note parenthetically, in Pennsylvania they are not, do you see that?

A. Yes, I do.

Q. Okay. Now, please clarify for me your understanding, can USLEC market an FX service similar to the services that we've just described that are offered by Verizon and assign telephone numbers to a customer who is physically located in a calling area that is different than the calling area where the NPA/NXX is assigned?

A. My understanding, based on the Focal order (phonetic) decision is that, in the Focal decision the company was instructed not to assign numbers that were not geographically relevant to the customers.

ATTORNEY SHOR:

Now, Your Honor, Mr. Haynes has referred to the MFS-2 order and the Focal order in his testimony and we would like to refer to the transcript of that in our briefing. I believe that the Commission's rules typically require me to submit a certified copy, which we are happy to do. I believe Verizon probably already has a copy. If you would like me to submit a certified copy I will do that. If there is one available already, that's fine. If not, we'll submit it in accordance with our briefing.

JUDGE:

Tell me what you mean by is there one available.

ATTORNEY SHOR:

I believe the Commission probably already has one in its files.

JUDGE:

Yes.

ATTORNEY SHOR:

Your Honor, we will provide a certified copy for you. It's amazing how I pick these things up.

JUDGE:

I might add that if it is

available in the files, and it normally is, it may well be on microfiche by now and I'm not going to the movies.

ATTORNEY SHOR:

I'd be happy to get it for you.

JUDGE:

Thank you.

BY ATTORNEY SHOR:

Q. You refer to the Focal decision?

A. Yes.

Q. And you also note that that cites the MFS-2 order?

A. Right. I think the MFS-2 order kind of started with --- and my reading, very quickly, a few weeks back, and then updating, there were three different orders that I understood, the Focal One and Two and the MFS-2. And I understand the MFS-2 kind of brought the issue up and the Focal One and Two orders actually clarified some of the intentions of the MFS-2 order, as I understood them already.

Q. Did you participate in the Focal proceeding?

A. Not at all, had nothing to do with it. All I did was read the orders very quickly.

Q. And did you participate in the MFS-2 proceeding?

A. No, I did not.

Q. Did you read the transcript of the Focal proceeding?
A. No, all I read was the order.
Q. Did you read the transcript of the MFS-2 proceeding?
A. No, I did not.
Q. Did you read any of the pleadings that were filed in connection with either of those two proceedings?
A. No, I did not. All I read were the orders.
Q. So you have no idea how the issues in those proceedings were actually framed; do you?
A. No, I do not.
Q. Okay. Now, is it your understanding the MFS-2 order applies to all carriers?
A. My understanding is very limited in that regard. I'd have to go back and refresh myself to the order as far as the details of it.
Q. Well, the question I have is that you've said to me that you believe that your foreign exchange service and your Enhanced Intellilink service and IPRS service, which are all similar FX services, which involve the assignment of NXX codes, are legal in Pennsylvania, but I'm getting the sense from you that it is not legal for USLEC to do the same thing, is that your testimony?

A. I think we're probably distinguishing something that maybe we haven't clearly distinguished. What I described in my written testimony and verbally now, has to do with virtual FX assignment. If there were what I would call an equivalent FX assignment provided by any CLEC, which means they would come to the environment or the loop that connects point A to point B, from a Verizon perspective, subject to the agreement by the State Commission, because the Commission's order relative to the Focal decision, I'm sure would supersede anything I would suggest, but our concern has been over the compensation, not over the assignment of the numbers themselves.

Q. Well, that's what I'm not sure on, because I get the sense from you that it's your testimony that USLEC is doing something improper?

A. That's my understanding reading the orders.

Q. Please let me finish the question.

A. I'm sorry.

Q. It's my understanding that on the one hand you believe that USLEC is doing something improper, although when Verizon does the same thing it is proper. And at the same time you're saying USLEC can continue to offer the service and I don't quite understand that contrast.

A. And I'm not equating them to be exactly identical based on how I define them.
Q. Are you saying that only if USLEC provisions of foreign exchange service in precisely the same way that Verizon does then USLEC is entitled to do it?
A. I'm saying that if they provision in a similar manner, where identical would suggest they use the same facilities. But if they're provisioning in a similar manner, I would submit that they would have an equivalent FX service being provided.
Q. So in bottom, you don't really know whether the way USLEC provisions its service is improper or not; do you?
A. I applied my comments to virtual FX or the way it was defined in the Focal orders. So if your company that you're representing is not provisioned in that manner, then I would withdraw the comments. If they're provisioned in that matter then that could still apply.
Q. When you say in that manner, what does that mean?
A. Meaning virtual NXX assignment, where there is no facility actually leased or obtaining point A to point B.
Q. So if USLEC has customers, not necessarily FX customers, but has customers in every rate center

where it has been assigned an NXX code, okay, ---

A. I'm following.

Q. --- and is serving physical customers all of those rate centers, ---

A. Yes.

Q. --- then if by chance USLEC has a customer, an FX customer who is assigned an NXX code in one of those rate centers, this provisioning of service is in your mind proper?

A. If it goes over a lease arrangement, either that we provided or a third party provides, I would see that as equivalent. Let me add to that, too. The concern I'm expressing was not directed specifically to just the environment we're discussing with USLEC. I'm concerned about the broader application of this, as Mr. D'Amico mentioned a minute ago, to the degree that a certain decision is made in this proceeding, even if USLEC is using legitimate facilities they're leasing or purchasing from somebody, the way the current write-up is written in my mind opens the door for somebody else to come in and use it, in what I would determine to be an improper manner, more like the Focal decision alluded to.

Q. Now, this arbitration, though, is between Verizon and USLEC; is it not?

A. Yes, but the concern I share with Mr. D'Amico is that it could be adopted by somebody else depending on the outcome.

Q. But this proceeding is not between Verizon and all other CLECs; is it?

A. It's not between Verizon and all other CLECs. But the decisions made can be adopted by any other CLEC.

Q. And if Verizon believes that a CLEC adopts an agreement from USLEC is doing something improper it has appropriate legal remedies to deal with that; doesn't it?

A. I would think they could approach it.

Q. Let's talk about intercarrier compensation for FX services in general.

A. Yes.

Q. As a general proposition would you agree with me that when it comes to intercarrier compensation there should be some relationship between the compensation a carrier charges and the services, functions or facilities that it actually provides?

A. Maybe we can have some specifics and I'll either agree or disagree. Generally speaking it sounds okay, but I would like to see clearer examples.

Q. We'll go through there, but as a general

proposition, there should be a relationship between ---?

A. I would think there would be generally, yes. But the exception I would probably identify is, from a Verizon perspective, we have local rates that generally, from my experience nationally, are below costs. So sometimes we make above cost margins and things that we have to offset that.

Q. Now, we may cover some ground here that we talked about at the very beginning, if we do, I'm sorry. I just want to try to move quickly. The services at issue here today, when --- as I understand your testimony, when a Verizon customer today calls another Verizon customer today, Verizon's billing systems compare the NPA/NXXs of the originating and terminating callers to determine whether the call will be rated as local or toll?

A. That is correct.

Q. And so in the retail environment, Verizon classifies a call as local or toll based upon the originating and terminating NXX ---?

ATTORNEY PANNER:

Objection, mischaracterizes prior testimony.

ATTORNEY SHOR:

I'm asking a separate question, not based on prior testimony.

ATTORNEY PANNER:

I withdraw the objection.

JUDGE:

Fine.

BY ATTORNEY SHOR:

Q. Would you like the question repeated?

A. Yes.

Q. In the retail environment, Verizon classifies a call as local or toll based upon the originating and terminating NXX codes; is that right?

A. That's my understanding of the retail environment. That's my understanding how the system works.

Q. And as we said earlier, I think, when the NPA/NXX code of the calling party is associated with the --- and the NPA/NXX code of the call party are associated with the same local calling area, Verizon rates and bills that call as if it was local?

A. From the local user perspective, yes, they could look at that as a local call for the person initiating the call.

Q. Let's kind of get into some of the specifics here. And I tend to like to use the example of a

Verizon customer in Allentown, the Allentown calling area, who is calling a customer in Philadelphia, and the FX customer in Philadelphia is a florist?

A. So we've got a Verizon end user in Allentown calling a Philadelphia florist.

Q. And the Philadelphia florist has an FX number assigned to Allentown; okay?

A. Okay.

Q. And so a Verizon customer in Allentown is attempting to reach the other Verizon customer, the florist, who has been assigned the telephone number used in the FX service that is local to the Allentown calling area; okay?

A. I understand the example.

Q. And as I understand it, Verizon provides a dedicated connection to the FX customer?

A. Yes, they charge the person receiving that service and actually charge for that transport.

Q. Okay. So in this situation, the Verizon customer who calls the florist in Philadelphia is rated and billed for a local call ---

A. That's correct.

Q. --- as if the florist was actually located in Allentown?

A. That's correct.

Q. And if USLEC's customer in Allentown called Verizon's FX customer, the florist in Philadelphia, using the Allentown NPA/NXX, then Verizon billed and received reciprocal compensation for the calls?

ATTORNEY PANNER:

Objection, foundation. You asked if an USLEC customer made the call.

ATTORNEY SHOR:

I'm sorry. Yes, that's correct, Verizon would bill and receive reciprocal compensation for the call.

ATTORNEY PANNER:

I'm sorry. Withdraw.

OFF RECORD DISCUSSION

ATTORNEY PANNER:

I did resolve it. I understood his question and I believe the witness did, too. Please respond.

A. My response would be that the system that we have in place today would treat that as a recip comp call. But I think in my written testimony that has been provided, that Verizon would agree that that --- from our perspective if the USLEC or another CLEC initiated that call to the florist, assuming that Verizon is involved in that process, would be willing to change

that to an access arrangement rather than recip comp, it's simply a function of our billing system. It doesn't have a way to distinguish.

BY ATTORNEY SHOR:

Q. And I appreciate your explanation. We're just focusing on what happens today, not --- we'll get to the future, I promise you.

A. I just wanted to clarify.

Q. Okay. Now, let's turn to the FX service that USLEC offers and let's stick with the florist example. Now, we have a USLEC florist in Philadelphia who is assigned a telephone number with an NXX code associated with Allentown; okay?

A. Okay.

Q. And that foreign exchange service offered by USLEC allows the florist physically located in Philadelphia to have a presence in the Allentown calling area, just the same as Verizon's FX service, foreign exchange service does; is that right?

A. From the customer perspective of it, Verizon or other persons located in Allentown, they would have the same functionality. The concern that I continually express is how it gets from Allentown to Philadelphia and that's the part that I'm exploring and distinguishing potentially.

Q. I appreciate that. And like Verizon's FX service, USLEC's FX service, the florist in Philadelphia, can receive calls from customers in the Allentown local calling area without those customers incurring local charges?

A. That's right, because the customer in Philadelphia that's USLEC'S FX customer in the example, is paying a differential of that service.

Q. And just like Verizon's FX service, USLEC's FX service permits the florist in Philadelphia to reach a broader customer base without having to put a greenhouse in the store in Allentown; is that right?

A. Let me be careful. You used the term reach a broader customer base. Do you mean that they can reach out and touch on the other end, meaning they have a two-way connection?

Q. They have the ability with a local number in Allentown, the whole Allentown population now has the ability to call the florist in Philadelphia without incurring --- without the florist having to put a facility and whatever else he would do in Allentown?

A. Well, here is where --- once again, I'm distinguishing potentially between what you're describing as FX and what I'm describing as FX. The FX service we provided in all instances, and I am

aware of a two-way service, if the florist in Philadelphia that we're using as an example, wanted to call an Allentown customer they could pick up the FX line and reach through that connection over to Allentown and reach one of those customers as a local call. The experience that I've had with other CLECs, I don't know how USLEC provisions, because other CLECs I found that that's not possible. It's not an equivalent FX service.

Q. Now, if you assume with me for these purposes --- I'm not saying USLEC does or doesn't.

A. I'm just stating that distinction.

Q. And I'm just saying assume with me that it does.

A. Assuming.

Q. For these purposes, the florist in Philadelphia has the ability to be called by all of Allentown within that local calling area for a local call.

A. We're still not agreeing with the distinction I just made. I'm understanding you to say there's one way that people in Allentown can call the florist.

Q. That's all I'm focusing on right now.

A. But you're using the same term and I'm trying to be very, very careful to distinguish what you're calling FX and saying it's equivalent to what I'm calling FX. I'm not saying that it's equivalent.

Q. I'm asking you to assume that it is.
A. Well, I'm saying it's part of the assumption. And I have to assume that the florist in Philadelphia can call back to that same connection and reach out on a local basis to people in Allentown.
Q. I'm asking you to make that assumption.
A. Okay. Under that assumption then I would describe those as being local.
Q. And in both instances with two-way ability, the florist in Philadelphia now has the ability --- when I say reach, have a larger --- have the population of Allentown call him or her without incurring toll charges?
A. That's correct. I would agree to that.
Q. I think you would agree that that service benefits the florist, whether it's offered by USLEC or Verizon, by permitting that florist a larger customer base to sell his products to?
A. I think that's consistent with my testimony. I suggested that somebody being offered FX services is getting a valuable service from the company offering that service.
Q. Okay. And then also the other people who benefit are the people in Allentown who now have another florist they can call?

A. Right. They have a chance to make local calls.
Q. Now, assume with me that USLEC provides local service in Allentown, ---
A. Okay.
Q. --- okay, and has customers in Allentown, so that in that circumstance when a Verizon customer in Allentown calls a USLEC customer physically located in Allentown, okay, the call is transported, as we discussed earlier, by Verizon to the USLEC IP switch and USLEC takes the call back and terminates it to its customer; is that right?
A. That's my understanding of call routing, yes.
Q. Okay. And in this scenario, USLEC has been billing Verizon reciprocal compensation for the services it renders in terminating that call; is that right?
A. That would be my understanding of how --- with respect to it. But I don't know for sure that that's what's taking place, but that that would be normal.
Q. Now, going back to the example of the florist in Philadelphia with the NPA/NXX, when the Verizon customer calls that Philadelphia customer with the Allentown NPA/NXX Verizon still takes the call to the USLEC IP and hands it off to USLEC, who then terminates it to the FX customer; correct?

A. Based on it being the florist using FX provided to USLEC, yes.

Q. And I believe that's the case that USLEC --- that USLEC billed Verizon for reciprocal compensation for this call and Verizon has been paying reciprocal of these amounts, is that your understanding?

A. Well, the second part I don't know what we have or have not been paying. And I actually don't know exactly what's been billed either. So you're in areas that I haven't been exposed to the details. I can't affirm or deny them.

Q. Okay. Subject to check, and I think we could do that, USLEC has billed Verizon for that call and since there is no ISP involved, subject to check I believe that Verizon has been paying those reciprocal compensation invoices; okay?

A. Subject to check, you accept that that's what happened.

Q. Now, in both scenarios where the USLEC customer is physically located in Allentown as is the Verizon customer and where the USLEC customer is in Philadelphia with the Allentown NPA/NXX, Verizon has performed exactly the same functions; has it not?

A. From a network routing perspective, yes, it is deposited, they call it the same on the USLEC network.

Q. That's right. It has taken the call and delivered it to the USLEC IP?
A. Yes, that's what I understand.
Q. And as we discussed, Verizon's responsibilities don't change depending on the physical location of USLEC's customers; do they?
A. The distinction I make is related to the origination and termination of the call. My understanding of our arrangements in the State of Pennsylvania is if a call originates in one local calling area and terminates in another, unless there are special circumstances that's a toll call, where inter-LATA toll ---.
Q. I'm asking you to focus on the services that Verizon performs in both of those situations.
A. Well, I'm focusing on the service, but I'm trying to distinguish that the functionality versus the handling of it from an income versus outflow of revenue is different.
Q. From a simple engineering technical perspective, network perspective, the call is handled in exactly the same manner?
A. Exactly the same manner from a functionality perspective, yes.
Q. Okay. Thank you. But as I understand your

testimony, Verizon now believes that it should not pay USLEC reciprocal compensation for the call because, as you're indicating you believe the call originates in one local calling area and terminates in another local calling area?

A. That's correct.

Q. Have I accurately stated your position?

A. That is correct.

Q. Okay, Verizon now believes that in this situation it is no longer appropriate to determine whether the call is local or toll for intercarrier compensation purposes by referring to the NPA/NXXs of the numbers; is that right?

A. I need to be careful how I answer that because truthfully, to the best of my understanding of our processes, we've never depended on the numbers to make that determination. We simply found in years gone by that the numbers accurately reflected the physical location. So it was a good type of approach from a billing system perspective. If you understand that the numbers and the people go together, you can build it to the billing system and assessment that said if this number and this number appear to be local to one another, bill it that way. But that doesn't mean that we assumed in all cases that that was the right way to

bill it simply based on the numbers. It's based on the physical termination point all along.

Q. But from the advent of local competition in Pennsylvania and the advent of FX services by competing carriers up until some point in time, Verizon did, in fact, --- Verizon's billing system did, in fact, continue to look at the NPA/NXXs of the calling and called parties to determine whether a call should be rated as local or toll?

A. That is certainly true.

Q. And when it came to intercarrier compensation, up until some point in time, Verizon had still --- Verizon's billing system had still looked to the NPA/NXXs of the originating and terminating number to determine whether reciprocal compensation or access charges were due; is that correct?

A. That's my understanding.

Q. And to the extent that a CLEC was utilizing foreign exchange service, Verizon's billing system looked at the call, looked at the NPA/NXX of the originating and terminating party and if it was associated with the same local calling area where the Verizon customer originated the call, Verizon would pay reciprocal compensation and where Verizon terminated the call, Verizon would be paid reciprocal

compensation for that call?
A. Based on the existing system that's in place, that's correct.
Q. That is correct. I'm not asking you whether you think it's right or not, that's what was done?
A. Yes, I agree that that is what physically took place.
Q. But now Verizon is saying, in the context of this agreement, that they don't want to do that anymore, that Verizon, in the context of an FX environment, no longer wants to just simply rely on the originating and terminating NPA/NXXs to determine whether a call is eligible for reciprocal compensation or access charges; is that correct?
A. The answer I provide is a little broader. I would reaffirm what I said a minute ago. We have learned that the assumption that we made here dealing with the billing system, meaning that the number and the physical location of the customer coincide 100 percent of the time, for the most part. That was our experience. We built a billing system around that. We're finding with more recent experience with CLECs, that that's oftentimes not the case. So we can't assume that the number that we're comparing it to is actually physically in the same local calling area.

So we're having to adopt our debt to that situation.
Q. Are you going to be changing your billing systems to pull out traffic that is going to FX customers?
ATTORNEY PANNER:
Objection, foundation. I withdraw. Go ahead.
A. I have a response to it. We have offered ---.
BY ATTORNEY SHOR:
Q. Sometimes that doesn't matter.
A. We have offered on a special study basis the study, the results --- we've done that recently. I keep using Florida as an example because I've recently been down this path. In Florida we offered to study on a periodic basis the traffic by which we can do --- and then settle up with the CLECs involved, saying this much traffic is here, we've measured it, we've got a study that produces it and reimburse them for that traffic.
Q. So it would not be done based on the specific telephone numbers, but it would be based on --- estimates based on some statistical survey of traffic?
A. No. In the case of Florida, we actually identified all of our FX numbers and were able to identify all of the traffic originated by CLECs to those FX numbers.

Q. Would you expect CLEC to develop that same database in terms of how they would bill you?

A. In terms of my understanding, ---.

ATTORNEY PANNER:

Objection. Has he testified to what a CLEC would do about its billing system?

ATTORNEY SHOR:

That's what I'm asking. It's Cross Examination.

ATTORNEY PANNER:

I object. You haven't established he has any foundation how the CLEC billing systems are set up.

ATTORNEY SHOR:

We have established that reciprocal compensation will not be based on --- will not be paid based on NPA/NXXs. And he has said that Verizon has changed his billing system to pull it out and I'm asking him whether he now believes that CLEC will have to do the same thing. That's the foundation.

A. Well, I can provide a ---.

ATTORNEY SHOR:

You have to wait for the Judge.

A. I'm sorry. Excuse me.

JUDGE:

The objection is overruled. Now you can answer.

A. I can provide a partial answer. I don't think I can address what system requirements, if any, will be required by CLEC. But for us to accurately handle it from our perspective, in other words, if we were delivering traffic to USLEC'S FX number, as an example, we would need to have a data dump, saying here are the numbers that are FX numbers, so we would know when traffic delivered to them were FX or outside of the local calling area. We'd have to have that information provided to us so we would know at that time that's what's happening.

Q. Do you intend to charge your originating callers, callers who call CLEC FX numbers, originating for toll calls?

A. In my understanding of how the service would be offered, and this is my speculation and I'm going to classify it as speculation, if USLEC, for example, in the Philadelphia, Allentown example, the florist --- is receiving $1,000 a month from the florist to terminate that service, that FX service, then I would understand that to be the compensation they're getting for the service and I would expect them to pay us

access for originating the call through the process and terminating it.

Q. Are you going to charge your customers toll charges?

A. No, it would not make sense because the access charge would be our compensation.

Q. Would you be willing at the same time to pay access charges to CLEC, to the extent that CLEC customers call Verizon FX customers?

A. Yes. To build on that, that's exactly what we offered to do recently.

Q. Do you know when the decision was made to stop paying reciprocal compensation for FX service calls?

A. I don't know, no. As far as if you're asking, do I know when Verizon made the decision to stop?

Q. Yes.

A. No, I don't know.

Q. Do you know who made the decision?

A. No, I don't.

Q. Do you know why they made it?

A. I don't know the history behind it. I know it was stopped, I've heard that, but I wasn't involved in the discussion that built up to that decision so I really don't know.

Q. Did you know who was involved in making that

determination.

ATTORNEY PANNER:

Objection. It's been asked and answered.

ATTORNEY SHOR:

I asked him who was involved.

A. No, and I don't ---.

ATTORNEY PANNER:

Wait. There is an objection pending.

JUDGE:

And this one is sustained and you don't have to answer that question.

BY ATTORNEY SHOR:

Q. If I already asked it, I'm not trying to be difficult. So your plan relies on developing a database of FX customers that you can utilize to pull traffic out as it's going through the switch; is that right?

A. If we had a list of all of the FX numbers that all of the CLEC had, or what I call virtual FX numbers because it's really more of what I've seen rather than true FX service, but if I had a list of that I could bill that into our billing system and have it accommodate that.

Q. But you have to develop a database of your own FX customers; don't you?

A. Yes, and that's easy to do truthfully. And we have to go in and do a data dump, which normally involves an assist. You can't just pick a number up and call somebody and say I need it in 30 seconds, it's a little more involved than that. But it's not a lengthy process. We did it with a few weeks notice in Florida.

Q. But you have to update it, too; don't you?

A. Oh, yes, it would have to be kept current.

Q. Do you have any idea how much it costs to establish such a system?

A. We checked in Florida and doing the data assist like I'm describing, which is more or less an ad hoc system, it's not a full system enhancement, it's fairly inexpensive.

Q. You're going to have to update it regularly; right?

A. What we proposed in Florida is to do annual look-up of the situation once a year and pay based on that.

Q. And you also have to change your billing system to accommodate, not just the switch data system, but also the billing system itself to account for that;

don't you?

A. I don't think we do in the case of what I understood took place in Florida. I think all we did was offered to do an annual assist, which means pull all of the data out, look at it, figure what the dollar then is and then offer to pay the CLECs for that.

Q. So you're only talking about doing an annual true-up (phonetic), not reflecting it the monthly billings?

A. Well, we said that we'd be willing in that situation once we did an annual assessment, to pay out a prorated amount per month based on the look-up.

Q. And when you say fairly inexpensive to do it, what does that mean?

A. Well, in the case of Florida, it was in the thousands of dollars range. It wasn't hundreds of thousands or ---.

Q. For the entire state?

A. Yes.

Q. But what's the customer database in Florida?

A. In Florida the customer amount is around $3 million as I recall.

Q. So it's conceivable that it would be double the amount in Pennsylvania or more ---?

A. It probably won't be depending on how the system is it prepared because when you do a data system, the data system runs ---.

Q. So is it your understanding that if the Commission adopts your proposal, a CLEC like USLEC would have to implement some kind of system as well to identify that database of customers?

A. Well, going down the path of what I'm proposing is adopted, then what I would expect to happen is --- true FX numbers are assigned by USLEC or other CLEC, that we would be provided a list of those numbers, just the physical numbers so we could properly adjust our billing system.

Q. And you would supply the CLEC with your list of numbers?

A. We provide a --- if we needed to, I guess we could. What we also do in the case of Florida is simply to do the assist for them.

Q. So in essence, it adds another step to the billing process because you have to identify customers to pull out traffic that are directed to them; is that right?

A. Well, once again, in the case of how we often do it, we do an annual assessment so it doesn't involve a moment-by-moment and day-by-day kind of thing. We

accumulate the records and run a ---.

Q. And the other part of your proposed language is that to the extent the FX calls cross local calling areas, they would be classified as inter-LATA toll calls and you would claim an entitlement to impose originating access charges when a Verizon customer calls an USLEC FX customer; is that right?

A. That's correct.

Q. Now, you don't actually provide access service in the traditional sense in that situation; do you?

A. Help elaborate on that.

Q. How is access service typically provided inter-LATA?

A. Inter-LATA using Allentown and Philadelphia example, the Allentown customer calls Philadelphia, they incur a toll charge for that call if it's a typical inter-LATA toll call. And depending on who carries the call, let's say it's all Verizon just for the sake of discussion, the Allentown customer would pay the toll charge. Verizon would get compensation for the transport determination from the toll charge inter-LATA.

Q. How is it routed?

A. It would route --- I'm guessing because I'm not an infrastructure expert in this area, but I would

imagine it would go to a tandem located somewhere close to the Allentown area, depending how many --- they may transport to another tandem close to Philadelphia that would ---.

Q. But it goes across Verizon's access network, not its local network; is that right?

A. Right. It would pass through the access network, yes.

Q. But in the FX scenario, the calls are passed through the local network; is that right?

A. Well, actually they're passed --- in our FX decision they're passed through dedicated facilities so they bypass the normal access arrangement through a dedicated facility.

Q. They are on the local network until they reach the end office where the network with a dedicated facility is --- I don't think honed is the word?

A. Yeah. I think we're not quite saying the same thing. Using the FX example between Allentown and Philadelphia, the customer would initiate what appears to be a local call to the customer that's actually physically located in Philadelphia. It could go to the switch and from the switch it would actually be going over a dedicated facility all the way up to Philadelphia.

Q. But it has to get to the switch that serves that first local calling area; doesn't it?

A. What I'm saying is it doesn't go to the tandem environment. It goes for a dedicated loop. It has to go to the tandem to get there.

Q. But in the FX environment that CLECs typically utilize, the calls are all handled over the local network; aren't they?

A. Well, what I think happens, and I'm not familiar with the USLEC example, but I've seen other providers, CLEC equivalent providers, they normally give us a switch location in the local exchange. That's physically close to their FX customers, what we've seen time and time again. I'm not saying that USLEC's situation, but that's what I've seen with other CLEC providers frequently.

Q. But the call goes from the Verizon customer to the end office, is handled by Verizon, perhaps through a tandem, delivered to USLEC switch?

A. That's I think more typical, yes.

Q. Okay. And again, that routing is the same whether the USLEC customer is in Philadelphia or is physically located back in Allentown?

ATTORNEY PANNER:

Asked and answered.

ATTORNEY SHOR:

We have summarized the testimony that witnesses give in the context of helping them ask questions. If he's answered it once before, fine. If not, a simple yes or no is not going to hurt.

JUDGE:

Frankly, I have forgotten whether it's been asked or answered. You may answer. Please answer it.

A. I was going to answer yes.

BY ATTORNEY SHOR:

Q. Okay. So even though you technically are not providing access service for an inter-LATA toll call, the way you typically route an inter-LATA toll call, you still contend you were entitled to charge originating access?

A. Based on the fact that it originates and terminates to distinct non-local areas, yes.

Q. Is part of your rational for this approach that you feel that you're losing inter-LATA toll revenue for these calls?

A. In terms of the other CLECs that I've worked with, yes.

Q. But here you've got a situation where USLEC has six customers, using FX services, none of them are

ISPs, okay, you believe you're losing inter-LATA toll revenue based on USLEC service and that's one reason why you want to do this?

A. Well, it gets back to our discussion a little bit earlier. If I were of the understanding that USLEC is only going to have six customers and none of those are going to use the approach I've seen other providers use, then I would be less concerned about the environment. But the fact that if the approach as I've see it offered is adopted and other providers opt into that provision, it would open up the door for providers basically to have a funnel of traffic that would route from the Allentown example from Allentown to Philadelphia, it would be --- it could tend to encourage that type of construction of traffic.

Q. And the concern is a loss of inter-LATA toll revenue?

A. It's a loss of inter-LATA toll revenue and an over-utilization of a route. It artificially, from what I've observed builds up use for a route that currently wasn't being used at that level. It was actually cost increase, building a facility to accommodate an arrangement whereby we're transporting under other suggestions free of charge from point A to point B, and we also have to pay recip comp has been

the approach that was suggested.

Q. But for the loss revenue argument to have any significant impact, doesn't it assume that the caller in Allentown will call the florist in Philadelphia if she knew it was going to be a toll call, even if she knew it was going to be a toll call?

A. The loss revenue has a degree --- if it was a situation, for example, where it's going to always go to an ISP, I would suggest to myself, if it were me I probably wouldn't make the call. But if it's going to another type of entity, for example, let's say it's going to an insurance company that would have purchased a 1-800 number but instead they decide to use one of these arrangements, we would lose out on the access that would have been associated with the 1-800 number.

Q. So just let me summarize, and it may have been asked and answered ---.

ATTORNEY SHOR:

I have no further questions.

ATTORNEY PANNER:

Can you just give me one minute? I'll try not to have a full break.

SHORT BREAK TAKEN

ATTORNEY PANNER:

I'd like to introduce Verizon Exhibit Six, VZ-6, which is also a printout from the USLEC website describing USLEC's local services products.

JUDGE:

So marked.

(Exhibit VZ-6 marked for identification.)

REDIRECT EXAMINATION

BY ATTORNEY PANNER:

Q. Do you recognize this as a printout of a website?

A. That's what it appears to be, yes.

Q. Do you see at the bottom left it says, http://www.uslec.com/local_service.htm?

A. Yes, I do.

Q. Can you turn to page two of this exhibit?

A. Yes.

Q. Can you go down under the bold where it says enhanced local services?

A. I see that part.

Q. And do you see the fourth bullet point, it says, foreign exchange?

A. Yes, I do.

Q. Can you read that?

A. Foreign exchange service involves the inbound

only call toll free to the calling party, which is paid for by the calling party. It desired --- the service includes a listing of the foreign white and yellow pages of the ILEC directory.

Q. So just to emphasize, it says, it's an inbound only service from USLEC; is that right?

A. That's what I understand this offering describes, yes.

Q. So in this arrangement, as described here on USLEC's website, they would only receive traffic but they wouldn't allow their customers to make any call?

A. That's what it indicates to me.

Q. And they say it's toll free to the calling party, what does that mean to you?

A. They means that if I were --- using the Allentown example, if the Allentown customer would call one of these numbers it would be toll free to the Allentown customer.

Q. But toll free, does that suggest --- what does that suggest, in the absence of this service would be imposed on the party?

A. Well, when I see the words toll free I think of 1-800 like services is what I normally associate with it. So I was going to simply say, that that would to say to me that if I was getting a service like this, I

would expect it to be handled very much like a 1-800 service, so the person originating the call would not pay a toll. The person receiving the call would pay for that extra service being provided because they would be getting a benefit from it.

Q. Okay. And in those times of toll free arrangements, how is the originating carrier usually compensated?

A. The originating carrier generally gets access payments for being the party that starts the call.

Q. And, in fact, USLEC has --- we've seen evidence here today that USLEC gets a great deal of additional revenue from USLEC FX customers for providing internet service; is that correct.

ATTORNEY SHOR:

Objection to the to the characterization great deal.

JUDGE:

The numbers are on the record and they speak for themselves, Counsel.

ATTORNEY PANNER:

I'll rephrase, so it will make my opposing Counsel more comfortable.

BY ATTORNEY PANNER:

Q. There has been introduced today that USLEC is

receiving hundreds of dollars a month for providing FX service in Pennsylvania?

A. That was my understanding of the testimony.

Q. Okay. And yet USLEC's position is that they should nonetheless be paid by Verizon for sending this traffic to USLEC; is that correct?

A. That was my understanding.

Q. And indeed, USLEC --- is it correct that --- that Ms. Montano testified that many of USLEC's FX customers are located close to USLEC's switch?

ATTORNEY SHOR:

Objection, mischaracterizes her testimony.

BY ATTORNEY PANNER:

Q. Did she testify that some of them are located close to the switch?

A. That was my understanding of the testimony.

Q. Less than five miles she said?

A. Yes.

Q. So it might be --- let me ask you, if I can, do you know whether --- now, let me strike that last ---.

The loop that would be connecting the switch to the USLEC customer in that circumstance would actually be --- sure, it would be less than five miles, if the customer would have been less than five miles of the

USLEC switch; is that correct?
A. Based on the testimony, that would have to be less than five miles, yes.
Q. Okay. But if USLEC had a customer in Allentown, there would be a whole lot more transport from --- back to Allentown; is that correct?
A. I need to be sure I understand what you mean. I'm not sure I understand.
Q. If USLEC were serving --- I interrupted you and I apologize.
A. I'm just saying I didn't understand the example clearly, so I want to make sure I understand it clearly.
Q. Actually, I'll withdraw the question.

ATTORNEY PANNER:

I have nothing further for this witness, Your Honor.

ATTORNEY SHOR:

Just a very short few.

RECROSS EXAMINATION

BY ATTORNEY SHOR:

Q. Does Verizon charge its FX customers an additional for the FX service they buy?
A. Yes, that's my understanding. They charge for the carrying of the call from point A to point B that

transport ---.

Q. And for the facility itself?

A. Right.

Q. And how much do they charge?

A. I don't know the local rates, but it's a mileage based charge, I don't know what the rate is per mile.

Q. Is there a non-return charge for the facility?

A. I'm not an expert on this part, so I don't know all of the things --- I can't tell you without going back to the tariff.

Q. Do you know if there are monthly charges for the facility?

A. It's my understanding that they are monthly charges, yes.

Q. And they're also mileage sensitive?

A. That's my understanding.

Q. Do you have any understanding whether any of Verizon's FX customers are located within five miles of the serving switch?

A. I don't know the makeup of the FX customers. I know generally how they approach the request but I don't know physically how they're located with respect to the switch.

Q. Would you agree with me that it would be possible for a Verizon FX customer to be located within five

miles of the end office it serves in?
A. I would agree that theoretically it's possible, but practically speaking what I'm seeing has been that the customer in practical terms is in a community some distance from the community they want to have a presence in. So it's usually whatever the distance between those two local calling areas is is the distance to the switch.
Q. So it would be five miles?
A. It could theoretically be. I'd say generally it's probably further than that.
Q. It could be ten miles?
A. Ten, 15, 20.
Q. And Verizon has been collecting reciprocal compensation from CLECs for calls that CLEC customers make to Verizon's FX customers?
A. That's my testimony, that we've been doing it --- basically the system doesn't have a way to differentiate.

ATTORNEY SHOR:

I have nothing further. I'd like to move the admission of USLEC Exhibit Three into the record.

JUDGE:

Admitted, without objection.

ATTORNEY PANNER:

And, Your Honor, I'd like to move the admission of Exhibit VZ-6.

JUDGE:

Admitted without objection. Have we finished with this witness?

ATTORNEY SHOR:

We have.

ATTORNEY PANNER:

I have, Your Honor. Thank you.

JUDGE:

Then fine, the witness is excused and thank you for coming, sir. Now, is there anything else that the parties need to present to me? Good.

ATTORNEY SHOR:

You had asked to go through the agreement, would it be at all possible for Counsel to do that another time and place and come back and tell you instead of doing it now?

JUDGE:

Well, that is about what I was --- I was about to launch into that. I do have some procedural issues to go through with the parties with respect to the briefing schedule and the final and best offer and I was going to launch into the

questions I had about the agreement. Let's go off the record for a few minutes.

OFF RECORD DISCUSSION

JUDGE:

Let's go back on the record. In the interest of your personal schedules, I'll try to make this as brief as possible. First of all, my prehearing order number two sets forth the briefing schedule, that your final and best offers are due July 25th, that the main briefs are due August 1st and the reply briefs are due August 9th. And when I say due, I mean due in hand on or before four o'clock in the afternoon.

Now, during the course of your witnesses' testimony they have referred and you as lawyers have referred to a variety of Commission precedents and FCC precedents and FCC regulations and court decisions. And my access --- it is my understanding, that I am to expedite these proceeding even though the parties have graciously waived the statutory deadlines. So that I must inform you that my access to finding some of these decisions is limited.

ATTORNEY SHOR:

We'll make copies.

JUDGE:

Right. I don't need court decisions. I'm sure there are court reporters that are published that I can find without a problem. When it comes to finding historic Pennsylvania Public Utility Commission information, I do have some difficulties. I have the global order as it's called and I have the implementation order readily available in my own office. But beyond that, for example, the MFS-2 and 3 decisions are not readily available. And the same thing is true --- I'm sure somewhere in the building I can find FCC regulations, full text of FCC decisions, which tend to be extremely lengthy. I would prefer that you two agree on the excerpts that you need to provide to me. I don't want to put anybody to the expense of killing all of those trees just to make copies of material that I'm not going to use.

I have reserved as per the request of USLEC, the opportunity to file a late filed exhibit, that USLEC Exhibit Number Four, which is to be a certified copy of the MFS phase two transcript. And, again, I would urge you to agree with Mr. Panner on what excerpts you need to identify. I remember that proceeding went on for quite awhile. While I

probably don't and cannot get easily access to the orders, the Commission may --- the transcripts would even be worse. And I'm not encouraging you to do give me that.

All right. I would like you and Mr. Panner to review the agreement that was filed as part of the petition, which is the only copy of the agreement that I have. And I will tell you, for your ease of your operation, where I found things and look at page 25, look at page 31, 33, 35, 43, 52, 61, 64, 65, 66, 71, 115. On all of those identified pages, you have identified disagreements and disputed issues.

I have a variety of questions, some of them very simple, some of them very stupid. For example, on page 114, it appears that there is a typographical error in one of the rates quoted by Verizon. Oh, I beg your pardon, I've got the wrong page number. On page 134, if you look there at engineering quarry is listed at $122.34. On the immediately proceeding and the immediately following pages the same engineering quarry is listed as $123.24. There has been a transposition, I believe, with numbers. It's just one of those crazy things I picked up while I was reading through this thing and thought, well, gee, those numbers are different and

sure enough, they were.

Decide what you want is right, because I'm supposed to take a look at this agreement and approve the whole thing, what's settled and what's not. I have questions on pages one, which is that term of how long this agreement is supposed to last. Thirty-seven (37), 38, 57, 58, and there is nothing on page 114 but my own written question. And I'm sure it's an easy one to answer. I will tell you what the question is because it's a blank page, otherwise you'll think I'm really crazy and maybe I am. But my question is are all of the prices quoted for USLEC and for Verizon on the following pages tariff rates as set forth and a currently approved Pennsylvania Public Utility Commission or FCC final order.

And the reason I ask that question is that I was the Judge who handled Verizon's first uni-rate case, but not the second. And I know that the loose ends from the first one may not yet be cleared up.

Now, I will --- it currently appears on my schedule that I have an open day tomorrow and that I have a consumer complaint-type case on Friday and a prehearing conference that should not last very long on Monday. And Tuesday is also

completely open. I would appreciate it if you, meaning Mr. Panner and Mr. Shor, would contact me to set up a conference call, given the availability so that we can go through some of the things that I'm not discussing now. All right? And the reason I suggest in the immediate future is that will get us under the window of the availability of the transcript so that you will not be of two minds as to whether to telephone right ---. I urge both parties to continue negotiating, to notify me promptly if you're able to reach settlement. I had promised today that I would give you an overview of my view of how I would decide issues. I will substantially abbreviate that for you right now. My first question will be, what does the Act say. Does it require the result that a party is asking about and then in no secret fashion --- I worked backwards to, does FCC require it, does my Commission require it, do the court cases require it.

The other thing is is that when we started this case you informed me that you were essentially litigating on a multiple front basis throughout the Verizon footprint. It sure would be nice to be told that some other state had decided some of these issues ahead of me. But at the time you told me I was out there on the bleeding edge. There is a

possibility because you have not talked to me since then that that may have changed.

ATTORNEY PANNER:

The edge is only bleeding all the harder.

ATTORNEY SHOR:

You were the first.

JUDGE:

Some people get all of the luck. Okay. It will be up to you, Mr. Shor, to supply the copies, the appropriate number of copies to the Court Reporter, as well as me. What is a reasonable amount of time for you to accomplish the certified copy of the transcript?

ATTORNEY SHOR:

I have no idea. My local Counsel is not here. I just don't know.

JUDGE:

Well, let me put it ---.

ATTORNEY SHOR:

Excuse me. Since we're not going to do the whole thing, I need to work with Mr. Panner so I just don't know.

JUDGE:

Okay. Since the Court Reporter is

under the obligation to provide the transcript in three business days, I'm going to assume that that's too short a time period for you. And we can discuss a conference call much longer than those three days you need, that will require you to be --- to take the Court Reporter out of the loop and deal with me in terms of sending it to me and/or to the secretary's office. I will require you to agree on a matrix for the brief in terms of issues. In other words, make sure that each of you has a matching issue number one, a matching issue number two. If you want to combine them, that's fine. I understand that. But you have about eight issues total. Make your numbers match so that your briefs are head to head on the same number all the way through. My decision will be written that way and the Commission will understand it that way.

We will discuss later the format for providing the finalized language that you have but I haven't seen yet. Does anybody else have anything else that we're aware that I need to deal with, because this is --- as far as I'm concerned this is the last opportunity to put something on the Court Reporter's record. The conference call will not be reported unless you specifically request it and then we will jump through hoops to make that happen. And I

have no problem with doing that. I just have to know about it in advance.

ATTORNEY SHOR:

I think we're set.

JUDGE:

Okay. In this case, I want to thank you, both sides for their cooperation. It's very easy to slip into a litigated unprofessional posture. I did not see that today and I always appreciate that in my courtroom. I don't tell everybody in my courtroom that, unless it actually occurs. And I really do appreciate the cooperation that you've shown so far. I think we've made pretty good progress today. I wish you all a safe trip home.

* * * * * * *

HEARING CONCLUDED AT 6:00 P.M.

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COMMONWEALTH OF PENNSYLVANIA

PUBLIC UTILITY COMMISSION

USLEC of Pennsylvania, Inc. Petition for Arbitration with Verizon Pennsylvania, Inc. pursuant to Section 252(b) of the Telecommunications Act of 1996.	:	Docket No. A-310814F7000
Telephonic Conference Call	:	

Pages 262 through 316

Conference Room A
Commonwealth Keystone Building
Harrisburg, Pennsylvania

Tuesday, July 23, 2002

Met, pursuant to adjournment, at 1:32 p.m.

BEFORE:

LOUIS G. COCHERES, Administrative Law Judge

APPEARANCES:

TAMAR E. FINN, Esquire
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WITNESS INDEX

WITNESSES	DIRECT	CROSS	REDIRECT	RECROSS
(None.)				

EXHIBIT INDEX

NUMBER	FOR IDENTIFICATION IN EVIDENCE
USLEC	
4 (USLEC Pennsylvania Local Tariff)	
TO BE PROVIDED	
5 (MFS II Transcript)	
TO BE PROVIDED	

FORM 2

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FORM 2

P R O C E E D I N G S

ADMINISTRATIVE LAW JUDGE LOUIS G. COCHERES: Good afternoon, ladies and gentlemen, as you know by now, my name is Louis Cocheres and I'm the Administrative Law Judge assigned to hear the matter of Petition of USLEC of Pennsylvania, Incorporated for Arbitration with Verizon Pennsylvania, Incorporated pursuant to Section 252(b) of the Telecommunications Act of 1996 at Commission Docket No. A-310814F7000. We're here today for a conference call that is on the record, one that we set up towards the end of the hearing that we had on July 17.

For the record, I have Mr. Shor and Ms. Finn representing USLEC, and Mr. Panner representing Verizon.

Good afternoon, ladies and gentlemen.

MR. SHOR: Good afternoon, Your Honor.

JUDGE COCHERES: That was Mr. Shor.

MR. PANNER: This is Aaron Panner. Good afternoon.

JUDGE COCHERES: Yes, until the court reporter figures out who you are, you're going to have to say your names when you begin speaking, or otherwise it will all be done by me.

MS. FINN: This is Tamar Finn. Good afternoon.

JUDGE COCHERES: Thank you.

The reason for this conference is the fact that we weren't quite finished with all the administrative details

involved in the arbitration that we started last week. Now, what I suggest, unless the parties have some better plan, is that I would like to start by going through the agreement and going to all of the pages that I've marked as being in dispute. I won't represent that I have a comprehensive list here, I tried to make it as complete as possible, and it may well be that you found some that I didn't.

Mr. Panner, I'm going to start with you because you actually volunteered, I believe, to tell me how long you believe this agreement should be in effect. Remember, that was page 1 of the agreement.

MR. PANNER: Yes, Your Honor. I believe the parties are in agreement that the agreement should have a two-year term from the effective date.

JUDGE COCHERES: Twenty-four months.

MR. PANNER: Yes.

JUDGE COCHERES: Okay. Now, I think we can go through the rest of the parts that I have tabbed as disputed sections of the agreement, and we'll start with the easy part and just ask, when I get to them, first of all, are they still disputed, and if the answer is no, then I will just rely on you to provide me with some language; if the answer is yes, it will get a little more complicated, because I think we'll have some obligation to decide whether it was something covered during the petition proceeding that

we had on the record earlier last week or whether it's something we have to think about and whether we'll need statements of counsel or something to get us through.

MR. SHOR: Your Honor, clarification please.

JUDGE COCHERES: Certainly.

MR. SHOR: For example, when we just agreed with respect to page 1 on the term of the agreement, would you want us to submit on Thursday, with our best and final, a version of the contract that would, for instance, on page 1, indicate that it's a term of 24 months, or to actually replace, where an issue was disputed but has now been settled, to include the settlement language so that the document you have before you contains only those items that are in dispute and all of the language agreed on?

JUDGE COCHERES: I have to make sure I understood what you offered me.

Conceptually, we need to, one, incorporate the agreement into the record, which we have not done. It doesn't have to be this particular version, although I'm tempted to do it just because we referred to this particular version on the record. Two, I think the parties have some obligation to provide me with a complete text of all agreed-upon language. I don't care particularly if it's attached to your final and best offer or if it's attached to your reply briefs, but I think you have some obligation to

provide all the language that you've agreed upon.

As for this very first section, "Term and Termination," on page 1, I'm not particularly concerned. I realize, the way the language is set up, that you intended, at least my reading of it is that you intended to put in the start date, which you can't do until the Commission approves it, and then that would automatically give you two years to put in the termination date. I think it's only necessary that somewhere along the line you two agree, and you have, essentially, on the record, that it's two years.

MR. PANNER: Your Honor, just to clarify, the reason that it's not generally done to put two years from the effective date is that it's led to litigation over whether the agreement has a two-year term or whether it expires at a date certain, and so it's actually the FCC's recommendation that the parties be very specific, and that's precisely why the parties are in a situation where they can't define the ending date until they know what the starting date will be.

JUDGE COCHERES: I have no problem with that whatsoever. That's the way you've written up the language of that portion of the agreement. It's just that it was an empty slot and I had to ask.

MR. PANNER: I understand. Your Honor, just to elaborate slightly on what I think Mr. Shor is proposing and what you have just said, if -- and I think it would make

sense since it is what the parties have been working with to this point -- we put in the version of the contract that USLEC submitted with its petition on the record and then keyed our additional submissions off of that, I think as we go through we may find that it's pretty easy to define what language relates to which issue, and then what we can do is simply going through issue by issue in our best and final -- I should say, in our best and finals or in our reply, we can simply provide you with the agreed-to language and identify specifically what remains in dispute.

JUDGE COCHERES: Yes. Somewhere along the line we have to narrow it down to what's disputed and what isn't.

MR. PANNER: But the situation here, because the parties have agreed to so much, there are literally more than a hundred pages where there are no disputed portions at all, and I guess really for the clarity of presentation, I think to be able to address the specific ones that are disputed rather than putting in a whole new contract might be better, at least from Verizon's point of view.

JUDGE COCHERES: So what you're telling me is you want to give me excerpts of the undisputed language; is that what you're saying?

MR. PANNER: Well, what I would say is, in other words, in the record we'll incorporate this full agreement. For our best and finals we will say, "With respect to a

certain issue, here is our proposed language for Section X," and then either at that time -- and I think it does make sense to do it at that time, as Mr. Shor suggested -- with respect to the settled issues, put in the agreed-to language, you know, that the parties between them have agreed to language that covers the issues that have been identified as being resolved. So we can put that in at the time of best and finals so that those can kind of be scratched off the list and the only provisions that will remain will be those things that -- and I think this is really the way that USLEC presented it in the first instance; when there's an issue presented, we can identify the specific provisions at issue.

JUDGE COCHERES: Well, I take it what you're also telling me is that once you get to your best and finals, you're going to stop negotiating?

MR. PANNER: No.

JUDGE COCHERES: All right. See, that's my point.

MR. PANNER: No, I'm not saying that, but what I am saying is that when we get to our best and finals, we can show what has been resolved already.

JUDGE COCHERES: Right.

MR. PANNER: And then, to the extent the parties settle other issues, we'll obviously, you know, promptly inform you --

JUDGE COCHERES: There you go.

MR. PANNER: -- and let you know that that's been pulled off the table.

JUDGE COCHERES: Okay. All right. I certainly have no problem with your supplying as much agreed-upon language as you can with the best and finals. I laud your efforts, I appreciate that, and I encourage you to do so.

I would also like to make it perfectly clear, and I think it is clear, that I want you all to continue negotiating. I would like nothing more than to be told that certain issues are off the table and that I don't have to write about them anymore.

That being said, if you wouldn't mind, I'd like to now just sort of go through the disputed issues that I've identified and have you tell me whether or not they're already off the table.

The next item would be on page 5, at the bottom of the page. Item 9.3 is identified as a disputed item.

MS. FINN: Your Honor, that is part of Issue 10, which the parties have settled, so we will be able to provide you with negotiated language when we submit the BFO.

JUDGE COCHERES: Great. Moving on to page 25.

MR. PANNER: Your Honor, I think there is something on page 12.

MR. SHOR: Actually, at page 6 there's a continuation

of that Section 9.3.

JUDGE COCHERES: I was taking 6 and 5 as being settled; is that true?

MR. SHOR: That is true.

JUDGE COCHERES: And then someone else, I believe, perhaps Mr. Panner, said something about page 15?

MR. PANNER: Yes, Your Honor. It's actually page 12.

JUDGE COCHERES: Twelve; thank you. Yes, I did miss that.

MR. PANNER: That issue has also been settled, Your Honor.

JUDGE COCHERES: That's everything on page 12?

MR. PANNER: Yes.

JUDGE COCHERES: All right.

MR. PANNER: That's Issue 11, I believe.

JUDGE COCHERES: All right. I am naively writing all this down in ink on the agreement. I'd better mark that particular page since I did not have it marked.

The next page I have is 25. Is there anything that I missed?

MS. FINN: No. I believe that's the next page, Your Honor. On page 25, that's part of Issue 8, and that language is still disputed.

JUDGE COCHERES: Okay. Issue 8. All right.

The next item I move to is page 31, unless somebody

has something else.

MS. FINN: No. That's correct, Your Honor. Section 2.45 is part of Issue 1 and that is still disputed.

JUDGE COCHERES: All right. I move next to page 33.

MS. FINN: Yes. That is part of Issue 5 and Issue 6, and it is still disputed language.

JUDGE COCHERES: All right. Just humor me for a moment with a diversion here. Did I understand the testimony at the hearing to say that internet traffic cannot be distinguished from voice traffic?

MR. PANNER: Your Honor, I'm not sure that issue was the subject of testimony in the hearing. It may have been the subject of an aside, but I don't actually recall.

MR. SHOR: Your Honor, I do remember there being a discussion, in the context of virtual foreign exchange traffic, that traffic was indistinguishable. Since the issue of ISP came up tangentially in that context, it may have come up there, but I don't recall specifically.

JUDGE COCHERES: I thought perhaps that one of the witnesses, in providing some background material on those issues, indicated that when it comes through the switch, that there's no way to distinguish internet traffic from voice traffic.

MR. SHOR: That may have been the case.

JUDGE COCHERES: Yes. Okay. Thank you for

clarifying that point for me.

Moving right along to page 35.

MR. PANNER: Yes, Your Honor. Issue, I should say Provision 2.75, definition 2.75, the disputed language involves Issue 3, and it remains disputed.

JUDGE COCHERES: Okay. And does that run onto page 36 as well? No.

MR. PANNER: I don't show anything on page 36.

JUDGE COCHERES: Nor do I. All right. The next items I have begin on page 43 and involve two disputed items, one in paragraph 5.1 and one in paragraph 5.3. Do both paragraphs continue to be disputed?

MR. PANNER: Yes, Your Honor.

JUDGE COCHERES: All right.

MR. SHOR: Your Honor, they relate to Issues 3 and 4.

MR. PANNER: Just to clarify, disputed item 5.1 relates to Issue 3, disputed item 5.3 relates to Issue 4 and also Issue 5.

JUDGE COCHERES: All right. Gentlemen, let me emphasize a point here that I'm noticing, and that is that unless we specify what page number we are dealing with in this agreement, the paragraph numbers are, by your planning, repetitive, so that when you notify me that a particular item is settled and you're giving me correct language, make certain you specify what page number of the agreement; and I

will take that page number sort of under advisement under the theory that with different word processing systems, unless you intend to continue to use these page numbers, they may be off just a little bit. But what I want to make sure is that when you provide undisputed language to me, that we have it narrowed down completely as to the paragraph and section and page number, any other information you can give me, so I'm not looking at the wrong language in the wrong place.

MR. SHOR: Your Honor, at the bottom, what you have here is -- at the early part of the document is I think the basic contract itself, and there are following different attachments; there's a glossary.

JUDGE COCHERES: Right.

MR. SHOR: For example, paragraph 5.1 and 5.3 we were referring to was in the Additional Services Attachment, which would only have one paragraph 5. We will make certain that we identify it by attachment, paragraph and page number.

JUDGE COCHERES: Yes, because the page numbers in my document are sequential, so each page number is unique. We may be in a completely different attachment, and we may be in a completely similar paragraph number, but the page numbers are always unique.

The next item that I have is on page 52 in the

Interconnection Attachment, paragraph 2.1.2.

MR. PANNER: Your Honor, that relates to Issue 5, and it remains under dispute.

JUDGE COCHERES: Okay. I move next to page 61 --

MR. SHOR: Your Honor, I believe you had identified page 57 and 58 as matters with questions?

JUDGE COCHERES: Right. And I thought I would go back and do the questions separately. I just wanted to go through disputed language first.

MR. SHOR: Okay.

JUDGE COCHERES: Thank you for pointing that out.

At the bottom of page 61, beginning with paragraph 7.1.1.1. and rolling over through all of page 62 and onto page 63, quite a bit of disputed language there, folks. Have we made any progress?

MR. PANNER: Your Honor, I don't think we've made any progress. Those are issues -- that's basically Issues 1 and 2.

JUDGE COCHERES: I thought it might be.

The next item I would have is on page 64, reciprocal compensation, paragraph 7.2.

MR. SHOR: Your Honor, that relates to Issue number 6. That is still in dispute.

JUDGE COCHERES: All right. That takes me to page 65.

MR. SHOR: Your Honor, that relates to Issue 8. That is still in dispute. Actually up top, 7.3.7 relates to Issue 3, and Sections 8.1 and 8.1.1 relate to Issue 8.

JUDGE COCHERES: All right.

Thank you, Ms. Finn, for prompting Mr. Shor.

MR. SHOR: I can't win for losing, can I?

JUDGE COCHERES: That takes me to page 66. I see two disputed items at the top of the page.

MR. PANNER: Your Honor, those both relate to Issue 5. They remain in dispute.

JUDGE COCHERES: We're almost at the end of my list. Page 71.

MS. FINN: Your Honor, Section 12.4 relates to Issue 7, which the parties have settled.

JUDGE COCHERES: Okay. And the last thing that I have listed is in the Pricing Attachment on page 115.

MR. PANNER: Yes, Your Honor, that relates to Issue 9. That is not resolved.

JUDGE COCHERES: Thank you.

All right, ladies and gentlemen, did I miss anything?

MS. FINN: Your Honor, with regard to the disputed language in the contract, I believe you've covered it all.

JUDGE COCHERES: Good. Good. I get anxious about missing stuff.

Now, Mr. Shor, I promised that I would go back and

ask some of my questions. That would take us to page 37 of the agreement, for starters.

Now, basically I have a conceptual problem here dealing with some of -- is this your definitional section?

MR. SHOR: Yes.

JUDGE COCHERES: Can I safely assume that Mr. Panner on behalf of Verizon and Mr. Shor on behalf of USLEC agree that internet traffic coming through the switch cannot be distinguished from voice traffic? Do you both agree to that?

MR. SHOR: Yes.

JUDGE COCHERES: Mr. Panner?

MR. PANNER: Your Honor, I'm not sure I know what you mean by that. It certainly can be distinguished. Whether it is generally done is a different question. The reason, the FCC, as you know, has a rule in place that allows the parties to deal with the issue of internet bound traffic without the necessity of separately tracking it, but it certainly could be tracked. If the question is, is it routed differently, then I think we could agree that the answer is no.

JUDGE COCHERES: Well, here's my conceptual problem -- before I do that, Mr. Panner, does Verizon track it? Can Verizon measure it?

MR. PANNER: Can and do they are two different

questions. They could do so --

JUDGE COCHERES: But do they?

MR. PANNER: They do not generally do so, no.

JUDGE COCHERES: Okay. Well, looking at your definition, for example, for toll traffic, included in the toll traffic definition is an exclusion for measured internet traffic.

MR. PANNER: Yes, Your Honor.

JUDGE COCHERES: And what I don't understand is if it is possible to measure it, and Verizon doesn't measure it, and USLEC doesn't measure it, what is measured internet traffic doing in the agreement?

MR. PANNER: Well, Your Honor, it's a defined term. Measured internet traffic is defined, in essence, --

JUDGE COCHERES: Yes. On page 33 at the top of the page as a disputed issue.

MR. PANNER: Right. Although the core of the issue is not disputed; that is, everyone agrees that there is a category of traffic, of ISP bound or internet bound traffic, that is treated, under the FCC's rules, differently from local traffic or, I don't mean to be contentious about it, sort of conventional voice traffic.

JUDGE COCHERES: Right, Mr. Panner.

MR. PANNER: So the point is that the definition is used -- what the FCC has said, as you know, is that the

parties can, without separately tracking the traffic, apply an algorithm that is based on the assumption that any traffic within a -- because internet traffic tends to be -- well, internet traffic is one way, inbound to the ISP -- that the parties can use the fact that traffic may be out of balance as a good indicator of the fact that some of the traffic may be ISP bound; and so the parties can agree -- or I should say the parties are required to use a default, 3 to 1 default, in the absence of an agreement to do something different. So that is all traffic that's within a 3 to 1 ratio is treated as non-internet; any traffic that's above a 3 to 1 ratio is treated as internet bound traffic, and that may affect the reciprocal compensation rate that applies to that traffic.

JUDGE COCHERES: Okay.

MR. SHOR: Your Honor, let me just respond briefly, if I may. I think that it would be fair to say that the entire area of compensation for internet bound traffic is in a state of flux.

JUDGE COCHERES: You're right.

MR. SHOR: And Mr. Panner is correct to some extent; the FCC has tried to distinguish internet traffic from voice traffic in the compensation arena, but it's struck out -- it's at strike two so far, as far as the D.C. Circuit is concerned. And I would suspect that it is not a foregone

conclusion that they're ever going to be able to figure out a way to do it, in part because of your initial question, which is: is the traffic distinguishable from voice traffic? I think that the correct answer to that is if you don't know the telephone number of the ISP, there is in fact no way to distinguish it; that the characteristics -- if you could open up a fiber optic cable or a line and look at the traffic, it would all look exactly the same, it is handled the same, it's routed the same, and the only distinction, the only way that people have ever been able to develop to "measure" it is by throwing in a database of telephone numbers that are assigned to internet service providers and flagging traffic that goes to that service provider. To the extent that even the FCC's compensation framework is under some cloud, the entire area is in flux, and I don't know that it's -- you know, the parties are trying under the best of circumstances to come up with a way to reflect what is a constantly shifting situation.

MR. PANNER: Your Honor, I don't know -- I would be happy to have a long discussion about the rules governing ISP bound traffic. In fact, the parties don't have any disagreement as to the basic issue of how ISP bound traffic should be treated. The parties agree there's a federal rule in place right now, and they agree as to what it is; it's reflected in the agreement. There is a disagreement about

what should happen if, as has not happened, that federal rule is vacated. We will be governed by federal law in that area. There is a federal rule in place, and there's really no place for people to go further. Again, that will be the subject of briefing.

Again, if you want to have some sort of argument about it now, I would be happy to, but the point is, in answer to your question, it's quite correct that the FCC has adopted a rule that makes it unnecessary for the parties actually to track the traffic. It's also quite correct that the ISP Remand Order was reversed in the D.C. Circuit. It's also correct that the D.C. Circuit specifically declined to vacate the rules, so they remain in effect. I'm sure that Mr. Shor, although he wouldn't have put it that way, would agree with everything I just said.

MR. SHOR: But it's also true that there's been a request for rehearing on the issue of not vacating the order, and that request has not been denied.

JUDGE COCHERES: Yet.

MR. PANNER: That's true. The law may change; it always could. Again, if you want to have argument on that issue, we can, and I want to fully respond to Your Honor's question about it, but I think the reason why the term is used is to reflect the requirements of the FCC's rules. The disagreements that the parties have about how the traffic

ought to be treated actually does not relate to the difficulty or otherwise of tracking internet traffic as a separate category of traffic.

JUDGE COCHERES: Okay. I really do not want to bog us down with an argument. As I read through this part of the agreement, I knew you two -- and I know it's a very sensitive topic; internet service providers and reciprocal compensation have been fought over long and hard. I agree with most of what both of you have said, mainly because I can't remember all of it, but mostly because I think telco attorneys generally have a very difficult job in that you are trying desperately to implement business plans on what can only be described as the shifting sands of legal opinions as they come out of the FCC and the Courts and the local Commissions. I do not envy you your job. I have enough trouble with my own; I don't want yours. But I was concerned that you should use terminology in the agreement in terms of the words "measured internet traffic" and then have testimony on the record which indicated that it basically couldn't be distinguished from anything else. I appreciate that you two have different positions on the subject of what should be done in response to whatever the D.C. Circuit and the FCC do, and frankly, I've lost track of in whose court the ball currently is. It doesn't matter; I think we're best served by going on to my next series of

questions. Thank you both.

My next questions deal -- incidentally, page 38 was the same thing; I just noticed the terminology being used over again. If you move to page 57, I do have questions on a different subject.

Now, on page 57, in the middle of the page, is paragraph 2.4.13, and I want to try and understand what the parties intended by this language. Let me give you as a prelude some of my own background here that highlighted this particular paragraph for me.

As it turns out, in Pennsylvania, Judge Gesoff, from Pittsburgh, and I were assigned the first Commission case dealing with establishing Commission-approved carrier-to-carrier performance assurance guidelines and penalties and what-have-you, so I have some basic knowledge that this stuff exists, that it went through my Commission and it was approved -- that some plan was approved, not precisely what Judge Gesoff and I recommended, but that doesn't matter; a plan was put into effect. Then I know that Judge Schnierle recently completed -- and when I say recently, in our Commission that means within the last year -- recently completed a decision on the same topic as a revision to those plans, and that he suggested that they basically adopt the New York plan; and that the Commission has not yet acted to do that in a final form.

What I'm looking at when I see that -- and you must understand that while I did review the language of this agreement, it is complex and I won't pretend to you for a moment that I thoroughly absorbed and divined every word that you were trying to give me, but what I was trying to do was understand what Verizon was agreeing to or not agreeing to.

Am I correct, Mr. Panner, when I look at this paragraph, that it's Verizon's position that it continues to be bound by my Commission's approved carrier-to-carrier performance standards?

MR. PANNER: Your Honor, to be honest with you, I have had no discussion with my client about this issue, but I certainly read it the way that you do. It provides that it will not be subject to performance measurements and remedies under this agreement, but then it provides "except as otherwise required by applicable law under any FCC or Commission-approved carrier-to-carrier performance assurance guidelines or plans," so presumably if it were required, I suppose -- to be honest with you, I probably should simply defer the question because, as I say, I haven't talked to my client about it and I don't know precisely what my client's position is on the significance of that language.

JUDGE COCHERES: Well, Mr. Panner -- and this is true for Mr. Shor and Ms. Finn as well -- today's the day,

fellas. I'm going to have to take your word for it. I do not have the luxury of taking more time to understand what your client's position is. I'm reading it this way. Mr. Panner, you have told me that you read it this way as well. I appreciate your candor, and unless there is something outrageously different that I'm missing, that's the way this record is going to sit.

MR. PANNER: Well, Your Honor, if I can just point out that, as I read this language, it would depend on whether -- in other words, to the extent that performance assurance plans are sort of public law, that is, "We as a Commission want to know how you're doing, and if you're not doing well enough, certain consequences may follow," and assuming that the Commission doesn't provide for carriers to opt out, then that would seem to certainly cover -- that would certainly seem to be preserved by or not called into question by this language.

JUDGE COCHERES: Yes. And that is precisely my understanding. I will tell you quite candidly, my concern about asking the question is that I have to approve this agreement, or recommend approving this agreement, based on the idea that it is in the public interest; and I can tell you quite clearly that your reading and mine coincide and, therefore, I believe it is in the public interest, because I'm not about to allow an agreement to be approved without

calling it to my Commission's attention that there's some effort to opt out, because I don't believe that that would be in the public interest. I want my bias clearly showing on the record here that my understanding is that it is not possible to opt out of those standards.

In the commonest of language, the whole purpose of the performance standards and metrics that Judge Gesoff and I initially tried to set up is based on the premise that Verizon is not going to offer perfect service to the CLECs, and the only real question is: when you deviate from perfect service, how far do you have to deviate before Verizon is not treating the CLECs equitably? In a nutshell, that's what the whole case was about, and I wanted to make sure that this particular paragraph preserved that.

Now, the following paragraph, 2.4.14, my question is in a different format. Is there any reason to be concerned about allocating the cost of making this decision? I can't tell, if you withdraw your traffic from a two-way interconnection trunk and install a one-way interconnection trunk, whether that is a seamless, costless activity and whether or not the parties have ever thought about it. Is there something else in the agreement that relates to this? Am I, you know, just concerned about an item that needn't be a problem? I'm not trying to create problems for you folks, I'm just trying to avoid them.

MR. PANNER: Your Honor, if I could?

JUDGE COCHERES: Mr. Shor?

MR. PANNER: This is Aaron Panner.

JUDGE COCHERES: All right.

MR. PANNER: And Mr. Shor will correct me if I'm wrong.

The issue of whether traffic is carried over a trunk is different from the question of who is actually paid to put the facilities there and who has ordered facilities to be in a certain place. In other words, for instance, --

JUDGE COCHERES: Mr. Panner?

MR. PANNER: Yes.

JUDGE COCHERES: It appears to me from this paragraph that the parties have established a two-way trunk and that one party has decided that it should be one-way.

MR. PANNER: No, I don't believe that's correct, Your Honor. Actually, I do believe that the parties use one-way trunks.

JUDGE COCHERES: Well, this --

MR. PANNER: This is generalized language; it's a template that applies to many different CLECs.

JUDGE COCHERES: Correct.

MR. PANNER: So there may be CLECs who are carrying traffic over two-way trunks, but if they are not, then this language simply wouldn't come into play.

JUDGE COCHERES: Correct. I'm sorry if you misunderstood me. What I thought this particular paragraph was based on was the concept that your client, Verizon, and USLEC had established a two-way trunk, and then, after having done that, one of you decides you want it to be a one-way trunk. And this paragraph, I thought, applied to what has to be done in terms of giving notice and diverting traffic to making it a one-way trunk. I'm asking, my question was, basically: is there any cost associated with this and is it something that the parties are concerned with?

MR. PANNER: I think the charges that would be associated with different service arrangements are covered by other provisions in the agreement and the cost of the transition per se. Again, there may be one-time fixed charges associated with establishing certain service arrangements.

JUDGE COCHERES: Okay.

MR. PANNER: But I don't know that this particular scenario causes any additional concerns.

JUDGE COCHERES: Okay.

MR. SHOR: Your Honor, I would just make the gut level assumption that any time you're switching from a particular trunking arrangement to another trunking arrangement, that there will be some costs involved, but I

have not heard my client express any concern over the allocation of those costs in the agreement. I'm not sure that it's fully addressed per se in the agreement, but I have not heard them express any concern over it.

JUDGE COCHERES: Perfect. That is exactly what I wanted to hear. If you folks aren't concerned, I'm not concerned. Again, I'm not trying to create a problem, I'm trying to avoid one. If you folks aren't concerned, I'm not concerned, but I saw that as one example of things that, where people change their minds or do things, there's -- you know, quite often the transition costs somebody something. I will rely on Mr. Panner saying that he thought it was covered in other portions of the agreement, and Mr. Shor saying his client didn't seem to be concerned, and I'm willing to give it up at that.

Now, is there some other comment?

(No response.)

JUDGE COCHERES: Let me move on then to a question I asked Mr. Panner at the hearing, and I wrote the question personally on page 114, which is the blank page that precedes the Pricing Attachment. Let me give Mr. Panner my biases and insights again.

I was the Administrative Law Judge for the Commission that did Verizon's first unbundled network rate case, and so I recognized, much to my own amazement, many of the terms

and items that were being priced out in the Pricing Attachment. What I could not say with any certainty was that these were prices that either I had recommended or that the Commission had approved in a final order.

It has since been my understanding that the Commission has at least allowed some of the UNE rates to become effective on a temporary basis, and I will also say that your agreement calls for the use of the tariffed rate and that the tariffed rate is subject to change, so that when I looked at the question again, I said to myself: if these rates are not subject to a final Commission order -- and I suspect most of them are not -- that they will change when the Commission comes around to doing a final order and directing the tariffs be filed. In addition, once again, Judge Schnierle has been batting second position on unbundled network elements and has just finished a decision within the last couple months setting new rates for UNEs for Verizon, so there is the potential that the tariffs will change not only once but twice in the near, near future.

Mr. Panner, are you able to agree with my recitation of history here?

MR. PANNER: That all sounds -- I'm not as familiar with the history as you are, I'm afraid, but that sounds correct, and it certainly is correct that the rates for all tariffed services that are reflected in here should reflect

the tariff rate, and often they simply do so by cross-reference.

JUDGE COCHERES: Having said that, I am concerned that the dark fiber charges and conditions have not been necessarily approved in any form by my Commission.

Do you have anything on that in particular, Mr. Panner?

MR. PANNER: I think that's correct, Your Honor, and that's why these are -- that might well be an example of a place where the rates that are here may be a result of agreement or prior arbitration. I simply don't know. Certainly, our position is that to the extent there is a tariff that's approved, then those rates would control.

JUDGE COCHERES: Well, my reservations with dark fiber are sincere. I recognize some terms and conditions which I certainly did not recommend in my decision, and I don't believe the Commission has adopted anything, but I can always check on that.

Now, amazingly, that takes me almost to the end of my questions, particularly if you tell me that I was right in spotting that one typographical error in the entire agreement on page 134.

MR. PANNER: Oh, the --

JUDGE COCHERES: The engineering query.

MR. PANNER: The engineering query. Yes, Your Honor,

I believe that the 122 figure is incorrect and it should be 123.

JUDGE COCHERES: Yes. All right. Now, that takes care of my questions dealing with the agreement, but there are some other items on my agenda that I need to talk about.

First of all, can I safely assume that, as ardent telco attorneys, you are aware that the FCC has at least issued a massive decision in part in Virginia proceedings involving what, AT&T and two other CLECs?

MR. SHOR: Cox and MCImetro. Yes, Your Honor.

JUDGE COCHERES: And you, too, Mr. Panner?

MR. PANNER: Yes, I'm aware of the decision, Your Honor.

JUDGE COCHERES: Am I correct that there are some issues covered by that FCC decision that are also involved in this proceeding?

MR. SHOR: Yes, Your Honor, that is correct.

MR. PANNER: I would agree with that, Your Honor.

JUDGE COCHERES: I haven't had the courage to try and print it yet, but I will print it; I'll use our high-speed printer somehow --

MR. SHOR: Your Honor, we will be attaching that, if you'd like, as part of the notebook of cases.

JUDGE COCHERES: No, do not do that. I am not in favor of killing forests to feed photocopiers. It's my

understanding that decision is over 300 pages long and I had intended to start reading it in the very near future. I have it right now in my computer on a PDF file and I'll work with it from there. I'm assuming that since I have it on a PDF file, that my page numbers will coincide with yours. I urge you to cite to that decision; it is available to me. I don't encourage you to be doing stacks of materials, unless, of course, you tell me you've already done it. Now, if it's already done, fine, but if not, don't do it.

That's one thing. The next thing, again, is for Mr. Panner.

Mr. Panner, when I reviewed the testimony presented by USLEC, and I think we agreed at the hearing, they presented testimony on Issues 1, 2, 3, 4, 5, 6, 8 and 9, and, quite frankly, your witnesses did not.

MR. PANNER: That's correct, Your Honor.

JUDGE COCHERES: Good. I'm glad that you're aware of this, because my assumption is, given the fact that your witnesses presented no factual evidence on those -- a limited number of issues, and I believe that was probably 3, 4, 5, and I can't remember --

MR. PANNER: Eight and 9, Your Honor.

JUDGE COCHERES: Eight and 9; thank you. Given that you did not present factual evidence on that, that you regard, at best, you regard those issues as legal issues.

MR. PANNER: That's correct, Your Honor.

JUDGE COCHERES: Fine. I wanted to confirm that on the record with you. I couldn't imagine your company just cavalierly omitting reference to those issues in your planned testimony.

MR. PANNER: No, Your Honor. We certainly responded in our answer to the petition as to each of those issues and, as you say, we felt that no testimony was required because there were no factual issues that we needed to introduce.

JUDGE COCHERES: All right. Now, I had directed you folks, at the end of the hearing, to agree on a matrix of issues, and I certainly very much appreciated our discussion earlier today on the disputed issues that you carefully identified which issues were involved as continuing to be disputed and which numbers that they were associated with.

Have you done that for purposes of presenting your briefs, agreed on a matrix of issues?

MR. PANNER: Your Honor, our agreement was that we would adopt the original numbering scheme to avoid confusion, so that the issues that will be presented for decision will be Issues 1, 2, 3, 4, 5, 6, 8 and 9.

JUDGE COCHERES: Fine. I appreciate that, and I think it will add a great deal of organization not only to your briefs but my decision and hopefully the Commission's

order.

I had told you that I would go through the issues that you presented and try and give you some guidance on where I sit on certain issues, to the best of my abilities. Were you satisfied with what I presented in the courtroom? And you can say no and not insult me.

MR. PANNER: Your Honor, this is Aaron Panner going first, foolishly, no doubt. I thought that what you said was helpful. I think that what you presented was really more a manner in which you planned to resolve the issues than your take on them at this point. As you've pointed out, there's been a new FCC decision that you'll want to review that may have an effect on how you are seeing these various issues.

JUDGE COCHERES: Yes, you're right.

MR. PANNER: I think that if you have additional insights into how you think, you know, what issues are bothering you with respect to any of the particular issues, Verizon certainly would be interested to hear that. Obviously, we will be addressing the implications of the FCC decision where appropriate. Also, I think, at least for me, the hearing was very helpful in terms of clarifying what the disputed points of fact versus disputed points of policy versus disputed points of law are, and we'll try to address those in the hopes of persuading you and in the hopes of

producing a record that will be helpful to the Commission in the course of time.

MR. SHOR: Your Honor, this is Michael Shor, hopefully smartly waiting for Mr. Panner to lead first.

I would agree that the approach you discussed with us at the hearing was helpful in the sense of setting forth the framework that you're going to use to approach it, but at the same time, I think it also suggested that the resolution turns on the presence or absence in any one of those particular locations of requirements of law, which I found helpful. I did not -- I think we all learned -- we learned about the FCC's arbitration order the next day, and I think I would agree, I think we all would agree, that it is worth pursuing and perusing to determine the impact, if any, on this case. It may change, it may reinforce, it may do nothing to some of the issues, since I don't know that every single one of them was covered. But I found your approach to be very helpful and appreciate the effort you took.

If you have an indication or inclination to go further and discuss some of the specifics, we of course would be willing and happy to listen to that and be guided accordingly.

JUDGE COCHERES: Well, I don't need much encouragement, Mr. Shor. Let me add some things. My problem is now that we're not at the end of the hearing, I

don't have the issues at my fingertips to talk about, but I think I can do that. Wait a minute.

(Judge Cocheres perusing documents.)

JUDGE COCHERES: What I'm looking for, basically, and I found it, is USLEC's original petition. I can follow along in the USLEC petition to Issues 1 and 2, which I think we've pretty much agreed are going to be treated as a unit.

My understanding of the Act is that the CLEC gets to pick its point of interconnection. This is an issue where I don't see a huge amount of factual dispute. For one thing, you're already interconnected. Neither one of you is denying that interconnection exists or where it exists or how you've gone about the process of giving traffic back and forth to one another, and that's fine, but it then becomes a question of using the process that I told you about to make a decision as to whether or not compensation, which seems to be at the heart of this issue, should flow differently than -- well, in favor of one side or the other.

I cannot tell you that I have a strong feeling from the federal statute or the developments of the law since then. I will read the Act again and I will read whatever applicable FCC items that you refer me to in the briefs, but on Issues 1 and 2, all I remember off the top of my head is that the CLEC gets to pick the point of interconnection. I don't think that the story stops there anymore, but that's

what I remember from the Act, and I'm not sure that that's any more helpful to you than what I told you last week.

I'll move on to Issue number 3, if I can find it. Yes. That concerns the transportation of voice information services. In this instance, I think it will be incumbent on Verizon particularly, but no less USLEC -- USLEC seems to be taking a position that, how shall I put this, it's not that anybody has the burden of proof here. Again, what I see Verizon trying to do is to carve out a new category of communication information. If Verizon can point to something in the statute or FCC decisions that enhances their position, I will read it with great interest, but again, my understanding of the statute particularly is that there is nothing in the statute that requires special treatment for voice information services traffic only.

Now, if there is something subsequent to the statute in an FCC decision, then I am simply not aware of it. I will look at it quite closely to determine where I will go on this issue. But if this is an attempt by Verizon to create a category which had not existed in the past, I'm not likely to be able to adopt it.

Issue number 4 is another voice information service item. Again, this seems to be a Verizon proposition and I'm looking for some support for their position in particular.

Category number 5, terminating party and receiving

party terminology. I'm looking for some authentication of this position. It appears again to be a Verizon proposition in the agreement. If Mr. Panner can point me to some authority which has adopted this position that is not outside the industry standard, which appears to be the USLEC position, I will certainly be very interested in reading it and seeing if it is particularly applicable to this situation.

Issue number 6, which I've lost some of the buzz words since last week, but foreign exchange service, either real or virtual, however you want to categorize that. Frankly, you both better have pretty dazzling briefs on this subject. I understand what the concept is, my difficulty is my lack of familiarity with the subject matter. It appears from your positions that you both have, how shall I put this, that it is a term that's used in the industry. What I am not familiar with is the limitations on either party using it, so I will be looking carefully at your briefs and your final and best offers on this subject as a reflection of what is currently going on in the industry. I don't have a real good feeling for this. My sense is that both Verizon and USLEC have some authority to point to, and I will be interested to know what it is and see it in some detail. Of course, I'm also speaking without having looked at the Virginia FCC decision, so I don't know at this point what

other issues are involved.

Issue 8 and 9 are the last two issues. This is the ISP internet bound traffic, Issue number 8. I am concerned more about the USLEC position in this instance. On the one hand, I think it is laudable that USLEC recognizes the potential for a problem and wants to deal with it in this interconnection agreement. On the other hand, I can see that Verizon -- and I know that this has been a sore point with all of the ILECs, that reciprocal compensation for ISP traffic has been a real concern, and I am only certain that there will be more litigation on the issue until we get something finalized from the FCC.

That being said, I think it is -- it looks to me as if on this particular issue, USLEC is making the proposition. I will be looking for support in your brief on this particular issue to verify your position. My understanding -- and like I said, I understand where Verizon is coming from here, and they're not the only ILEC to be concerned about this issue, but they have time after time agreed in the text of the language and language of your agreement that they will be bound by applicable law, be it federal, be it state, be it FCC order, be it Commission regulation, whatever, and I know of nothing in any of those bodies of law that currently authenticates the USLEC position. If there is room for give and take, things that

USLEC wants, this may be something that USLEC may consider giving up.

Now, Issue number 9. Issue number 9 deals with both tariffed and non-tariffed prices. I think it divides along those lines as well. I have absolutely no problem allowing the agreement to have the flexibility to incorporate new, approved, tariffed pricing as it comes into effect. I think that's wise, I think that's a recognition that there is a review process of the tariffs that takes effect, that all parties get a forum in which to be heard, be it in front of my Commission or in front of the FCC or wherever you decide that this is going to happen.

The second half I have extreme difficulty with as far as non-tariffed pricing is concerned. I can even subdivide that, and dark fiber may be the perfect example. If, as I currently believe, dark fiber is not a tariffed price in Pennsylvania, and the terms and conditions for getting dark fiber service are not currently tariffed in Pennsylvania, and as I earnestly hope that dark fiber will become a tariffed price and the terms and conditions will become a tariffed item in Pennsylvania, then I have no problem with the agreement being flexible enough to incorporate, again, a change to a tariffed item which I know the tariff has been subjected to the regulatory review process. But I will not grant, I will not recommend, and I doubt that my Commission

will allow one party, in this instance Verizon, but it could be either one, the unfettered discretion to change terms of the agreement without some form of review.

It seems to me that if this agreement has a two-year life span, that it's not hardly an agreement if you haven't agreed on prices. So to the extent that there will be non-tariffed prices as a part of this agreement, I am extremely reluctant to grant Verizon the opportunity to change those prices at its discretion. I think I have encountered similar circumstances where Verizon or other ILECs have requested unfettered discretion to change a term of the agreement; I think you would be hard-pressed to find any time where I have adopted that position.

Now, folks, I don't know -- and this often happens to me as a Judge -- I don't know if I've helped you or hurt you. I don't know if that's made your subsequent negotiations easier or more difficult. But I will tell you that that is my view from the top. It's the way I see things shaking out. I hope it helps expedite your negotiation of the issues. Certainly, I have given pretty clear directions on some of the issues. If you don't like the direction I'm going, negotiate a different one.

Does anybody have any questions?

MR. SHOR: Your Honor, I wanted to thank you for going through that. I found it extremely helpful.

JUDGE COCHERES: Well, you found it extremely helpful mainly because you think I'm going to rule in your favor on more issues than not.

MR. SHOR: No. I found it extremely helpful because it helps me to focus the areas where I need to develop and expand my brief.

JUDGE COCHERES: Well, we'll get back to the size of briefs in just a moment.

Mr. Panner, I think you understood pretty clearly where I was coming from?

MR. PANNER: Your Honor, I can agree with Mr. Shor that that was very helpful.

JUDGE COCHERES: All right. Let's talk about briefs for a moment. Currently in Commission regulations we have a 60-page limit on main briefs and -- I didn't bring my regulations into my conference room here, so I'm thinking it's like 30 or 40 pages on reply briefs.

Is that going to work for you two?

MR. PANNER: That's far more than we'll need, Your Honor.

MR. SHOR: Your Honor, I'm actually trying to strive towards brevity.

JUDGE COCHERES: I love it when a plan comes together. Thank you, gentlemen. Okay. Good. What I find is that the longer your briefs are, the more time it takes

me to read them, the more time it takes me to do the decision.

MR. SHOR: I just feel that if I can't say it and say it succinctly, I'm not doing my client any service.

JUDGE COCHERES: Okay. I should tell you that my brain works for short periods of vigorous activity followed by other periods of varying degrees of dormancy, so I have exhausted my current agenda that I recall and was able to reconstruct from our hearing last week.

Is there anything that we have not discussed that still remains on your agendas, gentlemen?

MR. SHOR: Your Honor, we have one housekeeping matter that I discussed earlier with Mr. Panner, and it regards the Verizon Exhibit 4, which was a portion of USLEC's Pennsylvania tariff. The parties have agreed to replace that with the full tariff, if that is something that Your Honor will entertain.

JUDGE COCHERES: That's fine. Do we need to put an exhibit number on that?

MR. SHOR: I think, if it's okay with the Court, we will just replace it.

JUDGE COCHERES: Just for purposes of clarity of the record, since we already have an identified Exhibit 4 and it is in possession of our other court reporter, who will submit it, why don't you call the new one Exhibit 4 Revised?

MR. PANNER: Your Honor, actually, this issue didn't come up between Mr. Shor and me, although he did say "Can I replace it," but I do think it would actually make more sense for him simply to, just for clarity of numbering, to introduce it as a new exhibit USLEC, whatever it is, but I don't have any objection to it being introduced.

JUDGE COCHERES: All right; wait a minute.

(Judge Cocheres perusing document.)

MR. SHOR: I think it would be USLEC Exhibit 4, if we did that.

JUDGE COCHERES: Yes. That's fine. That will be the -- I'm sorry, I've lost track. Which tariff is that?

MR. SHOR: I believe that that is the --

JUDGE COCHERES: Verizon tariff?

MR. SHOR: No. That's the USLEC tariff.

JUDGE COCHERES: Okay.

MR. SHOR: USLEC's Pennsylvania local tariff.

JUDGE COCHERES: Fine.

My court reporter has reminded me that she's responsible for gathering those exhibits. We'll clear up that little administrative detail at the end.

MR. SHOR: And finally, we are still trying to determine exactly how we will go about submitting the full MFS II transcript. I do not have a date for you yet. My local counsel is exploring that.

JUDGE COCHERES: Yes. I saw her in the Secretary's file room this morning.

I think it is incumbent upon you, since it is a late-filed exhibit, and in all fairness to Mr. Panner, I think he should be allowed to see it before you get into the briefing stage. Does that sound --

MR. SHOR: That's fair.

JUDGE COCHERES: My hope is that you can -- when is your final and best offer due, the end of this week?

MR. SHOR: Thursday.

JUDGE COCHERES: Thursday. Do you think you would be able to get it to him by Thursday?

MR. SHOR: If not then, by Friday at the latest.

JUDGE COCHERES: Okay. Mr. Panner, I trust that works for you?

MR. PANNER: That's fine, Your Honor.

JUDGE COCHERES: Okay. And that was to be a late-filed exhibit, as I recall?

MR. SHOR: Yes, Your Honor.

JUDGE COCHERES: That would be USLEC No. 5.

MR. SHOR: Yes.

JUDGE COCHERES: Wait a minute; let me just check on that for you.

(Judge Cocheres perusing documents.)

JUDGE COCHERES: That should be USLEC Exhibit 5.

Mr. Shor, is there any chance that you will be able to give Mr. Panner some preview of what is involved in that exhibit? Call it an abundance of caution, and again, I'm not trying to create problems but prevent them, what I don't want to happen is for you, Mr. Shor, to designate certain excerpts from that testimony and make up an exhibit, send it to Mr. Panner on Friday and have him take a look at it and say, "Well, gee, they left out what I thought were some of the more important parts."

MR. SHOR: I understand. I agree with that. I don't think there's any secret that we would be utilizing the transcript for the proposition relating to the assignment of NXX codes, and our attempt -- apparently when that proceeding was underway, they did not do it, as you wisely did, issue by issue, but did it witness by witness, and it would be my hope that we would be able to incorporate or to include in the exhibit all testimony, from whatever source, relating to the assignment of NXX codes.

JUDGE COCHERES: All right.

MR. SHOR: Now, if there's a portion of that transcript beyond that that he wishes to use, I guess I'd like to know, but that's the only reason I'm utilizing it.

JUDGE COCHERES: Mr. Panner, do you have any thoughts?

MR. PANNER: Maybe I can get with Mr. Shor off line,

Your Honor. I haven't seen the transcript. I have no idea what portions of it he's contemplating using. Although he's made a general description of what the purpose of it is, it's really not clear to me what the argument is or how it really even relates to the issues that are presented for decision in this case. So that said, it's difficult for me to say whether I think what he has proposed is reasonable or unreasonable or what he wants to put in is reasonably put in or not. I just haven't seen any of it, so I don't know.

JUDGE COCHERES: All right. Then let me resolve this in this way. Mr. Panner, you're going to have the burden of reviewing the document and distributing it to your client for review as quickly as possible, because if, by chance, there is something that you think was omitted that is crucial to your side of the case, then it will be incumbent on you to notify me as quickly as possible. It's not that I'm encouraging you to do that, but I do want you to have a fair opportunity. The absolute general rule is if the excerpt is offered, that the whole thing can come in. Well, the last thing I want is the whole MFS II transcript to come into this proceeding. But, on the other hand, Mr. Panner, I want you to have the opportunity to review it and to discuss it with your client in a most expeditious fashion so that if there is, by any chance, anything else that needs to come in, I know about it as quickly as possible and we do that as

quickly as possible.

MR. PANNER: Your Honor, can I propose one alternative, and I would understand if you rejected it, but it seems to me possibly sensible, given the shortness of time and the bulkiness of the documents that we're talking about. Would it make any sense simply to stipulate that if there are additional portions of the transcript that we wanted to rely upon in our briefing, that we could attach them as exhibits to our briefing, having provided them to Mr. Shor in advance? That way it would just give us some additional time; we wouldn't have to involve you, frankly, in the decision. I'm sure Mr. Shor would agree that that's a reasonable -- well, I won't speak for him. I think he might agree that that's a reasonable approach. That way it gives us the opportunity, if, in fact, there are portions of the transcript that we think are necessary to clarify the testimony that he introduces, that it could simply be introduced, it would be before Your Honor for your consideration, and as you say, it would simply reflect the fact that transcript relevant portions were admitted.

JUDGE COCHERES: Mr. Shor, do you agree to that?

MR. SHOR: Your Honor, I don't have any problem with it because as long as I get it in sufficient time either to address in my main brief or my reply brief, I don't think I'll be suffering any prejudice. I'm only offering the

transcript for a fairly limited purpose, and I don't know that there's going to be much beyond that that I would expect Mr. Panner to introduce since it's my goal to try to include all testimony on that subject. I would suppose the only -- I think I can work with it. If I have a problem, I'll let you know. I mean, if he introduces something completely extraneous from that transcript that has nothing to do with the numbering issue that we're introducing it for, then I suppose in some measure I could be prejudiced if I don't then, in turn, have all of the parts of the transcript that he's relying on.

JUDGE COCHERES: Okay.

MR. SHOR: So as long as we're focusing on the same issue, I don't have a problem with it. If it gets expanded beyond that, then it potentially creates a problem.

JUDGE COCHERES: Let me say a few words about some real extreme personal biases that I have.

Mr. Panner, I'm going to make an exception to a longstanding general and emotionally enforced rule in my hearing rooms and allow you the leeway to do as you have asked because Mr. Shor has basically agreed. Let me put this limitation on it, and that is, simply, your only opportunity to include that other material, in conference with Mr. Shor, will be your main brief, and that it is limited, as Mr. Shor has carefully tried to do in his

presentation, to the NXX issues, because I certainly do not want to be reviewing the entire portions of the MFS II transcript for issues that we have not talked about in this proceeding.

Is that clear to you, sir?

MR. PANNER: It is, Your Honor, and I certainly can work with that.

JUDGE COCHERES: Okay. The reason I say that is that if you put the stuff in your main brief and he feels the need to respond, his only opportunity would be the reply brief.

MR. PANNER: Yes. That doesn't even give me pause. Of course, I wouldn't include something in the reply that hadn't been included in the opening brief, so long as, again, I am given sufficient notice as to what he's planning to include, and as Your Honor has mentioned, he's agreed to provide that by Friday, so that should be sufficient time.

JUDGE COCHERES: Okay; good. Now, I will tell you, gentlemen, I'm taking a deep breath when I do that, and I'll tell you why. It has long been my position, something I learned when I was a litigator, that I absolutely hate the concept of extra-record evidence being attached to someone's brief, and I have usually railed long and hard, both from the bench and in my written decisions, about that subject. I don't think that's normally fair to the parties. I am

very clearly giving you, Mr. Panner, in particular, an exception to that rule. Ms. Conover will be stunned, I assure you.

MR. PANNER: No doubt I wouldn't have asked if I were more experienced, Your Honor.

JUDGE COCHERES: That's all right. I think the situation warrants it or I would not allow an exception to the rule, but I think that the press of time is upon us. As I made very clear earlier, this case is the highest priority on my docket and I want to get it off my docket as expeditiously as possible. But I really was concerned that we should find a way to extend to Mr. Panner the opportunity to present something if he thought Mr. Shor had, for lack of a better term -- and it's not artful -- shortchanged him. I am comfortable with allowing that exception, and I am particularly comfortable because I am comfortable with the way both of you litigate. I told you at the hearing that I did appreciate your professionalism, and I expect it to continue for the remainder of this proceeding.

It occurs to me, moving on to the next subject, that I have yet to say the magic words necessary, and I will do it now, and that is that I will incorporate, by reference, the agreement supplied to me by USLEC in its petition as the base document that we have discussed, so that it is in the record and that you gentlemen are free to cross-reference it

by page number and section number in your briefs and in the subsequent documents that you must prepare for my review.

MR. SHOR: Your Honor, I hate to ask this, to reveal my ignorance of Pennsylvania procedure, but would I be correct in assuming that the parties can refer to the petition and answer without specifically asking the Court to include that in the record?

JUDGE COCHERES: No, you would not be correct. Pleadings are generally not part of the record, the evidentiary record, of the proceeding. That goes back to something we discussed last week. Here in Pennsylvania we are frankly somewhat sloppy about using the word "record." On the one hand, the record, as most lawyers understand it, is the pleadings, the transcript, the exhibits, everything. On the other hand, the evidentiary record in Pennsylvania is everything that I say is in the record and part of the transcript. I have no problem, if you want me to, Mr. Shor, of including as incorporated into the evidentiary record both the USLEC petition and the Verizon response.

MR. SHOR: Your Honor, I think, in the interest of completeness and caution, I would like to request that USLEC's petition, and I'm assuming that Mr. Panner would not oppose to having Verizon's response included in the evidentiary record.

MR. PANNER: I think that's a good idea, Your Honor.

JUDGE COCHERES: I do, too, so both of those documents, in their entirety, are incorporated into the evidentiary record.

Are there any other procedural matters that I need to deal with?

MR. SHOR: I believe we have identified and resolved all of them, Your Honor.

JUDGE COCHERES: Mr. Panner?

MR. PANNER: I have nothing further, Your Honor.

JUDGE COCHERES: Well, gentlemen and Ms. Finn, I certainly appreciate all of your help this afternoon. You have been very helpful to me in helping me with the agreement and isolating the disputed language. I think we have laid the framework for at least our best shot at making this case work.

Thank you very much for your cooperation.

MR. SHOR: Thank you.

MR. PANNER: Thank you, Your Honor.

JUDGE COCHERES: Now, before you sever the connection, I will go off the record and allow the court reporter to address you, because there is some business that she needs to transact with you in terms of things you've said and things you might want to buy.

(Whereupon, at 3:04 p.m., the telephonic conference call was concluded.)

C E R T I F I C A T E

I hereby certify, as the stenographic reporter, that the foregoing proceedings were taken stenographically by me, and thereafter reduced to typewriting by me or under my direction; and that this transcript is a true and accurate record to the best of my ability.

COMMONWEALTH REPORTING COMPANY, INC.

By: Judith A. Valencik

Judith A. Valencik

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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Developing a Unified Intercarrier Compensation Regime	)	CC Docket No. 01-92
	)	

NOTICE OF PROPOSED RULEMAKING

Adopted: April 19, 2001 **Released:** April 27, 2001

Comment Date: 90 days after publication in the Federal Register
Reply Comment Date: 135 days after publication in the Federal Register

By the Commission: Chairman Powell and Commissioner Ness issuing separate statements; Commissioner Furchtgott-Roth concurring and issuing a statement

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I. INTRODUCTION

1. With this *Notice of Proposed Rulemaking (NPRM)*, we begin a fundamental re-examination of all currently regulated forms of intercarrier compensation. We intend to test the concept of a unified regime for the flows of payments among telecommunications carriers that result from the interconnection of telecommunications networks under current systems of regulation. Specifically, we seek comment on the feasibility of a bill-and-keep approach for such a unified regime. We also seek alternative comment on modifications to existing intercarrier compensation regimes. In sum, we seek to move forward from the transitional intercarrier compensation regimes to a more permanent regime that consummates the pro-competitive vision of the Telecommunications Act of 1996 ("1996 Act").[1]

2. As discussed below, there are currently two general intercarrier compensation regimes: (1) access charges for long-distance traffic; and (2) reciprocal compensation.

[1] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 ("1996 Act").

6. Bill and Keep for Traffic Subject to Section 251(b)(5)

69. In light of the current imbalances in traffic exchanged among interconnected networks, and the potential for inefficient incentives under the existing per-minute reciprocal compensation rates, we generally seek comment on the relative benefits of bill and keep for all traffic subject to section 251(b)(5),[88] versus the current per-minute reciprocal compensation rates imposed by most states. We seek comment from state commissions, in particular, regarding the benefits of either approach. We ask that parties discuss the incentives provided by each approach to intercarrier compensation. We also seek comment on the benefits of each approach in promoting competition and negating the effects of market power. We ask that commenters discuss the relative benefits of bill-and-keep and per-minute reciprocal compensation with respect to the pricing signals provided, and the relation between actual costs and prices determined under each approach. We seek comment on how the Commission should weigh the benefits of implementing bill and keep against any disadvantages that commenters may identify. We also seek comment on the disadvantages of applying a bill-and-keep arrangement to any particular type of traffic currently exchanged among interconnected carriers.

70. We seek comment on the best method for allocating transport responsibilities and costs among interconnected carriers under a mandatory bill-and-keep approach to reciprocal compensation. Under our current rules, the originating telecommunications carrier bears the costs of transporting traffic to its point of interconnection with the terminating carrier. If carriers must recover their transport costs from their end users, does this rule still make sense? What incentives does this rule create regarding location and number of points of interconnection (POIs)? Is there a more appropriate way to allocate transport costs?

71. Qwest argues, for example, that a bill-and-keep arrangement does not work when three carriers are involved in the transport and termination of traffic, because the middle carrier that transports the traffic from one LEC to the other does not really have a "customer" involved in the call from which it can recover costs.[89] Qwest therefore argues that the Commission should allow LECs to continue charging each other for delivering transiting traffic that originates on the networks of other carriers.[90] We ask commenters to address this and other issues related to the transport obligations of interconnected LECs under a bill-and-keep regime. CMRS carriers also originate and terminate three-carrier calls, some of which are governed by reciprocal compensation. We seek comment on the issues or problems that the current intercarrier compensation rules present for three-carrier calls. We seek comment on how bill and keep might affect such calls.

72. Under our current rules, interconnecting CLECs are obligated to provide one POI per LATA.[91] Under a bill-and-keep regime, should this rule still apply? How should carriers

[88] *See supra* note 7 and accompanying text.

[89] Qwest *ex parte* in CC Docket No. 99-68, Appendix B, at ii (filed Nov. 22, 2000).

[90] *Id.*

[91] 47 C.F.R. § 51.321; *see also* In the Matter of Application by SBC Communications Inc. *et al.* to Provide In-Region, InterLATA Services in Texas, CC Docket No. 00-65, *Memorandum Opinion and Order*, FCC 00-238 at ¶ 78, n.174 (rel. June 30, 2000).

select points of interconnection? If a CLEC chooses a point of interconnection outside a local calling area, should the LEC be obligated to meet the CLEC there? Or, should the CLEC be required to locate in every local calling area, or pay the ILEC transport and/or access charges if it does not? CMRS carriers may have several switches per MTA, which can comprise several states and multiple LATAs. Should originating carriers be required to deliver calls to all of a CMRS carrier's POIs? Should the Commission promulgate rules governing the technical requirements of interconnection, as it does for interconnection between CPE and the public switched telephone network?[92] We seek comment on how the costs of interconnection should be allocated between carriers in this context. We seek comment on how carriers will allocate the costs of actual interconnection facilities. In addition, we seek comment on how the costs for internal network upgrades necessary for interconnection should be allocated.[93]

73. Section 251(b)(5) provides that each LEC has the duty to "establish reciprocal compensation arrangements for the transport and termination of telecommunications."[94] In addition, section 252(d)(2) states that, for the purpose of ILEC compliance with section 251(b)(5), the terms and conditions for reciprocal compensation must: (1) provide for the "mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the carrier"; and (2) "determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls."[95] Section 252(d)(2)(B)(i) further provides that the foregoing language shall not be construed "to preclude arrangements that afford the mutual recovery of costs through the offsetting of reciprocal obligations, including arrangements that waive mutual recovery (such as bill-and-keep)."[96] The legislative history of the 1996 Act indicates that the term "mutual and reciprocal recovery of costs" includes "a range of compensation schemes, such as in-kind exchange of traffic without cash payment (known as bill-and-keep arrangements)."[97]

74. In the *Local Competition Order*, the Commission rejected claims that the Commission and states lack the authority to mandate bill-and-keep arrangements under any circumstances.[98] It instead found that in some circumstances, bill-and-keep arrangements can be imposed in the context of the arbitration process for termination of traffic.[99] The Commission

[92] *See generally* 47 C.F.R. Part 68.

[93] *See* Atkinson-Barnekov, *supra* note 43, at 13-14 (showing that the incremental cost of interconnection includes internal provisioning necessary to handle traffic exchanged with the interconnecting carrier).

[94] 47 U.S.C. § 251(b)(5).

[95] 47 U.S.C. § 252(d)(2).

[96] 47 U.S.C. § 252(d)(2)(B)(i).

[97] *See* S. Rep. No. 230, 104th Cong., 2nd Sess. 125 (1996), *reprinted in* A&P S. Rep. 104-230, 125 (1996).

[98] *Local Competition Order*, 11 FCC Rcd. at 16054. *See also* BellSouth Local Competition Comments in CC Docket No. 96-98 at 73-75; GTE Local Competition Comments in CC Docket No. 96-98 at 56-59; SBC Local Competition Comments in CC Docket No. 96-98 at 51-53.

[99] *Local Competition Order*, 11 FCC Rcd. at 16054.

of various implementation problems,[175] however, the Commission has never ordered a peak-load pricing rate structure, though it has permitted such rate structures. In implementing the reciprocal compensation provisions of the 1996 Act, for example, the Commission permitted states to adopt alternative rate structures, including: (1) a higher rate for peak periods; (2) a uniform per-minute rate; (3) a capacity-based rate; or (4) a bill-and-keep arrangement, provided that traffic is relatively balanced.[176] States, however, in applying the Commission's rules governing reciprocal compensation, have generally adopted average per-minute rates. Similarly, with respect to interstate access charges, the Commission has permitted ILECs to charge either a uniform per-minute rate to recover the costs of switching, or a two-part tariff consisting of a call setup charge and a per-minute charge.[177] The Commission has also sought comment on whether it should adopt capacity-based charges to recover switching costs.[178]

110. Our recent experience with ISP reciprocal compensation issues suggests certain questions about the use of uniform per-minute charges to recover the traffic-sensitive costs of termination. In particular, it appears that the Commission may have underestimated the inefficiencies associated with the use of uniform per-minute prices. Accordingly, we seek comment first on whether an average per-minute rate structure can efficiently recover the traffic sensitive costs of interconnection, whether for reciprocal compensation or for access charges. If parties believe that such a rate structure is inherently inefficient, then we ask them to propose alternative, more efficient rate structures. We also seek comment on whether the Commission overestimated the practical difficulties associated with peak-load pricing arrangements. In particular, we seek comment on: (1) how to deal with the practical, implementation problems associated with peak-load pricing; and (2) whether a peak-load pricing structure can eliminate the regulatory arbitrage opportunities of the existing interconnection pricing regimes.

111. We also invite comment on whether alternative rate structures would be more efficient, and whether they would eliminate some of the problems we are currently experiencing. For example, we ask parties to comment on the advantages and disadvantages of using a capacity-based rate structure, and a multi-part rate structure that includes both a call set-up charge and a per-minute charge. Finally, we invite parties to propose alternative rate structures that they believe would be more efficient, and to explain the basis for their belief.

c. Single Point of Interconnection Issues

112. As previously mentioned, an ILEC must allow a requesting telecommunications carrier to interconnect at any technically feasible point, including the option to interconnect at a

[175] The practical difficulties associated with peak-load pricing schemes include: (1) that peak traffic volumes may occur at different times in different areas (*e.g.*, between a downtown business area and a residential suburb); (2) that peak periods may change over time (*e.g.*, in response to increasing Internet use); and (3) that implementing a peak-load pricing scheme may cause a shift in the peak.

[176] *See* 47 C.F.R. §§ 51.507(c), 51.713; *Local Competition Order*, 11 FCC Rcd. at 15878-79 ¶¶ 755-757, 16028-29 ¶¶ 1063-64.

[177] *See* 47 C.F.R. § 69.106.

[178] *Pricing Flexibility Order and NPRM*, 14 FCC Rcd. at 14328-30 ¶¶ 211-16.

single POI per LATA.[179] Our current reciprocal compensation rules preclude an ILEC from charging carriers for local traffic that originates on the ILEC's network.[180] These rules also require that an ILEC compensate the other carrier for transport[181] and termination[182] for local traffic that originates on the network facilities of such other carrier.[183] Application of these rules has led to questions concerning which carrier should bear the cost of transport to the POI, and under what circumstances an interconnecting carrier should be able to recover from the other carrier the costs of transport from the POI to the switch serving its end user. In particular, carriers have raised the question whether a CLEC, establishing a single POI within a LATA, should pay the ILEC transport costs to compensate the ILEC for the greater transport burden it bears in carrying the traffic outside a particular local calling area to the distant single POI.[184] Some ILECs will interconnect at any POI within a local calling area; however, if a CLEC wishes to interconnect outside the local calling area, some LECs take the position that the CLEC must bear all costs for transport outside the local calling area.[185] CLECs hold the contrary view, that our rules simply require LECs to interconnect at any technically feasible point within a LATA, and that each carrier must bear its own transport costs on its side of the POI.[186]

113. If a carrier establishes a single POI in a LATA, should the ILEC be obligated to interconnect there and thus bear its own transport costs up to the single POI when the single POI is located outside the local calling area? Alternatively, should a carrier be required either to interconnect in every local calling area, or to pay the ILEC transport and/or access charges if the location of the single POI requires the ILEC to transport a call outside the local calling area? Further, if we should determine that a carrier establishing a single POI outside a local calling area must bear some portion of the ILEC's transport costs, do our regulations permit the imposition of access charges for calls that originate and terminate within one local calling area but cross local calling area boundaries due to the placement of the POI?[187]

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[179] *See supra* note 91 and accompanying text.

[180] *See* In the Matter of Joint Application by SBC Communications, Inc. *et al.* for Provision of In-Region, InterLATA Services in Kansas and Oklahoma, CC Docket No. 00-217, *Memorandum Opinion and Order*, FCC 01-29 at ¶ 235 (rel. Jan. 22, 2001) ("*Kansas/Oklahoma 271 Order*") (citing 47 C.F.R. § 51.703(b); In the Matters of TSR Wireless, LLC *et al.* v. U.S. West, 15 FCC Rcd. 11166 (2000), *pet. for review docketed sub nom.*, *Qwest v. FCC*, No. 00-1376 (D.C. Cir. Aug. 17, 2000)).

[181] 47 C.F.R. § 51.701(c).

[182] 47 C.F.R. § 51.701(d).

[183] 47 C.F.R. § 51.701(e).

[184] *See Kansas/Oklahoma 271 Order, supra* note 180, at ¶¶ 232-34.

[185] SBC Reply in CC Docket No. 00-217, at 83-84.

[186] AT&T Comments in CC Docket No. 00-217, Attachment 2, Fettig Declaration, at 26-27.

[187] *See ISP Intercarrier Compensation Order* at ¶¶ 24-30 (discussing relationship between reciprocal compensation and access charges).

114. Finally, we are concerned that the interplay of our single POI rules and reciprocal compensation rules may lead to the deployment of inefficient or duplicative networks. By requiring an ILEC to interconnect with a requesting carrier at any technical feasible point in a LATA of that carrier's choosing, are we compelling inefficient network design by forcing the LEC to provision extra transport? Or, by requiring carriers to pay ILECs for transport outside a local calling area, are we forcing the competitive carrier into an inefficient replication of the ILEC network? Assuming that the ILEC receives reciprocal compensation for transporting terminating traffic, how precisely does a distant POI unfairly burden the LEC? Is the efficiency concern limited to those instances in which traffic between two networks is unbalanced and/or where transport is required beyond a certain distance? We seek comment on these questions, and any other issues related to the interplay between our single POI rules and our reciprocal compensation rules.

d. Virtual Central Office Codes

115. We seek comment on the use of virtual central office codes (NXXs),[188] and their effect on the reciprocal compensation and transport obligations of interconnected LECs. Commenters in this proceeding have indicated that some LECs are inappropriately using virtual NXXs to collect reciprocal compensation for traffic that the ILEC is then forced to transport outside of the local calling area.[189] We note that the Commission has delegated some of its authority to state public utility commissions in order that they may order the North American Numbering Plan Administrator (NANPA) to reclaim NXX codes that are not used in accordance with the Central Office Code Assignment Guidelines.[190] The Maine Public Utility Commission recently addressed the issue of virtual NXXs when it directed the NANPA to reclaim the NXX codes that Brooks Fiber used to provide "unauthorized interexchange service" as opposed to "facilities-based local exchange service."[191] In light of these developments, we seek comment on the following issues: (1) Under what circumstances should a LEC be entitled to use virtual NXX codes? (2) If LECs are permitted to use virtual NXX codes, what is the transport obligation of the originating LEC? (3) Should the LEC employing the virtual NXX code be required to provide transport from the central offices associated with those NXX codes?

2. Can CPNP Regimes Resolve the Existing Interconnection Issues and Will They Be Administratively Feasible?

116. We seek comment on how, if the Commission declines to adopt bill and keep, the existing CPNP regimes could be modified to deal with the issues presented by existing

[188] Virtual NXX codes are central office codes that correspond with a particular geographic area that are assigned to a customer located in a different geographic area.

[189] *See, e.g.*, BellSouth *ex parte* in CC Docket No. 99-68 at 2 (Nov. 7, 2000).

[190] *See* In the Matter of Numbering Resource Optimization, CC Docket No. 99-200, *Report and Order and Further Notice of Proposed Rulemaking*, 15 FCC Rcd. 7574, 7678-7682 (2000).

[191] Investigation into the Use of Central Office Codes (NXXs) by New England Fiber Communications, LLC d/b/a Brooks Fiber Docket No. 98-758, Order Requiring Reclamation of NXX Codes and Special ISP Rates by ILECs, Order No. 4, at 4 (Maine PUC June 30, 2000).

interconnection regimes, and whether CPNP regimes can be modified so that regulators can administer them easily. We also seek comment on how existing CPNP rules could be modified to address situations of regulatory arbitrage. To the extent that certain regulatory arbitrage opportunities arise from the disparities between existing interconnection regimes, we seek comment on the costs and benefits of moving to a uniform CPNP regime.

117. We also seek comment on how, under a unified CPNP regime, regulators should deal with the terminating access monopoly problem. In this regard, we ask parties to discuss the administrative feasibility of any proposed solution to this problem. For example, is there any way that regulators can avoid having to regulate the access rates of all local carriers? If the rates of all local carriers must be regulated, is there any way to simplify the form of regulation? For example, should we simply prohibit CLECs from charging terminating access charges that exceed those of the ILEC?

118. Parties should also address whether a CPNP regime increases the possibility of predatory price squeezes, particularly against long-distance carriers, and how this problem could be addressed. In this context, and to the extent that parties contend we should drop the presumption of symmetrical reciprocal compensation rates, we seek comment on how we can minimize the administrative burdens of setting multiple interconnection rates.

119. With respect to the problem of inefficient end-user charges, we seek comment on how existing CPNP rules can be modified to reduce this problem. For example, would this problem disappear if we moved to a capacity-based intercarrier compensation scheme? We also invite comment on how we can modify the existing intercarrier compensation scheme to eliminate any regulatory inefficiencies that might cause an entity to claim to be a network rather than a subscriber. Similarly, we seek comment on whether CPNP regimes create an incentive for carriers to discriminate between on-net and off-net calls, and whether this could increase any tendency toward tipping into monopoly.

120. Finally, we ask parties to comment on the administrative costs or regulatory burdens associated with reforming the existing CPNP regimes and making them more uniform. We also ask parties to discuss whether, under a CPNP regime, regulatory intervention can be reduced. For example, can rules be adopted that provide incentives for carriers to reveal their true costs of termination in a regulatory or arbitration process? Alternatively, if we will be unable to eliminate regulatory intervention, can we simplify the regulations?

D. Other Issues

1. Legal Authority

121. In Section II.B.6 above, we seek comment on whether the Commission has legal authority to establish bill-and-keep arrangements for reciprocal compensation between telecommunications carriers. With respect to any modification to the existing intercarrier compensation rules discussed herein or proposed by any party, we seek comment on whether the Commission has legal authority to adopt such a modification. In particular, with respect to bill-and-keep arrangements, we seek comment on whether the Commission has legal authority to modify our existing interstate access rules to move them into a bill-and-keep regime. Additionally, we seek comment (particularly from state public utility commissions) on whether

§51.305 Interconnection.

(a) An incumbent LEC shall provide, for the facilities and equipment of any requesting telecommunications carrier, interconnection with the incumbent LEC's network:

(1) For the transmission and routing of telephone exchange traffic, exchange access traffic, or both;

(2) At any technically feasible point within the incumbent LEC's network including, at a minimum:

(i) The line-side of a local switch;

(ii) The trunk-side of a local switch;

(iii) The trunk interconnection points for a tandem switch;

(iv) Central office cross-connect points;

(v) Out-of-band signaling transfer points necessary to exchange traffic at these points and access call-related databases; and

(vi) The points of access to unbundled network elements as described in §51.319;

(3) That is at a level of quality that is equal to that which the incumbent LEC provides itself, a subsidiary, an affiliate, or any other party, except as provided in paragraph (4) of this section. At a minimum, this requires an incumbent LEC to design interconnection facilities to meet the same technical criteria and service standards that are used within the incumbent LEC's network. This obligation is not limited to a consideration of service quality as perceived by end users, and includes, but is not limited to, service quality as perceived by the requesting telecommunications carrier;

(4) That, if so requested by a telecommunications carrier and to the extent technically feasible, is superior in quality to that provided by the incumbent LEC to itself or to any subsidiary, affiliate, or any other party to which the incumbent LEC provides interconnection. Nothing in this section prohibits an incumbent LEC from providing interconnection that is lesser in quality at the sole request of the requesting telecommunications carrier; and

(5) On terms and conditions that are just, reasonable, and nondiscriminatory in accordance with the terms and conditions of any agreement, the requirements of Sections 251 and 252 of the Act, and the Commission's rules including, but not limited to, offering such terms and conditions equally to all requesting telecommunications carriers, and offering such terms and conditions that are no less favorable than the terms and conditions upon which the incumbent LEC provides such interconnection to itself. This includes, but is not limited to, the time within which the incumbent LEC provides such interconnection.

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USLEC 2

(b) A carrier that requests interconnection solely for the purpose of originating or terminating its interexchange traffic on an incumbent LEC's network and not for the purpose of providing to others telephone exchange service, exchange access service, or both, is not entitled to receive interconnection pursuant to Section 251(c)(2) of the Act.

(c) Previous successful interconnection at a particular point in a network, using particular facilities, constitutes substantial evidence that interconnection is technically feasible at that point, or at substantially similar points, in networks employing substantially similar facilities. Adherence to the same interface or protocol standards shall constitute evidence of the substantial similarity of network facilities.

(d) Previous successful interconnection at a particular point in a network at a particular level of quality constitutes substantial evidence that interconnection is technically feasible at that point, or at substantially similar points, at that level of quality.

(e) An incumbent LEC that denies a request for interconnection at a particular point must prove to the state commission that interconnection at that point is not technically feasible.

(f) If technically feasible, an incumbent LEC shall provide two-way trunking upon request.

(g) An incumbent LEC shall provide to a requesting telecommunications carrier technical information about the incumbent LEC's network facilities sufficient to allow the requesting carrier to achieve interconnection consistent with the requirements of this section.

Historical Note

Subsection (g) added by order in Docket Nos. 96-98, 95-185 and 92-237, effective November 15, 1996, 61 FR 47284. For Second Report and Memorandum Opinion see 4 CR 484.

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§51.321 Methods of obtaining interconnection and access to unbundled elements under Section 251 of the Act.

(a) Except as provided in paragraph (e) of this section, an incumbent LEC shall provide, on terms and conditions that are just, reasonable, and nondiscriminatory in accordance with the requirements of this part, any technically feasible method of obtaining interconnection or access to unbundled network elements at a particular point upon a request by a telecommunications carrier.

(b) Technically feasible methods of obtaining interconnection or access to unbundled network elements include, but are not limited to:

(1) Physical collocation and virtual collocation at the premises of an incumbent LEC; and

(2) Meet point interconnection arrangements.

(c) A previously successful method of obtaining interconnection or access to unbundled network elements at a particular premises or point on any incumbent LEC's network is substantial evidence that such method is technically feasible in the case of substantially similar network premises or points. A requesting telecommunications carrier seeking a particular collocation arrangement, either physical or virtual, is entitled to a presumption that such arrangement is technically feasible if any LEC has deployed such collocation arrangement in any incumbent LEC premises.

(d) An incumbent LEC that denies a request for a particular method of obtaining interconnection or access to unbundled network elements on the incumbent LEC's network must prove to the state commission that the requested method of obtaining interconnection or access to unbundled network elements at that point is not technically feasible.

(e) An incumbent LEC shall not be required to provide for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the incumbent LEC's premises if it demonstrates to the state commission that physical collocation is not practical for technical reasons or because of space limitations. In such cases, the incumbent LEC shall be required to provide virtual collocation, except at points where the incumbent LEC proves to the state commission that virtual collocation is not technically feasible. If virtual collocation is not technically feasible, the incumbent LEC shall provide other methods of interconnection and access to unbundled network elements to the extent technically feasible.

(f) An incumbent LEC shall submit to the state commission, subject to any protective order as the state commission may deem necessary, detailed floor plans or diagrams of any premises where the incumbent LEC claims that physical collocation is not practical because of space limitations. These floor plans or diagrams must show what space, if any, the incumbent LEC or any of its affiliates has reserved for future use, and must describe in detail the specific future uses for which the space has been reserved and the length of time for each reservation. An incumbent LEC that contends space for physical collocation is not available in an incumbent

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LEC premises must also allow the requesting carrier to tour the entire premises in question, not only the area in which space was denied, without charge, within ten days of the receipt of the incumbent's denial of space. An incumbent LEC must allow a requesting telecommunications carrier reasonable access to its selected collocation space during construction.

(g) An incumbent LEC that is classified as a Class A company under §32.11 of this chapter and that is not a National Exchange Carrier Association interstate tariff participant as provided in part 69, subpart G, shall continue to provide expanded interconnection service pursuant to interstate tariff in accordance with §§64.1401, 64.1402, 69.121 of this chapter, and the Commission's other requirements.

(h) Upon request, an incumbent LEC must submit to the requesting carrier within ten days of the submission of the request a report describing in detail the space that is available for collocation in a particular incumbent LEC premises. This report must specify the amount of collocation space available at each requested premises, the number of collocators, and any modifications in the use of the space since the last report. This report must also include measures that the incumbent LEC is taking to make additional space available for collocation. The incumbent LEC must maintain a publicly available document, posted for viewing on the incumbent LEC's publicly available Internet site, indicating all premises that are full, and must update such a document within ten days of the date at which a premises runs out of physical collocation space.

(i) An incumbent LEC must, upon request, remove obsolete unused equipment from their premises to increase the amount of space available for collocation.

Historical Note

Subsections (c) and (f) amended and (h) and (i) added by order in Docket No. 98-147, effective June 1, 1999 (except subsections (f) and (h) are effective June 1, 1999), 64 FR 23229, 29598, 34137. For First Report see 15 CR 553.

Subsection (f) amended by order in Docket No. 98-147, effective October 10, 2000, 65 FR 54433, 57291. For Order on Reconsideration see 21 CR 1026.

Subsection (h) amended by order (FCC 01-204) in Docket No. 98-147, effective September 19, 2001, 66 FR 43516. For Fourth Report see 24 CR 417.

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Subpart F - Pricing of Elements

§51.501 Scope.

(a) The rules in this subpart apply to the pricing of network elements, interconnection, and methods of obtaining access to unbundled elements, including physical collocation and virtual collocation.

(b) As used in this subpart, the term "element" includes network elements, interconnection, and methods of obtaining interconnection and access to unbundled elements.

§51.503 General pricing standard.

(a) An incumbent LEC shall offer elements to requesting telecommunications carriers at rates, terms, and conditions that are just, reasonable, and nondiscriminatory.

(b) An incumbent LEC's rates for each element it offers shall comply with the rate structure rules set forth in §§51.507 and 51.509, and shall be established, at the election of the state commission--

(1) Pursuant to the forward-looking economic cost-based pricing methodology set forth in §§51.505 and 51.511; or

(2) Consistent with the proxy ceilings and ranges set forth in §51.513.

(c) The rates that an incumbent LEC assesses for elements shall not vary on the basis of the class of customers served by the requesting carrier, or on the type of services that the requesting carrier purchasing such elements uses them to provide.

§51.505 Forward-looking economic cost.

(a) In general. The forward-looking economic cost of an element equals the sum of:

(1) The total element long-run incremental cost of the element, as described in paragraph (b); and

(2) A reasonable allocation of forward-looking common costs, as described in paragraph (c).

(b) Total element long-run incremental cost. The total element long-run incremental cost of an element is the forward-looking cost over the long run of the total quantity of the facilities and functions that are directly attributable to, or reasonably identifiable as incremental to, such element, calculated taking as a given the incumbent LEC's provision of other elements.

(1) Efficient network configuration. The total element long-run incremental cost of an element should be measured based on the use of the most efficient telecommunications technology currently available and the lowest cost network configuration, given the existing

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location of the incumbent LEC's wire centers.

(2) Forward-looking cost of capital. The forward-looking cost of capital shall be used in calculating the total element long-run incremental cost of an element.

(3) Depreciation rates. The depreciation rates used in calculating forward-looking economic costs of elements shall be economic depreciation rates.

(c) Reasonable allocation of forward-looking common costs.

(1) Forward-looking common costs. Forward-looking common costs are economic costs efficiently incurred in providing a group of elements or services (which may include all elements or services provided by the incumbent LEC) that cannot be attributed directly to individual elements or services.

(2) Reasonable allocation.

(i) The sum of a reasonable allocation of forward-looking common costs and the total element long-run incremental cost of an element shall not exceed the stand-alone costs associated with the element. In this context, stand-alone costs are the total forward-looking costs, including corporate costs, that would be incurred to produce a given element if that element were provided by an efficient firm that produced nothing but the given element.

(ii) The sum of the allocation of forward-looking common costs for all elements and services shall equal the total forward-looking common costs, exclusive of retail costs, attributable to operating the incumbent LEC's total network, so as to provide all the elements and services offered.

(d) Factors that may not be considered. The following factors shall not be considered in a calculation of the forward-looking economic cost of an element:

(1) Embedded costs. Embedded costs are the costs that the incumbent LEC incurred in the past and that are recorded in the incumbent LEC's books of accounts;

(2) Retail costs. Retail costs include the costs of marketing, billing, collection, and other costs associated with offering retail telecommunications services to subscribers who are not telecommunications carriers, described in §51.609;

(3) Opportunity costs. Opportunity costs include the revenues that the incumbent LEC would have received for the sale of telecommunications services, in the absence of competition from telecommunications carriers that purchase elements; and

(4) Revenues to subsidize other services. Revenues to subsidize other services include revenues associated with elements or telecommunications service offerings other than the element for which a rate is being established.

(e) Cost study requirements. An incumbent LEC must prove to the state commission that the rates for each element it offers do not exceed the forward-looking economic cost per unit of

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providing the element, using a cost study that complies with the methodology set forth in this section and §51.511.

(1) A state commission may set a rate outside the proxy ranges or above the proxy ceilings described in §51.513 only if that commission has given full and fair effect to the economic cost based pricing methodology described in this Section and §51.511 in a state proceeding that meets the requirements of paragraph (e)(2) of this section.

(2) Any state proceeding conducted pursuant to this section shall provide notice and an opportunity for comment to affected parties and shall result in the creation of a written factual record that is sufficient for purposes of review. The record of any state proceeding in which a state commission considers a cost study for purposes of establishing rates under this section shall include any such cost study.

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Subpart H - Reciprocal Compensation for Transport and Termination of Telecommunications Traffic

§51.701 Scope of transport and termination pricing rules.

(a) The provisions of this subpart apply to reciprocal compensation for transport and termination of telecommunications traffic between LECs and other telecommunications carriers.

(b) Telecommunications traffic. For purposes of this subpart, telecommunications traffic means:

(1) Telecommunications traffic exchanged between a LEC and a telecommunications carrier other than a CMRS provider, except for telecommunications traffic that is interstate or intrastate exchange access, information access, or exchange services for such access (see FCC 01-131, paragraphs 34, 36, 39, 42-43); or

(2) Telecommunications traffic exchanged between a LEC and a CMRS provider that, at the beginning of the call, originates and terminates within the same Major Trading Area, as defined in §24.202(a) of this chapter.

(c) Transport. For purposes of this subpart, transport is the transmission and any necessary tandem switching of telecommunications traffic subject to Section 251(b)(5) of the Act from the interconnection point between the two carriers to the terminating carrier's end office switch that directly serves the called party, or equivalent facility provided by a carrier other than an incumbent LEC.

(d) Termination. For purposes of this subpart, termination is the switching of telecommunications traffic at the terminating carrier's end office switch, or equivalent facility, and delivery of such traffic to the called party's premises.

(e) Reciprocal compensation. For purposes of this subpart, a reciprocal compensation arrangement between two carriers is one in which each of the two carriers receives compensation from the other carrier for the transport and termination on each carrier's network facilities of telecommunications traffic that originates on the network facilities of the other carrier.

Historical Note
Section amended by order (FCC 01-131) in Docket Nos. 96-98 and 99-68, effective June 14, 2001, 66 FR 26800. For Order on Remand and Report see 23 CR 678.

§51.703 Reciprocal compensation obligation of LECs.

(a) Each LEC shall establish reciprocal compensation arrangements for transport and termination of telecommunications traffic with any requesting telecommunications carrier.

(b) A LEC may not assess charges on any other telecommunications carrier for telecommunications traffic that originates on the LEC's network.

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§51.709 Rate structure for transport and termination.

(a) In state proceedings, a state commission shall establish rates for the transport and termination of telecommunications traffic that are structured consistently with the manner that carriers incur those costs, and consistently with the principles in §§51.507 and 51.509.

(b) The rate of a carrier providing transmission facilities dedicated to the transmission of traffic between two carriers' networks shall recover only the costs of the proportion of that trunk capacity used by an interconnecting carrier to send traffic that will terminate on the providing carrier's network. Such proportions may be measured during peak periods.

Historical Note
Subsection (a) amended by order (FCC 01-131) in Docket Nos. 96-98 and 99-68, effective June 14, 2001, 66 FR 26800. For Order on Remand and Report see 23 CR 678.

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of US LEC of Pennsylvania, Inc. for Arbitration with Verizon Pennsylvania Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996	)	Docket No. A-310814F7000

VERIZON PENNSYLVANIA INC.'S FIRST SUPPLEMENTAL RESPONSES TO US LEC OF PENNSYLVANIA, INC.'S FIRST SET OF DISCOVERY REQUESTS

Verizon Pennsylvania Inc. ("Verizon") hereby submits the following supplemental responses to the requests included in US LEC of Pennsylvania, Inc.'s ("US LEC") First Set of Discovery Requests (filed June 7, 2002).

Subject to and without waiving any of Verizon's objections (filed June 12, 2002), Verizon responds to US LEC's Requests as follows:

Request for Admission No. 1

Please admit that Verizon currently delivers its originated traffic to a single US LEC-IP per LATA in (a) the Pittsburgh (234) LATA and (b) the Philadelphia (228) LATA. If you do not so admit, please explain the reasons for your denial.

Response to Request for Admission No. 1

Verizon admits that it currently delivers traffic originated by its end-user customers in the Pittsburgh and Philadelphia LATAs for delivery to US LEC customers in those LATAs to a single physical point, on US LEC's network, in each of the LATAs.

Request for Admission No. 3

Please admit that Verizon is currently financially responsible for the facilities used to deliver its originated traffic to the single US LEC-IP in (a) the Pittsburgh (234) LATA and (b) the Philadelphia (228) LATA. If you do not so admit, please explain the reasons for your denial.

(a) and (c): For high-usage trunk groups, Verizon engineers these trunk groups using an Economic Centum Call Second ("ECCS") (Hundred Call Second) equal to five.

Interrogatory No. 23

Please explain how Verizon proposes to inform US LEC of the amount and application of any "other costs (to the extent Verizon purchases such transport from ... a third party)" that must be included in the Verizon-proposed calculation in Section 7.1.1.1.1.

Response to Interrogatory No. 23

Verizon will notify US LEC in writing.

Interrogatory No. 24

Using the rates in Appendix A of the proposed agreement, and assuming (a) that US LEC maintains its IP at its switches — (located at V&H coordinates 05619/02187 [CLLI PITBPAMADS1] in the Pittsburgh (234) LATA and located at V&H coordinates 05250/01461 [CLLI PHLAPAFGDSG] in the Philadelphia (228) LATA) — and assuming (b) that Verizon originates (x) 100, (y) 1,000, or (z) 100,000 minutes of local traffic a month from each Verizon end office to US LEC in each LATA, please calculate the amount by which Verizon proposes to reduce US LEC's reciprocal compensation rate under the Verizon-proposed calculation defined in Section 7.1.1.1.1 of the Interconnection Attachment. Please explain each step in your calculation and provide documentation supporting your calculation.

Response to Interrogatory No. 24

Under Section 7.1.1.1.1 of the Interconnection Attachment, and assuming that no tandem switching or other costs are incurred, the following calculation is used:

$$\frac{\text{dedicated transport rate per mile} \times \text{\# of miles between Verizon originating office and US LEC location} + \text{fixed dedicated transport rate}}{\text{average minutes of use for a DS1}} = \text{per minute transport rate}$$

Using the applicable rates in Appendix A of the proposed agreement, the per minute transport rate is:

$$\frac{(\$0.60 \times [\text{miles}]) + \$35.22}{200000} = \$0.000003 \times \text{miles} + \$0.000176$$

Assuming that the distance between the end office and the US LEC IP that is not geographically relevant is 25 miles and that 100,000 minutes of use are originated in the month, the credit would be $25.11.

($0.000003 x 25) + $0.000176 = $0.000251 x 100000 minutes = $25.11

US LEC is capable of performing the calculations for the other end offices in the Pittsburgh and Philadelphia LATAs, inasmuch as those calculations vary only with respect to the distance between the end office and the US LEC switch in that LATA and the number of minutes of traffic originated.

Interrogatory No. 26

Please identify and explain the financial, technical, or other reasons why US LEC could not meet its VGRIP obligation by establishing its IP through a means other than collocation (*e.g.*, entrance facility, mid-span meet, etc.). Please provide all documentation supporting your response.

Response to Interrogatory No. 26

Verizon would be willing to consider VGRIP language that would include other interconnection alternatives and would review a VGRIP proposal from US LEC that includes multiple interconnection options. However, US LEC has made it clear that, regardless of the permitted means of interconnection, it will not accept Verizon-originated traffic at more than one point per LATA.

Interrogatories No. 39-40

39. Please state whether Verizon believes the charges identified in Verizon-proposed Section 7.1.1.1.1 of the Interconnection Attachment comply with a Total Element Long Run Incremental Cost methodology adopted by the Federal Communications Commission and/or the Commission. If the answer is yes, please provide a detailed explanation of your reasoning and provide all documentation supporting your assertion.

40. Please state whether Verizon believes the charges identified in Verizon-proposed Section 7.1.1.1.1 of the Interconnection Attachment comply with the pricing standards of

section 252(d) of the Act. If the answer is yes, please provide a detailed explanation of your reasoning and provide all documentation supporting your assertion.

Response to Interrogatories No. 39-40

Verizon believes the charges referenced in these two interrogatories satisfy the requirements of 47 U.S.C. § 252(d), which the FCC has interpreted to require rates for unbundled network elements ("UNE") to be set using the Total Element Long-Run Incremental Cost ("TELRIC") methodology. As Verizon has previously explained to US LEC, the charges identified in Section 7.1.1.1.1 are based on the UNE rates that the Pennsylvania PUC established for the specified facilities. The FCC has found that the "the Pennsylvania Commission followed basic TELRIC principles" in establishing UNE rates and that those "rates are within the range that reasonable application of TELRIC would produce." Memorandum Opinion and Order, *Application of Verizon Pennsylvania Inc., et al. for Authorization To Provide In-Region, InterLATA Services in Pennsylvania*, 16 FCC Rcd 17419, ¶¶ 55-56 (2001).

Interrogatories No. 45-46

45. Does Verizon have the capability to distinguish Voice Information Service traffic from other local traffic?

46. If your response to DR 45 is affirmative, please state the process by which you distinguish such traffic, state how long that process has been in place and identify all studies you have undertaken to determine the accuracy of the process.

Response to Interrogatories No. 45-46

Verizon has the capability of distinguishing Voice Information Service traffic that is dialed using distinct NXX codes, including 976 and 556 numbers. Verizon distinguishes the traffic on the basis of the dialed number; this process has been in place for many years and is accurate. Verizon does not ordinarily distinguish Voice Information Service traffic that is not dialed using dedicated NXX codes.

Interrogatory No. 47

Have you ever billed or received reciprocal compensation for calls received from CLECs for termination to your customers who offer Voice Information Services? Please explain your answer.

Response to Interrogatory No. 47

If Voice Information Service traffic that is dialed using distinct NXX codes, including 976 and 445 numbers, is delivered to Verizon over a separate trunk group, it is Verizon's policy not to bill reciprocal compensation on such traffic. If Voice Information Service traffic is not delivered to Verizon over a separate trunk group, Verizon would not routinely distinguish such traffic from local traffic for reciprocal compensation billing purposes.

Interrogatories No. 49, 50, and 52

49. Do you contend that "receiving" traffic is different than "terminating" traffic for the purposes of assessing reciprocal compensation? Please provide the factual and legal basis for your contention.

50. Do you contend that traffic can be "received" but not terminated? Please provide the factual and legal basis for your contention.

52. Do you contend that there is a difference between a "receiving" party and a "terminating" party with respect to a particular call?

Response to Interrogatories No. 49, 50, and 52

"Receiving traffic" is a broader term than "terminating traffic." It includes traffic, such as Internet-bound traffic, that the receiving carrier does not terminate but instead passes on to another party for onward transmission. For example, with respect to an Internet-bound call from a Verizon customer through an Internet service provider ("ISP") served by US LEC, US LEC would receive the call but would not terminate it. The factual and legal basis for this conclusion are set forth in Mark L. Evans & Aaron M. Panner, "Analysis of Issues on Remand in ISP Reciprocal Compensation Proceeding," attached to the Comments of the United States Telecom Association in CC Docket No. 96-98 (FCC filed July 21, 2000), *available at*

http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6511457918, and in the Declaration of Charles Jackson, attached to Comments of Verizon Communications Inc. in CC Docket No. 96-98 (FCC filed July 21, 2001), *available at* http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6511359995.

Interrogatory No. 55

Please explain how you rate each of the following types of traffic originated by or terminated to your FX customers, and provide all documentation supporting your answer:

(a) A call placed by a Verizon end user to a Verizon FX customer where the NXX code of the dialed number (FX customer) and the NXX code of the calling party's number are assigned to the same local calling area, but the FX customer is not physically located within that local calling area.

(b) A call placed by a Verizon FX customer to a Verizon end user where the NXX code of the dialed number and the NXX code of the calling party's number (FX customer) are assigned to the same local calling area, but the FX customer is not physically located in that local calling area.

(c) A call placed by a Verizon end user to a Verizon FX customer where the NXX code of the dialed number (FX customer) is assigned to a local calling area within the same local access transport area ("LATA") as the calling party, but not assigned to the same local calling area as the calling party, and where the FX customer is physically located in the same local calling area as the calling party.

(d) A call placed by a Verizon FX customer to a Verizon end user where the NXX code of the dialed number is assigned to a local calling area within the same LATA, but not within the same local calling area, as the NXX code assigned to the FX customer, and where the FX customer is physically located in the same local calling area as the called party.

(e) A call carried by an interexchange carrier and terminated to a Verizon FX customer.

Response to Interrogatory No. 55

(a) With Foreign Exchange ("FX") service, calls are rated between originating and terminating subscribers based on the originating customer's class of service to the "foreign" switch. In this example, the call would appear "local" to the caller and would be rated as such. The Verizon FX customer (the called party) would not receive such calls as part of local service.

Instead, the FX subscriber would pay a separate charge equal to the basic exchange service rate in the caller's local calling area, as well as paying a private line charge to transport the call beyond the caller's local calling area to the FX customer's premises. The currently available service options are contained in the following Verizon tariffs: Bell Atlantic-Pennsylvania, Inc., PA P.U.C. No. 1, § 12, Channels, and Local General Tariffs PA P.U.C. Nos. 180A, 182, 185B and 185C.

(b) See response a. In this case, the call would be rated as "local" to the FX customer, who has purchased basic exchange service in the foreign exchange, as well as private line service. The called party would not pay to receive the call.

(c) See response a. A call to an NXX associated with a non-local exchange would be billed as toll. The example is largely academic, however, because,if the FX customer is located in the same local calling area as the caller, the FX customer would ordinarily provide the calling party with a locally rated number, not an FX number that would require the caller to incur toll charges.

(d) See response c.

(e) Calls are rated by the interexchange carrier to the FX customer's foreign switch.

Interrogatory No. 56

Please explain how you bill each end user (or IXC) for each of the types of traffic identified in DR 55, and provide all documentation supporting your answer.

Response to Interrogatory No. 56

(a)-(d) Calls would be billed as they are rated, as described in Verizon's Response to Interrogatory No. 55.

(e) Such calls would be billed by the interexchange carrier.

Interrogatory No. 57

Please explain how you account (for separations or other regulatory purposes) for each of the types of traffic identified in DR 55, and provide all documentation supporting your answer.

Response to Interrogatory No. 57

Calls are accounted for as local or toll based on how the call is rated.

Interrogatory No. 59

Have you ever billed or received reciprocal compensation for calls received from customers of CLECs or other LECs for termination to your FX customers located in Pennsylvania? Please explain your answer.

Response to Interrogatory No. 59

If a CLEC customer originated a call to a Verizon FX customer with an assigned NXX code associated with the same local calling area as the NXX code of the originating CLEC customer, Verizon would ordinarily bill (and therefore also receive) reciprocal compensation on such a call. Verizon believes that in-bound FX traffic constitutes a very small proportion of in-bound traffic received from CLECs. Verizon does not believe that reciprocal compensation is due on such traffic.

Interrogatory No. 60

Are there any circumstances in which Verizon has been billed and/or paid access charges to the originating carrier for a call originated by another carrier and terminating to a Verizon FX customer? If so, please describe all circumstances under which such an obligation arose.

Response to Interrogatory No. 60

See Response to Interrogatory 55(e). If a carrier delivers traffic to a Verizon FX number that is rated as an interLATA or intraLATA toll call, and the carrier's customer originated the call, the originating carrier would owe access charges under Verizon's state and federal tariffs.

Interrogatory No. 61

Please state whether you offer any FX-Like Service; *e.g.*, do you currently offer any services or products to your customers, other than your FX service, under which a customer can obtain a telephone number with an "NXX" associated with a local calling area that is different from the local calling area in which the customer has a physical presence?

Response to Interrogatory No. 61

Verizon offers Enhanced IntelliLinQ PRI Hub Service and Internet Protocol Routing Service in Pennsylvania.

Interrogatory No. 62

Please state whether you provide "Internet Protocol Routing Service" in Pennsylvania.

Response to Interrogatory No. 62

Yes.

Interrogatory No. 63

Please state whether you provide "Single Number Service-Primary Rate Interface," Hub-PRI service, SNS-PRI service, or their functional equivalents, in Pennsylvania.

Response to Interrogatory No. 63

See Response to Interrogatory No. 61.

Interrogatory No. 64

Please state whether you provide in Pennsylvania any service, apart from 1-8YY service, by which an Internet service provider can use a single number for all of its customers within a LATA to reach it to obtain Internet access and not incur toll charges.

Response to Interrogatory No. 64

Both Enhanced IntelliLinQ PRI Hub Service and Internet Protocol Routing Service provide this functionality.

Interrogatory No. 65

Is "1-500" service available to ISPs in Pennsylvania?

Response to Interrogatory No. 65

Yes.

Interrogatory No. 66

If the answer to DRs 61, 62, 63, 64 or 65 is yes, please state the name of each such service, identify the tariff where the product is described, provide copies of all product descriptions and marketing materials associated with each service offering and state the number of customers in the Pittsburgh and Philadelphia LATAs who purchase each FX-like service.

Response to Interrogatory No. 66

See Reponses to Interrogatories No. 61-65. Internet Protocol Routing Service is described in Verizon's Tariff F.C.C. No. 1, § 16.5. Enhanced IntelliLinQ PRI Hub Service is described in Bell Atlantic-Pennsylvania, Inc. P.U.C. No. 1, § 21D. Verizon objects to the request for copies of all product descriptions and market materials as overly broad and unduly burdensome and not reasonably calculated to lead to discovery of relevant information. Verizon objects to the request for the number of customers who purchase Verizon's service because such information is proprietary and competitively sensitive.

Interrogatory No. 74

Have you ever billed or received reciprocal compensation for calls received from customers of CLECs or other LECs for termination to your customers who have purchased or subscribed to FX-Like Services? Please explain your answer.

Response to Interrogatory No. 74

See Response to Interrogatory No. 59. CLEC customers are generally unable to dial 1-500 numbers; Verizon does not believe that it has ever billed or received reciprocal compensation for calls received from customers of CLECs or other LECs for delivery to

customers who have purchased 1-500 service. Verizon believes that "FX-Like Services" traffic constitutes a very small proportion of in-bound traffic received from CLECs. Verizon does not believe that reciprocal compensation is due on such traffic.

Interrogatory No. 80

Please state whether your costs of originating locally-dialed calls from your customers to US LEC customers having line numbers assigned to the same NPA-NXX code vary depending on the physical location of those customers.

Response to Interrogatory No. 80

Verizon's costs of delivering traffic depend on the location of the applicable CLEC interconnection point and do not vary depending on the location of the CLEC customer. As Verizon has explained in the testimony of Terry Haynes, CLECs' use of virtual NXX codes may deprive Verizon of appropriate compensation for originating and transporting interexchange traffic.

Interrogatory No. 83

Has Verizon developed a process by which it can separate or identify traffic as FX or FX-Like Services traffic from all other locally dialed traffic?

Response to Interrogatory No. 83

Verizon has no automated process in place to identify CLEC-originated traffic bound for Verizon FX numbers. Verizon can accurately estimate the volume of such traffic using traffic studies. Verizon believes that the traffic described constitutes a very small proportion of in-bound traffic received from CLECs.

Interrogatory No. 85

Would implementing a process to separate FX or FX-Like Services traffic from all other locally dialed traffic require Verizon, US LEC, and other LECs to implement a new billing system to rate such traffic for purposes of intercarrier compensation?

Response to Interrogatory No. 85

No with respect to Verizon. Verizon cannot respond to this Interrogatory with respect to any other carrier.

Interrogatory No. 86

If the answer to DR 85 is yes, what does Verizon project the cost of implementing such a billing system to be?

Response to Interrogatory No. 86

N/A.

Respectfully submitted,

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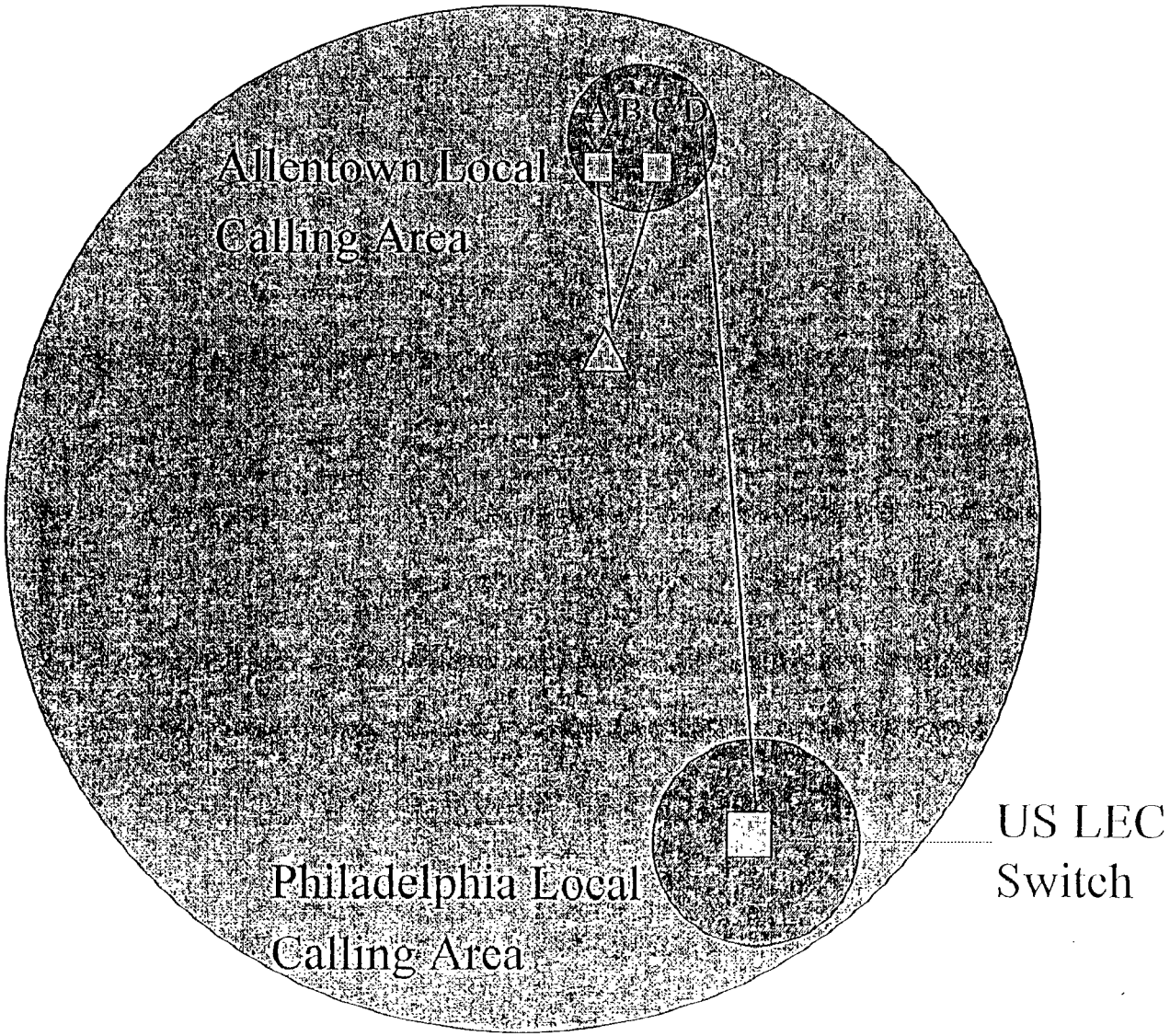
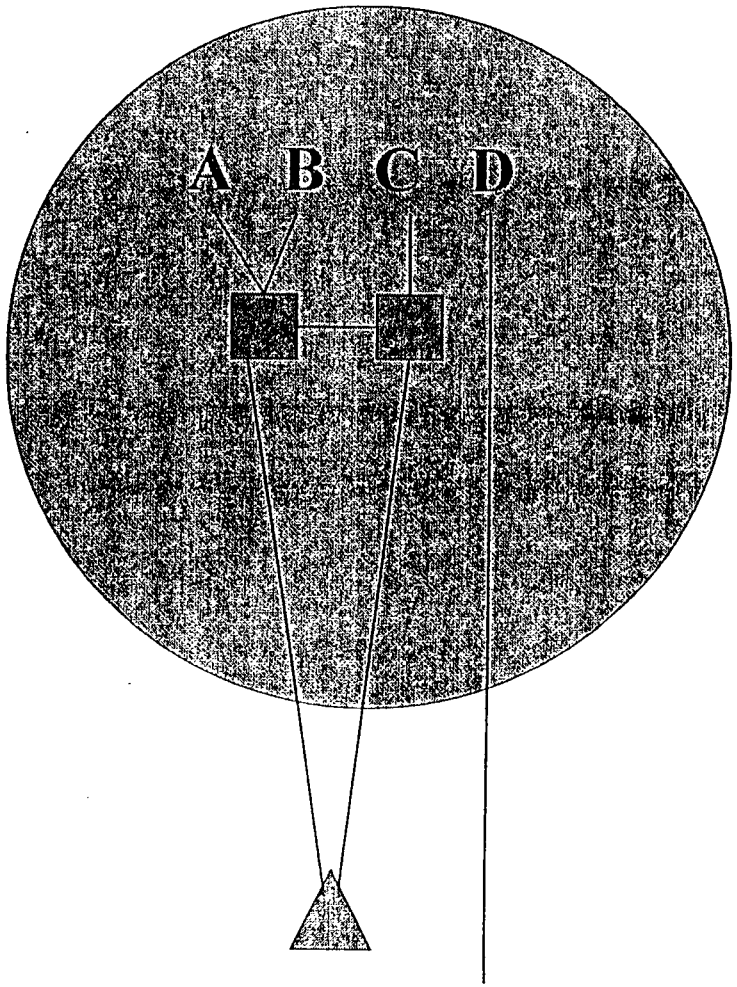


VZ-1

Allentown Local Calling Area



VZ-2

INTERCONNECTION ATTACHMENT

1. General

Each Party ("Providing Party") shall provide to the other Party, in accordance with this Agreement, the Providing Party's applicable Tariffs, and Applicable Law, interconnection with the Providing Party's network for the transmission and routing of Telephone Exchange Service and Exchange Access.

2. Methods for Interconnection and Trunk Types

2.1 Methods for Interconnection.

2.1.1 In accordance with, but only to the extent required by, Applicable Law, the Parties shall provide interconnection of their networks at any technically feasible point as specified in this Agreement.

2.1.2 **[DISPUTED ITEM]** Each Party ("Originating Party"), at its own expense, shall provide for delivery to the relevant IP of the other Party (~~"Receiving~~"Terminating Party") Reciprocal Compensation Traffic and Measured Internet Traffic that the Originating Party wishes to deliver to the ~~Receiving~~Terminating Party.

2.1.3 US LEC may use any of the following methods for interconnection with Verizon:

2.1.3.1 a Collocation arrangement US LEC has established at the Verizon-IP pursuant to the Collocation Attachment; and/or

2.1.3.2 a Collocation arrangement, or an Entrance Facility and transport arrangement, that has been established separately at the Verizon-IP by a third party and that is used by US LEC to interconnect with Verizon; and/or

2.1.3.3 an Entrance Facility and transport obtained from Verizon (and any necessary multiplexing) pursuant to the applicable Verizon access Tariff or contractual arrangement, from the US LEC network to the Verizon-IP.

2.1.4 US LEC may order from Verizon, in accordance with the rates, terms and conditions set forth in this Agreement and applicable Verizon Tariff(s) (or in the absence of applicable rates, terms and conditions set forth in this Agreement and Verizon Tariff(s), in accordance with rates, terms and conditions to be negotiated by the Parties), any of the methods for interconnection specified in Section 2.1.3 above.

2.1.5 Verizon may use any of the following methods for interconnection with US LEC:

2.1.5.1 an arrangement Verizon has established at the US LEC-IP that is operationally equivalent to a Collocation arrangement (including, but not limited to, a Verizon provided Entrance Facility); and/or

2.1.5.2 an arrangement that a third party has established at the US LEC-IP that is operationally equivalent to a Collocation

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arrangement and that is used by Verizon to interconnect with US LEC; and/or

2.1.5.3 a non-distance sensitive Entrance Facility obtained from US LEC (and any necessary multiplexing), from the POI to the US LEC-IP (including, but not limited to, at Verizon's election, an Entrance Facility accessed by Verizon through interconnection at a Collocation arrangement that US LEC has established at a Verizon Wire Center pursuant to the Collocation Attachment, or through interconnection at a Collocation arrangement that has been established separately at a Verizon Wire Center by a third party and that is used by US LEC), or an Entrance Facility obtained from a third party that has established an interconnection arrangement with US LEC.

2.1.6 Verizon may order from US LEC, in accordance with the rates, terms and conditions set forth in this Agreement and applicable US LEC Tariff(s) (or in the absence of applicable rates, terms and conditions set forth in this Agreement and US LEC Tariff(s), in accordance with rates, terms and conditions to be negotiated by the Parties), any of the methods for interconnection specified in Section 2.1.5 above.

2.2 Trunk Types.

2.2.1 In interconnecting their networks pursuant to this Attachment, the Parties will use, as appropriate, the following separate and distinct trunk groups:

2.2.1.1 Interconnection Trunks for the transmission and routing of Reciprocal Compensation Traffic, translated LEC IntraLATA toll free service access code (e.g., 800/888/877) traffic, and IntraLATA Toll Traffic, between their respective Telephone Exchange Service Customers, Tandem Transit Traffic, and, Measured Internet Traffic, all in accordance with Sections 5 through 8 of this Attachment;

2.2.1.2 Access Toll Connecting Trunks for the transmission and routing of Exchange Access traffic, including translated InterLATA toll free service access code (e.g., 800/888/877) traffic, between US LEC Telephone Exchange Service Customers and purchasers of Switched Exchange Access Service via a Verizon access Tandem in accordance with Sections 9 through 11 of this Attachment; and

2.2.1.3 Miscellaneous Trunk Groups as mutually agreed to by the Parties, including, but not limited to: (a) choke trunks for traffic congestion and testing; and, (b) untranslated IntraLATA/InterLATA toll free service access code (e.g. 800/888/877) traffic.

2.2.2 Other types of trunk groups may be used by the Parties as provided in other Attachments to this Agreement (e.g., 911/E911 Trunks; Information Services Trunks) or in other separate agreements between the Parties (e.g., Directory Assistance Trunks, Operator Services Trunks, BLV/BLVI Trunks).

2.2.3 Except as otherwise provided in this Agreement, the Parties will mutually agree upon where One-Way Interconnection Trunks (trunks with traffic going in one direction, including one-way trunks and uni-directional two-way trunks) and/or Two-Way Interconnection Trunks (trunks with traffic going in both directions) will be deployed.

2.2.4 In the event the volume of traffic between the Party's networks, which is carried by a Final Tandem Interconnection Trunk group, exceeds the Centium Call Second (Hundred Call Second) busy hour equivalent of one (1) DS-1 at any time and/or 200,000 minutes of use for a single month: (a) if One-Way Interconnection Trunks are used, the originating Party shall promptly establish new End Office One-Way Interconnection Trunk groups between the Verizon End Office and the US LEC network; or, (b) if Two-Way Interconnection Trunks are used, US LEC shall promptly submit an ASR to Verizon to establish new End Office Two-Way Interconnection Trunk group(s) between that Verizon End Office and the US LEC network.

2.2.5 Except as otherwise agreed in writing by the Parties, the total number of Tandem Interconnection Trunks between US LEC's network and a Verizon Tandem will be limited to a maximum of 240 trunks. In the event that the Parties have exhausted Tandem offload requirements, as stated in Section 2.2.4, then the Parties agree to exceed the 240 trunk limitation at the Verizon Tandem until such time as Verizon or US LEC exceeds 200,000 combined minutes of use to a specific end office as detailed in Section 2.2.4. US LEC shall promptly submit an ASR to Verizon to establish new or additional End Office Trunks to insure that the volume of traffic between US LEC's network and the Verizon Tandem does not exceed the capacity of the 240 trunks.

2.3 One-Way Interconnection Trunks.

2.3.1 Where the Parties have agreed to use One-Way Interconnection Trunks for the delivery of traffic from US LEC to Verizon, US LEC, at US LEC's own expense, shall:

2.3.1.1 provide its own facilities for delivery of the traffic to the US LEC Collocation arrangement at the Verizon-IP or to the third-party Collocation arrangement used by US LEC at the Verizon-IP; and/or

2.3.1.2 obtain transport for delivery of the traffic to the US LEC Collocation arrangement at the Verizon-IP or to the third-party Collocation arrangement used by US LEC at the Verizon-IP (a) from a third-party, or, (b) if Verizon offers such transport pursuant to this Agreement or an applicable Verizon Tariff, from Verizon; and/or

2.3.1.3 order the One-Way Trunks from Verizon in accordance with the rates, terms and conditions set forth in this Agreement and applicable Verizon Tariffs, for installation on an Entrance Facility obtained by US LEC from Verizon pursuant to Sections 2.1.3.3 and 2.1.4, and also order multiplexing and transport from Verizon pursuant to Sections 2.1.3.3 and 2.1.4.

2.3.1.3.1 For each Tandem One -Way Interconnection Trunk group provided by Verizon to US LEC with a utilization level of less than sixty percent (60%) for three consecutive months, unless the Parties agree otherwise, US LEC will promptly submit ASRs to disconnect a sufficient number of Interconnection Trunks to attain a utilization level of approximately sixty percent (60%). The minimum utilization level of sixty percent (60%) is not required until trunk group members have been in service for at least ninety (90) days.

2.3.2 Where the Parties have agreed to use One-Way Interconnection Trunks for the delivery of traffic from Verizon to US LEC, Verizon, at Verizon's own expense, shall:

2.3.2.1 provide its own facilities for delivery of the traffic to the Verizon Collocation arrangement or interconnection arrangement at the US LEC-IP or to the third-party Collocation arrangement used by Verizon at the US LEC-IP; or

2.3.2.2 obtain transport for delivery of the traffic to the Verizon Collocation arrangement or interconnection arrangement at the US LEC-IP or to the third-party Collocation arrangement used by Verizon at the US LEC-IP (a) from a third-party, or, (b) if US LEC offers such transport pursuant to this Agreement or an applicable US LEC Tariff, from US LEC; or

2.3.2.3 order the One-Way Trunks from US LEC in accordance with the rates, terms and conditions set forth in this Agreement and applicable US LEC Tariffs for installation on an Entrance Facility obtained by Verizon from US LEC pursuant to Sections 2.1.5.3 and 2.1.6, or obtain the One-Way Trunks from a third-party that has established an interconnection arrangement with US LEC.

2.4 Two-Way Interconnection Trunks.

2.4.1 Where the Parties have agreed to use Two-Way Interconnection Trunks for the exchange of traffic between Verizon and US LEC, US LEC shall order from Verizon, and Verizon shall provide, the Two-Way Interconnection Trunks and the Entrance Facility, on which such Trunks will ride, and transport and multiplexing, in accordance with the rates, terms and conditions set forth in this Agreement and Verizon's applicable Tariffs.

2.4.2 Prior to ordering any Two-Way Interconnection Trunks from Verizon, US LEC shall meet with Verizon to conduct a joint planning meeting ("Joint Planning Meeting"). At that Joint Planning Meeting, each Party shall provide to the other Party originating Centium Call Second (Hundred Call Second) information, and the Parties shall mutually agree on the appropriate initial number of Two-Way End Office and Tandem Interconnection Trunks and the interface specifications at the Point of Interconnection (POI). Where the Parties have agreed to convert existing One-Way Interconnection Trunks to Two-Way Interconnection Trunks, at the Joint Planning Meeting, the Parties shall

also mutually agree on the conversion process and project intervals for conversion of such One-Way Interconnection Trunks to Two-Way Interconnection Trunks.

2.4.3 Two-Way Interconnection Trunks shall be from a Verizon End Office or Tandem to a mutually agreed upon POI.

2.4.4 On a semi-annual basis, US LEC shall submit a good faith forecast to Verizon of the number of End Office and Tandem Two-Way Interconnection Trunks that US LEC anticipates Verizon will need to provide during the ensuing two (2) year period to carry traffic from US LEC to Verizon and from Verizon to US LEC. US LEC's trunk forecasts shall conform to the Verizon CLEC trunk forecasting guidelines as in effect at that time.

2.4.5 The Parties shall meet (telephonically or in person) from time to time, as needed, to review data on End Office and Tandem Two-Way Interconnection Trunks to determine the need for new trunk groups and to plan any necessary changes in the number of Two-Way Interconnection Trunks.

2.4.6 Two-Way Interconnection Trunks shall have SS7 Common Channel Signaling. The Parties agree to utilize B8ZS and Extended Super Frame (ESF) DS1 facilities, where available.

2.4.7 With respect to End Office Two-Way Interconnection Trunks, both Parties shall use an economic Centium Call Second (Hundred Call Second) equal to five (5).

2.4.8 Two-Way Interconnection Trunk groups that connect to a Verizon access Tandem shall be engineered using a design blocking objective of Neal-Wilkenson B.005 during the average time consistent busy hour. Two-Way Interconnection Trunk groups that connect to a Verizon local Tandem shall be engineered using a design blocking objective of Neal-Wilkenson B.01 during the average time consistent busy hour. Verizon and US LEC shall engineer Two-Way Interconnection Trunks using BOC Notes on the LEC Networks SR-TSV-002275.

2.4.9 The performance standard for final Two-Way Interconnection Trunk groups shall be that no such Interconnection Trunk group will exceed its design blocking objective (B.005 or B.01, as applicable) for three (3) consecutive calendar traffic study months.

2.4.10 US LEC shall determine and order the number of Two-Way Interconnection Trunks that are required to meet the applicable design blocking objective for all traffic carried on each Two-Way Interconnection Trunk group. US LEC shall order Two-Way Interconnection Trunks by submitting ASRs to Verizon setting forth the number of Two-Way Interconnection Trunks to be installed and the requested installation dates within Verizon's effective standard intervals or negotiated intervals, as appropriate. US LEC shall complete ASRs in accordance with OBF Guidelines as in effect from time to time.

2.4.11 Verizon may (but shall not be obligated to) monitor Two-Way Interconnection Groups using service results for the applicable design

blocking objective. If Verizon observes blocking in excess of the applicable design objective on any Tandem Two-Way Interconnection Trunk group and US LEC has not notified Verizon that it has corrected such blocking, Verizon may submit to US LEC a Trunk Group Service Request directing US LEC to remedy the blocking. Upon receipt of a Trunk Group Service Request, US LEC will complete an ASR to augment the Two-Way Interconnection Trunk Group with excessive blocking and submit the ASR to Verizon within five (5) Business Days.

2.4.12 The Parties will review all Tandem Two-Way Interconnection Trunk groups that reach a utilization level of seventy percent (70%), or greater, to determine whether those groups should be augmented. US LEC will promptly augment all Tandem Two-Way Interconnection Trunk groups that reach a utilization level of eighty percent (80%) by submitting ASRs for additional trunks sufficient to attain a utilization level of approximately seventy percent (70%), unless the Parties agree that additional trunking is not required. For each Tandem Two-Way Interconnection Trunk group with a utilization level of less than sixty percent (60%), unless the Parties agree otherwise, US LEC will promptly submit ASRs to disconnect a sufficient number of Interconnection Trunks to attain a utilization level of approximately sixty percent (60%) for each respective group, unless the Parties agree that the Two-Way Interconnection Trunks should not be disconnected. In the event US LEC fails to submit an ASR for Two-Way Interconnection Trunks in conformance with this section, Verizon may bill US LEC for the excess Interconnection Trunks at the applicable Verizon rates.

2.4.13 Because Verizon will not be in control of when and how many Two-Way Interconnection Trunks are established between its network and US LEC's network, Verizon's performance in connection with these Two-Way Interconnection Trunk groups shall not be subject to any performance measurements and remedies under this Agreement, and, except as otherwise required by Applicable Law, under any FCC or Commission approved carrier-to-carrier performance assurance guidelines or plan.

2.4.14 Upon three (3) months prior written notice and with the mutual agreement of the Parties, either Party may withdraw its traffic from a Two-Way Interconnection Trunk group and install One-Way Interconnection Trunks to the other Party's relevant POI, provided that, if a Party has failed to comply with this Agreement with regard to Two-Way Interconnection Trunks, the other Party may upon three (3) months prior written notice and without mutual agreement of the non-complying Party, withdraw its traffic from a Two-Way Interconnection Trunk group and install One-Way Interconnection Trunks to the non-complying Party's relevant POI.

2.4.15 US LEC will route its traffic to Verizon over the End Office and Tandem Two-Way Interconnection Trunks in accordance with SR-TAP-000191, including but not limited to those standards requiring that a call from US LEC to a Verizon End Office will first be routed to the End Office Interconnection Trunk group between US LEC and the Verizon End Office.

2.4.16 When the Parties implement Two-Way Interconnection Trunks, the Parties will work cooperatively to calculate a Proportionate Percentage

of Use ("PPU") factor for each facility on which the Two-Way Interconnection Trunks ride, based on the total number of minutes of traffic that each Party sends over the Two-Way Interconnection Trunks riding on that facility. US LEC will pay a percentage of Verizon's monthly recurring charges for each facility on which the Two-Way Interconnection Trunks ride equal to US LEC's percentage of use of that facility as shown by the PPU. The PPU shall not be applied to calculate the charges for any portion of a facility that is on US LEC's side of US LEC's-IP, which charges shall be solely the financial responsibility of US LEC. During the first full calendar quarter (and any partial calendar quarter preceding such first full calendar quarter) after the first Two-Way Interconnection Trunk is established on a facility, the PPU for that facility will be fifty percent (50%) for each Party. For each calendar quarter thereafter, the Parties shall recalculate the PPU using actual traffic usage data for the preceding calendar quarter.

Non-recurring charges for the facility on which the Two-Way Interconnection Trunks ride shall be apportioned as follows: (a) for the portion of the facility on Verizon's side of the US LEC-IP, US LEC shall pay fifty percent (50%) of the Verizon non-recurring charges; and, (b) for the portion of the facility on US LEC's side of the US LEC-IP, US LEC shall be solely responsible for the non-recurring charges.

Notwithstanding the foregoing provisions of this Section 2.4.16, if US LEC fails to provide US LEC-IPs in accordance with this Agreement, US LEC will be responsible for one hundred percent (100%) of all recurring and non-recurring charges associated with Two-Way Interconnection Trunk groups until US LEC establishes such US LEC-IPs.

3. Alternative Interconnection Arrangements

3.1 In addition to the foregoing methods of Interconnection, and subject to mutual agreement of the Parties, the Parties may agree to establish an End Point Fiber Meet arrangement, which may include a SONET backbone with an optical interface at the OC-n level in accordance with the terms of this Section. The Fiber Distribution Frame at the US LEC location shall be designated as the POI for both Parties.

3.2 The establishment of any End Point Fiber Meet arrangement is expressly conditioned upon the Parties' reaching prior written agreement on routing, appropriate sizing and forecasting, equipment, ordering, provisioning, maintenance, repair, testing, augment, and compensation, procedures and arrangements, reasonable distance limitations, and on any other arrangements necessary to implement the End Point Fiber Meet arrangement.

3.3 Except as otherwise agreed by the Parties, End Point Fiber Meet arrangements shall be used only for the termination of Reciprocal Compensation Traffic, Measured Internet Traffic, and IntraLATA Toll Traffic.

4. Initiating Interconnection

4.1 If US LEC determines to offer Telephone Exchange Services and to interconnect with Verizon in any LATA in which Verizon also offers Telephone Exchange Services and in which the Parties are not already interconnected pursuant to this

Agreement, US LEC shall provide written notice to Verizon of the need to establish Interconnection in such LATA pursuant to this Agreement.

4.2 The notice provided in Section 4.1 shall include (a) the initial Routing Point(s); (b) the applicable US LEC-IPs to be established in the relevant LATA in accordance with this Agreement; (c) US LEC's intended Interconnection activation date; (d) a forecast of US LEC's trunking requirements conforming to Section 14.3; and (e) such other information as Verizon shall reasonably request in order to facilitate Interconnection.

4.3 The interconnection activation date in the new LATA shall be mutually agreed to by the Parties after receipt by Verizon of all necessary information as indicated above. Within ten (10) Business Days of Verizon's receipt of US LEC's notice provided for in Section 4.1, Verizon and US LEC shall confirm the Verizon-IP(s), the US LEC-IP(s) and the mutually agreed upon Interconnection activation date for the new LATA.

5. Transmission and Routing of Telephone Exchange Service Traffic

5.1 Scope of Traffic.

Section 5 prescribes parameters for Interconnection Trunks used for Interconnection pursuant to Sections 2 through 4 of this Attachment.

5.2 Trunk Group Connections and Ordering.

5.2.1 For One-Way or Two-Way Interconnection Trunks, both Parties shall use either a DS-1 or DS-3 facilities interface at the POI. When and where an STS-1 interface is available, the Parties may agree to use such an interface. Upon mutual agreement, the Parties may agree to use an optical interface (such as OC-n).

5.2.2 When One-Way or Two-Way Interconnection Trunks are provisioned using a DS-3 interface facility, then US LEC shall order the multiplexed DS-3 facilities to the Verizon Central Office that is designated in the NECA 4 Tariff as an Intermediate Hub location, unless otherwise agreed to in writing by Verizon. The specific NECA 4 Intermediate Hub location to be used for One-Way or Two-Way Interconnection Trunks shall be in the appropriate Tandem subtending area based on the LERG. In the event the appropriate DS-3 Intermediate Hub is not used, then US LEC shall pay 100% of the facility charges for the One-Way or Two-Way Interconnection Trunks.

5.2.3 Each Party will identify its Carrier Identification Code, a three or four digit numeric code obtained from Telcordia, to the other Party when ordering a trunk group.

5.2.4 Unless mutually agreed to by both Parties, each Party will outpulse ten (10) digits to the other Party.

5.2.5 Each Party will use commercially reasonable efforts to monitor trunk groups under its control and to augment those groups using generally accepted trunk engineering standards so as to not exceed blocking objectives. Each Party agrees to use modular trunk engineering techniques for trunks subject to this Attachment.

5.3 Switching System Hierarchy and Trunking Requirements.

For purposes of routing US LEC traffic to Verizon, the subtending arrangements between Verizon Tandem Switches and Verizon End Office Switches shall be the same as the Tandem/End Office subtending arrangements Verizon maintains for the routing of its own or other carriers' traffic. For purposes of routing Verizon traffic to US LEC, the subtending arrangements between US LEC Tandem Switches and US LEC End Office Switches shall be the same as the Tandem/End Office subtending arrangements that US LEC maintains for the routing of its own or other carriers' traffic.

5.4 Signaling.

Each Party will provide the other Party with access to its databases and associated signaling necessary for the routing and completion of the other Party's traffic in accordance with the provisions contained in the Unbundled Network Element Attachment or applicable access tariff.

5.5 Grades of Service.

The Parties shall initially engineer and shall monitor and augment all trunk groups consistent with the Joint Process as set forth in Section 14.1.

6. Traffic Measurement and Billing over Interconnection Trunks

6.1 For billing purposes, each Party shall pass Calling Party Number (CPN) information on calls carried over the Interconnection Trunks.

6.1.1 As used in this Section 6, "Traffic Rate" means the applicable Reciprocal Compensation Traffic rate, Measured Internet Traffic rate, intrastate Switched Exchange Access Service rate, interstate Switched Exchange Access Service rate, or intrastate/interstate Tandem Transit Traffic rate, as provided in the Pricing Attachment, an applicable Tariff, or, for Measured Internet Traffic, the FCC Internet Order.

6.1.2 If for any monthly period the originating Party passes CPN on ninety percent (90%) or more of its calls, the other Party ("Billing Party") may bill the originating Party the Local Traffic call completion rate, intrastate Switched Exchange Access Service rates, intrastate/interstate Tandem Transit Traffic rates, or interstate Switched Exchange Access Service rates applicable to each minute of traffic, as provided in Attachment A and applicable Tariffs, for which CPN is passed. For any remaining (up to 10%) calls without CPN information, the Billing Party may bill the originating Party for such traffic at the Reciprocal Compensation rate, intrastate Switched Exchange Access Service rates, intrastate/interstate Tandem Transit Traffic rates, or interstate Switched Exchange Access Service rates applicable to each minute of traffic, as provided in Attachment A and applicable Tariffs, in direct proportion to the minutes of use of calls passed with CPN information. If for any monthly billing period the originating Party passes CPN on eighty percent (80%) or more of its calls and provides evidence that it passed CPN on ninety percent (90%) or more of its calls for which it was technically feasible to do so, the Billing Party may bill the originating Party for traffic without CPN information at the Local Traffic call completion rate, intrastate Switched Exchange Access rates, intrastate/interstate Tandem Transit Traffic rates, or interstate Switched Exchange Access rates, applicable to each minute of traffic, as provided in Attachment A and applicable

Tariffs, in direct proportion to the minutes of use of calls passed with CPN information.

6.1.3 If the originating Party fails to pass CPN at the levels set forth in section 6.1.2 the Billing Party may bill the higher of its interstate Switched Exchange Access Service rates or its intrastate Switched Exchange Access Services rates for all traffic that is passed without CPN, unless the Parties agree that other rates should apply to such traffic.

6.2 At such time as a Billing Party has the capability, on an automated basis, to use such CPN to classify traffic delivered over Interconnection Trunks by the other Party by Traffic Rate type (e.g., Reciprocal Compensation Traffic/Measured Internet Traffic, intrastate Switched Exchange Access Service, interstate Switched Exchange Access Service, or intrastate/interstate Tandem Transit Traffic), such Billing Party may bill the originating Party the Traffic Rate applicable to each relevant minute of traffic for which CPN is passed. If the Billing Party lacks the capability, on an automated basis, to use CPN information on an automated basis to classify traffic delivered by the other Party by Traffic Rate type, the originating Party will supply Traffic Factor 1 and Traffic Factor 2. The Traffic Factors shall be supplied in writing by the originating Party within thirty (30) days of the Effective Date and shall be updated in writing by the originating Party quarterly. Measurement of billing minutes for purposes of determining terminating compensation shall be in conversation seconds (the time in seconds that the Parties equipment is used for a completed call, measured from the receipt of answer supervision to the receipt of disconnect supervision). Measurement of billing minutes for originating toll free service access code (e.g., 800/888/877) calls shall be in accordance with applicable Tariffs. Determinations as to whether traffic is Reciprocal Compensation Traffic or Measured Internet Traffic shall be made in accordance with Section 7.3.2.1 below.

6.3 Each Party, at its own expense, reserves the right to audit all Traffic, up to a maximum of two audits per calendar year, to ensure that rates are being applied appropriately; provided, however, that either Party shall have the right to conduct additional audit(s) if the preceding audit disclosed material errors or discrepancies. Each Party agrees to provide the necessary Traffic data in conjunction with any such audit in a timely manner.

6.4 Nothing in this Agreement shall be construed to limit either Party's ability to designate the areas within which that Party's Customers may make calls which that Party rates as "local" in its Customer Tariffs.

7. Reciprocal Compensation Arrangements Pursuant to Section 251(b)(5) of the Act

7.1 Reciprocal Compensation Traffic Interconnection Points.

7.1.1 Except as otherwise agreed by the Parties, the Interconnection Points ("IPs") from which US LEC will provide transport and termination of Reciprocal Compensation Traffic to its Customers ("US LEC-IPs") shall be as follows:

[SECTIONS 7.1.1.1, 7.1.1.2 AND 7.1.1.3 IN DISPUTE]

7.1.1.1. For each LATA in which US LEC requests to interconnect with Verizon, except as otherwise agreed by the Parties, US LEC shall establish an IP. ~~Geographically Relevant~~

~~Interconnection Points ("IPs"). Each Party (an "Originating Party") may request that the other Party (a "Receiving party") establish IPs on the Receiving Party's network that are geographically relevant to the NXXs (and associated rate centers) that are assigned by the Receiving Party. The Originating Party is responsible for delivering Reciprocal Compensation Traffic originating on its network to the Receiving Party's geographically relevant IP. The points on the US LEC network at which Verizon shall hand off Reciprocal Compensation Traffic to US LEC are designated as the US LEC Interconnection Points ("US LEC IPs"). The points on the Verizon network at which US LEC shall hand off Reciprocal Compensation Traffic to Verizon are designated as the Verizon Interconnection Points ("Verizon IPs"). In the case of Verizon as a Receiving Party, to the extent US LEC requests Verizon to establish a geographically relevant IP in addition to the Verizon IPs at the Verizon Tandems, the geographically relevant IP shall be the Verizon end office serving the Customer for whom the traffic is intended. In the case of US LEC as a Receiving Party, US LEC will establish geographically relevant IPs by establishing a US LEC IP at a Collocation site at each Verizon Tandem in a LATA (or at such other wire centers in the LATA designated by Verizon) for those NXXs serving equivalent Verizon rate centers which subtend the Verizon Tandem. In any LATA in which Verizon agrees that US LEC may meet its obligation to establish geographically relevant IPs through a Collocation site at fewer than all of the Verizon Tandems in a LATA, then Verizon shall determine and advise US LEC as to which US LEC IP established at a Collocation site (or other available US LEC IP) Verizon will deliver traffic from each relevant originating rate center or other originating location.~~

~~7.1.1.1.1 If US LEC fails to establish a geographically relevant IP as provided herein, then without waiver of Verizon's right to seek enforcement of the requirements of this Section, until the requested IP is established, US LEC shall bill and Verizon shall pay the applicable intercarrier compensation rate for relevant traffic less Verizon's transport rate (calculated by taking the dedicated transport per mile rate multiplied by the average mileage between the originating end offices and the CLEC POI plus the fixed dedicated transport rate and dividing the total by the average minutes of use for a DS1), tandem switching rate (to the extent the traffic is tandem switched), and other costs (to the extent Verizon purchases such transport from US LEC or a third party), from Verizon's originating End Office to US LEC's IP.~~

7.1.1.2 ~~At any time that US LEC establishes a Collocation site at a Verizon End Office, then either Party may request that~~

~~such US LEC Collocation site be established as the US LEC IP for traffic originated by Verizon Customers served by that End Office. Approval of such request shall not be unreasonably withheld or delayed. If US LEC should fail to establish an IP at an end office Collocation site pursuant to Verizon's request, within ninety (90) days following Verizon's request, then without waiver of Verizon's right to seek enforcement of the requirements of this Section, until the requested IP is established, US LEC shall bill and Verizon shall pay the applicable intercarrier compensation rate for relevant traffic less Verizon's transport rate, tandem switching rate (to the extent the traffic is tandem switched), and other costs (to the extent Verizon purchases such transport from US LEC or a third party), from Verizon's originating End Office to US LEC's IP.~~

7.1.1.3 In any LATA where the Parties are already interconnected prior to the effective date of this Agreement, US LEC may maintain existing CLEC-IPs, ~~except that Verizon may request in writing to transition such US LEC IPs to the US LEC IPs described in subsections 7.1.1.1 and 7.1.1.2, above. Upon such request, the Parties shall negotiate mutually satisfactory arrangements for the transition to CLEC IPs that conform to subsections 7.1.1.1 and 7.1.1.2 above. If the Parties have not reached agreement on such arrangements within thirty (30) days, (a) either Party may pursue available dispute resolution mechanisms; and, (b) US LEC shall bill and Verizon shall pay only the lesser of the negotiated intercarrier compensation rate or the End Office reciprocal compensation rate for relevant traffic, less Verizon's transport rate, tandem switching rate (to the extent traffic is tandem switched), and other costs (to the extent that Verizon purchases such transport from US LEC or a third party), from Verizon's originating End Office to the US LEC IP.~~

7.1.2 Except as otherwise agreed by the Parties, the Interconnection Points ("IPs") from which Verizon will provide transport and termination of Reciprocal Compensation Traffic to its Customers ("Verizon-IPs") shall be as follows:

7.1.2.1 For Reciprocal Compensation Traffic delivered by US LEC to the Verizon Tandem subtended by the terminating End Office serving the Verizon Customer, the Verizon-IP will be the Verizon Tandem switch.

7.1.2.2 For Reciprocal Compensation Traffic delivered by US LEC to the Verizon terminating End Office serving the Verizon Customer, the Verizon-IP will be Verizon End Office switch.

7.1.3 Should either Party offer additional IPs to any Telecommunications Carrier that is not a Party to this Agreement, the other Party may elect to deliver traffic to such IPs for the NXXs or functionalities served by those IPs. To the extent that any such US LEC-IP is not located at a Collocation site at a Verizon Tandem Wire Center or Verizon End Office Wire Center, then US LEC shall permit Verizon to establish

physical Interconnection through collocation or other operationally comparable arrangements acceptable to Verizon at the US LEC-IP.

7.1.4 Each Party is responsible for delivering its Reciprocal Compensation Traffic that is to be terminated by the other Party to the other Party's relevant IP.

7.2 Reciprocal Compensation. [DISPUTED ITEM]

The Parties shall compensate each other for the transport and termination of Reciprocal Compensation Traffic delivered to the terminating Party in accordance with Section 251(b)(5) of the Act at the rates stated in the Pricing Attachment. These rates are to be applied at the US LEC-IP for traffic delivered by Verizon for termination by US LEC, and at the Verizon-IP for traffic delivered by US LEC for termination by Verizon. Except as expressly specified in this Agreement, no additional charges shall apply for the termination from the IP to the Customer of Reciprocal Compensation Traffic delivered to the Verizon-IP by US LEC or the US LEC-IP by Verizon. When such Reciprocal Compensation Traffic is delivered over the same trunks as Toll Traffic, any port or transport or other applicable access charges related to the delivery of Toll Traffic from the IP to an end user shall be prorated to be applied only to the Toll Traffic. The designation of traffic as Reciprocal Compensation Traffic for purposes of Reciprocal Compensation shall be based on the ~~actual originating and terminating points of the complete end-to-end communication.~~originating NPA-NXX rate center and the terminating NPA-NXX rate center.

7.3 Traffic Not Subject to Reciprocal Compensation.

7.3.1 Reciprocal Compensation shall not apply to interstate or intrastate Exchange Access, Information Access, or exchange services for Exchange Access or Information Access.

7.3.2 Reciprocal Compensation shall not apply to Internet Traffic.

7.3.2.1 The determination of whether traffic is Reciprocal Compensation Traffic or Internet Traffic shall be performed in accordance with Paragraphs 8 and 79, and other applicable provisions, of the FCC Internet Order (including, but not limited to, in accordance with the rebuttable presumption established by the FCC Internet Order that traffic delivered to a carrier that exceeds a 3:1 ratio of terminating to originating traffic is Internet Traffic, and in accordance with the process established by the FCC Internet Order for rebutting such presumption before the Commission).

7.3.3 Reciprocal Compensation shall not apply to Toll Traffic, including, but not limited to, calls originated on a 1+ presubscription basis, or on a casual dialed (10XXX/101XXXX) basis.

7.3.4 Reciprocal Compensation shall not apply to Optional Extended Local Calling Area Traffic.

7.3.5 Reciprocal Compensation shall not apply to special access, private line, or any other traffic that is not switched by the terminating Party.

7.3.6 Reciprocal Compensation shall not apply to Tandem Transit Traffic.

7.3.7 [DISPUTED ITEM] ~~Reciprocal Compensation shall not apply to Voice Information Service Traffic (as defined in Section 5 of the Additional Services Attachment).~~

7.4 The Reciprocal Compensation rates (including, but not limited to, the Reciprocal Compensation per minute of use charges) billed by US LEC to Verizon shall not exceed the Reciprocal Compensation rates (including, but not limited to, Reciprocal Compensation per minute of use charges) billed by Verizon to US LEC.

8. Other Types of Traffic

8.1 [DISPUTED ITEM] ~~Notwithstanding any other provision of this Agreement or any Tariff: (a) the Parties' rights and obligations with respect to any intercarrier compensation that may be due in connection with their exchange of Internet Traffic shall be governed by the terms of the FCC Internet Order and other applicable FCC orders and FCC Regulations; and, (b) a Party shall not be obligated to pay any intercarrier compensation for Internet Traffic that is in excess of the intercarrier compensation for Internet Traffic that such Party is required to pay under the FCC Internet Order and other applicable FCC orders and FCC Regulations.~~ Notwithstanding any other provision of this Agreement or any Tariff, and except as set forth herein, the Parties' rights and obligations with respect to intercarrier compensation that is due in connection with their exchange of Internet Traffic shall be governed by the terms of the FCC Internet Order and other applicable FCC Orders and FCC Regulations. From the effective date of this Agreement until June 13, 2003, the parties shall compensate each other for the exchange of Internet Traffic at the rate of $0.0010 per MOU. From June 14, 2003 through the term of this agreement, or until the FCC issues a permanent rate structure governing intercarrier compensation for such traffic that is final and non-appealable, whichever is earlier, the parties shall compensate each other for the exchange of Internet Traffic at the rate of $0.0007 per MOU.

8.1.1 **[DISPUTED ITEM]** In the event the FCC's Internet Order is stayed, vacated, remanded or overturned by a court of competent jurisdiction, the Parties will maintain the rate structure set forth in section 8.1 hereof for the term of this Agreement; provided, however, that in consideration for maintaining the rate structure of the Internet Order, the Parties will waive all other provisions of the FCC's Internet Order, including but not limited to the growth cap and new market provisions.

8.2 Subject to Section 8.1 above, interstate and intrastate Exchange Access, Information Access, exchange services for Exchange Access or Information Access, and Toll Traffic, shall be governed by the applicable provisions of this Agreement and applicable Tariffs.

8.3 For any traffic originating with a third party carrier and delivered by US LEC to Verizon, US LEC shall pay Verizon the same amount that such third party carrier would have been obligated to pay Verizon for termination of that traffic at the location the traffic is delivered to Verizon by US LEC.

8.4 Any traffic not specifically addressed in this Agreement shall be treated as required by the applicable Tariff of the Party transporting and/or terminating the traffic.

8.5 Interconnection Points.

8.5.1 The IP for Measured Internet Traffic shall be the same as the IP for Reciprocal Compensation Traffic under Section 7.1 above.

8.5.2 [DISPUTED ITEM] Except as otherwise set forth in the applicable Tariff of a Party (~~"Receiving~~"Terminating Party") that receives Toll Traffic from the other Party, the IP of the ~~Receiving~~Terminating Party for Toll Traffic delivered to the ~~Receiving~~Terminating Party by the other Party shall be the same as the IP of the ~~Receiving~~Terminating Party for Reciprocal Compensation Traffic under Section 7.1 above.

8.5.3 [DISPUTED ITEM] The IP for traffic exchanged between the Parties that is not Reciprocal Compensation Traffic, Measured Internet Traffic or Toll Traffic, shall be as specified in the applicable provisions of this Agreement or the applicable Tariff of the ~~receiving~~terminating Party, or in the absence of applicable provisions in this Agreement or a Tariff of the ~~receiving~~terminating Party, as mutually agreed by the Parties.

9. Transmission and Routing of Exchange Access Traffic

9.1 Scope of Traffic.

Section 9 prescribes parameters for certain trunks to be established over the Interconnections specified in Sections 2 through 5 of this Attachment for the transmission and routing of traffic between US LEC Telephone Exchange Service Customers and Interexchange Carriers ("Access Toll Connecting Trunks"), in any case where US LEC elects to have its End Office Switch subtend a Verizon Tandem. This includes casually-dialed (1010XXX and 101XXXX) traffic.

9.2 Access Toll Connecting Trunk Group Architecture.

9.2.1 If US LEC chooses to subtend a Verizon access Tandem, US LEC's NPA/NXX must be assigned by US LEC to subtend the same Verizon access Tandem that a Verizon NPA/NXX serving the same Rate Center Area subtends as identified in the LERG.

9.2.2 US LEC shall establish Access Toll Connecting Trunks pursuant to applicable access Tariffs by which it will provide Switched Exchange Access Services to Interexchange Carriers to enable such Interexchange Carriers to originate and terminate traffic to and from US LEC's Customers.

9.2.3 The Access Toll Connecting Trunks shall be two-way trunks. Such trunks shall connect the End Office US LEC utilizes to provide Telephone Exchange Service and Switched Exchange Access to its Customers in a given LATA to the Tandem Verizon utilizes to provide Exchange Access in such LATA.

9.2.4 Access Toll Connecting Trunks shall be used solely for the transmission and routing of Exchange Access to allow US LEC's Customers to connect to or be connected to the interexchange trunks of any Interexchange Carrier which is connected to a Verizon access tandem.

10. Meet-Point Billing Arrangements

10.1 US LEC and Verizon will establish Meet-Point Billing (MPB) arrangements in order to provide a common transport option to Switched Exchange Access Services customers via a Verizon access Tandem Switch in accordance with the Meet Point Billing guidelines contained in the OBF's MECAB and MECOD documents, except as modified herein, and in Verizon's applicable Tariffs. The arrangements described in this Section 10 are intended to be used to provide Switched Exchange Access Service where the transport component of the Switched Exchange Access Service is routed through an access Tandem Switch that is provided by Verizon.

10.2 In each LATA, the Parties shall establish MPB arrangements for the applicable US LEC Routing Point/Verizon Serving Wire Center combinations.

10.3 Interconnection for the MPB arrangement shall occur at the Verizon access Tandems in the LATA, unless otherwise agreed to by the Parties.

10.4 US LEC and Verizon will use reasonable efforts, individually and collectively, to maintain provisions in their respective state access Tariffs, and/or provisions within the National Exchange Carrier Association (NECA) Tariff No. 4, or any successor Tariff sufficient to reflect the MPB arrangements established pursuant to this Agreement.

10.5 In general, there are four alternative Meet-Point Billing arrangements possible, which are: Single Bill/Single Tariff, Multiple Bill/Single Tariff, Multiple Bill/Multiple Tariff, and Single Bill/Multiple Tariff, as outlined in the OBF MECAB Guidelines.

Each Party shall implement the "Multiple Bill/Single Tariff" or "Multiple Bill/Multiple Tariff" option, as appropriate, in order to bill an IXC for the portion of the MPB arrangement provided by that Party. Alternatively, in former Bell Atlantic service areas, upon agreement of the Parties, each Party may use the New York State Access Pool on its behalf to implement the Single Bill/Multiple Tariff or Single Bill/Single Tariff option, as appropriate, in order to bill an IXC for the portion of the MPB arrangement provided by that Party.

10.6 The rates to be billed by each Party for the portion of the MPB arrangement provided by it shall be as set forth in that Party's applicable Tariffs, or other document that contains the terms under which that Party's access services are offered. For each US LEC Routing Point/Verizon Serving Wire Center combination, the MPB billing percentages for transport between the US LEC Routing Point and the Verizon Serving Wire Center shall be calculated in accordance with the formula set forth in Section 10.17.

10.7 Each Party shall provide the other Party with the billing name, billing address, and Carrier Identification Code (CIC) of the IXC, and identification of the Verizon Wire Center serving the IXC in order to comply with the MPB notification process as outlined in the MECAB document.

10.8 Verizon shall provide US LEC with the Switched Access Detail Usage Data (EMI category 1101XX records) on magnetic tape or via such other media as the Parties may agree to, no later than ten (10) Business Days after the date the usage occurred.

10.9 US LEC shall provide Verizon with the Switched Access Summary Usage Data (EMI category 1150XX records) on magnetic tape or via such other media as the Parties may agree, no later than ten (10) Business Days after the date of its rendering of the bill to the relevant IXC, which bill shall be rendered no less frequently than monthly.

10.10 All usage data to be provided pursuant to Sections 10.8 and 10.9 shall be sent to the following addresses:

To US LEC:

Access Billing/IT Group
US LEC Corporation
6801 Morrison Boulevard
Charlotte, NC 28211

For Verizon:

New York State Access Pool
C/O ACM, Inc.
120 Erie Blvd.
Schenectady, N.Y. 12305
Attn: Mark Ferri

Either Party may change its address for receiving usage data by notifying the other Party in writing pursuant to Section 29 of the General Terms and Conditions.

10.11 US LEC and Verizon shall coordinate and exchange the billing account reference (BAR) and billing account cross reference (BACR) numbers or Operating Company Number ("OCN"), as appropriate, for the MPB arrangements described in this Section 10. Each Party shall notify the other if the level of billing or other BAR/BACR elements change, resulting in a new BAR/BACR number, or if the OCN changes.

10.12 Each Party agrees to provide the other Party with notification of any errors it discovers in MPB data within thirty (30) calendar days of the receipt of the original data. The other Party shall attempt to correct the error and resubmit the data within ten (10) Business Days of the notification. In the event the errors cannot be corrected within such ten- (10) Business-Day period, the erroneous data will be considered lost. In the event of a loss of data, whether due to uncorrectable errors or otherwise, both Parties shall cooperate to reconstruct the lost data and, if such reconstruction is not possible, shall accept a reasonable estimate of the lost data based upon prior usage data.

10.13 Either Party may request a review or audit of the various components of access recording up to a maximum of two (2) audits per calendar year. All costs associated with each review and audit shall be borne by the requesting Party. Such review or audit shall be conducted subject to Section 7 of the General Terms and Conditions and during regular business hours. A Party may conduct additional audits, at its expense, upon the other Party's consent, which consent shall not be unreasonably withheld.

10.14 Except as expressly set forth in this Agreement, nothing contained in this Section 10 shall create any liability for damages, losses, claims, costs, injuries, expenses or other liabilities whatsoever on the part of either Party.

10.15 MPB will apply for all traffic bearing the 500, 900, toll free service access code (e.g. 800/888/877) (to the extent provided by an IXC) or any other non-geographic NPA which may be designated for such traffic in the future.

10.16 In the event US LEC determines to offer Telephone Exchange Services in a LATA in which Verizon operates an access Tandem Switch, Verizon shall permit and enable US LEC to subtend the Verizon access Tandem Switch(es) designated for the Verizon End Offices in the area where there are located US LEC Routing Point(s) associated with the NPA NXX(s) to/from which the Switched Exchange Access Services are homed.

10.17 Except as otherwise mutually agreed by the Parties, the MPB billing percentages for each Routing Point/Verizon Serving Wire Center combination shall be calculated according to the following formula, unless as mutually agreed to by the Parties:

a / (a + b) = US LEC Billing Percentage

and

b / (a + b) = Verizon Billing Percentage

where:

a = the airline mileage between US LEC Routing Point and the actual point of interconnection for the MPB arrangement; and

b = the airline mileage between the Verizon Serving Wire Center and the actual point of interconnection for the MPB arrangement.

10.18 US LEC shall inform Verizon of each LATA in which it intends to offer Telephone Exchange Services and its calculation of the billing percentages which should apply for such arrangement. Within ten (10) Business Days of US LEC's delivery of notice to Verizon, Verizon and US LEC shall confirm the Routing Point/Verizon Serving Wire Center combination and billing percentages.

11. Toll Free Service Access Code (e.g., 800/888/877) Traffic

The following terms shall apply when either Party delivers toll free service access code (e.g., 800/877/888)("8YY") calls to the other Party. For the purposes of this Section 11, the terms "translated" and "untranslated" refers to those toll free service access code calls that have been queried ("translated") or have not been queried ("untranslated") to an 8YY database. Except as otherwise agreed to by the Parties, all then US LEC originating "untranslated" 8YY traffic will be routed over a separate one-way trunk group.

11.1 When US LEC delivers translated 8YY calls to Verizon for completion,

11.1.1 to an IXC, US LEC shall:

11.1.1.1 provide an appropriate EMI record to Verizon for processing and Meet Point Billing in accordance with Section 10 above; and

11.1.1.2 bill the IXC the US LEC query charge associated with the call.

11.1.2 to Verizon or another LEC that is a toll free service access code service provider in the LATA, US LEC shall:

11.1.2.1 provide an appropriate EMI record to the toll free service access code service provider; and

11.1.2.2 bill to the toll free service access code service provider the US LEC's Tariffed Feature Group D ("FGD") Switched Exchange Access or Reciprocal Compensation charges, as applicable, and the US LEC query charge; and

11.1.2.3 Verizon shall bill applicable Tandem Transit Service charges and associated passthrough charges to US LEC.

11.2 When Verizon performs the query and delivers translated 8YY calls, originated by Verizon's or another LEC's Customer,

11.2.1 to US LEC in it's capacity as a toll free service access code service provider, Verizon shall:

11.2.1.1 bill US LEC the Verizon query charge associated with the call as specified in the Pricing Attachment; and

11.2.1.2 provide an appropriate EMI record to US LEC; and

11.2.1.3 bill US LEC Verizon's Tariffed FGD Switched Exchange Access or Reciprocal Compensation charges as applicable.

11.3 When US LEC: delivers untranslated 8YY calls to Verizon for completion,

11.3.1 to an IXC, Verizon shall:

11.3.1.1 query the call and route the call to the appropriate IXC; and

11.3.1.2 provide an appropriate EMI record to US LEC to facilitate billing to the IXC; and

11.3.1.3 bill the IXC the Verizon query charge associated with the call and any other applicable Verizon charges.

11.3.2 to Verizon or another LEC that is a toll free service access code service provider in the LATA, Verizon shall:

11.3.2.1 query the call and route the call to the appropriate LEC toll free service access code service provider; and

11.3.2.2 provide an appropriate EMI record to US LEC; to facilitate billing to the LEC toll free service access code service provider; and

11.3.2.3 bill the LEC toll free service access code service provider the query charge associated with the call and any other applicable Verizon charges.

11.4 Verizon will not direct untranslated toll free service access code call to US LEC.

12. Tandem Transit Traffic

12.1 As used in this Section 12, Tandem Transit Traffic is Telephone Exchange Service traffic that originates on US LEC's network, and is transported through a Verizon Tandem to the Central Office of a CLEC, ILEC other than Verizon, Commercial Mobile Radio Service (CMRS) carrier, or other LEC, that subtends the relevant Verizon Tandem to which US LEC delivers such traffic. Neither the originating nor terminating customer is a Customer of Verizon. Subtending Central Offices shall be determined in accordance with and as identified in the Local Exchange Routing Guide (LERG). Switched Exchange Access Service traffic is not Tandem Transit Traffic.

12.2 Tandem Transit Traffic Service provides US LEC with the transport of Tandem Transit Traffic as provided below.

12.3 Tandem Transit Traffic may be routed over the Interconnection Trunks described in Sections 3 through 6. US LEC shall deliver each Tandem Transit Traffic call to Verizon with CCS and the appropriate Transactional Capabilities Application Part ("TCAP") message to facilitate full interoperability of CLASS Features and billing functions.

12.4 **[DISPUTED ITEM]** US LEC shall exercise its best efforts to enter into a reciprocal Telephone Exchange Service traffic arrangement (either via written agreement or mutual Tariffs) with any CLEC, ILEC, CMRS carrier, or other LEC, to which it delivers Telephone Exchange Service traffic that transits Verizon's Tandem Office. ~~If US LEC does not enter into and provide notice to Verizon of the above referenced arrangement within 180 days of the initial traffic exchange with relevant third party carriers, then Verizon may, at its sole discretion, terminate Tandem Transit Service at anytime upon thirty (30) days written notice to US LEC, provided, however, that Verizon shall not terminate Tandem Transit Service pursuant to this section 12.4 pending resolution of a complaint on such termination filed by US LEC at the Commission (which complaint shall include a request for expedited resolution by the Commission) within 15 days of receipt of notice of termination provided by Verizon.~~

12.5 US LEC shall pay Verizon for Transit Service that US LEC originates at the rate specified in the Pricing Attachment, plus any additional charges or costs the CLEC, ILEC , CMRS carrier, or other LEC, imposes or levies on Verizon for the delivery or termination of such traffic, including any Switched Exchange Access Service charges.

12.6 Verizon will not be required to provide Tandem Transit Traffic Services for local Tandem Transit Traffic to be delivered to a CLEC, ILEC, CMRS carrier, or other LEC, if the volume of local Tandem Transit Traffic to be delivered to the CLEC, ILEC, CMRS carrier, or other LEC exceeds one (1) DS-1 level volume of calls per CLEC, ILEC, CMRS carrier, or other LEC per Verizon tandem serving area for a period of three consecutive months. Prior to the threshold being reached, US LEC and the relevant 3rd party shall negotiate agreements to establish direct connections, so that these direct connections can be made available when the threshold has been exceeded for 60 days. Once the first directly connected DS-1 is installed to a CLEC, ILEC, CMRS carrier, or other LEC, overflow traffic may traverse the Verizon tandem to that entity until such time that the level of overflow traffic meets the requirements specified in this Section 12.6 addressing the need for an additional DS-1. Each subsequent need for an additional DS-1 will be handled in a like manner.

12.7 If or when a third party carrier's Central Office subtends a US LEC Central Office, then US LEC shall offer to Verizon a service arrangement equivalent to or the same as Tandem Transit Service provided by Verizon to US LEC as defined in

this Section 12 such that Verizon may terminate calls to a Central Office of a CLEC, ILEC, CMRS carrier, or other LEC, that subtends a US LEC Central Office ("Reciprocal Tandem Transit Service"). US LEC shall offer such Reciprocal Transit Service arrangements under terms and conditions no less favorable than those provided in this Section 12.

12.8 Neither Party shall take any actions to prevent the other Party from entering into a direct and reciprocal traffic exchange agreement with any carrier to which it originates, or from which it terminates, traffic.

13. Number Resources, Rate Center Areas and Routing Points

13.1 Nothing in this Agreement shall be construed to limit or otherwise adversely affect in any manner either Party's right to employ or to request and be assigned any Central Office Codes ("NXX") pursuant to the Central Office Code Assignment Guidelines and any relevant FCC or Commission orders, as may be amended from time to time, or to establish, by Tariff or otherwise, Rate Center Areas and Routing Points corresponding to such NXX codes.

13.2 It shall be the responsibility of each Party to program and update its own switches and network systems pursuant to information provided on ASRs as well as the LERG in order to recognize and route traffic to the other Party's assigned NXX codes. Except as expressly set forth in this Agreement, neither Party shall impose any fees or charges whatsoever on the other Party for such activities.

13.3 Unless otherwise required by Commission order, the Rate Center Areas will be the same for each Party. During the term of this Agreement, US LEC shall adopt the Rate Center Area and Rate Center Points that the Commission has approved for Verizon within the LATA and Tandem serving area. US LEC shall assign whole NPA-NXX codes to each Rate Center Area unless otherwise ordered by the FCC, the Commission or another governmental entity of appropriate jurisdiction, or the LEC industry adopts alternative methods of utilizing NXXs.

13.4 US LEC will also designate a Routing Point for each assigned NXX code. US LEC shall designate one location for each Rate Center Area in which the US LEC has established NXX code(s) as the Routing Point for the NPA-NXXs associated with that Rate Center Area, and such Routing Point shall be within the same LATA as the Rate Center Area but not necessarily within the Rate Center Area itself. Unless specified otherwise, calls to subsequent NXXs of US LEC will be routed in the same manner as calls to US LEC's initial NXXs.

13.5 Notwithstanding anything to the contrary contained herein, nothing in this Agreement is intended, and nothing in this Agreement shall be construed, to in any way constrain US LEC's choices regarding the size of the local calling area(s) that US LEC may establish for its Customers, which local calling areas may be larger than, smaller than, or identical to Verizon's local calling areas.

14. Joint Network Implementation and Grooming Process; and Installation, Maintenance, Testing and Repair

14.1 Joint Network Implementation and Grooming Process.

Upon request of either Party, the Parties shall jointly develop an implementation and grooming process (the "Joint Grooming Process" or "Joint Process") which may define and detail, inter alia:

14.1.1 standards to ensure that Interconnection Trunks experience a grade of service, availability and quality which is comparable to that achieved on interoffice trunks within Verizon's network and in accord with all appropriate relevant industry-accepted quality, reliability and availability standards. Except as otherwise stated in this Agreement, trunks provided by either Party for Interconnection services will be engineered using a design-blocking objective of B.01.

14.1.2 the respective duties and responsibilities of the Parties with respect to the administration and maintenance of the trunk groups, including, but not limited to, standards and procedures for notification and discoveries of trunk disconnects;

14.1.3 disaster recovery provision escalations;

14.1.4 additional technically feasible and geographically relevant IP(s) in a LATA as provided in Section 2; and

14.1.5 such other matters as the Parties may agree, including, e.g., End Office to End Office high usage trunks as good engineering practices may dictate.

14.2 Installation, Maintenance, Testing and Repair.

Unless otherwise agreed in writing by the Parties, to the extent required by Applicable Law, Interconnection provided by a Party shall be equal in quality to that provided by such Party to itself, any subsidiary, affiliates or third party. If either Party is unable to fulfill its obligations under this Section 14.2, it shall notify the other Party of its inability to do so and will negotiate alternative intervals in good faith. The Parties agree that to the extent required by Applicable Law, the standards to be used by a Party for isolating and clearing any disconnections and/or other outages or troubles shall be at parity with standards used by such Party with respect to itself, any subsidiary, affiliate or third party.

14.3 Forecasting Requirements for Trunk Provisioning.

Within ninety (90) days of executing this Agreement, US LEC shall provide Verizon a two (2) year traffic forecast. This initial forecast will provide the amount of traffic to be delivered to and from Verizon over each of the Interconnection Trunk groups over the next eight (8) quarters. The forecast shall be updated and provided to Verizon on an as-needed basis but no less frequently than semiannually. All forecasts shall comply with the Verizon CLEC Interconnection Trunking Forecast Guide and shall include, at a minimum, Access Carrier Terminal Location (ACTL), traffic type (Reciprocal Compensation Traffic/Toll Traffic, Operator Services, 911, etc.), code (identifies trunk group), A location/Z location (CLLI codes for US LEC-IPs and Verizon-IPs), interface type (e.g., DS1), and trunks in service each year (cumulative).

14.3.1 Initial Forecasts/Trunking Requirements. Because Verizon's trunking requirements will, at least during an initial period, be dependent on the Customer segments and service segments within Customer segments to whom US LEC decides to market its services, Verizon will be largely dependent on US LEC to provide accurate trunk forecasts for both inbound (from Verizon) and outbound (to Verizon) traffic. Verizon will, as an initial matter, provide the same number of trunks to terminate Reciprocal Compensation Traffic to US LEC as US LEC provides to terminate Reciprocal Compensation Traffic to Verizon. At Verizon's

discretion, when US LEC expressly identifies particular situations that are expected to produce traffic that is substantially skewed in either the inbound or outbound direction, Verizon will provide the number of trunks US LEC suggests; provided, however, that in all cases Verizon's provision of the forecasted number of trunks to US LEC is conditioned on the following: that such forecast is based on reasonable engineering criteria, there are no capacity constraints, and US LEC's previous forecasts have proven to be reliable and accurate.

14.3.1.1 Monitoring and Adjusting Forecasts. Verizon will, for ninety (90) days, monitor traffic on each trunk group that it establishes at US LEC's suggestion or request pursuant to the procedures identified in Section 14.3. At the end of such ninety-(90) day period, Verizon may disconnect trunks that, based on reasonable engineering criteria and capacity constraints, are not warranted by the actual traffic volume experienced.

14.3.1.2 In subsequent periods, Verizon may also monitor traffic for ninety (90) days on additional trunk groups that US LEC suggests or requests Verizon to establish.

15. Number Portability - Section 251(B)(2)

15.1 Scope.

The Parties shall provide Number Portability (NP) in accordance with rules and regulations as from time to time prescribed by the FCC.

15.2 Procedures for Providing LNP ("Long-term Number Portability").

The Parties will follow the LNP provisioning process recommended by the North American Numbering Council (NANC) and adopted by the FCC. In addition, the Parties agree to follow the LNP ordering procedures established at the OBF. The Parties shall provide LNP on a reciprocal basis.

15.2.1 A Customer of one Party ("Party A") elects to become a Customer of the other Party ("Party B"). The Customer elects to utilize the original telephone number(s) corresponding to the Telephone Exchange Service(s) it previously received from Party A, in conjunction with the Telephone Exchange Service(s) it will now receive from Party B. After Party B has received authorization from the Customer in accordance with Applicable Law and sends an LSR to Party A, Parties A and B will work together to port the Customer's telephone number(s) from Party A's network to Party B's network.

15.2.2 When a telephone number is ported out of Party A's network, Party A will remove any non-proprietary line based calling card(s) associated with the ported number(s) from its Line Information Database (LIDB). Reactivation of the line-based calling card in another LIDB, if desired, is the responsibility of Party B or Party B's Customer.

15.2.3 When a Customer of Party A ports their telephone numbers to Party B and the Customer has previously secured a reservation of line numbers from Party A for possible activation at a future point, these reserved but inactive numbers may be ported along with the active numbers to be ported provided the numbers have been reserved for

the Customer. Party B may request that Party A port all reserved numbers assigned to the Customer or that Party A port only those numbers listed by Party B. As long as Party B maintains reserved but inactive numbers ported for the Customer, Party A shall not reassign those numbers. Party B shall not reassign the reserved numbers to another Customer.

15.2.4 When a Customer of Party A ports their telephone numbers to Party B, in the process of porting the Customer's telephone numbers, Party A shall implement the ten-digit trigger feature where it is available. When Party A receives the porting request, the unconditional trigger shall be applied to the Customer's line before the due date of the porting activity. When the ten-digit unconditional trigger is not available, Party A and Party B must coordinate the disconnect activity.

15.2.5 The Parties shall furnish each other with the Jurisdiction Information Parameter (JIP) in the Initial Address Message (IAM), containing a Local Exchange Routing Guide (LERG)-assigned NPA-NXX (6 digits) identifying the originating switch on calls originating from LNP capable switches.

15.2.6 Where LNP is commercially available, the NXXs in the office shall be defined as portable, except as noted in 14.2.7, and translations will be changed in the Parties' switches to open those NXXs for database queries in all applicable LNP capable offices within the LATA of the given switch(es). On a prospective basis, all newly deployed switches will be equipped with LNP capability and so noted in the LERG.

15.2.7 All NXXs assigned to LNP capable switches are to be designated as portable unless a NXX(s) has otherwise been designated as non-portable. Non-portable NXXs include NXX codes assigned to paging, cellular and wireless services; codes assigned for internal testing and official use and any other NXX codes required to be designated as non-portable by the rules and regulations of the FCC. NXX codes assigned to mass calling on a choked network may not be ported using LNP technology but are portable using methods established by the NANC and adopted by the FCC. On a prospective basis, newly assigned codes in switches capable of porting shall become commercially available for porting with the effective date in the network.

15.2.8 Both Parties' use of LNP shall meet the performance criteria specified by the FCC. Both Parties will act as the default carrier for the other Party in the event that either Party is unable to perform the routing necessary for LNP.

15.3 Procedures for Providing NP Through Full NXX Code Migration.

Where a Party has activated an entire NXX for a single Customer, or activated at least eighty percent (80%) of an NXX for a single Customer, with the remaining numbers in that NXX either reserved for future use by that Customer or otherwise unused, if such Customer chooses to receive Telephone Exchange Service from the other Party, the first Party shall cooperate with the second Party to have the entire NXX reassigned in the LERG (and associated industry databases, routing tables, etc.) to an End Office operated by the second Party. Such transfer will be accomplished with appropriate coordination between the Parties and subject to appropriate industry lead times for movements of NXXs from one switch to

another. Neither Party shall charge the other in connection with this coordinated transfer.

15.4 Procedures for Providing INP (Interim Number Portability).

The Parties shall provide Interim Number Portability (INP) in accordance with rules and regulations prescribed from time to time by the FCC and state regulatory bodies, the Parties respective company procedures, and as set forth in this Section 15.4. The Parties shall provide INP on a reciprocal basis.

15.4.1 In the event that either Party, Party B, wishes to serve a Customer currently served at an End Office of the other Party, Party A, and that End Office is not LNP-capable, Party A shall make INP available only where LNP is not commercially available or not required by FCC orders and regulations. INP will be provided by remote call forwarding (RCF) and/or direct inward dialing (DID) technology, which will forward terminating calls to Party B's End Office. Party B shall provide Party A with an appropriate "forward-to" number.

15.4.2 Prices for INP and formulas for sharing Terminating access revenues associated with INP shall be provided where applicable, upon request by either Party.

15.4.3 Either Party wishing to use DID to provide for INP must request a dedicated trunk group from the End Office where the DID numbers are currently served to the new serving-End Office. If there are no existing facilities between the respective End Offices, the dedicated facilities and transport trunks will be provisioned as unbundled service through the ASR provisioning process. The requesting party will reroute the DID numbers to the pre-positioned trunk group using the LSR provisioning process. DID trunk rates are contained in the Parties' respective tariffs.

15.4.4 The Parties Agree that, per FCC 98-275, Paragraph 16, effective upon the date LNP is available at any End Office of one Party, Party A, providing INP for Customers of the other Party, Party B, no further orders will be accepted for new INP at that End Office. Orders for new INP received prior to that date, and change orders for existing INP, shall be worked by Party A. Orders for new INP received by Party A on or after that date shall be rejected. Existing INP will be grand-fathered, subject to Section 15.4.5, below.

15.4.5 In offices equipped with LNP prior to September 1, 1999 for former Bell Atlantic offices and October 1, 2000 for former GTE offices, the Parties agree to work together to convert all existing INP-served Customers to LNP by December 31, 2000 in accordance with a mutually agreed to conversion process and schedule. If mutually agreed to by the Parties, the conversion period may be extended one time by no more than 90 days from December 31, 2000.

15.4.6 Upon availability of LNP after October 1, 2000 at an End Office of either Party, both Parties agree to work together to convert the existing INP-served Customers to LNP by no later than 90 days from the date of LNP availability unless otherwise agreed to by the Parties.

15.4.7 When Verizon offers LNP to US LEC but US LEC has not converted to LNP at the end of the agreed to conversion period, then the remaining

INPs will be changed to a functionally equivalent tariff service and billed to US LEC at the tariff rate(s) for the subject jurisdiction.

15.5 Procedures for LNP Request.

The Parties shall provide for the requesting of End Office LNP capability on a reciprocal basis through a written request. The Parties acknowledge that Verizon has deployed LNP throughout its network in compliance with FCC 96-286 and other applicable FCC rules.

15.5.1 If Party B desires to have LNP capability deployed in an End Office of Party A, which is not currently capable, Party B shall issue a LNP request to Party A. Party A will respond to the Party B, within ten (10) days of receipt of the request, with a date for which LNP will be available in the requested End Office. Party A shall proceed to provide for LNP in compliance with the procedures and timelines set forth in FCC 96-286, Paragraph 80, and FCC 97-74, Paragraphs 65 through 67.

15.5.2 The Parties acknowledge that each can determine the LNP-capable End Offices of the other through the Local Exchange Routing Guide (LERG). In addition the Parties shall make information available upon request showing their respective LNP-capable End Offices, as set forth in this Section 15.5.

US LEC of Pennsylvania Inc.
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NON FACILITIES-BASED AND FACILITIES-BASED COMPETITIVE

LOCAL EXCHANGE CARRIER TARIFF

WITHIN THE

COMMONWEALTH OF PENNSYLVANIA

Issued: December 10, 2001

Effective: December 11, 2001

Wanda Montano, Vice President, Regulatory & Industry Affairs
Morrocroft III
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Non Facilities-Based and Facilities-Based Competitive Local Exchange Carrier Tariff

This Tariff applies to the Non Facilities-Based and Facilities-Based Competitive Local Exchange services furnished by US LEC of Pennsylvania Inc. between one or more points in the Commonwealth of Pennsylvania. This tariff is in concurrence with Chapters 63 and 64 of 52 Pa. Code. any provisions contained in this tariff which are inconsistent with the Pennsylvania Public Utility Code (66 Pa. C.S. A § 101 et seq.), 52 Pa. Code, the Telecommunications Act of 1996, and the Commission's Regulations and Orders will be deemed inoperative and superseded.

This tariff is on file with the Pennsylvania Public Utility Commission and copies may be inspected during normal business hours at US LEC of Pennsylvania's principal place of business. Copies may also be inspected at the office of Dilworth Paxson, LLP at 305 North Front Street, Harrisburg, PA 17101-1236 or at 1735 Market Street, Philadelphia, PA 19103

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CHECK SHEET

The pages of this tariff are effective as of the date shown. The original and revised pages named below contain all changes from the original tariff and are in effect on the date shown.

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SYMBOLS AND TARIFF FORMAT

SYMBOLS

The following symbols shall be used in this tariff for the purpose indicated below:

C	To signify changed regulation or condition.
D	To signify a decrease in rates.
I	To signify an increased rate.

TARIFF FORMAT

A. Sheet Numbering - Sheet numbers appear in the upper right corner of the page. Sheets are numbered sequentially. However, new sheets are occasionally added to the tariff. When a new sheet is added between sheets already in effect, a decimal is added. For example, a new sheet added between sheets 14 and 15 would be 14.1.

B. Sheet Revision Numbers - Revision numbers also appear in the upper right corner of each page. These numbers are used to determine the most current sheet version on file with the Commission. For example, the 4th revised Sheet 14 cancels the 3rd revised Sheet 14. Because of various suspension periods, deferrals, etc. the Commission follows in their tariff approval process, the most current sheet number on file with the Commission is not always the tariff page in effect.

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TARIFF FORMAT (cont'd)

C. Paragraph Numbering Sequence - There are nine levels of paragraph coding. Each level of coding is subservient to its next higher level:

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2.1.1.
2.1.1.A.
2.1.1.A.1.
2.1.1.A.1.(a).
2.1.1.A.1.(a).I.
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D. Check Sheets - When a tariff filing is made with the Commission, an updated check sheet accompanies the tariff filing. The check sheet lists the sheets contained in the tariff, with a cross reference to the current revision number. When new pages are added, the check sheet is changed to reflect the revision. All revisions made in a given filing are designated by an asterisk (*). There will be no other symbols used on the check sheet if these are the only changes made to it (*i.e.*, the format, etc. remains the same, just revised revision levels on some pages). The tariff user should refer to the latest check sheet to find out if a particular sheet is the most current on file with the Commission.

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APPLICATION OF TARIFF

This tariff sets forth the service offerings, rates, terms and conditions applicable to the furnishing of intrastate end-user communications services by US LEC of Pennsylvania Inc., to customers within the local exchange service area in the Commonwealth of Pennsylvania defined herein.

This tariff is in concurrence with Chapters 63 and 64 of 52 Pa. Code. Any provisions contained herein which are inconsistent with the Pennsylvania Public Utility Code (66 pa. C.S.), 52 Pa. Code, the Telecommunications Act of 1996, and the Commission's Regulations and Orders will be deemed inoperative and superseded.

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SECTION 1 - DEFINITIONS

Certain terms used generally throughout this tariff are defined below.

Account Codes: Permits Centrex Stations and attendants to dial an account code number of up to eight digits. For use when placing calls over facilities arranged for Automatic Message Accounting (AMA) recording. The account or project number must be input prior to dialing the called number.

Advance Payment: Part or all of a payment required before the start of service.

Automatic Number Identification (ANI): Allows the automatic transmission of a caller's billing account telephone number to a local exchange company, interexchange carrier or a third party subscriber. The primary purpose of ANI is to allow for billing of toll calls.

Bit: The smallest unit of information in the binary system of notation.

Call Back/Camp On: Permits a station line encountering an all-trunk-busy condition the option of being notified when a trunk becomes idle.

Call Forwarding:

Call Forwarding Station: Allows calls directed to a station line to be routed to a user defined line inside or outside the customer's telephone system.

Call Forwarding System: Permits calls attempting to terminate to a busy station line to be re-directed to a predetermined line inside or outside the customer's telephone system.

Call Forwarding Remote: This optional feature allows a user to activate/deactivate the Call Forwarding - All Calls feature or change the forwarded to telephone number from a remote location.

Call Forwarding Busy: Allows incoming calls to a busy station to be routed to a preselected station line or attendant within the same system or outside the system. Intercom calls can be arranged to be forwarded to a number different from DID calls.

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SECTION 1 - DEFINITIONS

Call Forwarding Variable Limited: When this feature is activated by a station line user or the attendant, incoming calls to the activated station line or attendant position will be automatically routed to any other selected station line, within the same Centrex system, or to the attendant position. The attendant may also activate this feature for a station line user.

Call Forwarding Variable Unlimited: The same as Call Forwarding Variable Limited except that incoming calls may be automatically routed to a telephone number outside the Centrex system or to station lines within the same Centrex system. The attendant may not activate this feature to a telephone number outside the Centrex system for a station line use. Calls forwarded outside the Centrex system are subject to the appropriate charges for local and toll messages.

Call Hold: Allows the user to hold one call for any length of time provided that neither party goes on-hook.

Call Park: Allows a station line to park a call against its own line number. The parked call can be retrieved from any station line by dialing a feature code and the line number against which the call is parked.

Call Pickup: Allows a station line to answer incoming calls to another station line within a defined call pickup group. Call pickup is provided on individual station lines within a customer group.

Call Transfer: Allows a station line user to transfer any established call to another station inside or outside the customer group without the assistance of the attendant.

Call Waiting: Permits a line in the talking state to be alerted by a tone when another call is attempting to complete to the line. Audible ringing is returned to the originating line. The Service also provides a hold feature that is activated by a switchhook flash.

Commission: The Pennsylvania Public Utility Commission.

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SECTION 1 - DEFINITIONS

Communications Services: The Company's intrastate toll and local exchange switched telephone services offered for both limited intraLATA and interLATA use.

Company: US LEC of Pennsylvania Inc., the issuer of this tariff.

Customer or Subscriber: The person, firm or corporation which orders service and is responsible for the payment of charges and compliance with the Company's regulations.

Dial Pulse (or "DP"): The pulse type employed by rotary dial station sets.

Direct Inward Dial (or "DID"): A service attribute that routes incoming calls directly to stations, by-passing a central answering point.

Direct Outward Dial (or "DOD"): A service attribute that allows individual station users to access and dial outside numbers directly.

Do Not Disturb: Permits the attendant to cut off a single station line and selected groups of station lines from receiving incoming and station-to-station calls.

DSX-1 Panel: Distribution equipment used to terminate and administer DS1 (1.544 Mbps) circuits.

Dual Tone Multi-Frequency (or "DTMF"): The pulse type employed by tone dial station sets.

Duplex Service: Service which provides for simultaneous transmission in both directions.

Federal Communications Commission (or "FCC"): Independent government agency that develops and implements policy concerning interstate and international communications.

Fiber Optic Cable: A thin filament of glass with a protective outer coating through which a light beam carrying communications signals may be transmitted by means of multiple internal reflections to a receiver, which translates the message.

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SECTION 1 - DEFINITIONS

Hunting: Routes a call to an idle station line in a prearranged group when the called station line is busy.

In-Only: A service attribute that restricts outward dial access and routes incoming calls to a designated answer point.

Joint User: A person, firm or corporation which is designated by the Customer as a user of services furnished to the Customer by the Company and to whom a portion of the charges for the service will be billed under a joint user arrangement as specified herein.

Kbps: Kilobits per second, denotes thousands of bits per second.

Last Number Redial: Enables a station line user to redial the last called number by use of an access code rather than dialing the entire number.

LATA: A Local Access and Transport Area established pursuant to the Modification of Final Judgment entered by the United States District Court for the District of Columbia in Civil Action No. 82-0192; or any other geographic area designated as a LATA in the National Exchange Carrier Association, Inc. Tariff F.C.C. No. 4.

Local Exchange Carrier or ("LEC"): Denotes any individual, partnership, association, joint-stock company, trust or corporation engaged in providing switched communication within an exchange.

Mbps: Megabits, denotes millions of bits per second.

Multi-Frequency or ("MF"): An inter-machine pulse-type used for signaling between telephone switches, or between telephone switches and PBX/key systems.

Recurring Charges: The monthly charges to the Customer for services, facilities and equipment, which continue for the agreed upon duration of the service.

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SECTION 1 - DEFINITIONS

Service Commencement Date: The first day following the date on which the Company notifies the Customer that the requested service or facility is available for use, unless extended by the Customer's refusal to accept service which does not conform to standards set forth in the Service Order or this tariff, in which case the Service Commencement Date is the date of the Customer's acceptance. The Company and Customer may mutually agree on a substitute Service Commencement Date.

Service Order: The written request for Network Services executed by the Customer and the Company in the format devised by the Company. The signing of a Service Order by the Customer and acceptance by the Company initiates the respective obligations of the parties as set forth therein and pursuant to this tariff, but the duration of the service is calculated from the Service Commencement Date.

Shared: A facility or equipment system or subsystem that can be used simultaneously by several Customers.

Speed Calling: Permits a station line user to dial selected numbers by using fewer digits than normally required. This is accomplished through the assignment of abbreviated codes to frequently called numbers. The speed calling list is customer changeable.

System: Allows shared use of speed calling list. A control station will add, change or delete telephone numbers from the list for the group.

Station: Allows a station line user to add, change or delete telephone numbers from a speed calling list. The list is dedicated to the individual station line user.

Three-Way Calling: Allows a station line user to add a third party to an existing conversation.

Two Way: A service attribute that includes outward dial capabilities for outbound calls and can also be used to carry inbound calls to a central point for further processing

User or End User: A Customer, Joint User, or any other person authorized by a Customer to use service provided under this tariff.

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SECTION 4 – EXCHANGE ACCESS SERVICE

4.1 General:

The Company's Local Telephone Service provides a Customer with the ability to connect to the company's switching network which enables the Customer to:

- place or receive calls to any calling Station in the local calling area, as defined herein;
- access basic 911 Emergency Service;
- access the interexchange carrier selected by the Customer for interLATA, intraLATA, interstate or international calling;
- access Operator Services;
- access Directory Assistance;
- place or receive calls to 800 telephone numbers;
- access Telephone Relay Service.

The Company's service can not be used to originate calls to other telephone companies caller-paid information services (e.g., 900, 976). Calls to those numbers and other numbers used for caller-paid information services will be blocked by the Company's switch.

Company's local exchange service allows the Customer unlimited access to stations on the public switched network within the Customer's basic local calling area, i.e., the local calling area as specified in the Incumbent Local Exchange Carrier's tariff in effect and as amended from time to time in the future.

Each Exchange Access Service is available on a "Full" service basis, whereby service is delivered to a demarcation/connection block at the customer's premises.

The following Exchange Access Service Options are offered:

Flat Rate Service
Measured Rate Service

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SECTION 4 – EXCHANGE ACCESS SERVICE

4.2 Explanation of Rate Schedules :

Three rate schedules are presented for each Exchange Access Service offered. Except for the central office exceptions listed below, a customer's rate schedule is dependent on the distance between the customer's dominant serving wire center and a US LEC switch.

Each rate schedule is airline mileage based as follows:

Schedule 1: Customers whose serving wire centers are 0 – 10 miles from a US LEC switch.

Schedule 2: Customers whose serving wire centers are 10 – 16 miles from a US LEC switch.

Schedule 3: Customers whose serving wire centers are greater than 16 miles from a US LEC switch.

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SECTION 8 - MISCELLANEOUS SERVICES

8.9 IntraLATA Toll Presubscription

(A) Presubscription is a procedure whereby an end user may select and designate an IntraLATA Toll Provider (ITP) to access for intra LATA toll calls without dialing an access code. This ITP must have a Feature Group D Trunk in place (or ordered) between its points of presence and the incumbent LEC Access Tandem(s). The end user or agent may designate an ITP for intraLATA toll, a different carrier for interLATA toll, or the same carrier for both. This ITP is referred to as the end user's, or agent's preferred intraLATA toll provider.

Each carrier will have one or more access codes assigned to it for various types of service. When an end user selects a carrier as its preferred intraLATA toll provider, only one access code of that carrier by the end user without dialing an access code. Should the same end user wish to use other services of the same carrier, it will be necessary for the end user to dial the necessary access code(s) to reach that carrier's other service(s).

An ITP must use Feature Group D (FGD) Switched Access Service to qualify as an intraLATA toll provider. A carrier authorized to handle intraLATA toll calls may request two-PIC capability provided that it interconnects its network either with the US LEC network or the subtending LEC tandem. Carriers wishing to participate must submit Access Service Requests and Translation Questionnaires to the Access Tandem owner and to US LEC.

Selection of an intraLATA toll provider by an end user is subject to the terms and conditions following.

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SECTION 8 - MISCELLANEOUS SERVICES

8.9 IntraLATA Toll Presubscription (cont'd)

8.9.1 Presubscription Charge Application

A. Existing end users may exercise an initial free presubscription choice, either by contacting US LEC or by contacting the ITP directly. The initial selection must be made at the time the Customer signs up for local service with US LEC, or within 30 days thereafter. If the Customer is unable to make an ITP selection at that time, a "No-Pic" designation will be applied to their account, and the Customer will have to dial a 10XXX code to access an ITP.

Following an existing end user's initial free selection, any subsequent selection is subject to a nonrecurring charge as set forth at the the end of this section.

B. If an ITP elects to discontinue Feature Group D service after implementation of the intraLATA toll presubscription option, the ITP is obligate to contact, in writing, all end users who have selected the canceling ITP will pay the PIC change charge as provided at the end of this section. The ITP must provide written notification to US LEC, that this activity has taken place.

C. An unauthorized PIC change is a change in the presubscribed intraLATA toll provider that the end user denies authorizing. PIC disputes for end user are resolved through an investigative process.

If an end user disputes a PIC change, the end user will be changed to the carrier of record prior to the PIC change. If the dispute is legitimate, the end user will be credited an amount equal to the PIC change charge provided at the end of this section and the carrier that submitted the PIC change will be assessed two PIC change charges-one for the invalid PIC change, and one for the change back to the prior carrier of record.

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SECTION 8 - MISCELLANEOUS SERVICES

8.9 IntraLATA Toll Presubscription (cont'd)

8.9.2 Presubscription Charge Application

D. When a discrepancy is determined regarding an end user's designation of a preferred intraLATA toll carrier, the following applies depending upon the situation described:

-A signed letter of authorization takes precedence over any order other than subsequent, direct customer contact with US LEC.

-When two or more orders are received for an end user line generated by telemarketing, the date field on the mechanized record used to transmit PIC change information will be used as the PIC authorization date. The order with the latest application date/time determines customer choice.

-If an end user denies requesting a change in intraLATA toll presubscription as submitted by an ITP, and the ITP is unable to produce a letter of authorization, signed by the end user , the ITP will also be assessed the intraLATA toll presubscription change charges. The nonrecurring change charges are provided herein. The ITP will also be assessed the intraLATA toll presubscription change charge as specified herein, which was previously billed to the end user.

Neither the ITP or US LEC shall submit a PIC change order generated by outbound telemarketing unless and until the order has first been confirmed in accordance with the F.C.C.'s current anti-slamming practices and procedures.

	Per Line/Trunk Per Occurrence
InterLATA PIC Change	$5.00
IntraLATA PIC Change (When available)	$5.00
Both PIC selections changed simultaneously	$5.00

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SECTION 8 - MISCELLANEOUS SERVICES

8.12 Foreign Exchange (FX) Service

8.12.1 Description

FX Service enables a Customer to receive a Company-provided Exchange Access Service at a point outside the Exchange Access Service Area corresponding to the NPA-NXX designation (as set forth in Section 4.1) of such Exchange Access Service.

The Local Calling Area and all Usage Service rates which apply to an FX Exchange Access Service are the same as those which regularly apply to other Company-provided Exchange Access Services bearing the same NPA-NXX designation.

8.12.2 Rates

	Non-Recurring	Monthly Recurring
Foreign Exchange Service	$500.00	$1000.00

8.13 Hospitality Rates

Hospitality rates will have no local usage charges associated with them. Hotels and motels that supply guest rooms and route local and long distance guest traffic over Company digital facilities will qualify for Hospitality Rates.

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SECTION 10 - SERVICE AREAS

10.1 Service Area:

US LEC of Pennsylvania includes all non-rural exchanges in Pennsylvania as the potential areas where alternative local exchange service is planned, where facilities are available and pending appropriate interconnection agreements. Below are the exchanges that are within a single local calling area are grouped together. The company will initially offer services under this tariff to customers in the following areas:

Philadelphia Zone 1:

Zone	1	Zone	21	Zone	33
Zone	2	Zone	22	Zone	34
Zone	3	Zone	23	Zone	37
Zone	4	Zone	24	Zone	38
Zone	10	Zone	25	Zone	39
Zone	11	Zone	26	Zone	40
Zone	12	Zone	28	Zone	41
Zone	13	Zone	29	Zone	42
Zone	14	Zone	30	Zone	43
Zone	17	Zone	31	Zone	44
		Zone	32	Zone	45

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SECTION 10 - SERVICE AREAS

10.1 Service Area (cont'd)

Philadelphia Zone 2:

Zone	1	Zone	22	Zone	33
Zone	2	Zone	23	Zone	34
Zone	3	Zone	24	Zone	37
Zone	4	Zone	25	Zone	38
Zone	10	Zone	26	Zone	39
Zone	11	Zone	28	Zone	40
Zone	12	Zone	29	Zone	41
Zone	13	Zone	30	Zone	42
Zone	14	Zone	31	Zone	43
Zone	17	Zone	32	Zone	44
Zone	21			Zone	45

Philadelphia Zone 3:

Zone	1	Zone	22	Zone	34
Zone	2	Zone	23	Zone	37
Zone	3	Zone	24	Zone	38
Zone	4	Zone	25	Zone	39
Zone	10	Zone	26	Zone	40
Zone	11	Zone	28	Zone	41
Zone	12	Zone	29	Zone	42
Zone	13	Zone	30	Zone	43
Zone	14	Zone	31	Zone	44
Zone	17	Zone	32	Zone	45
Zone	21	Zone	33		

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SECTION 10 - SERVICE AREAS

10.1 Service Area (cont'd)

Philadelphia Zone 4:

Zone	1	Zone	21	Zone	32
Zone	2	Zone	22	Zone	33
Zone	3	Zone	23	Zone	34
Zone	4	Zone	24	Zone	37
Zone	10	Zone	25	Zone	38
Zone	11	Zone	26	Zone	39
Zone	12	Zone	28	Zone	40
Zone	13	Zone	29	Zone	41
Zone	14	Zone	30	Zone	42
Zone	17	Zone	31	Zone	43
		Zone	45	Zone	44

Philadelphia Zone 11:

Zone	14
Zone	13
Zone	12
Zone	11
Zone	10

Philadelphia Zone 14:

Zone	2
Zone	11
Zone	13
Zone	14
Zone	17

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SECTION 10 - SERVICE AREAS

10.1 Service Area (cont'd)

Philadelphia Zone 17:
Zone 21
Zone 17
Zone 14
Zone 13
Zone 2

Philadelphia Zone 21:
Zone 2
Zone 13
Zone 17
Zone 21
Zone 22
Zone 24

Philadelphia Zone 23:
Zone 25
Zone 24
Zone 23
Zone 3
Zone 2

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SECTION 10 - SERVICE AREAS

10.1 Service Area (cont'd)

Philadelphia Zone 24:

Zone 2
Zone 21
Zone 22
Zone 23
Zone 24
Zone 25
Zone 26
Zone 31

Philadelphia Zone 25:

Zone 31
Zone 26
Zone 25
Zone 24
Zone 23
Zone 22

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SECTION 10 - SERVICE AREAS

10.1 Service Area (cont'd)

Philadelphia Zone 30:

SCHWENKSVL	
ROYERSFORD	
Zone	33
Zone	31
Zone	30
Zone	29
Zone	26
PHOENIXVILLE	
NORTHWALES	
LANSDALE	
HARLEYSVILLE	
COLLEGEVILLE	
CENTER POINT	

Philadelphia Zone 32:

Zone	34
Zone	33
Zone	32
Zone	31
Zone	3

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SECTION 10 - SERVICE AREAS

10.1 Service Area (cont'd)

Philadelphia Zone 34:
NORTHWALES

Zone	3
Zone	4
Zone	32
Zone	33
Zone	34
Zone	37
Zone	38
Zone	39

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Products

Long distance and toll-free services

Featured
ADVANTAGE T
Local
Long distance and toll-free
Internet and enhanced
Additional
Satisfaction guarantee and SLAs
Back to products

- ADVANTAGE Flat Rate plan
- ADVANTAGE long distance calling plan
- Long distance invoice reports
- Toll-free service (800, 888, 877, 866, 855)
- Local Toll-Free™ service
- Enhanced Toll-Free™ service *new*
- Account codes
- Directory assistance and operator assistance
- PIC'd LD
- Calling cards
- Dedicated (T-1 facilities) 1 + long distance

ADVANTAGE Flat Rate plan
US LEC now offers ADVANTAGE Flat Rate, a new pricing plan that uses just one flat rate for all calls. The plan provides one intrastate rate for incoming and outgoing calls, and one interstate rate for incoming and outgoing calls to anywhere in the United States.
Plan benefits include:

- Competitive pricing
- Simplified billing
- Works with all ADVANTAGE Local Calling plans
- Eliminates the need for least-cost routing based on called number
- Existing and new customers are eligible

Top

ADVANTAGE long distance calling plan
The more long distance calls you make, the more you can save with US LEC's ADVANTAGE T. Our list of ADVANTAGE T cities is always growing, so contact the sales representative in your area for more information. Get substantial savings on:

- IntraLATA (local toll)
- Intrastate (instate)
- Interstate (out-of-state)
- International calling to more than 150 countries

Top

VZ5

Long Distance Invoice Reports
Get detailed snapshots of long distance billing charges with US LEC's Long Distance (LD) Invoice Reports. Verify rates and identify any alarming trends. LD Invoice Reports offer a product by product summary report of all usage, with additional reports including:

- Most frequently called area code:
  - outbound toll
  - inbound toll-free and Local Toll-Free™
- 40 most frequently called numbers
- 40 longest calls - outbound and inbound
- 40 highest-cost calls
- International usage by country

Top

Toll-free service (800, 888, 877, 866, 855)
US LEC provides toll-free services with nationwide origination. We offer easy-to-remember vanity numbers and National Toll-Free Directory listings, and enhanced features such as specialized routing, take-back and transfer and NPA/NXX restriction on origination. All US LEC services are itemized on one convenient monthly invoice.

- Extends customers' reach throughout the United States and Canada
- Available with T-1, ISDN PRI, and channel access and ADVANTAGE T
- Optional easy-to-remember vanity numbers
- Optional national toll-free directory listings
- Maximizes use of customer access facilities, reducing costs
- Can be combined with other US LEC services for volume pricing
- Billed on same invoices as other US LEC services

Top

Local Toll-Free™ service
Local Toll-Free service allows your customers in another city to make a local call to you. US LEC's Local Toll-Free service lets you establish local phone numbers across the US LEC footprint. This unique inbound calling service allows anyone to place a "free" local call to you from anywhere within US LEC's territory, with you picking up the charges at a lower cost.

Top

Enhanced Toll-Free™ service
US LEC provides the Toll Free services that are so important to your business, including Dialed Number Identification Service (DNIS), Automatic Number Identification (ANI), and Account Codes, just to name a few. Plus, US LEC Toll Free service is backed by our unsurpassed service and competitive pricing to meet your business' needs.

Top

Account codes
US LEC offers clients the ability to identify and track calls by user or department account codes. We offer verified and non-verified account codes. Verified account codes allow customers to track calls by individual user. Non-verified account codes allow customers to track calls by project or department.

Top

Directory assistance and operator services
Dialing 411 brings white-page listings help for either local or long distance. Operator assistance allows a US LEC customer to place 0+ or 0- calls.

Top

PIC'd LD
Customers and their employees can now choose US LEC to carry their long distance calls from many locations. Customers save money by combining long distance call volumes from sites without a T-1, with volumes from their T-1-served locations.

Top

Calling cards
US LEC's calling card allows customers to call from anywhere within the United States to anywhere in the world. Our calling cards include easy-to-follow instructions with no surcharges (only a $0.24 pay phone surcharge, when applicable). Personalized cards are available at no extra cost. All US LEC services are itemized on one convenient monthly invoice.

Top

Dedicated (T-1 facilities) 1+ long distance
US LEC offers excellent rates on intrastate, interstate and international calling with the benefit of the Advantage Cities calling plan.

Top

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Products

Local services

- Local network access (dial-tone)
- Local calling
- Line features
- Enhanced local services

Featured
ADVANTAGE T
Local
Long distance and toll-free
Internet and enhanced
Additional
Satisfaction guarantee and SLAs
Back to products

Local network access (dial-tone)
Our local network access provides a high-quality, clear voice or data business line, and allows businesses to secure the minimum number of lines necessary as well as the capacity to expand service and add features as they grow. Customers can keep their existing telephone numbers when they switch to US LEC. Local network access facilities are available in four types:

- T-1 access
- Channel access (DS0)
- ISDN PRI (primary rate interface)
- Advantage T

Multiple local access services are available for above facilities:

- Business lines
- Data lines
- Key system lines
- PBX trunks
- Foreign exchange

The US LEC network comprises a variety of trunking configurations, enabling single and multiple voice and data transmissions between two network elements. Our local trunks offer connectivity flexibility so customers can customize specific traffic patterns based on their needs, such as one-way outbound calling only or two-way calling.

Top

Local calling
US LEC completes local calls over its all-digital network. US LEC local service provides:

Local calling area coverage at least the size of the incumbent

VZ-6

- telephone company.
- 411
- 911
- Operator assistance
- Directory listing
- White-page listing
- Yellow-page listing

Top

Line features

- Call forwarding
- Call forward busy
- Call forward no answer
- Remote access to call forwarding
- Call transfer
- 3-way calling
- Call waiting
- Toll denial
- Call hold
- Caller ID

Top

Enhanced local services

- DID - US LEC's DID trunks provide greater user productivity by eliminating the need for assistance, reducing incoming call "traffic jams" and offering the caller a speedy connection to the desired party.
- EAS (Expanded Area Service) - This service provides a greater free local calling area than the ILEC, and an extended local calling area.
- ANI - Automatic number identification is used to identify the responsible party to be billed for the call.
- Foreign exchange - This service involves an inbound-only call, toll-free to the calling party, which is paid for by the called party. If desired, the service includes a listing in the "foreign" white and yellow pages of the ILEC directory.
- Co-location - US LEC's co-location packages provide the placement of the customer's equipment and connectivity to telecom services. As part of the placement agreement, US LEC also provides access to the physical space, utility support such as power and temperature/humidity control and security, among other benefits.

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Document Index Report

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Insert ID:	S23235	**Insert Title:**	PA A-310814F7000 - TESTIMONY - I/M/O Petition of US LEC of Pennsylvania Inc. for Arbitration with Verizon-Pennsylvania, Inc. pursuant to section 252(b) of the Telecommunications Act of 1996

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0002	Direct Testimony of Frank B. Hoffman, Jr. on behalf of US Lec of Pennsylvania	05/31/2002
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0004	Direct Testimony of Karen Fleming on behalf of Verizon Pennsylvania	05/31/2002
0005	Direct Testimony of Peter J. D'Amico on behalf of Verizon Pennsylvania	05/31/2002

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of US LEC of Pennsylvania, Inc. for Arbitration with Verizon Pennsylvania Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996	)	Docket No: A-310814F7000

DIRECT TESTIMONY
OF PETER J. D'AMICO ON BEHALF OF
VERIZON PENNSYLVANIA INC.

May 31, 2002

Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH VERIZON, AND YOUR BUSINESS ADDRESS.

A. My name is Pete D'Amico. I am a Senior Specialist in the Interconnection Product Management Group for Verizon Services Corporation. My business address is 416 7th Avenue, Pittsburgh, Pennsylvania 15219.

Q. PLEASE PROVIDE A BRIEF DESCRIPTION OF YOUR BACKGROUND AND EXPERIENCE, INCLUDING NON-VERIZON WORK EXPERIENCE.

A. I have a Bachelor of Science in Marketing from Indiana University of Pennsylvania. I have been employed at Verizon and its predecessor companies for 18 years, in positions of increasing responsibility, and have been in product management dealing with interconnection arrangements for the last 12 years.

Q. WHAT ARE YOUR RESPONSIBILITIES IN YOUR CURRENT POSITION?

A. My responsibilities include development, implementation, and product management of interconnection services.

Q. HAVE YOU EVER TESTIFIED BEFORE?

A. Yes. I testified in the Focal Arbitrations in the second quarter of 2000 in Pennsylvania and New Jersey and in the Pennsylvania section 271 hearings in the first quarter of this year. I also testified in the section 252 arbitrations between Sprint and Verizon in Pennsylvania and Maryland.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to present Verizon's position on issues that US LEC has raised in this proceeding relating to network architecture (Issues 1 and 2).

Q. CAN YOU PROVIDE AN OVERVIEW OF YOUR TESTIMONY ON NETWORK ARCHITECTURE?

A. Yes.

My testimony focuses on explaining how Verizon's Virtual Geographically Relevant Interconnection Point ("VGRIP") proposal is consistent with federal law and with this Commission's precedent regarding interconnection between an incumbent local exchange carrier ("ILEC") and a competitive local exchange carrier ("CLEC"). In addition, my testimony explains why, if US LEC chooses to locate only one point of interconnection ("POI") in a LATA, it should be financially responsible for hauling the Verizon-originated call to the distant POI when that call leaves the local calling area. Otherwise, Verizon would be forced to subsidize US LEC's costs of interconnection as well as its network design choices.

US LEC's proposal is an impermissible attempt to have Verizon subsidize US LEC's attempts to enter the local telephone market. US LEC attempts to do this by, for example, having Verizon bear costs that are actually caused by US LEC's own decisions or by forcing Verizon to make network architecture decisions for the benefit primarily of US LEC and not for Verizon and its customers. The main premise behind US LEC's network architecture position is that Verizon should be financially responsible for US LEC's interconnection choices. Simply put, US LEC's demands far surpass its legal

entitlements and would have far-reaching effects on Verizon's network architecture, including forcing Verizon to subsidize the cost of US LEC's entry into the local telecommunications market and creating a disincentive to US LEC's deployment of its own network.

Q. WHAT IS A POI AND HOW DOES IT DIFFER FROM AN INTERCONNECTION POINT ("IP")?

A. A POI is where the ILEC and CLEC physically interconnect their respective networks. To exchange traffic, two carriers' networks must be physically linked; the point of that physical linkage is the POI. An IP, on the other hand, is the place in the network at which one local exchange carrier hands over financial responsibility for traffic to another local exchange carrier. A POI and an IP may be at the same place but do not have to be. Pursuant to Verizon's proposal, by definition, Verizon is financially responsible for delivering its traffic to US LEC's IP. Once Verizon transports traffic originating on its network to US LEC's IP, then US LEC takes over financial responsibility for delivering the traffic to its customer.

Q. WHAT IS THE ESSENCE OF THE DISPUTE AMONG THE PARTIES REGARDING THE POI AND IP?

A. The issue boils down to how to allocate fairly the transport costs between Verizon and the US LEC when Verizon delivers originating traffic from a local calling area to a US LEC POI that is located outside of that local calling area. US LEC wants Verizon to bear the full transport cost when Verizon delivers originating traffic from a local calling area

to a distant US LEC POI located within the LATA but outside of that local calling area. Verizon's position is that the IP, or location where financial responsibility shifts from Verizon to US LEC, must be at a much more reasonable location so that the transport costs are fairly allocated between the carriers.

The issue is not, as US LEC states, whether it has the right to choose the location of its POI within Verizon's network. In Pennsylvania, a CLEC can choose its POI so long as it interconnects at one point within each LATA. The issue, however, is whether US LEC should be financially responsible for its POI-location decision. If there is no financial accountability for US LEC when it comes to the location for its POI, then the transport costs associated with hauling local calls outside of the local calling area to the distant US LEC POI are unfairly shifted to Verizon. This encourages inefficient behavior and is unfair.

Q. WHAT DO YOU MEAN WHEN YOU STATE THAT THE PROPOSAL TO HAVE VERIZON INCUR THE COSTS OF TRANSPORT TO THE DISTANT POI ENCOURAGES INEFFICIENT BEHAVIOR AND IS UNFAIR?

A. In effect, US LEC wants Verizon to transport local calls as if they are toll calls simply because of US LEC's decisions regarding where to locate its POI. Verizon would bill its end users for a local call but would actually transport the call to a distant location that would normally be a toll point. It is neither equitable nor fair to shift transport costs to Verizon based on the decision of US LEC or any other CLEC to locate its POIs outside of the local calling area. If there is no financial responsibility for the decision relating to the location of the POI, there is no incentive for the CLEC to engage in efficient network

behavior. This is why there must be an IP separate from the POI where financial responsibility for the call shifts.

Q. HAS THE PENNSYLVANIA PUBLIC UTILITY COMMISSION EVER ADDRESSED THIS ISSUE?

A. Yes.

In 1997, the Commission held that a CLEC network with only one point of interconnection per LATA would be "both expensive and inefficient" because it would require Verizon to send a CLEC's traffic "to one central point, solely for [the CLEC's] convenience." Opinion and Order, *Joint Application of Bell Atlantic-Pennsylvania, Inc. and MCImetro Access Transmission Services, Inc., for Approval of an Interconnection Agreement Under Section 252(e) of the Telecommunications Act*, at 11, A-310236F0002 (Pa. PUC Aug. 28, 1997) ("*MCImetro Arbitration Order*"). Although the Third Circuit has overturned that ruling, it expressly stated that this Commission should "consider shifting costs" to a CLEC that selects a technically feasible POI that "prove[s] more expensive to Verizon." *MCI Telecomms. Corp. v. Bell Atlantic-Pa.*, 271 F.3d 491, 518 (3d Cir. 2001) (citing First Report and Order, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rcd 15499, 15603, ¶ 209 (1996) (subsequent history omitted)).

In 2000, this Commission approved an interconnection agreement between Verizon and Focal that required Focal to select only one interconnection point per LATA. *See* Opinion and Order, *Petition of Focal Communications Corporation of Pennsylvania For Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to*

Establish an Interconnection Agreement with Bell Atlantic-Pennsylvania, A-310630F0002 (Pa. PUC Aug. 17, 2000). That interconnection point would serve as both the physical POI and the IP for purposes of financial responsibility. This Commission expressed concern about requiring a CLEC to build multiple physical interconnection points. *Id.* at 42-43. As explained further below, Verizon's VGRIP proposal is consistent with this requirement, because it permits US LEC to have a single physical POI per LATA and provides for the establishment of virtual IPs, which do not require the deployment of facilities by US LEC. Moreover, it is worth noting that Focal subsequently terminated the agreement that was the subject of that proceeding and, in its place, opted into an agreement between Verizon and Level 3, which contains the VGRIP language Verizon has proposed here. *See* Verizon-Level 3 Agreement § 4.2.4.1.

In addition, in a more recent decision arbitrating an interconnection agreement between Verizon and Sprint, this Commission noted that, under federal law, "CLECs that choose a technically feasible but expensive interconnection point must bear the costs of that interconnection." Opinion and Order, *Petition of Sprint Communication Company, L.P. for an Arbitration Award of Interconnection Rates, Terms and Conditions Pursuant to 47 U.S.C. § 252(b) and Related Arrangements with Verizon Pennsylvania, Inc.*, at 55 n.37, A-310183F0002 (Pa. PUC Oct. 12, 2001) ("*Sprint Arbitration Order*"). Although Sprint was permitted to retain its existing IPs – which this Commission found "are located close to Verizon's tandems," generally within two miles – Sprint was required to establish any new IPs within five miles of Verizon's tandem and to establish "additional interconnection locations" within a LATA once traffic reaches specified volume levels. *Id.* at 52-53, 55-56 & n.38. If, in the latter situation, Sprint chooses not to establish a

physical POI to serve as its IP, a virtual IP will be created, which is similar to Verizon's VGRIP proposal. *See* Verizon-Sprint Agreement Interconnection § 1.2.3.1.3.6. The Commission noted that these features "would assist in alleviating the unreasonable transport costs that Verizon must pay today under other interconnection agreements." *Id.* at 56.

However, the point at which Sprint must establish an additional interconnection location (or a virtual IP) – when the traffic exchanged is equivalent to the amount of traffic carried over a DS-3 facility – likely will do little to prevent CLECs from forcing Verizon to bear the vast majority of the costs incurred by CLECs' choice of POIs. First, many CLECs will never have traffic volumes that exceed the 8.9 million minute per month (*i.e.*, DS-3) threshold. For those CLECs, Verizon will never receive compensation for the costs it incurs in transporting traffic outside the local calling area to the CLECs' POIs. Second, Verizon may never receive compensation even from those CLECs with traffic volumes in excess of the threshold. Such CLECs may be led to engage in inefficient network reconfiguration simply to divert traffic in order to ensure that traffic volumes remain under the threshold so that Verizon continues to bear full responsibility for the transport costs resulting from the CLECs' decisions about where to locate their POIs.

Q. WOULD YOU PLEASE PROVIDE AN EXAMPLE ILLUSTRATING HOW VERIZON CAN BE REQUIRED TO BEAR COSTS ATTRIBUTABLE TO US LEC'S CHOSEN POI?

A. Yes. Assume a Verizon customer located in Allentown calls a next-door neighbor whose local service provider is US LEC. US LEC has chosen to locate its only POI in the Pennsylvania LATA in Philadelphia, which is approximately 50 miles away from, and not in the same local calling area as, Allentown. Under US LEC's suggested approach, Verizon would be required to carry the call many miles through multiple switches on its way to US LEC's POI.

Normally, the call described above would be charged as an intra-LATA toll call because of how it was routed. However, under US LEC's proposal, Verizon would only charge its customer for a local call, which will most likely be a flat rate. Verizon also would pay the CLEC to terminate the call, even though it would, in essence, be a toll call because of the CLEC's choice as to the placement of its POI. In short, Verizon would typically not be able to bill its customer for its costs caused by the CLEC's choice of POI location, would not be able to charge the CLEC for that choice, and instead would have to pay the CLEC reciprocal compensation. Verizon would charge its end user for a local call, even though this call was transported as an intra-LATA toll call.

Q. WHAT CHARGES WOULD APPLY IF A VERIZON CUSTOMER LOCATED IN ALLENTOWN PLACED A CALL TO A VERIZON CUSTOMER LOCATED IN PHILADELPHIA?

A. If a Verizon customer in Allentown is calling another Verizon customer in Philadelphia, Verizon would rightly be able to charge its customer originating the call toll charges for transporting the call to Philadelphia.

Q. UNDER US LEC'S PROPOSAL, WOULD US LEC HAVE TO PAY TO TRANSPORT THE TRAFFIC BACK TO ITS LOCAL CUSTOMER IN ALLENTOWN?

A. Yes. I understand that US LEC states that, consistent with this Commission's directive, it currently assigns telephone numbers only to end users physically located in the calling area associated with that number. The fact that US LEC has decided to serve an end user from so distant a switch, however, is its business decision. Under US LEC's proposal, Verizon would subsidize US LEC's business decision, which transforms a call between neighbors into a toll call for which Verizon receives no compensation. Such subsidization is "both expensive and inefficient, from an overall public switched network perspective." *MCImetro Arbitration Order* at 11.

Moreover, US LEC argues that it should be permitted to assign telephone numbers to end users that have no physical presence in the calling area associated with that number. There is also no way for Verizon to know whether a CLEC has done so. (The question of the proper treatment of such "virtual" NXX codes is further addressed in the testimony of Terry Haynes.) In such a situation, US LEC would not be carrying the call back to a residential customer in Allentown and, instead, would most likely drop off the call to an end user collocated at (or nearby) its switch. In this way, US LEC would not bear any of the costs that it has caused, and would have its interconnection decisions further subsidized by Verizon.

Q. PLEASE DESCRIBE VERIZON'S VIRTUAL GEOGRAPHICALLY RELEVANT INTERCONNECTION POINT ("VGRIP") PROPOSAL.

A. Under VGRIP, Verizon may request that the CLEC establish a POI at a collocation site in each Verizon tandem wire center where the CLEC chooses to assign telephone numbers. That POI would serve as the CLEC's IP under VGRIP. If Verizon only operates one tandem in a LATA, then Verizon may designate additional VGRIP locations, such as host end office wire centers. In addition, either Party may designate a CLEC collocation site at any Verizon wire center as the CLEC IP for traffic originating from that end office. Under VGRIP, Verizon would incur more than its share of the transport cost, but it would be able to deliver its traffic to the CLECs at a more central location. Verizon would be responsible for the costs of hauling this traffic from the Verizon customer to the designated Verizon VGRIP tandem wire center or end office wire center where the CLEC is collocated, even though that location may be beyond the local calling area of the originating customer. The CLEC is then responsible for delivering the call from this central location to the CLEC customer. If a CLEC elects not to establish a POI at the VGRIP locations, then Verizon will deliver its traffic to another CLEC-designated location and the CLEC will be financially responsible for the transport outside of the local calling area.

Q. GOING BACK TO THE PHILADELPHIA/ALLENTOWN EXAMPLE ABOVE, HOW WOULD THE CALL BE TREATED?

A. If US LEC agrees to pick up traffic at Verizon tandems – *i.e.* if it locates its POIs there – then Verizon will incur the transport cost to get the traffic from Verizon's customers to the US LEC IP located at the tandem. Responsibility for the traffic will be transferred to US LEC at the tandem and US LEC will transport the traffic to its end users. If US LEC

chose to place its POIs in places that are not at the VGRIP locations, Verizon would deliver its traffic to US LEC's chosen POI location, but could recover the additional transport and other costs for delivering the traffic to that location.

Q. DOES VERIZON'S VGRIP PROPOSAL ABROGATE US LEC'S RIGHTS UNDER FEDERAL LAW?

A. No. Verizon's proposal is fully consistent with the Act because it permits US LEC to establish a single physical POI per LATA, while it fairly compensates Verizon for the costs Verizon incurs when US LEC decides to establish POIs at points other than the VGRIP locations.

Q. DOES VGRIP REPRESENT A COMPROMISE ON VERIZON'S PART?

A. Yes. Under VGRIP, Verizon would incur more than its share of the transport cost, because it would be responsible for the costs of hauling its traffic from the Verizon customer to the VGRIP location, even though the location may be beyond the local calling area. Verizon is willing to incur this extra transport cost in exchange for the ability to deliver its traffic to US LEC at a more central location. If US LEC does not choose to establish its POI at the Verizon VGRIP location, then Verizon will deliver its traffic to the US LEC POI. However, US LEC would then be financially responsible for the full transport cost beyond the local calling area.

Q. DO YOU AGREE WITH US LEC'S CLAIM THAT SECTION 7.1.1.3 GRANTS VERIZON THE POWER TO CHANGE US LEC'S NETWORK ARCHITECTURE AT VERZION'S SOLE DISCRETION?

A. No. This claim appears to be based on a misreading of section 7.1.1.3. That section allows Verizon to request that US LEC establish POIs that comply with sections 7.1.1.1 or 7.1.1.2 – that is, at a collocation site at either a Verizon tandem or a Verizon end office. However, US LEC is not obligated to agree to that request. If US LEC chooses not to establish POIs that comply with the other provisions of VGRIP, then US LEC will become financially responsible for traffic at Verizon's end offices, through the creation of virtual IPs at those locations. Although US LEC would be required to bear the cost of transporting this traffic from the virtual IP to its POI, it would not be required to change its network architecture so that it became physically responsible for transporting that traffic. Therefore, although VGRIP enables Verizon to *request* that US LEC establish physical POIs that serve as IPs, US LEC remains free to meet its requirements through the establishment of virtual IPs, which do not require it to change its network architecture.

Q. DO YOU AGREE WITH US LEC'S READING OF SECTION 7.1.1.2?

A. No. First, it should be noted that any dispute about this provision is entirely hypothetical at this point. US LEC states that it "does not currently collocate with Verizon." US LEC Petition at 9. Furthermore, US LEC has informed the North Carolina Utilities Commission that collocation is not part of its network architecture, that it does not currently collocate with Verizon in any state, and that, at most, it is possible that it will

elect to do so in the next few years. *See* Direct Testimony of Frank R. Hoffmann, Jr., *Petition of US LEC of North Carolina, Inc. for Arbitration with Verizon South, Inc. Pursuant to 47 U.S.C. § 252(b) of the Communications Act of 1996, as Amended by the Telecommunications Act of 1996*, Docket No. P-561, Sub 19, at 8 (N.C. Utils. Comm'n filed Apr. 12, 2002); Rebuttal Testimony of Frank R. Hoffmann, Jr., *Petition of US LEC of North Carolina, Inc. for Arbitration with Verizon South, Inc. Pursuant to 47 U.S.C. § 252(b) of the Communications Act of 1996, as Amended by the Telecommunications Act of 1996*, Docket No. P-561, Sub 19, at 3 (N.C. Utils. Comm'n filed May 24, 2002). Because section 7.1.1.2 applies only when a CLEC has established a collocation arrangement in a Verizon end office, US LEC has not shown that this provision will affect it in any way.

Second, under section 7.1.1.2, if US LEC establishes a collocation arrangement at a Verizon end office, Verizon will have the right to request that US LEC designate that site as an IP. However, US LEC is wrong to claim that section 7.1.1.2 would require US LEC to assume the physical responsibility for transporting traffic from the collocation site to US LEC's POI. US LEC is free to refuse to undertake this task, in which case it will simply be financially responsible for the transport of the traffic.

Third, US LEC is also incorrect to contend that this proposal is unfair. If US LEC decides to adopt a network architecture whereby it deploys facilities at a collocation site at a Verizon end office, US LEC should assume the financial responsibility for the transport of traffic from that end office to its POI. When US LEC establishes a collocation site at a Verizon end office, it has brought its network into contact with Verizon's. For US LEC to refuse to accept traffic at the point where both carriers have

already deployed network facilities – and instead to require Verizon to transport that traffic to a distant location – means that US LEC is simply shifting costs to Verizon. US LEC should not be permitted to shift costs in this way.

Q. DO YOU AGREE WITH US LEC'S CLAIM THAT VERIZON'S VGRIP PROPOSAL PENALIZES A CLEC THAT DOES NOT ESTABLISH MULTIPLE INTERCONNECTION POINTS.

A. No. First, as noted above, this Commission has previously found that CLECs should be required to have multiple IPs. And the Third Circuit has expressly stated that this Commission should "consider shifting costs" to a CLEC that selects a technically feasible POI that "prove[s] more expensive to Verizon." *MCI Telecomms.*, 271 F.3d at 518.

The FCC and numerous other state commissions have agreed that it is appropriate to require CLECs to bear the costs that their choice of POI(s) imposes on an ILEC. In the *Local Competition Order*, the FCC held that "a requesting carrier that wishes a 'technically feasible' but expensive interconnection would, pursuant to section 252(d)(1), *be required to bear the cost of that interconnection*, including a reasonable profit." *Local Competition Order*,[1] 11 FCC Rcd at 15603, ¶ 199 (emphasis added). The FCC stated further that, "because competing carriers *must usually compensate incumbent LECs for the additional costs incurred* by providing interconnection, competitors have an incentive

[1] First Report and Order, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rcd 15499 ("*Local Competition Order*"), *modified on recon.*, 11 FCC Rcd 13042 (1996), *vacated in part, Iowa Utils. Bd. v. FCC*, 120 F.3d 753 (8th Cir. 1997), *aff'd in part, rev'd in part sub nom. AT&T Corp. v. Iowa Utils. Bd.*, 525 U.S. 366 (1999), *decision on remand, Iowa Utils. Bd v. FCC*, 219 F.3d 744 (8th Cir. 2000), *aff'd in part, rev'd in part sub nom. Verizon Communications Inc. v. FCC*, 122 S. Ct. 1646 (2002).

to make economically efficient decisions about where to interconnect." *Id.* at 15608, ¶ 209 (emphasis added). Similarly, in approving Verizon's section 271 application in Pennsylvania, the FCC found that Verizon's similar GRIP proposal, which "permits carriers to *physically* interconnect at a single point of interconnection (POI)," but "distinguish[es] between the physical POI and the point at which Verizon and an interconnecting competitive LEC are responsible for the cost of interconnection facilities," "complies with the clear requirement of our rules." Memorandum Opinion and Order, *Application of Verizon Pennsylvania Inc., et al. for Authorization To Provide In-Region, InterLATA Services in Pennsylvania*, 16 FCC Rcd 17419, 17474-75, ¶ 100 (2001). The FCC also rejected claims that "Verizon's policies in regard to the financial responsibility for interconnection facilities fail to comply with its obligations under the Act." *Id.*

Other state commissions have also found it reasonable and consistent with federal law to distinguish between CLECs' right to select a physical point of interconnection and the allocation of the financial responsibility for those choices. For example, the South Carolina Public Service Commission recently held that "[r]equiring AT&T to pay for the costs of its interconnection choices to offset the costs imposed by those interconnection choices on BellSouth is the fair and equitable solution." Order on Arbitration, *Petition of AT&T Communications of the Southern States, Inc., for Arbitration of Certain Terms and Conditions of a Proposed Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to 47 U.S.C. Section 252*, Docket No. 2000-527-C, at 24 (S.C. PSC Jan. 30, 2001). That Commission further explained that, because "AT&T's interconnection choices require[] the transport of local calls from one local calling area to

another local calling area where AT&T's POI is located," "AT&T has contributed to the need and costs of these facilities" and therefore "should pay for use of the facilities." *Id.*

The North Carolina Utilities Commission likewise found that "it is equitable and in the public interest" to require AT&T "to compensate BellSouth for, or otherwise be responsible for, transport beyond the local calling area," when AT&T elects to "interconnect[] at points within the LATA but outside of BellSouth's local calling area from which traffic originates." Recommended Arbitration Order, *Arbitration of Interconnection Agreement Between AT&T Communications of the Southern States, Inc., and TCG of the Carolinas, Inc., and BellSouth Telecommunications, Inc., Pursuant to the Telecommunications Act of 1996*, Docket Nos. P-140, Sub 73 & P-646, Sub 7, at 15 (N.C. Utils. Comm'n Mar. 9, 2001) ("*N.C. Arbitration Order*"), *aff'd*, Order Ruling on Objections and Requiring the Filing of the Composite Agreement, Docket Nos. P-140, Sub 73 & P-646, Sub 7, at 5 (N.C. Utils. Comm'n June 19, 2001).

Q. WOULD YOU PLEASE RESPOND TO US LEC'S CLAIM THAT THE FCC'S RULES DO NOT DISTINGUISH BETWEEN THE POI AND THE IP?

A. Yes. This is simply incorrect. As explained above, the FCC has expressly found that "a requesting carrier that wishes a 'technically feasible' but expensive interconnection would, pursuant to section 252(d)(1), *be required to bear the cost of that interconnection*, including a reasonable profit." *Local Competition Order*, 11 FCC Rcd at 15603, ¶ 199 (emphasis added). In order to require a CLEC to bear the cost of that interconnection, there would need to be a distinction between the physical POI and the points at which the CLEC becomes financially responsible for transporting traffic to that POI, known as IPs

under the interconnection agreement. This interpretation is confirmed by the FCC's finding, in approving Verizon's section 271 application in Pennsylvania, that "Verizon's policies," which "distinguish between the physical POI and the point at which Verizon and an interconnecting competitive LEC are responsible for the cost of interconnection facilities," "do not represent a violation of our existing rules." *Pennsylvania Order*[2] ¶ 100. This Commission's *Sprint Arbitration Order* also distinguishes between the POI and the IP, by providing for the creation of virtual IPs when Sprint is required, but declines, to establish a new physical POI. The state commission decisions discussed above similarly distinguish between a POI and an IP.

Q. DO YOU AGREE WITH US LEC THAT A CLEC HAS A UNILATERAL RIGHT TO SELECT ITS INTERCONNECTION POINTS, SUBJECT ONLY TO THE LIMITS OF TECHNICAL FEASIBILITY?

A. No. The suggestion that US LEC is entitled to designate any "technically feasible" IP is contrary to the FCC's statements in the *Local Competition Order*. The technical feasibility standard applies only to the designation of POIs. If US LEC were also entitled to establish IPs at any technically feasible point, then it could avoid bearing responsibility for the costs imposed by its interconnection choices.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

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[2] Memorandum Opinion and Order, *Application of Verizon Pennsylvania Inc., et al. for Authorization To Provide In-Region, InterLATA Services in Pennsylvania*, 16 FCC Rcd 17419 (continued...)

(2001) ("*Pennsylvania Order*").

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of US LEC of Pennsylvnia, Inc. for Arbitration with Verizon Pennsylvania Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996	))))	Docket No: **A-310814F7000**

DIRECT TESTIMONY
OF KAREN FLEMING ON BEHALF OF
VERIZON PENNSYLVANIA INC.

May 31, 2002

I. WITNESS BACKGROUND AND OVERVIEW

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Karen Fleming. My business address is 1320 North Court House Road, Arlington, Virginia.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. I am employed by Verizon Services Corp. as a Manager - Risk Management. In that position, I am responsible for managing Verizon's bond, crime and fidelity and relocation programs. I also provide training and consultation support for risk management, contracts and contractors' insurance. This includes consultation on facilities-based agreements, including collocation.

Q. PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE IN THE TELECOMMUNICATIONS INDUSTRY.

A. I have fifteen years of experience in the telecommunications industry as an employee of Verizon and its predecessor companies. Prior to my employment with Verizon, I was the risk manager for Arlington County, Virginia for five years. Prior to that, I spent a year and a half at The Hartford Insurance Company handling multi-line claims. I received a Bachelor of Science degree at State University of New York. In addition, I received a Chartered Property Casualty Underwriter (CPCU) and an Associate in Risk Management (ARM) designation from the Insurance Institute of America (IIA).

Q. PLEASE DESCRIBE THE PURPOSE OF YOUR TESTIMONY.

A. The purpose of my testimony is to address Issue 11, which concerns the level of insurance that US LEC should be required to maintain under the proposed agreement.

Q. WHAT LIABILITY INSURANCE COVERAGE SHOULD US LEC OBTAIN?

A. Verizon's proposed insurance requirements are set forth in § 21 of the General Terms and Conditions section of the interconnection agreement. US LEC should obtain this coverage prior to having access to Verizon's network and other assets, and should maintain it during the term of the interconnection agreement. Such insurance coverage should include:

- Commercial General Liability: $2,000,000.
- Commercial Motor Vehicle Liability Insurance: $2,000,000.
- Excess Liability Insurance (umbrella): $10,000,000.
- Worker's Compensation Insurance as required by law.
- Employer's Liability Insurance: $2,000,000.
- All risk property insurance (full replacement cost) for US LEC's real and personal property located at a collocation site or on Verizon premises, facility, equipment or right-of-way.

In addition,

- Deductibles, self-insured retentions or loss limits must be disclosed to Verizon.
- US LEC shall name Verizon as an additional insured.
- US LEC shall provide proof of insurance and report changes in insurance periodically.
- US LEC shall require contractors that will have access to Verizon premises or equipment to procure insurance.

Q. WHY IS THE LIABILITY INSURANCE COVERAGE YOU DESCRIBE NECESSARY?

A. Verizon is required to enter into interconnection agreements with CLECs. The presence of US LEC's equipment and personnel on Verizon's property that results from interconnection puts Verizon's network, personnel, and assets at an increased risk for damage and injury in many ways: (i) the risk of injury to its employees, (ii) the risk of damage or loss of its facilities and network, (iii) the risk of fire or theft, (iv) the risk of security breaches, and (v) possible interference with, or failure of, the network. In light of interconnection requirements and associated increased risk, it is reasonable for Verizon to seek protection of its network, personnel, and other assets in the event a CLEC has insufficient financial resources to pay for the damage or injury it causes. In § 20 of the General Terms and Conditions section, US LEC agrees to indemnify Verizon for any damage US LEC causes as a result of its gross negligence or intentionally wrongful acts. Verizon's proposed insurance requirements in § 21 provide the financial guarantee to support the promised indemnification. Verizon's recent experience with CLEC bankruptcies reveals that insurance coverage is often the only source of recovery.

Q. DOES VERIZON MAINTAIN INSURANCE?

A. Yes. Verizon maintains an extensive insurance program that is financially sound, protecting both parties should they be liable, jointly and severally, for the wrongful acts of the other.

Q. IS VERIZON'S PROPOSAL CONSISTENT WITH OBLIGATIONS OF OTHER CARRIERS?

A. Yes. Verizon's proposed insurance requirements here are consistent with the insurance amounts it requires of other carriers.

Q. WHY AREN'T US LEC'S PROPOSED INSURANCE REQUIREMENTS REASONABLE?

A. US LEC's amendments to Verizon's proposed § 21 of the General Terms and Conditions Attachment would substantially lower the insurance amounts. US LEC's proposal would provide inadequate coverage in light of the risks for which the insurance is procured and should therefore be rejected. General problems with US LEC' proposals are highlighted below:

§ 21.1.1 US LEC advocates reducing Verizon's proposed limit on Commercial General Liability Insurance from $2,000,000 to $1,000,000. This insurance protects Verizon in the case of loss arising out of incidents involving US LEC, its employees, or its contactors. A level of $2,000,000 is commercially reasonable and consistent with the level carried by other companies.

§ 21.1.2 US LEC proposes reducing the limit on Commercial Motor Vehicle Liability Insurance from $2,000,000 to $1,000,000. US LEC must provide commercial automobile liability insurance adequate to protect Verizon's facilities for US LEC's vehicles or those of its subcontractors in the performance of the agreement. Again, a level of $2,000,000 is commercially reasonable and consistent with the level carried by other companies.

§ 21.1.4 An employer's liability limit of $2,000,000, rather than US LEC's proposed $100,000 per occurrence, is more appropriate given the possible risks of liability in the workplace. Employer's liability coverage provides protection for employees in the event the employer is found to be grossly negligent. Examples include taking money-saving short-cuts on safety, standards, and equipment that could put employees in harm's way. Verizon's exposure might arise not only in cases of joint work between Verizon and US LEC, but could also arise in cases involving sub-standard performance or other situations caused by contractors hired by US LEC. This is an area of increasing claims

activity, and although these claims still remain relatively infrequent, they are often quite severe.

Q. CAN YOU ELABORATE ON WHY US LEC'S PROPOSED REDUCTION OF THE $2,000,000 IN COMMERCIAL GENERAL LIABILITY INSURANCE, COMMERCIAL MOTOR VEHICLE LIABILITY INSURANCE, AND EXMPLOYER'S LIABILITY INSURANCE IS UNREASONABLE?

A. Yes. US LEC's proposed coverage is simply inadequate in light of the risk to Verizon's network, personnel, and assets. It is not unusual for *individuals* to have more than $1,000,000 coverage for liabilities associated with their residence and personal autos. Tort judgments, including costs and legal fees, routinely exceed $1,000,000, making US LEC's proposal obviously insufficient. Damage to Verizon's network or assets or injury to even one Verizon employee resulting from any single occurrence could easily and significantly exceed the limits of US LEC's proposed coverage, and the coverage provided by the Excess Liability Insurance Policy may not be sufficient to respond to a catastrophic loss.

Q. DOES VERIZON'S COLLOCATION TARIFF REQUIRE CLECS TO MAINTAIN INSURANCE COVERAGE?

A. Yes. The insurance coverage required under the collocation tariff – PUC No. 218 – is quite similar to the coverage required in Verizon's proposed interconnection agreement. That tariff requires comprehensive general liability coverage of $2 million per incident with a policy aggregate of $4 million; employer's liability coverage of $2 million, statutory workers' compensation coverage, $10 million in excess liability coverage, as well as automobile liability coverage and contractual liability coverage.

Q DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes, it does.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of US LEC of Pennsylvania, Inc. for Arbitration with Verizon Pennsylvania Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996	)	Docket No: **A-310814F7000**

DIRECT TESTIMONY
OF TERRY HAYNES ON BEHALF OF
VERIZON PENNSYLVANIA INC.

May 31, 2002

Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND POSITION WITH VERIZON.

A. My name is Terry Haynes. My current business address is 600 Hidden Ridge, Irving, Texas 75015. I am a manager in the State Regulatory Policy and Planning Group supporting the Verizon states formerly associated with GTE. I am testifying here on behalf of Verizon Pennsylvania Inc. ("Verizon").

Q. PLEASE DESCRIBE YOUR EDUCATIONAL AND PROFESSIONAL BACKGROUND.

A. I received a Bachelor of Arts Degree in Philosophy from the University of South Carolina in 1973. Since 1979, I have been employed by Verizon and its predecessor companies. I have held positions in Operations, Technology Planning, Service Fulfillment and State and Federal Regulatory Matters.

Q. PLEASE DESCRIBE THE PURPOSE OF YOUR TESTIMONY.

A. I will address US LEC's Issue 6, which asks "Should the parties be obligated to compensate each other for calls to numbers with NXX codes associated with the same local calling area?" This issue addresses contract language in Verizon's Glossary section 2.56 and its Interconnection Attachment section 7.2.

I will explain why reciprocal compensation does not apply to calls that originate and terminate in different local calling areas, defined by reference to the actual originating and terminating points of the complete end-to-end communication. I will also explain why US LEC's proposal – to require payment of reciprocal compensation by reference to the NPA-NXX of the called number, rather than the terminating point of the complete communication – is inconsistent both with the FCC's rules and sound

regulatory policy. To aid in understanding the issues associated with these questions, I will provide a detailed description of the nature of so-called "virtual NXX" or "virtual FX" traffic. I will explain why "virtual FX" traffic should not be subject to reciprocal compensation.

I will also explain why the Commission need not address the application of intrastate access charges to virtual FX traffic. In fact, application of access charges to such traffic is justified, because US LEC is using Verizon's local exchange facilities when a customer initiates an interexchange call that would be subject to toll charges, if not for the "virtual FX" arrangement. The proposed agreement, however, does not govern access charges, which are instead governed by the parties' tariffs.

Q. BEFORE DISCUSSING THE "VIRTUAL FX" ISSUE, PLEASE DEFINE THE TERMS RELEVANT TO THE DISCUSSION.

A. Several terms and concepts discussed in my testimony, though commonly used, are often misapplied or misunderstood. As a foundation for understanding the "virtual FX" discussion, I use the following definitions:

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.

When a four-digit line number ("XXXX") is added to the NPA and exchange code, it completes the 10-digit number format used in the NANP Area and

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

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 or "address."[3]

Q. WHY IS A CUSTOMER'S 10-DIGIT "ADDRESS" SIGNIFICANT?

A. 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.

Q. CAN YOU EXPLAIN THE BASIC PRINCIPLES GOVERNING THE MANNER IN WHICH CUSTOMERS ARE CHARGED FOR THE CALLS THAT THEY MAKE?

A. Yes. 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.

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[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.

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).

Q. HOW DOES THE TELEPHONE NUMBER OR "ADDRESS" PLAY A ROLE IN RATING AN INDIVIDUAL CALL?

A. 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.

Q. WHAT IS "VIRTUAL FX" SERVICE, AND WHAT IS A "VIRTUAL NXX"?

A. A CLEC establishes "virtual FX" 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 "virtual NXX." 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. Such "virtual NXX" assignments are not permitted in Pennsylvania, but they do occur in other states.

Q. HOW DOES THE EXISTENCE OF SO-CALLED "VIRTUAL FX" SERVICE AFFECT EITHER THE ROUTING OR RATING OF TELEPHONE CALLS?

A. 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 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 "virtual NXX" 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 "virtual NXX" 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 – a LATA, or an entire state. 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.

Q. HAVE NXX CODES TRADITIONALLY BEEN USED TO GOVERN INTER-CARRIER COMPENSATION?

A. No. To the extent that US LEC makes this argument, it is simply confusing the rating of calls for the purpose of assessing end-user charges and 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 were the access charges 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 Philadelphia 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 Philadelphia 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 the 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.

Q. DOES THE PRINCIPLE THAT INTER-CARRIER COMPENSATION IS GOVERNED BY THE ORIGINATING AND TERMINATING POINTS OF THE END-TO-END COMMUNICATION APPLY TO RECIPROCAL COMPENSATION?

A. Yes. 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,

[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 (continued...)

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.

Q. IS "VIRTUAL FX" TRAFFIC INTEREXCHANGE?

A. Yes. There can be no dispute that "virtual FX" 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.

Q. IS IT IMPROPER FOR US LEC TO ASSIGN "VIRTUAL NXX" CODES TO THEIR CUSTOMERS?

A. Yes. This Commission's rules "require[] assignment of . . . customers' telephone numbers with NXX codes that correspond to the rate centers in which the customers' premises are physically located."[5] As long as a carrier complies with this directive, if a called party's NXX code is associated with the same local calling area as the calling

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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).

[5] *See* Opinion and Order, *Petition of Focal Communications Corporation of Pennsylvania for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement With Bell Atlantic-Pennsylvania, Inc.*, Docket No. A-310630F0002, at 11 (Pa. PUC Jan. 24, 2001) (citing *MFS II Order).*

party, the called party must be physically located in the same local calling area as the calling party, and the two parties' language are equivalent. If US LEC assigns a customer a "virtual NXX" code, it would be in violation of this directive.

Q. IF US LEC IS NOT PERMITTED TO ASSIGN "VIRTUAL NXX" CODES, WHAT IS THE DIFFERENCE BETWEEN THE TREATMENT OF TRAFFIC UNDER VERIZON'S PROPOSED LANGUAGE AND UNDER US LEC'S PROPOSED LANGUAGE?

A. There is no functional difference, at least so long as US LEC complies with this Commission's directive. Because this Commission requires CLECs to assign customers NXX codes associated with the local calling area where they are physically located, under both Verizon's proposed language and US LEC's proposed language, reciprocal compensation would be paid only on calls that originate and terminate within the same local calling area.

Q. IF BOTH PARTIES' LANGUAGE YIELDS THE SAME RESULT UNDER PENNSYLVANIA LAW, WHY SHOULD THE COMMISSION ADOPT VERIZON'S LANGUAGE?

A. For two reasons. First, Verizon's language removes an incentive for CLECs to circumvent the Commission's rules by "mis-assigning" NXX codes. Such misassignment is difficult to detect, and it makes more sense to remove the incentive to engage in those numbering practices – which the Commission has held are improper – than to attempt to enforce the rules after they have been broken. Second, and perhaps more important, Verizon's language, but not US LEC's, is consistent with the requirements of federal law, no matter how a carrier assigns numbers to its customer.

Q. DO YOU HAVE ANY OTHER CONCERNS ABOUT "VIRTUAL NXX" TRAFFIC?

A. Yes. Another concern is related to interconnection architecture. In this proceeding, US LEC is insisting that it has a right to interconnect with Verizon at any point within a LATA and require Verizon to bear the cost of transporting traffic to that point of interconnection.

The use of "virtual NXXs" by CLECs makes calls appear local that are actually toll service from the Verizon customer's physical location to the CLEC customer's physical location, thereby denying Verizon the opportunity to collect just compensation for the transport it provides to the CLECs on the call. When an ILEC's customer initiates a call to a CLEC "virtual NXX", 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 save for the assignment of "virtual NXX" codes. 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 "virtual FX" 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 "virtual FX" service to the exclusion of other service arrangements. I should emphasize, however, that this concern

is somewhat attenuated so long as the Commission adopts Verizon's proposals concerning interconnection architecture. So long as US LEC bears the cost of transporting the traffic that it receives from Verizon beyond the local calling area where that traffic originated, US LEC will have less opportunity to shift transport costs to Verizon. But US LEC has refused to accept an agreement that would require US LEC to bear these transport costs. Interconnection architecture issues are discussed in greater detail in the testimony of Mr. Peter D'Amico.

Q. US LEC ARGUES THAT IT IS PROVIDING VERIZON'S CUSTOMERS A VALUABLE SERVICE THROUGH "VIRTUAL NXX" ARRANGEMENTS. DO YOU AGREE?

A. No. By providing a "virtual NXX" arrangement, US LEC is providing a valuable service to *US LEC*'s customers, who gain the ability to receive locally rated calls from end-users located in a different local calling area – much like a toll-free 800 service. CLECs have heavily marketed "virtual FX" arrangements and are compensated by their customers for providing this functionality.

That is part of the reason that US LEC's effort to collect reciprocal compensation for this traffic is particularly inappropriate as a matter of sound regulatory policy. US LEC is already being compensated by its 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 US LEC is seeking to achieve.

Q. IT SOUNDS LIKE IT IS VERIZON THAT IS PROVIDING US LEC'S CUSTOMER A VALUABLE SERVICE.

A. That's right. Verizon is providing the service of originating the call for transport to the called party's carrier. By definition, in a "virtual NXX" 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 US LEC's subscriber. And, of course, US LEC is able to offer that service only by virtue of Verizon's network – US LEC may have no facilities at all in the relevant local calling area.

Q. DO YOU AGREE WITH US LEC'S CLAIM THAT "VIRTUAL NXX" CODES ALLOW CUSTOMERS TO TAKE ADVANTAGE OF STATE-OF-THE ART TECHNLOGY?

A. No. "Virtual FX" service is hardly a state-of-the-art technology and is certainly not necessary to provide customers toll-free calling. Telephone companies have been offering toll-free service for decades. 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 "virtual NXX" service that would be considered new or state-of-the-art from a technology perspective.

Q. DO YOU AGREE WITH US LEC'S CLAIM THAT ENFORCING THE FCC'S RECIPROCAL COMEPNSATION RULES WITH RESPECT TO "VIRTUAL FX" TRAFFIC WOULD IMPEDE COMPETITION?

A. No. Enforcing the FCC's rules will promote competition, not impede it. US LEC will remain free to market its "virtual NXX" service and receive whatever compensation for that service that its 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 who are located outside the exchange. Enforcing the rules will simply prevent US LEC from exploiting a potentially lucrative regulatory arbitrage opportunity, to the detriment of competition.

Q. WOULD VERIZON'S POSITION RESTRICT US LEC'S ABILITY TO OFFER THIS SERVICE OR REDUCE ITS UTILITY TO US LEC'S CUSTOMERS?

A. No. US LEC could offer the service, and it would continue to provide the same benefits to US LEC's customers. But US LEC could not collect reciprocal compensation for such traffic, compensation to which it has no right under the FCC's rules.

Q. IS VERIZON CLAIMING ACCESS CHARGES FOR THIS TRAFFIC?

A. Not in this proceeding. The parties' agreement makes clear that access charges are governed by their intrastate and interstate access tariffs. But I note that in some cases access charges would be appropriate. For example, if the "virtual NXX" customer were located in another LATA and another state from the calling party, interstate access charges would apply – even though the call would be rated as local for the calling party.

Q. BUT US LEC CLAIMS THAT VERIZON'S COSTS DO NOT JUSTIFY SUCH CHARGES.

A. Again, Verizon's access charges – which are set by state and federal regulators – are simply not at issue in this proceeding. The only issue is whether Verizon should pay US

LEC when Verizon originates an interexchange call that US LEC delivers to its customer and for which US LEC is compensated by its customer. The FCC's rules, decades of consistent regulatory policy, and sound economics all dictate the same answer – Verizon should not be required to pay reciprocal compensation on this traffic.

Q. HAVE OTHER STATE COMMISSIONS ADDRESSED THIS ISSUE?

A. Yes. The Florida Commission, for example, recently confirmed that "virtual FX" traffic is not subject to reciprocal compensation because it does not physically terminate in the same local calling area in which it originates.[6] Although the Florida Commission ruled that CLECs may assign telephone numbers to end users physically outside the rate center to which a telephone number is homed,[7] 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."[8] The Florida Commission agreed, that "calls to virtual NXX customers located outside of the local calling area to which the NPA/NXX is assigned ***are not local calls for purposes of reciprocal compensation***."[9]

I am aware of a number of other state commissions that have also held that reciprocal compensation does not apply to virtual NXX traffic because it does not physically originate and terminate in the same local calling area. These state

[6] *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 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).

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

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

commissions include those in Connecticut,[10] Illinois,[11] Texas,[12] South Carolina,[13] Tennessee,[14] Georgia,[15] and Missouri.[16]

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[9]Reciprocal Compensation Recommendation at 94.

[10] 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).

[11] 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.").

[12] 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).

[13] 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 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.").

[14] 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).

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

[16] 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*

(continued...)

Q. ARE YOU AWARE OF ANY OTHER STATE COMMISSIONS THAT HAVE ADDRESSED THE ISSUE OF ASSIGNMENT OF TELEPHONE NUMBERS TO END USERS LOCATED OUTSIDE OF THE RATE CENTER TO WHICH THEY ARE HOMED?

A. Yes. For example, on June 30, 2000, the Maine Public Utility Commission ordered a CLEC, Brooks Fiber, to return 54 NXX codes which it was using in a "virtual NXX" capacity and rejected Brooks' proposed "virtual NXX" 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."[17] It found that Brooks' "extravagant" use of the 54 codes "solely for the rating of interexchange traffic" was patently unreasonable from the standpoint of number conservation.[18] 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."[19]

Q. DOES THE FCC'S *ISP REMAND ORDER* ALLEVIATE VERIZON'S CONCERNS WITH VFX?

A. No. 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

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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").

[17] *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)

[18] *Id.* at 16.

[19] *Id.* at 12.

issues associated with "virtual NXX" assignments. As I previously explained, these issues are not limited to Internet-bound traffic and are not directly related to termination rates. "Virtual NXX" assignment shifts transport costs to Verizon and makes toll calls to which toll charges properly apply appear as though they are local calls.

Q. US LEC CLAIMS THAT THE FCC'S *TSR WIRELESS ORDER* SUPPORTS ITS POSITION HERE. DO YOU AGREE?

A. No. The *TSR Wireless Order*[20] actually supports Verizon's position. In that order, the FCC held merely that an incumbent LEC could not charge for existing facilities used to deliver traffic originated on the incumbent's network to a paging carrier's switch. It did not decide any issue related to interconnection architecture or reciprocal compensation. Moreover, the FCC held that the incumbent *could* charge the paging carrier for a service known as "wide area calling," a service that permits individuals located outside the local calling area in which the paging carrier's facilities to call the paging carrier without incurring toll charges. That service is quite comparable to some "virtual NXX" arrangements.

Q. HOW DOES VERIZON RECOMMEND THE COMMISSION RESOLVE THIS ISSUE?

A. The Commission should adopt Verizon's proposed contract language, making clear that reciprocal compensation does not apply to any traffic that is interexchange, defined by reference to the actual originating and terminating points of the complete end-to-end call.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

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[20] Memorandum Opinion and Order, *TSR Wireless, LLC v. US West Communications, Inc.*, 15 FCC Rcd 11166 (2000).

A. Yes.

Anthony E. Gay
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May 31, 2002

Via Hand Delivery
The Honorable Louis G. Cocheres
Administrative Law Judge
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Petition of US LEC of Pennsylvania, Inc. for Arbitration with Verizon Pennsylvania Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996
Docket No. A-310814F7000

Dear Judge Cocheres:

Enclosed is the Direct Testimony of witnesses Peter D'Amico, Karen Fleming and Terry Haynes on behalf of Verizon Pennsylvania Inc. in the Arbitration between US LEC of Pennsylvania Inc. and Verizon.

Please do not hesitate to contact me if you have any questions.

Sincerely yours,

Anthony E. Gay

AEG/slb
Enc.

cc: Attached Certificate of Service

CERTIFICATE OF SERVICE

I, Anthony E. Gay, Esq., hereby certify that I have this day served a true copy of the Direct Testimony of witnesses on behalf of Verizon Pennsylvania Inc., in the matter of Petition for Arbitration Filed by US LEC of Pennsylvania Inc., upon the participants listed below in accordance with the requirements of 52 Pa. Code Section 1.54 (related to service by a participant) and 1.55 (related to service upon attorneys).

Dated at Philadelphia, Pennsylvania, this 31st day of May, 2002.

VIA E-MAIL AND UPS OVERNIGHT DELIVERY

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In Re: Petition of US LEC of Pennsylvania Inc. for Arbitration with Verizon-Pennsylvania Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996	:	Docket No. A-310814F7000

DIRECT TESTIMONY OF FRANK R. HOFFMANN, JR. ON BEHALF OF US LEC OF PENNSYLVANIA INC.

USLEC St. 1.0

DATE: MAY 31, 2002

Q: PLEASE STATE YOUR NAME, TITLE, AND ADDRESS FOR THE RECORD.

A: My name is Frank R. Hoffmann, Jr. I am Senior Interconnection Manager for US LEC Corp., the parent company of US LEC of Pennsylvania Inc. ("US LEC"), and its operating subsidiaries, including the Petitioner in this proceeding. My business address is 6801 Morrison Blvd., Charlotte, NC 28211.

Q: PLEASE DESCRIBE YOUR RESPONSIBILITIES FOR US LEC.

A: My responsibilities include directing and coordinating all activities related to US LEC's Local Interconnection and Termination Agreements and the management of these agreements and relationships with local carriers, and industry organizations. I am charged with ensuring that these agreements address and support the financial and technological goals of the company for local service. My specific duties include actual contract negotiations, staff support for these finalized agreements, day-to-day coordination and point of escalation of service/billing affecting issues surrounding these agreements.

Q: PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND AND PROFESSIONAL EXPERIENCE.

A: I received a Bachelor of Science degree and a Masters of Business Administration degree from the University of Maryland, College Park, Maryland in 1986 and 1988, respectively. I was employed by Bell Atlantic, Inc., in Arlington, Virginia, from 1988 through 1996. During that period I held various positions within Service Costs, External

Affairs, Carrier Relations, Marketing and Finance. My responsibilities during this period included cost of service studies, rate development and tariff administration, performance metrics, sales compensation, product management and interconnection agreement negotiations. From 1996 through 1998, I worked for Teleport Communications Group, in Baltimore, Maryland, and negotiated interconnection agreements and managed its relationship with BellSouth. In 1998, Teleport was acquired by AT&T, where I was responsible for establishing collocation, interconnection trunking and E911 networks. In 1999, I went to work for TriVergent Communications, in Greenville, South Carolina, where I was responsible for all outside plant infrastructure build-out within ILEC central offices. In 2001, I joined a voice-over-IP telecommunications company, Cbeyond, Inc. My responsibilities included equipment engineering, vendor selection, procurement and inventory. In 2002, I came to US LEC, in Charlotte, North Carolina, to work in Industry Affairs, where I am currently employed.

Q: HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE PENNSYLVANIA PUBLIC UTILITY COMMISSION?

A: No. However, I have previously testified before the North Carolina Utility Commission, the Massachusetts Department of Telecommunications and Energy, and the Florida Public Service Commission.

Q: HAVE YOU PARTICIPATED IN US LEC's INTERCONNECTION NEGOTIATIONS WITH VERIZON?

A: Yes, I participated in the negotiating sessions. In addition, I have reviewed the points of contention raised during the negotiations to ensure their consistency with US LEC's network planning and design priorities.

Q: PLEASE PROVIDE AN OVERVIEW OF YOUR TESTIMONY.

A: My testimony will address the technical, or network, perspective on Issues 1 and 2 in US LEC's arbitration petition. I will explain how US LEC's single US LEC Interconnection Point ("IP") per Local Access and Transport Area ("LATA") proposal appropriately balances the financial responsibility of each party and is technically feasible, already in use in the parties' current network interconnection architecture, and consistent with sound engineering practices.

Q: BEFORE ADDRESSING EACH ISSUE, PLEASE PROVIDE BACKGROUND ON US LEC'S NETWORK ARCHITECTURE.

A: The US LEC network is composed of advanced digital switches from Lucent Technologies Inc. US LEC has a network of Lucent 5ESS AnyMedia digital switches deploying advanced switching technology. US LEC uses the "Smart Build" strategy of owning and operating its own digital switching centers while leasing the necessary fiber transport from various network providers across its footprint. US LEC invests time, money and resources into owning and operating our own network because we believe that the quality and reliability of our network translates into improved operations, products and services that we deliver to our customers.

US LEC typically serves a market by deploying a single switch and leasing transport. This transport takes the form of point-to-point circuits and fiber ring facilities. Because US LEC's switch supports both line and trunk connections, the transport is used to provide both interconnection with the ILEC and US LEC customer's local loops. With this network architecture, US LEC takes advantage of decreased transport costs to provide service over a large area with a single switch. For example US LEC has two switches in Pennsylvania: one in Philadelphia and one in Pittsburgh. These switches serve two LATAs and numerous local calling areas within those LATAs.

Q: PLEASE CONTRAST US LEC'S NETWORK ARCHITECTURE WITH VERIZON'S.

A: In contrast to US LEC's architecture, Verizon's network uses a large number of switches, each serving a relatively small area. Rather than interconnect at every Verizon end office, US LEC interconnects with Verizon's access network that is designed as a hub and spoke network architecture in which traffic from a group of end offices is aggregated and collected at a tandem. Thus, a call from a US LEC customer to a Verizon customer must travel through a tandem switch to reach a Verizon customer or be directly routed to the Verizon end office switch serving that customer. US LEC cannot deliver a call for any Verizon customer to a particular end office except the small number of customers for whom Verizon has established service from that switch. Verizon's local network is comprised of multiple end office connections between each and every end office and may also include one or more local tandems used to control traffic congestion. This local network is typically referred to as a spider web network architecture in which traffic can be routed directly from an end office to any other end office without the use of a tandem.

ISSUES 1 AND 2 (Glossary, Section 2.45; Interconnection Attachment, Sections 7.1.1.1, 7.1.1.1.1, 7.1.1.1.2, 7.1.1.2, 7.1.1.3)

Q: PLEASE SUMMARIZE THE DISPUTE BETWEEN US LEC AND VERIZON CONCERNING INTERCONNECTION POINTS.

A: In order for US LEC and Verizon to exchange traffic between their respective customers, they must interconnect their networks. The physical points at which they perform the connection are called Points of Interconnection or "POIs" under Verizon's defined terms. The billing points that distinguish the financial responsibility of each Party are called Interconnection Points or "IPs" under Verizon's defined terms. Issues 1 and 2 relate to the number of IPs that US LEC must establish and how and where US LEC must establish them.

US LEC has agreed, in its negotiations with Verizon, to establish multiple POIs in every LATA in which it interconnects with Verizon. US LEC has agreed to establish POIs at every Verizon access tandem within each LATA, and, additionally, US LEC has agreed to establish direct end office trunking to each Verizon end office where US LEC delivers at least 200,000 minutes of use ("MOU") per month. US LEC has also agreed that Verizon may designate multiple Verizon-IPs, one at each tandem in a LATA. However, the parties have been unable to agree on the location and number of US LEC-IPs.

The location and number of IPs has competitive and operational/service implications, and is governed by the legal framework established in the Telecommunications Act of 1996 ("1996 Act"). My testimony addresses the financial and operational/service implications of multiple IPs while Wanda Montano will provide

testimony concerning the legal and competitive policy framework that makes Verizon's position untenable. The Commission must consider all of these factors in making its determination on this issue. The Commission must also take into consideration the fact that Verizon, or at least Verizon's customers, benefit from interconnection that is reasonable and fair because it permits their customers to reach ours.

Q: IS IT TECHNICALLY FEASIBLE FOR VERIZON TO INTERCONNECT WITH US LEC VIA A SINGLE US LEC-IP IN THE MANNER THAT US LEC IS PROPOSING?

A: Yes, as is evidenced by the fact that the parties operate using this architecture today.

Q: SO US LEC IS ALREADY INTERCONNECTED WITH VERIZON IN PENNSYLVANIA?

A: Yes. After investing a substantial amount of personnel and financial resources in planning and engineering the interconnection architecture, the parties executed an interconnection agreement and interconnected in Philadelphia in 1999 and in Pittsburgh in 2000.

Q: DOES US LEC MAINTAIN A SINGLE US LEC-IP IN THE LATAS IN WHICH US LEC PROVIDES SERVICE?

A: Yes, US LEC offers service in two LATAs in Pennsylvania and maintains a single US LEC-IP in each of those LATAs. Similarly, Verizon maintains its IP(s) at Verizon's tandem switch(es) in each LATA. US LEC delivers its originating traffic to the Verizon-IP via its ring transport that connects US LEC's switch to Verizon's tandem(s).

Additionally, US LEC has agreed that where it delivers at least 200,000 minutes of use per month to a Verizon end office, it will deliver such traffic to that end office via direct end office trunks it purchases from Verizon. Verizon delivers its originating traffic to the US LEC-IP, located at US LEC's switch, and pays US LEC a non-distance sensitive entrance facility charge.

Q: PLEASE SUMMARIZE YOUR UNDERSTANDING OF VERIZON'S IP PROPOSALS.

A: Verizon calls its IP proposal "Virtual Geographically Relevant Interconnection Points" or "VGRIPs." Through VGRIPs, Verizon is trying to dictate the physical manner in which US LEC establishes its chosen IP. Verizon attempts to dictate US LEC's physical network architecture by giving US LEC the "option," under Verizon-proposed Section 7.1.1.1, of establishing a US LEC-IP through collocation at each Verizon tandem and other wire center designated by Verizon (so-called "option one"). Similarly, Verizon attempts to dictate US LEC's physical network architecture by giving US LEC the "option," under Verizon-proposed Section 7.1.1.2, of designating a US LEC end office collocation arrangement as a US LEC-IP (so-called "option two"). Even though the parties have operated under our existing network architecture for more than two years, VGRIPs would give Verizon the right to request that US LEC alter the existing architecture and would require that US LEC complete the transition to the new architecture within thirty days (Section 7.1.1.3).

Verizon calls these "options" because VGRIPs gives US LEC the right to decline Verizon's requests to establish these new collocated IPs. However, if US LEC exercises

this right and retains its preferred physical network architecture, the so-called "option three" of VGRIPs shifts the financial responsibility for transporting all of Verizon's originating traffic, beginning at the Verizon *end office*, from Verizon to US LEC. Thus in one way or another, adoption of VGIPs would force US LEC to change either the physical or financial aspect of its preferred, and existing, interconnection architecture with Verizon.

Q: WHY DOES US LEC OBJECT TO CHANGING THE PARTIES' EXISTING ARCHITECTURE?

A: First, the parties have invested a lot of time and resources to plan and implement the existing architecture and US LEC does not believe that Verizon should have the power to change that architecture at its sole discretion. Rather, the parties should mutually agree to any changes in existing network architecture and such changes should be implemented under a mutually agreeable timeframe, not the arbitrary and unreasonable thirty (30) days proposed by Verizon. Second, in order to prevent any disruptions to existing customers, it is important that existing network facilities not be disturbed as the successor agreements are implemented. Third, because US LEC does not currently collocate with Verizon, and because Verizon cannot provision collocation within thirty (30) days, it is technically impossible to comply with Verizon's proposed transition period.

Q: WHY DOES US LEC PREFER TO MAINTAIN THE EXISTING ARCHITECTURE RATHER THAN ADOPT THE NEW ARCHITECTURE PROPOSED BY VERIZON IN CONTRACT NEGOTIATIONS?

A: As I mentioned, US LEC currently maintains a single US LEC-IP within each LATA where US LEC provides local service. However, US LEC has not chosen collocation as its method of interconnection. In fact, US LEC is not collocated with Verizon anywhere in Verizon's territory because collocation is not currently part of US LEC's network architecture. If Verizon were to exercise its right, under Verizon-proposed Section 7.1.1.3, to require US LEC to establish an IP via collocation at the Verizon tandem, US LEC would have to order a collocation arrangement from Verizon at its tandem. In other words, transitioning to Verizon's proposed interconnection architecture would impose additional, unnecessary collocation costs on US LEC, as well as the burden of changing the current network design to an architecture not currently supported by US LEC. US LEC believes this is unreasonable and anticompetitive.

In addition to imposing an undue collocation cost burden on US LEC, Verizon's transition timeframe is also impossible to meet. Under agreed-to language in the contract (Collocation Attachment, Section 1.3.1), if US LEC has properly forecasted a need for collocation six months prior to its application date, and if conditioned space is readily available, Verizon does not have to turn over a collocation arrangement until 76 days after US LEC submits its application and application fee. This 76-day deadline is well beyond the 30-day transition period Verizon's proposes for moving US LEC's IP from its switch to a collocation arrangement, making Verizon's proposed transition not only unreasonable, but impossible to meet. To date, however, US LEC has not used collocation arrangements as part of its network architecture and therefore has never submitted a collocation forecast to Verizon. Therefore, Verizon would not be bound by the 76-day deadline. US LEC believes this discrepancy, between collocation

provisioning intervals and Verizon's proposed transition period, exposes the truth about Verizon's IP proposal. It is designed solely to disadvantage Verizon's competitor, US LEC.

Although the contract is not explicit on this point, the parties have recently agreed that US LEC could utilize a third-party collocation arrangement to satisfy the collocated IP requirement under "option one" of Verizon's proposal. However, US LEC is not currently utilizing a third-party collocation arrangement as its IP. Thus transitioning to this method of interconnection would also take longer than Verizon's 30-day transition deadline and impose additional, unnecessary costs on US LEC. Of course, as I've already testified, US LEC objects to Verizon's proposal and urges the Commission to adopt US LEC's proposal, which would clearly allow the parties to maintain our current network architecture.

Q: DO YOU AGREE WITH VERIZON'S ALLEGATION THAT ITS PROPOSALS DO NOT AFFECT US LEC'S RIGHT TO ESTABLISH A SINGLE PHYSICAL CONNECTION TO VERIZON'S NETWORK IN A LATA? (RESPONSE AT 8)

A: No. A close reading of the contract reveals that most of the IPs Verizon seeks to have US LEC establish are more than just points of financial demarcation. Under "option one," US LEC ***must*** establish its IP through collocation at the Verizon tandem. Similarly, under so-called "option two," US LEC "may" designate an end office collocation arrangement as its IP. Thus under either "option" one or two, the IP is more than just a point of financial demarcation, it is an additional, physical connection between US LEC's network and Verizon's network if US LEC wishes to avoid Verizon's transport penalty (defined in 7.1.1.1.1).

Q: VERIZON SAYS THAT SECTION 7.1.1.1.1 IS APPROPRIATE COST SHARING. (RESPONSE AT 8-9) PLEASE RESPOND.

A: Despite Verizon's arguments to the contrary, the text of the Verizon contract language shows that its proposal ***requires*** US LEC to establish multiple, physical connections to Verizon's network (under so-called "option one" and "option two") or, if US LEC refuses to establish such physical connections, to pay for Verizon's transport costs *within* the local calling area (so-called "option three").

Verizon's proposed contract language reveals that its "option three," also called a "virtual IP," requires US LEC to pay for Verizon's originating tandem switching costs and *all* of Verizon's originating transport costs, beginning at the *end office* serving the customer that originates the call. The financial obligation Verizon shifts to US LEC under "option three" is defined in Section 7.1.1.1.1 of the Interconnection Attachment:

> Verizon's transport rate (calculated by taking the dedicated transport per mile rate multiplied by the average mileage between the originating end offices and the CLEC POI plus the fixed dedicated transport rate and dividing the total by the average minutes of use of a DS1), tandem switching rate (to the extent that traffic is tandem switched), and other costs (to the extent Verizon purchases such transport from US LEC or a third party) *from Verizon's originating End Office* to US LEC's IP. (Emphasis added.)

While the mechanics of calculating the transport rate are less than clear, what is clear is that US LEC must pay for Verizon's transport beginning at the originating end office.

Thus, if US LEC does not establish a *collocated IP* at a Verizon tandem, Verizon charges US LEC for transport beginning at the Verizon *end office*. This results in US LEC paying for *all* of Verizon's transport costs *within the local calling area.* If US LEC

establishes a collocation arrangement at a Verizon end office but declines Verizon's request to designate that collocation arrangement as a US LEC-IP, then US LEC again must pay for *all* of Verizon's transport costs, beginning at that end office. No matter which option one assesses, the result is the same: under Verizon's proposed language, US LEC becomes obligated to pay all of Verizon's transport costs and, as I understand it, that simply does not comply with the requirements of the Act as interpreted by the FCC. In short, VGRIPs would shift to US LEC financial responsibility for all transport of Verizon's originating traffic.

Q: WHY DO YOU STATE THAT THE FINANCIAL RESPONSIBILITY FOR ALL TRANSPORT WOULD BE "SHIFTED" TO US LEC?

A: Because today Verizon bears financial responsibility for delivering its originating traffic to US LEC's chosen IP, US LEC's switch. Moreover, even though Verizon may today be carrying its originating traffic largely over common network facilities, it appears from testimony Verizon has filed in another state arbitration with US LEC on this same contract that Verizon wants to charge US LEC for dedicated transport facilities, regardless of the amount of traffic it originates from the end office Verizon would designate as a virtual IP.

As Verizon recognizes elsewhere in the contract, dedicated trunks should be efficiently utilized. That is why the parties have agreed, in Section 2.3.1.3.1 of the Interconnection Attachment, that each tandem trunk group should maintain a minimum utilization rate of 60% and, in Section 2.2.4 of the Interconnection Attachment, that direct end office trunks should be established only when the traffic threshold meets or

exceeds 200,000 minutes of use. However, if Verizon uses a dedicated facility to carry its originating traffic under "option three," it would be ignoring these principles and tying up valuable public switched telephone network ("PSTN") resources by dedicating facilities to its exchange of traffic with US LEC regardless of utilization levels or volume of minutes. Thus, adopting Verizon's "option three" could result in Verizon provisioning unnecessary, excess transport capacity, encouraging inefficient network behavior by Verizon, all in an effort to impose a costly and inefficient method of interconnection on US LEC.

Q: PLEASE RESPOND TO VERIZON's ALLEGATION THAT ITS PROPOSAL IS A REASONABLE ALLOCATION OF TRANSPORT COSTS BETWEEN THE PARTIES. (RESPONSE AT 17)

A: Verizon's proposal is not reasonable because it forces US LEC to either establish multiple physical connections to Verizon's network or bear all costs of transport, for both Verizon's originating traffic and US LEC's originating traffic. Under the virtual IP "option three," when US LEC delivers traffic to Verizon, it is financially responsible for the transport to bring its calls to the Verizon-IP and must pay Verizon reciprocal compensation for transporting the call to the end user. Yet when a Verizon customer originates a call, Verizon would have US LEC pay for all of the transport. In short, Verizon's proposal is only "reasonable" if the Commission wants to relieve Verizon of any financial obligation to transport the traffic it exchanges with competitive local exchange carriers ("CLECs").

Q: VERIZON ARGUES THAT ITS COST-SHIFTING PROPOSALS ARE JUSTIFIED BECAUSE A SINGLE POI PER LATA IS EXPENSIVE. (RESPONSE AT 15) DO YOU AGREE?

A: No. Verizon argues that because a single POI per LATA is "expensive," it is permitted to "recover" its costs by moving the point of financial demarcation to shift transport responsibility from Verizon to US LEC.

To support its "expensive interconnection" theory, Verizon relies on paragraph 199 of the *Local Competition Order*, which states:

> The deliberate and explained substantive omission of explicit economic requirements in sections 251(c)(2) and 251(c)(3) cannot be undone through an interpretation that such considerations are implicit in the term "technically feasible." Of course, a requesting carrier that wishes a "technically feasible" but expensive interconnection would, pursuant to section 252(d)(1), be required to bear the cost of that interconnection, including a reasonable profit.[1]

I understand that the FCC is currently considering rules that would clarify whether a particular request for interconnection is "expensive."[2] But Verizon selectively quotes only one of the questions the FCC is considering relative to so-called "expensive" interconnection. (Response at 15-16) The remainder of the paragraph Verizon quoted from shows that the FCC is considering US LEC's position as well:

> Or, by requiring carriers to pay ILECs for transport outside a local calling area, are we forcing the competitive carrier into an inefficient replication of the ILEC network? Assuming that the

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[1] *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499, ¶ 199 (1996) ("*Local Competition Order*") (subsequent history omitted).

[2] *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Notice of Proposed Rulemaking, FCC 01-132, ¶¶ 112-114 (rel. April 27, 2001) ("*Intercarrier Compensation NPRM*").

> ILEC receives reciprocal compensation for transporting terminating traffic, how precisely does a distant POI unfairly burden the LEC? Is the efficiency concern limited to those instances in which traffic between two networks is unbalanced and/or where transport is required beyond a certain distance?[3]

These questions posed by the FCC make it clear that a single IP per LATA is not automatically "expensive," as Verizon would have the Commission believe. Verizon would not be permitted to recover supposed expenses of loop provisioning or collocation without demonstrating that it in fact incurred the costs it was seeking to recover, and the same principle should govern here.

Q: WHAT EVIDENCE DO YOU SUGGEST THE COMMISSION REQUIRE OF VERIZON TO PROVE ITS "EXPENSIVE INTERCONNECTION" THEORY?

A: In order to have its cost-shifting proposal adopted, Verizon should be required to show that a single US LEC-IP per LATA causes Verizon to incur specific costs for which it is not already compensated by the services it provides its customers that originate its traffic.

The cost of a single CLEC-IP per LATA could vary substantially depending on the facilities being used to transport traffic to the IP, the traffic volumes, and mileage. For example, depending on the local calling area and LATA, Verizon's costs may be minimal -- it may have facilities already available to carry Verizon's originating traffic from the local calling area to the CLEC-IP, there may be only a *de minimis* traffic volume exchanged for that local calling area, and the distance between the local calling area and the CLEC-IP may be minimal. In short, Verizon's vague allegations of uncompensated costs do not prove that US LEC's requested interconnection arrangement is "expensive."

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[3] *Id.* at ¶ 114.

Q: ARE THERE OTHER FINANCIAL CONSIDERATIONS THE COMMISSION SHOULD TAKE INTO ACCOUNT IN EVALUATING THE PARTIES' POSITIONS?

A: Yes. The Commission must consider the financial impact of Verizon's VGRIPs proposal on competition. As the U.S. Court of Appeals for the Third Circuit recently held after reviewing another Commission arbitration order:

> To the degree that a state commission may have discretion in determining whether there will be one or more interconnection points within a LATA, the commission, in exercising that discretion, must keep in mind whether the cost of interconnecting at multiple points will be prohibitive, creating a bar to competition in the local service area.[4]

Adopting Verizon's proposal would fundamentally alter the economics of a CLEC's decision to provide service to each and every local calling area in Pennsylvania beyond the area where it establishes its initial point of presence. Verizon's multiple IP (whether physical or virtual) requirement could deter a CLEC from competing with Verizon until the CLEC has enough customers to justify efficiently utilizing the dedicated facility it is forced to build or lease from Verizon. Adopting Verizon's multiple IP proposal also expresses a policy preference for the incumbent's historical network architecture, effectively penalizing new entrants for any deviation from that architecture. The Commission should therefore also reject Verizon's proposal as inconsistent with the public policy of opening Pennsylvania's telecommunications markets to competition.

Q: LET'S RETURN TO THE PHYSICAL NETWORK ARCHITECTURE IMPACTS OF VERIZON'S PROPOSAL. WHY DOES US LEC OBJECT TO

DESIGNATING A COLLOCATION ARRANGEMENT THAT US LEC HAS ESTABLISHED AT A VERIZON END OFFICE AS A US LEC-IP?

A: Verizon's proposal would require US LEC to plan and pay for additional, and potentially inefficient and unnecessary, capacity for each collocation arrangement. For example, although US LEC does not currently collocate in Verizon end offices, if US LEC decided to order collocation in the future, it is possible that US LEC would not know if Verizon wished to designate the new arrangement as a US LEC-IP until ***after*** that arrangement was provisioned. CLECs typically design and use end office collocation arrangements to access the incumbent's unbundled local loops. The traffic from those loops is aggregated and, where necessary, multiplexed, at the CLEC's collocation site and transported back to the CLEC's switch via transport the CLEC leases from the incumbent or another carrier. Moving the CLEC-IP to an established end office collocation arrangement would require that the CLEC add equipment in its collocation space and extra transport to carry the Verizon-originated traffic from the collocation site back to the CLEC switch. Thus, under Verizon's proposal, the CLEC's space requirements, equipment costs, and transport costs would all increase. Furthermore, because the volume of traffic originating from that end office may not fill a DS-1, US LEC may be forced to provide, and inefficiently strand, a facility that will be underutilized. This is inconsistent with Section 2.2.4 of the contract. In that section, the parties have agreed that a DS-1 is the volume of traffic that will justify direct end office trunking for the delivery of one party's traffic to the other. However, notwithstanding the lack of sufficient traffic volume, Verizon's proposed language in Section 7.1.1.2 would require that US LEC designate a collocation

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[4] *MCI Telecommunication Corp. et al. v. Bell Atlantic-Pennsylvania et al.*, 271 F.3d 491, 517 (3d Cir.

site US LEC had established at a Verizon end office as a US LEC-IP in order to avoid Verizon's transport penalty (defined in Section 7.1.1.1.1). This would effectively force US LEC to provide an underutilized direct end office facility to carry Verizon's originating traffic back to US LEC's switch even though Verizon itself would not establish a direct end office connection to US LEC if the collocation arrangement did not exist.

Q: DOES US LEC ANTICIPATE DEPLOYING END OFFICE COLLOCATION ARRANGEMENTS DURING THE TERM OF THIS AGREEMENT?

A: Collocation is not currently part of US LEC's business plan, however, it is possible that US LEC will deploy end office collocation arrangements during the term of this agreement. I do not agree with Verizon that by merely establishing a presence at Verizon's end office we are therefore obligated to pick up (either financially or physically) Verizon's originating traffic from that end office. The parties have agreed that direct end office trunks are only necessary when certain traffic volume thresholds are reached. Requiring US LEC to designate its end office collocation as an IP, or requiring a virtual IP at that end office, regardless of the traffic volume originated from that end office is just another Verizon attempt to impose additional and unnecessary costs on its competitors.

Q: COULD THE TRANSITION TO NEW PHYSICAL IPs ADVERSELY AFFECT US LEC'S OPERATIONS?

2001).

A: Yes, it would. Moving from existing to new physical IPs would interfere with US LEC's growth and ability to add new customers during the transition and impose unnecessary economic costs on US LEC.

Interconnecting two networks requires not only facilities, but also careful planning and other necessary support systems. For example, moving from an existing IP to a new physical IP could involve a facilities build or facilities augmentation, submitting new trunk orders, and switch translations. All of this consumes scarce personnel and network resources that could otherwise be used to grow US LEC's business and expand its customer base. Furthermore, I understand that Verizon imposes a turn-up limit of nine trunks per day. This means that after all the planning and network engineering is completed, it could still take an inordinate amount of time to make the transition to a new US LEC-IP. Thus during the transition period, Verizon could effectively stop US LEC's ability to win new customers and jeopardize the growth of US LEC's existing customers' business. Requiring US LEC to transition to a new physical US LEC-IP would therefore give Verizon a competitive advantage in either retaining its existing customers or winning customers new to the market during the transition period.

Q: HOW DOES TRAFFIC VOLUME AFFECT THE ENGINEERING AND FINANCIAL ASPECTS OF IPs?

A: If the volume of traffic originating from and/or terminating to an additional Verizon tandem or end office is low, it is more efficient for such traffic to be carried on Verizon's common network capacity. Establishing dedicated capacity that would be used solely to carry low traffic volumes would be inefficient.

Each carrier needs to install or lease transmission facilities and equipment to deliver its originating traffic to the other party's IP. Of course Verizon has been in this business for over 100 years and has built ubiquitous facilities to transport traffic throughout its serving area. Since Verizon already has facilities in place that can carry the traffic the parties exchange, and therefore benefits from economies of scale and the technological advances in transport capacity, its costs to switch and transport the incremental traffic it exchanges with US LEC are relatively low. Both parties benefit from these economies of scale -- Verizon for its originating traffic and US LEC for its terminating traffic. Furthermore, the amount of Verizon traffic that is destined for US LEC likely makes up only a very small percentage of the total traffic Verizon transports over its common network capacity.

In contrast, US LEC as a new entrant has not deployed transport facilities throughout Verizon's serving area. Thus, in order for US LEC to reach additional Verizon wire centers, US LEC must either construct new facilities, which requires local permits, digging up streets, etc., or lease existing facilities from Verizon or another carrier. In short, where traffic volumes from additional wire centers are low, if Verizon requires US LEC to establish a US LEC-IP at the additional wire center, Verizon's avoided costs are negligible but US LEC's costs are high. Furthermore, if US LEC purchases dedicated transport from Verizon to haul Verizon's traffic from the new/additional US LEC-IP back to US LEC's switch, then Verizon has succeeded, through its designation of new/additional US LEC-IPs, in generating a significant amount of revenue for itself from selling dedicated transport to US LEC. Finally, through their

proposal, Verizon may also strand PSTN resources since capacity dedicated to calls between Verizon and US LEC customers may be grossly underutilized.

Q: PLEASE SUMMARIZE YOUR PROPOSED RESOLUTION OF THESE ISSUES.

A: The Commission should adopt US LEC's proposal on Issues 1 and 2 because it preserves the parties' existing interconnection architecture, appropriately allocates the financial burden of traffic exchange, is consistent with sound network engineering practices, and promotes efficient network deployment.

Q: DOES THIS CONCLUDE YOUR TESTIMONY AT THIS TIME?

A: Yes.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In Re: Petition of US LEC of Pennsylvania	:	Docket No. A-310814F7000
Inc. for Arbitration with Verizon-Pennsylvania	:	
Inc. Pursuant to Section 252(b) of the	:	
Telecommunications Act of 1996	:	

DIRECT TESTIMONY OF WANDA G. MONTANO ON BEHALF OF US LEC OF PENNSYLVANIA INC.

US LEC St.2.0

DATE: MAY 31, 2002

Q: PLEASE STATE YOUR NAME, TITLE, AND ADDRESS FOR THE RECORD.

A: My name is Wanda G. Montano. I am currently Vice President, Regulatory and Industry Affairs for US LEC Corp., the parent company of US LEC of Pennsylvania Inc. ("US LEC"), and its operating subsidiaries, including the Petitioner in this proceeding. My business address is 6801 Morrison Blvd., Charlotte, NC 28211.

Q: PLEASE DESCRIBE YOUR RESPONSIBILITIES FOR US LEC.

A: I am responsible for the management of US LEC's relationships with state and federal agencies who oversee our business, as well as for US LEC's relationships with Incumbent Local Exchange Carriers (ILECs), Competitive Local Exchange Carriers (CLECs), Independent Telephone Companies (ICOs) and wireless companies.

Q: PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND AND PROFESSIONAL EXPERIENCE.

A: I joined US LEC in January 2000. Prior to that, I was employed in various positions by Teleport Communications Group (TCG) and then by AT&T following AT&T's acquisition of TCG. In 1998-1999, I served as General Manager for North and South Carolina (Sales Executive) for AT&T (Charlotte, N.C.) During 1997-1998 I was Vice President & Managing Executive for North & South Carolina (Sales and Operations Executive) for TCG (Charlotte, N.C.) During 1995-1997, I served as Vice President, CLEC Services for TCG (Staten Island, N.Y.) During 1994-1995, I was Director of Process Reengineering for TCG (Staten Island, N.Y.) During 1992-1994, I was Director of Marketing for TCG (Staten Island, NY). During 1990-1992 I was Senior Product

Manager for Graphnet (Teaneck, N.J.). From 1982-1990, I was Regulatory Manager for Sprint Communications Corp. in Reston, Virginia and, from 1979-1982 I was a paralegal for GTE Service Corporation in Washington, D.C. I have a B.S. from East Carolina University in Greenville, N.C. (1974). I received my Paralegal Certificate from the University of Maryland in 1980 and I received my M.B.A. in Marketing & Government Affairs from Marymount University of Virginia in 1988.

Q: HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE PENNSYLVANIA COMMISSION?

A: No, I have not; however, I have testified before the North Carolina Utilities Commission, the New York Public Service Commission, the Florida Public Service Commission and the Georgia Public Service Commission.

Q: HAVE YOU PARTICIPATED IN US LEC's INTERCONNECTION NEGOTIATIONS WITH VERIZON?

A: Yes, I have participated in the negotiating sessions. In addition, I have reviewed the points of contention raised during the negotiations to ensure their consistency with state and federal requirements and policy.

Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A: The purpose of my testimony is to explain what I understand to be the legal and competitive policy arguments in support of US LEC's position on Interconnection Points ("IPs") (Issues 1 and 2), reciprocal compensation for Voice Information Services Traffic (Issues 3 and 4), the use of "terminating party" or "receiving party" (Issue 5), reciprocal

compensation for virtual NXX" traffic (Issue 6), compensation for ISP traffic (Issue 7), applicability of changes to Verizon's tariffed and non-tariffed rates (Issue 8) and insurance requirements (Issue 9).

ISSUES 1 AND 2 (INTERCONNECTION ATTACHMENT, SECTIONS 7.1.1.1, 7.1.1.1.1, 7.1.1.2, 7.1.1.3; GLOSSARY, SECTION 2.45)

Q: PLEASE EXPLAIN THE POI AND THE IP TERMS VERIZON USES IN ITS CONTRACT.

A: In order for US LEC and Verizon to exchange traffic between their respective customers, they must interconnect their networks as required by Section 251(c)(2) of the Act. The physical points at which they perform the connection are called Points of Interconnection or POIs under Verizon's defined terms. The billing points that distinguish the financial responsibility of each Party for transporting traffic are called Interconnection Points or IPs under Verizon's defined terms. US LEC is familiar with Verizon's terms, and is willing to use them, so long as the resulting obligations remain consistent with FCC "rules of the road" that govern interconnection between Competitive Local Exchange Carriers ("CLECs") and Incumbent Local Exchange Carriers ("ILECs").

Q: PLEASE EXPLAIN THE FCC'S RULES OF THE ROAD.

A: The first "rule of the road" is that US LEC is entitled to select a single, technically feasible POI in a Local Access and Transport Area ("LATA") for the exchange of traffic with Verizon. The second "rule" is that each LEC bears the burden of delivering local traffic originated by its customers to the POI and recovers such costs in the rates charged to its end users. Unlike Verizon's proposed contract terms, under FCC decisions, the default rule is that the physical connection of the Parties' networks and the demarcation

of financial responsibility are at the same point. Therefore, together, these rules require that US LEC select the IP and bear the financial responsibility for carrying traffic originated by its customers to the IP and, conversely, Verizon must bear the financial responsibility for carrying traffic originated by its customers to the IP.

Q: HOW DO THESE RULES APPLY TO THE PARTIES' INTERCONNECTION ARRANGEMENTS IN PENNSYLVANIA?

A: US LEC has two switches in Pennsylvania: one in Pittsburgh, serving Western Pennsylvania and one in the Philadelphia area, serving Eastern Pennsylvania. In each LATA where US LEC provides service, US LEC's IP is located at its switch. US LEC has established POIs at each Verizon Access Tandem where US LEC has been assigned NXX codes and provides local exchange services to its end users.

Q: IF, AS A PRACTICAL MATTER, US LEC'S IP IS LOCATED AT US LEC's SWITCH, WHAT IS THE CRUX OF THE DISPUTE IN ISSUES 1 AND 2?

A: From a policy perspective, US LEC has three major problems with Verizon's proposed language. First, Verizon wants the right to designate the IP (whether physical or virtual) or, given that US LEC has already designated two IPs in Pennsylvania, to require US LEC to transition to additional IPs (whether physical or virtual) unilaterally designated by Verizon. Second, Verizon wants to designate the method US LEC must use to interconnect with Verizon. Third, if US LEC fails to comply with Verizon's demands, Verizon wants to penalize US LEC by imposing transport charges for Verizon's originating traffic, from the Verizon end office to US LEC's IPs, regardless of whether or not US LEC's IP is located within the local calling area where the call originated. The

additional network reasons for rejecting Verizon's proposed interconnection structure are addressed in more detail in Frank Hoffmann's testimony concerning Issues 1 and 2.

Q: WHAT IS THE POLICY BASIS FOR US LEC'S POSITION THAT VERIZON DOES NOT HAVE THE RIGHT TO DESIGNATE THE IP?

A: The Act and the FCC recognize that new entrants, such as US LEC, must be able to determine the most efficient location for the exchange of traffic. The Act grants CLECs, not Verizon, the right to select the IP. Under 47 U.S.C. § 251(c)(2)(B), Verizon must provide interconnection at any technically feasible point selected by US LEC. As the Third Circuit recently held:

> The decision where to interconnect and where not to interconnect must be left to WorldCom, subject only to concerns of technical feasibility. Verizon has not presented evidence that it is not technically feasible for WorldCom to interconnect at only one point within a LATA. Nor has Verizon shown that it is technically necessary for WorldCom to interconnect at each access tandem serving area. *The PUC's requirement that WorldCom interconnect at these additional points is not consistent with the Act.*[1]

Under binding FCC rules, unless Verizon can meet its burden of showing that US LEC's single IP in each LATA is not technically feasible, it must offer such interconnection to US LEC.[2] Furthermore, the fact that the parties have already interconnected at a single

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[1] *MCI Telecommunications Corp. et al. v. Bell Atlantic-Pennsylvania et al.*, 271 F.3d 491, 518 (3d Cir. 2001) (emphasis added).

[2] *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499, ¶¶ 198, 205 (1996) ("*Local Competition Order*"), *aff'd in part and vacated in part sub nom. Competitive Telecommunications Ass'n v. FCC, 117 F.3d 1069 (9th Cir. 1997)* and *Iowa Utils. Bd. v. FCC*, 120 F.3d 753 (8th Cir. 1997), *aff'd in part and remanded, AT&T Corp. et al. v. Iowa Utils. Bd. et al.*, 119 S.Ct. 721 (1999), *vacated in part on remand, Iowa Utils. Bd. v FCC*, 219 F.3d 744 (8th Cir. 2000), *motion for partial stay granted, Iowa Utils. Bd. v. FCC*, Case no. 96-3321 et al., Order Granting Motion for Partial Stay of the Mandate (8th Cir. Sept. 22, 2000).

US LEC-IP in each LATA (as Frank Hoffmann testifies), is evidence that US LEC's requested form of interconnection is technically feasible.[3]

Q: WHY DOES US LEC OBJECT TO VERIZON'S REQUIREMENT THAT US LEC ESTABLISH AN IP VIA COLLOCATION?

A: As Frank Hoffmann explains, US LEC does not use collocation as its method of interconnection with Verizon and, as such, is not collocated at any Verizon office in any LATA in Pennsylvania. Nor does US LEC wish to change its method of interconnecting with Verizon. Rather, US LEC prefers to exercise its right under the Act as well as other agreed-to sections of the contract to choose one of the three methods the parties have identified as acceptable interconnection methods. US LEC's right to select an entrance facility or other method of interconnection is also granted by Section 251(c)(2), which permits US LEC to select any technically feasible method of interconnection that will be used to establish the IP.[4]

Under Verizon's proposed contract language, however, Verizon wants US LEC to interconnect through collocation at Verizon's tandems, and to establish an IP at any other collocation arrangement US LEC may establish at a Verizon end office or pay for Verizon's originating tandem switching costs and all of Verizon's transport costs, beginning at the Verizon end office where the call originates. These so-called "options" require US LEC to mirror Verizon's legacy network architecture (either physically or

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[3] *Id.* at ¶ 204.

[4] *Id.* at 64; *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499, ¶¶549-54 (1996) ("*Local Competition Order*") (subsequent history omitted).

financially), which may not be the most efficient forward-looking architecture for an entrant deploying a new network, and therefore constitutes a barrier to entry.

Q: PLEASE EXPLAIN THE THIRD PROBLEM CONCERNING VERIZON'S TRANSPORT PENALTY.

A: Verizon's transport penalty, the so-called "third option," is included in Sections 7.1.1.1.1, 7.1.1.2, and 7.1.1.3(b) of its proposed contract language. It provides that US LEC must reduce its reciprocal compensation charges to Verizon if US LEC fails to establish (1) a collocated IP at each Verizon tandem, (2) an IP at US LEC's collocation site at a Verizon end office, or (3) a collocated IP at a Verizon tandem or end office within thirty (30) days of Verizon's request to transition the parties' existing architecture to the IPs mandated by Verizon. By reducing the termination rate Verizon pays to US LEC, Verizon effectively is charging US LEC for transporting Verizon-originated traffic from Verizon's end office over Verizon's network to the established IP. Under Verizon's position, US LEC could be "charged" for transport from a Verizon end office to US LEC's IP, even if US LEC's IP was located in the same calling area.

Q: HAS THE FCC EVER CLARIFIED AN INTERCONNECTING LEC's OBLIGATION TO CARRY TRAFFIC THEIR CUSTOMER ORIGINATES TO THE IP?

A: Yes. As the FCC has noted, "[u]nder our current rules, the originating telecommunications carrier bears the costs of transporting traffic to its point of interconnection with

the terminating carrier."[5] The FCC has explained the basis of requiring each LEC to bear this cost:

> In essence, the originating carrier holds itself out as being capable of transmitting a telephone call to any end user, and is responsible for paying the cost of delivering the call to the network of the co-carrier who will then terminate the call. Under the Commission's regulations, the cost of the facilities used to deliver this traffic is the originating carrier's responsibility, because these facilities are part of the originating carrier's network. The originating carrier recovers the costs of these facilities through the rates it charges its own customers for making calls. This regime represents "rules of the road" under which all carriers operate, and which make it possible for one company's customer to call any other customer even if that customer is served by another telephone company.[6]

Verizon's obligation to deliver its originating traffic to US LEC's IP is not conditioned on US LEC establishing the collocated IPs Verizon is trying to require through its contract proposals. As such, we believe Verizon's transport penalty proposal is inconsistent with both FCC rules and Commission precedent.

Q: VERIZON ARGUES THAT IT MAY CHARGE US LEC FOR ITS ORIGINATING TRANSPORT BECAUSE VERIZON IS ACTING AS A TRANSPORT PROVIDER CONSISTENT WITH RULE 51.703(b). (RESPONSE AT 15) PLEASE RESPOND.

A: I disagree. Verizon cannot simply reclassify charges for delivering traffic Verizon originates to US LEC as transport vendor charges. Rule 51.703(b) provides that "A LEC may not assess charges on any other telecommunications carrier for telecommunications

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[5] *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Notice of Proposed Rulemaking, FCC 01-132, ¶ 70 (rel. April 27, 2001) ("*Intercarrier Compensation NPRM*").

traffic that originates on the LEC's network." The FCC has interpreted this rule to prohibit charges to recover a LEC's costs of originating traffic "regardless of how the LEC chooses to characterize those costs."[7] In addition, where Verizon provides a facility that is dedicated to the exchange of traffic between US LEC (*e.g.*, as a "transport provider") Section 51.709(b) also limits the amount Verizon may charge US LEC. Specifically, Section 51.709(b) provides that:

> (b) The rate of a carrier providing transmission facilities dedicated to the transmission of traffic between two carriers' networks shall recover only the costs of the proportion of that trunk capacity used by an interconnecting carrier to send traffic that will terminate on the providing carrier's network. Such proportions may be measured during peak periods.

In other words, Rule 51.709(b) prohibits Verizon, as a transport provider, from imposing charges on US LEC for the portion of the transport capacity that is used to deliver Verizon's originating traffic to US LEC.

Q: DOES THIS SAME REASONING ALSO SUPPORT US LEC'S POSITION THAT VERIZON SHOULD NOT BE ABLE TO REQUIRE US LEC TO ESTABLISH AN IP TO PICK UP VERIZON'S TRAFFIC AT EACH US LEC COLLOCATION ARRANGEMENT AT A VERIZON END OFFICE?

A: Yes. If Verizon were allowed to identify US LEC-IPs for delivery of Verizon's originating traffic to US LEC and require US LEC to build or buy facilities to reach those IPs, it would be able to disadvantage US LEC and impose additional and unwarranted costs on new entrants. In effect, by requiring US LEC to move its IP to

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[6] *TSR Wireless, LLC. v. U S West Communications, Inc.,.*, File Nos. E-98-13, E-98-15, E-98-16, E-98-17, E-98-18, Memorandum Opinion and Order, FCC 00-194, ¶ 34 (rel. June 21, 2000) ("*TSR Wireless*") (emphasis added), *aff'd, Qwest Corp. et al. v. FCC et al,* 252 F.3d 462 (D.C. Cir. 2001).

[7] *TSR Wireless* at ¶ 26.

Verizon's end office, Verizon is again abdicating its responsibility to transport its own customers' traffic to the IP selected by US LEC. Indeed, if Verizon were allowed such discretion, it could force CLECs to essentially duplicate the incumbent's network. Such a result is not in the public interest and would impede the development of competition.

Q: WHAT ACTION DO YOU RECOMMEND THE COMMISSION TAKE?

A: The Commission should find that US LEC has the right to maintain its single US LEC-IPs in each LATA, and, at US LEC's option, its current interconnection method, at Verizon's tandems for the receipt of traffic originated by Verizon's customers. The Commission should reject Verizon's attempts to mandate the location of IPs and the method of interconnection and Verizon's transport penalty proposal.

ISSUES 3 AND 4 (GLOSSARY, SECTION 2.75; ADDITIONAL SERVICES ATTACHMENT, SECTIONS 5.1 AND 5.3; INTERCONNECTION ATTACHMENT, SECTION 7.3.7)

Q: PLEASE DESCRIBE THE ISSUES IN DISPUTE.

A: First, in Issue No. 3, Verizon seeks to define an entire category of traffic as a class of service that it wants the Commission to exclude from the parties' reciprocal compensation obligations. Verizon first defines "Voice Information Services Traffic" as a class of traffic that "provides [i] recorded voice announcement information or [ii] a vocal discussion program open to the public." Further, Verizon attempts to utilize this definition—which lacks a sound basis in law or fact—in Section 7.37 of the Interconnection Attachment, to exclude the defined class of traffic from its reciprocal compensation obligations.

Second, with respect to Issue No. 4, if US LEC's customers want to call Voice Information Services connected to Verizon's network, then Verizon seeks to require US LEC to provide, at its own expense, a separate, dedicated, trunk to carry that traffic.

Q: WHAT IS US LEC'S POSITION ON ISSUE NO. 3?

A: As with its efforts to eliminate reciprocal compensation for calls to ISPs, it appears that Verizon's real thrust here is to deprive US LEC of compensation for providing a valuable service to Verizon customers. In US LEC's view, the categories of traffic that Verizon now wants to define as Voice Information Services Traffic fit completely the definition of "Reciprocal Compensation Traffic" that is the basis for the parties' reciprocal compensation obligations.

Q: PLEASE EXPLAIN

A: "Reciprocal Compensation Traffic" is defined in the proposed agreement as "Telecommunications traffic originated by a Customer of one Party on that Party's network and terminated to a Customer of the other Party on that other Party's network, except for Telecommunications traffic that is interstate or intrastate Exchange Access, Information Access, or exchange services for Exchange Access or Information Access."

The categories of traffic included in the definition of "Voice Information Services Traffic" fit this definition: Whether the call is a "recorded voice announcement information" or "a vocal discussion program open to the public," it is originated by a customer of one party on that party's network and is terminated by a customer of the other party on that party's network.

At the same time, the traffic at issue can not be characterized as interstate or intrastate Exchange Access, Information Access, or exchange services for Exchange

Access or Information Access. In short, there does not appear to be any basis to exclude what Verizon has defined as "Voice Information Services Traffic" and, as such, the parties should be required to compensate each other for exchanging and terminating such traffic.

Q: ARE THERE ANY TECHNICAL PROBLEMS THAT WOULD ARISE IF THE COMMISSION ADOPTS VERIZON'S POSITION?

A: Yes, there are. As far as I know, there is no technically feasible, cost-effective way to segregate so-called "Voice Information Services Traffic" from other traffic that is eligible for reciprocal compensation, and Verizon has never offered US LEC any proposals for how it believes this can be accomplished. In addition, this same problem plagues Verizon in its drive to eliminate reciprocal compensation for calls to ISPs: the traffic is indistinguishable from all other locally dialed traffic sent over local trunk groups. Unlike intra- or interLATA toll traffic, which clearly is distinguishable, calls to "Voice Information Service Providers" are indistinguishable from all other local traffic.

The only apparent way to segregate the traffic is to program switches to "flag" calls to an identified data-base of providers. This is expensive and often inaccurate, because it is not always possible to identify every single number that might be assigned to a Voice Information Service Provider.

It also is intrusive. It would force US LEC, and every other CLEC, to inquire into the proposed business plans of all customers so as to identify those who intend to offer "Voice Information Services". It also would slow the operation of US LEC's switches significantly because it would force the switch to add additional steps in the process of handling every call.

Finally, even assuming the technical issues regarding the call processing can be overcome, Verizon's proposal ignores privacy concerns that customers may raise about sharing information about their business with other companies.

Q: HOW SHOULD THE COMMISSION RESOLVE ISSUE NO. 3?

A: First, US LEC believes that the Commission should reject entirely Verizon's request to separately identify and define "Voice Information Services Traffic" as a separate category of traffic. In that regard, Section 2.75 of the Glossary should be eliminated from the Agreement. Second, those sections which purport to exclude "Voice Information Services Traffic" from the parties' reciprocal compensation obligations should be eliminated as well.

Q: WHAT IS US LEC'S POSITION ON ISSUE NO. 4?

A: Verizon's proposal—to force US LEC to construct a dedicated facility for the delivery of calls from its customers to Voice Information Service Providers served by Verizon—would impose significant costs on US LEC without any showing, first, that such a dedicated facility even is necessary or, second, that the amount of traffic generated by US LEC's customers and destined for Voice Information Services connected to Verizon's network is sufficiently large as to warrant a separate trunk.

Moreover, as I discussed above in connection with Issue No. 3, even if Verizon could demonstrate a need for a separate trunk—which it cannot do—it still would put US LEC in the position of trying to segregate traffic which it simply cannot identify through any technically feasible, cost effective means. Also as before, this would slow the operation of US LEC's switch as it would have to identify calls destined for a Verizon-

served Voice Information Services Provider, separate those calls from all other traffic destined for Verizon's customers, and then send that traffic down a dedicated trunk.

Q: WHAT IS VERIZON'S POSITION?

A: As I understand it, Verizon contends that it needs a separate trunk for billing purposes. That may or may not be so, but Verizon should address its billing concerns on its own network, not by imposing the requirement for separate trunking on US LEC. If Verizon wants to measure the traffic, it can probably find a way to do so which does not involve imposing any costs on US LEC. That would accomplish Verizon's goal without requiring US LEC to go to the expense of putting in a separate, dedicated trunk.

Q: HOW SHOULD THE COMMISSION RESOLVE THIS ISSUE?

A. The Commission should adopt US LEC's position and direct that Section 5.3 of the Additional Services Attachment to the Agreement should be deleted.

ISSUE 5: (GLOSSARY, SECTION 2.56; INTERCONNECTION ATTACHMENT, SECTIONS 2.1.2, 8.5.2, AND 8.5.3)

Q: PLEASE DESCRIBE THE DISPUTE AT ISSUE HERE.

A: Historically, as well as currently, when it comes to billing, measuring and engineering purposes, traffic is referred to as either originating or terminating. Thus, in any call, there is an originating party served by an originating carrier and a terminating party served by a terminating carrier. Against this long-standing, historical backdrop, Verizon seeks to interject the entirely new concept of a "receiving party". Verizon does not define the term "receiving party" and US LEC is concerned that Verizon will use the concept of a "receiving party" to escape some of its compensation obligations, which are grounded in the traditional 'originating party—terminating party' designations.

Q: WHAT IS US LEC'S POSITION ON THIS ISSUE?

A: Verizon has not provided any reasonable explanation for its sudden desire to shift from the traditional "terminating party" designation to the as yet undefined "receiving party." US LEC sees no need to disrupt the historic framework that has governed the transport, exchange and billing of traffic for decades.

Q: DOES THE AGREEMENT USE EITHER "TERMINATING PARTY" OR "RECEVING PARTY" CONSISTENTLY THROUGHOUT?

A: No, it does not. For example, in section 7.2, the parties agree that they will compensate each other for the "transport and termination" of Reciprocal Compensation Traffic. In turn, "Reciprocal Compensation" is defined with respect to the "transport and termination" of "Reciprocal Compensation Traffic", which, itself, is defined with reference to traffic that is "terminated on the other Party's Network."

In contrast, in Sections 2.16 of the Glossary and 8.5.2 and 8.5.3 of the Interconnection Attachment dealing with the definition of an "IP" (Interconnection Point), Verizon abandons the "terminating party" designation and, instead, refers to traffic delivered to the "receiving party" and provides no valid reason why, in these limited sections, the term "receiving party" should replace the more standard "terminating party". Similarly, Section 2.56 of the Glossary refers to the "receiving party", not the "terminating party" when defining Measured Internet Traffic.

Q: WHY DOES THIS INCONSISTENCY CONCERN US LEC?

A: In the first place, Verizon has offered no satisfactory explanation for the distinction between "receiving" and "terminating". In the absence of such an explanation, US LEC is not willing to abandon decades of precedence in engineering, measuring and billing for traffic.

Second, the Commission will recall that in several enforcement actions and arbitration proceedings, Verizon, among other incumbents, argued that it had no obligation to compensate CLECs for calls to ISPs because the traffic did not "terminate" there. US LEC and other CLECs argued differently and the Commission decided on several occasions that, for purposes of reciprocal compensation, calls to ISPs would be treated as local and viewed as terminating at the ISP.

Third, the FCC assumed exclusive jurisdiction over ISP-bound traffic in its April 2001 Internet Order and that Order sets forth the terms and conditions under which the parties will compensate each other for ISP-bound traffic. However, the United States Court of Appeals for the District of Columbia recently remanded that Order to the FCC, while leaving in place the interim compensation framework that it established. In the

event that compensation framework is later overturned or vacated by the Court of Appeals, then jurisdiction over ISP-bound traffic could, at least for some period of time, revert to the Commission. In that instance, US LEC believes Verizon would seize on the "receiving party" designation in the Agreement and contend that US LEC is not entitled to any compensation for ISP-bound traffic because US LEC has conceded that the traffic does not terminate at the ISP; rather, it is simply "received" there. In order to avoid that result, US LEC believes that the agreement should refer consistently to the "terminating party" for all purposes—establishing an IP, measuring traffic, billing for traffic and paying for traffic.

Q: HOW SHOULD THE COMMISSION RESOLVE THIS ISSUE?

A: The Commission should accept US LEC's position and direct that all references in the Agreement to a party that is terminating traffic should refer to that party as the "terminating party". Further, all references to the party "receiving" traffic or to the "receiving party" should refer instead to the party "terminating" traffic and to the "terminating party".

ISSUE 6 (GLOSSARY, SECTION 2.56; INTERCONNECTION ATTACHMENT, SECTION 7.2)

Q: PLEASE BRIEFLY DESCRIBE THE DISPUTE ON THIS POINT.

A: There are really two issues in dispute under this single heading. First, Verizon is obligated to pay intercarrier compensation for all calls originated by Verizon customers to US LEC line numbers with "NXX" codes associated with the calling party's local calling area. Calls are conventionally rated and routed throughout the U.S. telephone industry based upon the NXX codes of the originating and terminating numbers. There is

no reason to deviate from this convention now. These local calls are routed to the interconnection point or POI for local traffic and handed off just as any other local call would be. This practice should be continued such that calls between an originating and terminating NXX associated with the same local calling area are rated and routed as local.

The second issue in dispute is whether Verizon should be allowed to impose per-minute originating switched access charges for carrying such calls to the parties' POI. As this Commission is well aware, according to FCC Rules and Orders, access charges cannot be imposed on locally dialed calls, such as are at issue here. Under any scenario, the only costs Verizon incurs are the transport and switching charges required to bring traffic to the interconnection point between Verizon and US LEC. These costs do not change based upon the location of US LEC's customers, so there is no economic justification for treating these calls differently from any other locally dialed call. Further, it would be inconsistent and anti-competitive to allow Verizon to evade its intercarrier compensation obligations and, at the same time, to charge US LEC originating switched access charges for calls going to a particular NXX code. Not only would Verizon double-recover for carrying such traffic (through local rates and access charges), but it would be compensated for costs it does not even incur and would be given a free ride on US LEC's network. Each of the issues, when considered individually, would put new entrants such as US LEC at an extreme disadvantage in the marketplace if Verizon were to prevail. Taken together, the requirement to pay Verizon access charges on local calls, and being deprived the opportunity to recover any expenses for terminating calls for

Verizon, would be a devastating blow to US LEC in its bid to offer competitive local exchange service in Pennsylvania.

Q: WHAT IS VERIZON'S POSITION ON THIS ISSUE?

A: Verizon argues for overturning the historical system I describe above, complaining that it should not be required to pay intercarrier compensation even though a call would be rated and billed to end-users as local by comparing the NXX codes of the originating and terminating numbers. Further, Verizon argues that it should be able to charge originating access charges for all calls to an NXX if customers with that NXX are physically located outside the local calling area. Verizon provides no evidence that such calls increase its costs as compared to other local calls in any way such that additional or different cost recovery is justified. Verizon also fails to show that changing this historical system as it suggests would provide any benefits to the public interest. In contrast, maintaining the existing system will provide significant benefits to consumers and would be consistent with the goal of increasing competitive offerings for consumers in Pennsylvania.

Q: BEFORE TURNING TO THE SUBSTANCE OF THE DISPUTE, WHAT ARE NXX CODES?

A: NXX codes are the fourth through sixth digits of a ten-digit telephone number. For example, in the telephone number for the Office of Administrative Law Judge, 717-783-5452, the NXX code is "783".

Q: HOW ARE CUSTOMERS ASSIGNED AN NXX CODE?

A: Carriers, like US LEC and Verizon, request and are assigned blocks of telephone numbers by the numbering administrator. The carriers then assign numbers to their customers as requested.

Q: DOES US LEC CURRENTLY ASSIGN TELEPHONE NUMBERS TO CUSTOMERS WHO ARE NOT PHYSICALLY LOCATED IN THE CALLING AREA TO WHICH THAT NUMBER IS ASSIGNED?

A: No. US LEC does not currently utilize "virtual NXX" service in Pennsylvania; *i.e.*, US LEC does not currently assign telephone numbers to customers that have no physical presence in the local calling area associated with the telephone number. However, in order to compete with Verizon's FX service, and to be able to offer its customers a full range of services, US LEC believes it should be able to utilize this type of service.

Q: HOW IS THE RATING OF CALLS IMPACTED BY THE NUMBERS ASSIGNED TO CUSTOMERS?

A: Standard industry procedure provides that each NXX code is associated with a particular rate center within a local calling area.[8] (A single rate center may have more than one NXX code, but each code is assigned to one and only one rate center.) This uniquely identifies the end office switch serving the NXX code, so that each carrier that is routing a call knows which end office switch to send the call to. However, it is not uncommon for NXX codes to be assigned to customers who are not physically located in the local calling area where the NXX is "homed". When an incumbent local exchange company ("ILEC") provides this arrangement, it typically is called foreign exchange or FX service. This type of arrangement also may be referred to as "Virtual NXX" because the customer assigned the telephone number has a "virtual" presence in the calling area associated with that NXX. Calls to these customers are still routed to the end office switch associated

[8] A rate center is a geographic location with specific vertical and horizontal coordinates used for determining mileage, for rating local or toll calls.

with the NXX code, but then are routed within the terminating carrier's network to the called party's actual physical location.

Q: WHY WOULD CARRIERS OR THEIR CUSTOMERS WANT A VIRTUAL NXX CODE?

A: Customers want to use virtual NXX codes because it allows them to take advantage of state-of-the-art, currently available technologies to allow consumers to reach their businesses without having the disincentive of a toll call. It also allows businesses and organizations to provide service in other areas before they actually have facilities or offices in those areas. Absent such calling plans, consumers would have to wait for carriers to build out their networks – which could take years and millions of dollars. For instance, so-called virtual NXX arrangements enable ISPs, among other customers, to offer local dial-up numbers throughout Pennsylvania, including in more isolated, rural, areas of the State. Access to the Internet is affordable and readily available in all areas of the state because these NXX arrangements allow ISPs to establish a small number of points of presence ("POPs") that can be reached by dialing a local number regardless of the physical location of the Internet subscriber. Rural small businesses especially benefit from low-cost Internet access and increasingly depend on such access to remain competitive. Thus, taking advantage of state-of-the-art technologies through virtual NXX arrangements allows affordable Internet access, particularly in isolated and rural areas, and this not only benefits Pennsylvania's consumers but also promotes economic development.

Other organizations, such as the Pennsylvania State government, may also want to make use of virtual NXX arrangements to allow residents to contact state agencies –

which may actually reside in Harrisburg – without incurring the cost of a toll call. Such an arrangement would allow the state to provide services in rural areas without building or renting space in those localities and without relocating employees.

Carriers use virtual NXX codes because they allow them to respond to customer demand through the use of new and innovative services. In 1997 and 1998, there was considerable discussion about the benefits to be expected from competition in the local exchange market. Some of the more important expected benefits were that competition would drive competitors to develop and utilize networks efficiently in order to gain competitive advantages, by allowing them to serve customers at lower cost. Verizon's proposal would constitute an artificial impediment to this natural progression of a developing competitive market, and would deny Pennsylvania residents the associated benefits.

Q: IS THIS NXX CODE ISSUE SIMPLY AN ASPECT OF THE ISP COMPENSATION ISSUE?

A: No. Although many ISPs do use virtual NXX arrangements, these services are also used by other businesses and organizations that want to maintain a local telephone number in some community where they do not have a physical presence. This issue therefore affects ordinary local voice telephone calls as well as ISP traffic.

Q: IS IT UNLAWFUL OR AGAINST ANY RULES FOR CLECS TO PROVIDE VIRTUAL NXX'S TO THEIR CUSTOMERS?

A: No. The use of virtual NXX codes is not unlawful or in any other way improper. Verizon, itself, provides several virtual NXX services, such as FX service, to its customers, including ISPs. Indeed, nobody complained about such uses of NXX codes

until CLECs had some success in attracting ISP customers and the ILECs began looking for ways to avoid compensating them for serving and terminating calls to ISPs.

Q: PLEASE DESCRIBE THE IMPACT OF VERIZON'S PROPOSED LANGUAGE WITH RESPECT TO THE CUSTOMER'S PHYSICAL LOCATION IN MORE DETAIL.

A: The language proposed by Verizon—determining the rating of a call by reference to the actual end points, not by reference to the NXX's of the calling and called parties—would have at least three significant negative impacts in Pennsylvania. First, if the Commission adopted Verizon's proposed language, Verizon would be able to evade its intercarrier compensation arrangement a particular class of traffic. Second, and contrary to one of the fundamental goals of the 1996 Act, Verizon's proposed language would have a negative impact on the competitive deployment of affordable dial-up Internet services in Pennsylvania, and on businesses that simply want an affordable way for their distant customers to reach them. This negative impact would result from the increase in costs to both consumers and providers under Verizon's proposal. Finally, Verizon's proposed language would give Verizon a competitive advantage over US LEC in the ISP market.

Q: HOW WOULD VERIZON EVADE ITS INTERCARRIER COMPENSATION OBLIGATIONS TO US LEC BY LIMITING COMPENSATION TO CALLS TERMINATING TO A CUSTOMER WITH A PHYSICAL PRESENCE IN THE SAME LOCAL CALLING AREA AS THE ORIGINATING CALLER?

A: Deviating from the historical practice of rating a call based upon the NXX codes of the originating and terminating number would give Verizon the ability to arbitrarily re-classify local calls as toll calls. This is because under Verizon's proposed language, it

would be nearly impossible and much more economically burdensome for US LEC (or any other CLEC in a similar situation) to utilize virtual NXXs in the provision of service to its customers.

As discussed above, Virtual NXXs are used by carriers to provide a local number to customers in calling areas in which the customer is not physically located. If the Commission adopts Verizon's language and allows Verizon to avoid rating calls based on the NXX of the originating and terminating numbers, calls to "virtual NXX" customers would effectively be reclassified as toll calls (at least in the intercarrier environment, if not in the retail environment), and Verizon would no longer be obligated to compensate US LEC for terminating what for decades have been rated as simple local calls.

Q: IN ADDITION TO COMPENSATION CONCERNS, YOU HAD MENTIONED THAT VERIZON WOULD CHARGE ORIGINATING ACCESS ON EVERY "VIRTUAL NXX" CALL. DO THE COSTS INCURRED BY VERIZON IN ORIGINATING SUCH A CALL JUSTIFY THIS ADDITIONAL CHARGE?

A: No. First, as mentioned elsewhere in my testimony, LECs are not allowed to impose access charges upon local traffic. Nevertheless, and despite this specific prohibition, there is no additional cost incurred by Verizon when a virtual NXX is provided to a CLEC customer, because Verizon carries the call the same distance (to the IP) and incurs the same costs (in terms of local interconnection facilities used) regardless of the physical location of the "virtual NXX" customer. Verizon's obligations and costs are therefore the same in delivering a call originated by one of its customers, regardless of whether the call terminates at a so-called "virtual" or "physical" NXX behind the CLEC switch.

Q: DOES THE USE OF VIRTUAL NXX CODES IMPACT THE HANDLING OR PROCESSING OF A CALL TO A US LEC CUSTOMER?

A: No. Verizon would always be responsible for carrying the call to the IP on its own network and then paying US LEC to transport and terminate the call from that point. The use of a virtual NXX does not impact Verizon's financial and/or operational responsibilities such that it should be able to avoid compensating US LEC or collect additional compensation. Indeed, US LEC's customer has a presence in the local calling area of the originating caller; it is a virtual presence, not a physical one, but the way the call is handled is the same from Verizon's perspective.

Q: EVEN IF ONE WERE TO OVERLOOK THE FACT THAT VERIZON INCURS NO ADDITIONAL COST IN ORIGINATING VIRTUAL NXX CALLS, DO YOU THINK ACCESS CHARGES WOULD PROVIDE AN APPROPRIATE MEANS OF COST RECOVERY FOR THIS TRAFFIC?

A: Not at all. Setting aside the fact that intercarrier compensation for local traffic is governed by the reciprocal compensation rules of the FCC,[9] and that access charges are imposed on traffic other than local traffic, access charges are not cost-based, and it has been federal and state policy in recent years to drive access charges down to forward-looking economic cost. It makes no sense to impose an out-dated compensation regime on an artificial category of traffic. At a time when regulators and the industry are looking to move to more competitive market models by eliminating implicit subsidies in telecommunications rates and intercarrier payments, it would seem contrary to that movement to suddenly foist originating switched access charges on a certain type of local

[9] FCC Rule 51.703(b) states, "A LEC may not assess charges on any other telecommunications carrier for local telecommunications traffic that originates on the LEC's network."

traffic. The costs of originating this traffic do not differ from any other local call, and thus there is absolutely no economic or policy justification for imposing switched access charges on US LEC for traffic originated by Verizon customers.

Q: IS VERIZON COMPENSATED FOR CARRYING THE TRAFFIC ORIGINATED BY ITS CUSTOMERS TO THE US LEC IP?

A: Yes, it is. The FCC's *TSR Order* is directly on point. The pertinent language with respect to Verizon's compensation is as follows:

> According to Defendants, the *Local Competition Order*'s regulatory regime, which requires carriers to pay for facilities used to deliver their originating traffic to their co-carriers, represents a physical occupation of Defendants property without just compensation, in violation of the Takings Clause of the Constitution. We disagree. The *Local Competition Order* requires a carrier to pay the cost of facilities used to deliver traffic originated by that carrier to the network of its co-carrier, who then terminates that traffic and bills the originating carrier for termination compensation. In essence, the originating carrier holds itself out as being capable of transmitting a telephone call to any end user, and is responsible for paying the cost of delivering the call to the network of the co-carrier who will then terminate the call. Under the Commission's regulations, the cost of the facilities used to deliver this traffic is the originating carrier's responsibility, because these facilities are part of the originating carrier's network. *The originating carrier recovers the costs of these facilities through the rates it charges its own customers for making calls*. This regime represents "rules of the road" under which all carriers operate, and which make it possible for one company's customer to call any other customer even if that customer is served by another telephone company.[10]

By this reasoning, US LEC should not have to pay Verizon for Verizon-originated traffic from the local calling area to US LEC's IP.

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[10] *TSR Wireless* at ¶34. (emphasis added) (footnotes omitted).

Q: THIS QUOTE SAYS THAT VERIZON WOULD RECOVER ITS COSTS THROUGH THE RATES IT CHARGES ITS OWN CUSTOMERS. DO LOCAL RATES COVER THE COST OF CARRYING THIS TRAFFIC TO THE IP?

A: The FCC has clearly stated that Verizon's rates cover these costs. This does not just refer to Verizon's basic local rates. Local revenues include not only the basic local rate, but other revenues from subscriber line charges, vertical services (i.e., call waiting, call forwarding, anonymous call rejection and other star code features), universal service surcharges, extended area service charges and contribution from access charges for intraLATA and interLATA toll.

Q: IT APPEARS THAT YOU HAVE PLACED SPECIAL EMPHASIS ON THE NEGATIVE IMPACTS ON RURAL AREAS OF THE STATE ASSOCIATED WITH THE ADOPTION OF VERIZON'S POSITION. WHY WOULD RURAL AREAS BE PARTICULARLY IMPACTED?

A: One of the most significant advantages of incumbency is the ubiquitous network of the ILEC. For the most part, this network was bought and paid for by Verizon customers over time, and Verizon had rates approved by the Commission that would allow it to recover its costs of network deployment. Providers such as US LEC are in some cases constrained from offering services on a widespread basis because they do not have the advantage of having the ratepayer financed ubiquitous network that Verizon does. Therefore, market entry is often confined to the more densely populated areas. The intercarrier compensation for virtual NXX service as proposed by US LEC in this arbitration would help to equalize these inherent inequities, at least for some customers, by allowing US LEC to offer service state-wide, even to the more lightly populated areas

of Pennsylvania. Without this competitive equalization, US LEC would only be able to reach such areas at some point in the future, if at all, thereby denying rural residents and businesses the benefits of competition.

These comments should not be construed as US LEC asking for special treatment because they are new competitors. Indeed, US LEC's position, supported by the economic and technical arguments I have put forth above, would be just as compelling if US LEC were an ILEC. I only raise the competitive ramification issue here to illustrate the negative impact of adopting Verizon's proposed language.

Q: HOW SHOULD THE COMMISSION RESOLVE THIS ISSUE?

A: US LEC asks the Commission to conclude here that calls within a LATA originated by Verizon customers and delivered to US LEC's virtual NXX customers are to be considered local and subject to reciprocal compensation.

ISSUE 7 (INTERCONNECTION ATTACHMENT, SECTIONS 8.1 AND 8.1.1; GENERAL TERMS AND CONDITIONS, SECTION 50.2)

Q: PLEASE EXPLAIN THE NATURE OF THE PARTIES' DISAGREEMENT ABOUT COMPENSATION FOR TERMINATING ISP-BOUND TRAFFIC.

A: It addresses the compensation framework that the parties should utilize in the event the interim compensation framework FCC's Internet Order is vacated or reversed on appeal.

Q: WHAT IS US LEC'S POSITION WITH RESPECT TO COMPENSATION FOR ISP-BOUND TRAFFIC IN THE EVENT THE INTERIM COMPENSATION FRAMEWORK IN THE FCC'S INTERNET ORDER IS VACATED OR SET ASIDE?

A: In the interests of certainty and stability, and in order to avoid expensive and time-consuming negotiations and litigation, US LEC advised Verizon that in the event the interim compensation framework of the FCC's Internet Order is set aside, reversed, or remanded, it is willing to forego the opportunity to be compensated at state rates and, instead, has proposed that the parties accept the rate structure—but not the limitations on growth and new markets—set forth in the Internet Order for the balance of the term of the Agreement, or until the FCC imposes a permanent rate structure governing that traffic.

Q: HOW DID VERIZON RESPOND TO US LEC'S OFFER?

A: Verizon declined US LEC's offer of compromise and will not address the issue in the Agreement at all. Evidently, Verizon prefers instead to engage in lengthy negotiations and, possibly extensive litigation, with US LEC in order to fix obligations that can, and should be addressed at this stage of the proceeding.

Q: HOW DOES US LEC PROPOSE TO MODIFY THE AGREEMENT?

A: US LEC proposes to modify Section 8.1 of the Interconnection Attachment to provide that the parties will be governed by the FCC's Internet Order and the rate framework set forth therein. Similarly, US LEC added Section 8.1.1 to provide that if that Internet Order is reversed, set aside or vacated on appeal, the parties will continue to compensate each other for exchanging Internet Traffic using the rate structure in that Order, but without applying the growth caps or new market limitations that no longer would be applicable in the event of a reversal.

Finally, US LEC proposed a modification to Section 50.2 of the General Terms and Conditions to preclude Verizon from terminating payments to US LEC for ISP-

bound traffic if the Internet Order is reversed. As Section 50.2 was written by Verizon, it would have allowed Verizon to terminate any provision of the Agreement that provides for the payment by Verizon to US LEC of compensation related to traffic, including, but not limited to, Reciprocal Compensation and other types of compensation for termination of traffic delivered by Verizon to US LEC. Then, if Verizon chose to exercise that right of termination, it would have forced the Parties to negotiate appropriate substitute provisions for compensation related to traffic. Section 50.2 further provided that if, within sixty (60) days after Verizon's notice of termination, the Parties are unable to agree in writing upon mutually acceptable substitute provisions for compensation related to traffic, either Party may submit their disagreement to dispute resolution in accordance with Section 14 of this Agreement.

Q: WHY IS VERIZON'S PROPOSED LANGUAGE PROBLEMATIC?

A: Given the long battles between CLECs and ILECs over compensation for ISP-bound traffic that have been waged for years in Pennsylvania and elsewhere, US LEC sees Verizon's position as ensuring months of fruitless negotiations and possibly additional years of endless litigation over US LEC's entitlement to a payment stream that this Commission previously held was proper.

Q: HOW SHOULD THE COMMISSION RESOLVE THIS ISSUE?

A: US LEC submits that the proposed compromise—a certain rate structure guaranteed for the life of the contract—is a vastly superior alternative and should be adopted by the Commission. As such, the Commission should adopt US LEC's modifications to Sections 50.2 and 8.1 and accept US LEC's addition of section 8.1.1.

ISSUE 8: (PRICING ATTACHMENT, SECTION 1.5)

Q: PLEASE EXPLAIN THE PARTIES' DISAGREEMENT ABOUT THE APPLICABILITY OF CHANGES TO VERIZON'S TARIFFED AND NON-TARIFFED RATES.

A: US LEC and Verizon disagree about whether changes to Verizon's tariffed and non-tariffed rates should affect the parties' agreement. This issue arises out of three separate sections in the proposed template agreement. Section 1.5 of the Pricing Attachment permits Verizon to supercede *any* rates (i.e., both tariffed rates and non-tariffed rates) that the parties have agreed to through tariff filings that supercede the rates in the parties' agreement whenever Verizon alters its existing rates or adds new tariffed rate elements or services.

US LEC disagrees with the language proposed by Verizon in Section 1.5 of the pricing attachment. Although US LEC agrees to be bound by tariffed rates that change during the term of the parties' agreement in those cases where the parties have specified that tariffed rates are to govern (and likewise recognizes that rates may justifiably be altered due to changes in Applicable Law), it disputes Verizon's attempt to retain the discretion to modify its non-tariffed rates at will.

Q: WHY DOES US LEC OPPOSE VERIZON'S DESIRE TO UNILATERALLY MODIFY ITS NON-TARIFFED RATES?

A: As I have already explained, US LEC seeks certainty in the pricing of the services it obtains from Verizon and does not believe that Verizon should be permitted to modify its non-tariffed rates at will. With regard to any rates that the parties have negotiated and incorporated into the parties' interconnection agreement, the rates should remain fixed for

the term of the agreement. It would be anticompetitive and detrimental to US LEC if Verizon had the unfettered ability and sole discretion to modify its non-tariffed rates. No justification exists for a pricing approach that puts US LEC at Verizon's mercy and potentially subjects US LEC to an endless array of rate changes which are likely to increase US LEC's costs of doing business with Verizon.

Q: DOES US LEC TAKE THE POSITION THAT NONE OF THE RATES MAY BE MODIFIED DURING THE LIFE OF THE PARTIES' AGREEMENT?

A: No. US LEC acknowledges that tariffed rates may be altered during the term of the agreement due to changes in applicable tariffs where the parties have agreed that tariffed rates will apply to the particular rate element or service in question, and that changes in Applicable Law may result in rate modifications. However, US LEC objects to Verizon's effort to maintain the unilateral authority to change its non-tariffed rates at will, and these rates should remain fixed unless the Applicable Law provisions of the parties' agreement apply. Verizon should not be permitted to exercise the unlimited ability to make subsequent modifications to rates that the parties have already agreed to.

ISSUE 9 (GENERAL TERMS AND CONDITIONS, SECTION 21)

Q: PLEASE EXPLAIN THE DISPUTE BETWEEN US LEC AND VERIZON OVER INSURANCE REQUIREMENTS.

A: Sections 21.1-1.5 of the proposed template agreement reflect Verizon's view of what insurance should be required for the various categories of coverage, and US LEC believes that Verizon's proposals are excessive and unnecessary. Verizon's proposal is that US LEC maintain $2,000,000 in commercial general liability insurance, $2,000,000 in

commercial motor vehicle liability coverage, workmen's compensation coverage as required by Applicable Law, employer's liability coverage with limits of not less than $2,000,000 per occurrence, and $10,000,000 excess liability. Instead, US LEC wishes to maintain the current level of insurance coverage that it presently carries, which is as follows: $1,000,000 in commercial general liability insurance, $1,000,000 in commercial motor vehicle liability coverage, workmen's compensation coverage as required by Applicable Law, $100,000 in employer's liability coverage with a $500,000 policy limit, and $10,000,000 excess liability.

Q: WHAT IS THE BASIS FOR US LEC'S BELIEF THAT ITS CURRENT LEVELS OF INSURANCE COVERAGE ARE ADEQUATE?

A: US LEC believes that its present insurance coverage is more than adequate for purposes of meeting its obligations under the parties' interconnection agreement, and objects to Verizon's attempt to force it to unjustifiably impose its proposed coverage requirements. Although US LEC will certainly comply with any applicable state law requirements regarding the appropriate amount of insurance coverage, it urges the Commission to reject Verizon's unreasonable proposal.

Q: WHY DOES VERIZON BELIEVE THAT ITS POSITION IS JUSTIFIED?

A: US LEC requested an explanation from Verizon about the basis for its proposed insurance requirements. Instead of specifying a concrete reason for its contention that US LEC's current insurance coverage is insufficient, Verizon referred US LEC to a 1997 FCC decision that is cited in US LEC's Petition.

Q: DOES US LEC AGREE WITH VERIZON'S PURPORTED JUSTIFICATION FOR THE PROPOSED INSURANCE REQUIREMENTS?

A: No. Although I am not an attorney, I am advised by counsel that the FCC decision relied on by Verizon concerns insurance requirements that are related to collocation arrangements. Because US LEC does not collocate with Verizon and Verizon's proposed insurance requirements apparently apply to the entire agreement (not just to any future collocation arrangements), US LEC believes that Verizon's view is unsupported. Verizon has offered no plausible reason for insisting that US LEC increase its current levels of insurance coverage, and its position should be rejected.

Q: DOES THIS CONCLUDE YOUR TESTIMONY AT THIS TIME?

A: Yes.

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Linda C. Smith
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May 31, 2002

VIA HAND DELIVERY
Administrative Law Judge Louis G. Cocheres
Pennsylvania Public Utility Commission
2nd Floor West
Commonwealth Keystone Building
Harrisburg, PA 17120

RE: In Re: Petition of US LEC of Pennsylvania, Inc. for Arbitration with Verizon-Pennsylvania, Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996
Docket No. A-310814F7000

Dear Administrative Law Judge Cocheres:

Enclosed please find two copies of the Direct Testimony of Frank R. Hoffman, Jr. US LEC St. 1.0 and the Direct Testimony of Wanda G. Montano US LEC St. 2.0 in the above-referenced case.

Copies have been served on the parties listed on the attached certificate of service.

Very truly yours,

Linda C. Smith

Linda C. Smith

LCS/sw
cc: Wanda G. Montano

Enclosure

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the participants listed below via electronic and first class mail.

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Linda C. Smith

Dated: May 31, 2002

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of US LEC of Pennsylvania, Inc. for Arbitration with Verizon Pennsylvania Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996	)	Docket No: **A-310814F7000**

REBUTTAL TESTIMONY
OF TERRY HAYNES ON BEHALF OF
VERIZON PENNSYLVANIA INC.

July 9, 2002

Q. ARE YOU THE TERRY HAYNES WHO TESTIFIED PREVIOUSLY IN THIS PROCEEDING?

A. Yes.

Q. PLEASE DESCRIBE THE PURPOSE OF YOUR REBUTTAL TESTIMONY.

A. I will address several points in the testimony of Wanda Montano and in US LEC's discovery answers. US LEC has claimed that its effort to reap reciprocal compensation payments on interexchange traffic – and to avoid the access charges that apply to such interexchange traffic – is pro-competitive. That claim is incorrect. In fact, US LEC is attempting to compete, not on the basis of increased efficiency or superior products, but purely on the basis of their ability to force Verizon to bear the costs of the service that US LEC provides to its customers. The FCC has identified this as the kind of regulatory arbitrage that harms competition.

Q. MS. MONTANO SEEMS TO SUGGEST THAT VERIZON OBJECTS TO ROUTING AND RATING CALLS ACCORDING TO THE NXX CODE OF THE DIALED NUMBER. IS THAT CORRECT?

A. No. The parties' dispute has nothing to do with either the routing or the rating of calls. Calls are routed according to their assigned NXX code. As a general rule, each NXX code is identified in the Local Exchange Routing Guide ("LERG") with particular routing information; the LERG tells the originating carrier where to send the traffic. Verizon has not proposed any type of change to that system. And calls likewise are rated – that is, the charge to the originating caller is determined – by the NXX code of the called number. If

the NXX code is associated with the local calling area of the caller, the call will be rated as local. That is true whether the called party is in the same local calling area or in a different local calling area within the same LATA. It would even be true if the called party were located across the country.

Q. IF THE PARTIES AGREE THAT CALLS ARE RATED AND ROUTED ACCORDING TO THE NXX CODE, WHAT IS THE PARTIES' DISAGREEMENT?

A. The parties' sole disagreement for purposes of this proceeding is whether reciprocal compensation must be paid when the called party is actually located in a different local calling area from the calling party. In other words, if a Verizon customer in Allentown places a call to a number assigned to a US LEC customer in located Philadelphia, the question is whether reciprocal compensation should apply if the US LEC customer has been an assigned an NXX code associated in the LERG with Allentown rather than Philadelphia. Verizon maintains that reciprocal compensation should not be paid; that is also what the FCC has held, as I explained in my Direct Testimony.

Q. IS THAT DISPUTE HYPOTHETICAL? DIDN'T US LEC TESTIFY THAT IT DOES NOT HAVE ANY VIRTUAL FX ARRANGEMENTS IN PENNSYLVANIA?

A. The dispute is not hypothetical because any carrier that chooses to opt into the eventual agreement may establish virtual FX arrangements in the future. Moreover, US LEC itself has admitted in discovery that its testimony concerning Virtual FX arrangements in

Pennsylvania was false. US LEC has now admitted that it does have Virtual FX arrangements in Pennsylvania.

Q. WHAT REASONS DOES MS. MONTANO GIVE FOR REQUIRING RECIPROCAL COMPENSATION ON VIRTUAL FX TRAFFIC?

A. As I understand her testimony, she offers three basic arguments. First, she argues that payment of reciprocal compensation is consistent with regulatory rules governing inter-carrier compensation in other contexts. Second, she argues that failure to order reciprocal compensation would discourage the deployment of Virtual FX arrangements. Third, she claims that payment of reciprocal compensation is required by the FCC's *TSR Wireless Order*.[1] None of those arguments is correct. In addition, Ms. Montano offers several arguments regarding the application of access charges to this traffic. That is a separate issue that is not actually presented here, but I will address those arguments as well.

Q. IS MS. MONTANO CORRECT THAT IT IS INDUSTRY PRACTICE TO PAY INTER-CARRIER COMPENSATION BASED ON NXX CODES?

A. No. In fact, as I explained in my direct testimony, in the access charge context, the FCC has directly held that carriers must pay compensation based on the physical location of the called party, not the NXX code of the called party, which is generally associated with the local calling area of the calling party. In other words, the FCC has already decided that although FX traffic may be treated as local for purposes of rating the call to the

[1] Memorandum Order and Opinion, *TSR Wireless, LLC v. US West Communications, Inc.*, 15 FCC Rcd 11166 (2000) ("*TSR Wireless Order*").

originating end-user, it should not be treated as local traffic for purposes of inter-carrier compensation. Thus Ms. Montano's statement that "according to FCC Rules and Orders, access charges cannot be imposed on locally dialed calls" (Montano Testimony at 19:8-9) is flatly wrong.

Q. BUT WASN'T THE TRAFFIC AT ISSUE IN THE FCC ORDER YOU DISCUSSED INTERLATA TRAFFIC?

A. Yes, but the principle is the same. If a local telephone subscriber originates a call to an interLATA FX number, the local exchange carrier delivers the call to the interexchange carrier's point of presence for onward transmission to a called party; the local exchange carrier is entitled to originating access for such a call, even though the call is *rated* as a local call. Likewise, in the case of virtual FX traffic, the local exchange carrier delivers the traffic to the CLEC's point of interconnection; the CLEC then delivers the call to the called party, which is by definition located in a different local calling area (which may or may not be within the same LATA). Because the call is interexchange, no reciprocal compensation applies.

Q. BUT VERIZON HAS ADMITTED IN ITS RESPONSE TO US LEC'S DISCOVERY THAT VERIZON ITSELF MAY HAVE CHARGED RECIPROCAL COMPENSATION ON FX TRAFFIC. ISN'T THAT INCONSISTENT WITH YOUR POSITION HERE?

A. Verizon may well have charged a very small amount of reciprocal compensation for CLEC-originated calls bound for Verizon FX numbers. In theory, Verizon should not do

so – neither Verizon's agreements nor federal law require payment of reciprocal compensation on traffic bound for Verizon FX numbers. But, as a practical matter, Verizon's billing systems are not set up to distinguish this traffic, no CLEC has every complained about it, and the amount of compensation is so tiny that it makes no practical difference. Verizon would be happy to work with any CLEC to device a reasonable estimate of the amount of CLEC-originated traffic delivered to Verizon FX numbers, in order to avoid any theoretical overbilling of reciprocal compensation.

Q. HOW CAN YOU BE SURE THAT THE AMOUNT OF RECIPROCAL COMPENSATION THAT VERIZON HAS BILLED FOR NON-LOCAL FX TRAFFIC IS SO SMALL?

A. Verizon has done traffic studies in other jurisdictions to measure the amount of such traffic, and has consistently found that the amount of traffic is tiny – much less than one percent of CLEC-originated traffic. There is nothing about Verizon's operations in Pennsylvania that would lead me to believe that the results of a traffic study here would be different. The universe of Verizon FX subscribers is miniscule compared with the universe of ordinary local subscribers.

Q. DO YOU KNOW WHETHER VIRTUAL FX TRAFFIC FORMS A SIGNIFICANT PERCENTAGE OF THE TRAFFIC ORIGINATED BY VERIZON CUSTOMERS AND DELIVERED TO US LEC?

A. I do not know. We have asked US LEC questions in discovery that are related to this issue and have so far received no answer. I understand that Verizon continues to

negotiate with US LEC to get an answer to that question. But whether US LEC in particular receives a high volume of virtual FX traffic is not the point. Many CLECs do receive very high proportions of virtual FX traffic, and whatever resolution the Commission reaches in this proceeding will be available to all CLECs in Pennsylvania under the opt-in provision of the 1996 Act, not just to US LEC.

Q. MS. MONTANO ALSO CLAIMS THAT NOT REQUIRING PAYMENT OF RECIPROCAL COMPENSATION MAY DISCOURAGE DEPLOYMENT OF VIRTUAL FX ARRANGEMENTS. DO YOU AGREE?

A. It is correct payment of reciprocal compensation on Virtual FX traffic provides an additional incentive for CLECs to deploy those arrangements, but that is an argument against requiring reciprocal compensation, not in favor of it. Payment of reciprocal compensation would permit a CLEC improperly to transfer some of the costs of the service that it provides to its customer to Verizon. That is uneconomic and inefficient. As the FCC has said, in such circumstances, "carriers . . . compete, not on the basis of the quality and efficiency of the services they provide, but on the basis of their ability shift costs to other carriers."[2] The FCC has identified such regulatory arbitrage as a major impediment to the development of genuine local competition.

[2] Order on Remand and Report and Order, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 16 FCC Rcd 9151, 9183, ¶ 71 (2001) ("*ISP Remand Order*"), *remanded*, *WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002).

Q. CAN YOU ELABORATE?

A. Yes. Suppose that a Verizon customer in Philadelphia wants to subscribe to an Allentown FX number. Under traditional FX arrangements, the customer would have to subscribe to local service in the Allentown exchange, and then pay for transport from the Allentown exchange to Philadelphia. In that circumstance, the customer is paying for the right to receive calls in the Allentown exchange and to have those calls transported to Philadelphia.

In the case of the type of virtual FX service that US LEC wants to be able to offer, the customer in Philadelphia would be assigned an NXX number associated with the Allentown exchange. But Verizon – which is the carrier actually bearing the cost of providing service in the Allentown exchange – receives no compensation from the customer for the provision of local exchange service in Allentown, even though the customer is benefiting from that service. Moreover, US LEC wants to be able to force Verizon to bear the cost of transporting the traffic from Allentown to Philadelphia, without paying Verizon for that service. Verizon would be doing almost as much work under the virtual FX arrangement as under a traditional FX arrangement provided by Verizon, but receiving no compensation from the virtual FX customer. That is a classic example of shifting costs away from the cost causer – the virtual FX customer – and onto Verizon. And that is a very bad result from the point of view of regulatory policy, because it deprives all parties of accurate price signals. Now, on top of that, US LEC wants to be paid a bounty in the form of reciprocal compensation for each call that Verizon originates in Allentown and transports to Philadelphia. That result is blatantly anticompetitive.

Q. MS. MONTANO CLAIMS THAT VIRTUAL FX SERVICE OFFERS CUSTOMERS IN REMOTE AREAS (ALLENTOWN IN THE ABOVE EXAMPLE) ADDITIONAL PROVIDER CHOICES. IS THAT CORRECT?

A. That claim is nonsense – akin to Ms. Montano's claim that US LEC has "a presence in the local calling area" (Montano Testimony at 26:7-8) when it has no presence at all in that local calling area. Providing reciprocal compensation on Virtual FX traffic actually discourages carriers like US LEC from deploying facilities in remote areas that would compete with Verizon's facilities, because US LEC must bear the cost of those facilities. Instead, it is more profitable for US LEC instead to allow Verizon to continue providing service and to search for ways to be paid for the service that Verizon provides, as with virtual FX arrangements. Ms. Montano comes close to admitting as much, when she claims that US LEC should be permitted to take advantage of Verizon's "ubiquitous network" (Montano Testimony at 28:19) without constructing facilities of its own. US LEC is seeking a free-ride on that network, pure and simple. Payment of reciprocal compensation on virtual FX traffic would amount to paying US LEC *not* to compete.

I should note in this regard that Ms. Montano's claim that Verizon's proposed language "would give Verizon a competitive advantage over US LEC in the ISP market" (Montano Testimony at 24:15-16) is nonsense. There is nothing about Verizon's proposed language – which applies equally to Verizon and to US LEC – that would give Verizon any type of regulatory advantage in any market.

Q. YOU HAVE ALREADY EXPLAINED THAT VIRTUAL FX SERVICE DOES NOT INVOLVE ANY STATE-OF-THE-ART TECHNOLOGY. SO YOU HAVE ANYTHING TO ADD ON THAT POINT?

A. I would just like to emphasize that the issue here is simply whether reciprocal compensation should be paid on interexchange traffic. To the extent that US LEC has a new or innovative service to offer, it can still offer it; it simply will not be able to collect compensation to which it is not entitled.

Q. SO SHOULD THE COMMISSION PROHIBIT VIRTUAL FX ARRANGMENTS?

A. That is not my point. If Virtual FX arrangements are consistent with other regulatory requirements (in Pennsylvania, they are not), Verizon is not proposing any sort of impediment on CLECs' implementing them. But Verizon should not be unfairly burdened with the costs of such arrangements. This is partly a matter of requiring parties to bear an appropriate share of the cost of interconnection arrangements. But it is also crucial that the Commission not order payment of reciprocal compensation on this interexchange traffic. Such compensation is not only contrary to law, it is also plainly wrong from the point of view of regulatory policy.

Q. MS. MONTANO CLAIMS THAT *TSR WIRELESS* SUPPORTS US LEC'S POSITION HERE. DO YOU AGREE?

A. No. As I explained in my direct testimony, *TSR Wireless* did not address the issue presented here. Indeed, that decision merely ruled that incumbent LECs could not charge paging carriers for existing facilities used to deliver *local* traffic generated on the LEC's network to the paging carrier's switch. The FCC did not rule that any *non-local* traffic

would be subject to reciprocal compensation, did not rule that *non-local* traffic had to be delivered without charge, and did not address any issues related to network architecture. The question whether the traffic at issue in *TSR Wireless* was interexchange traffic did not arise because, under the FCC's rules, traffic between CMRS providers and LECs is subject to reciprocal compensation so long as it originates and terminates *within the same Major Trading Area*, an area encompassing many exchanges. *See* 47 C.F.R. § 51.701(b)(2).

Q. MS. MONTANO CLAIMS THAT ACCESS CHARGES SHOULD NOT APPLY TO VIRTUAL FX TRAFFIC. DO YOU AGREE?

A. No. As an initial matter, however, I wish to stress that the access charge issue is not properly presented here. The only section of the proposed agreement that addresses access charges provides that the parties' tariffs control. Accordingly, as far as this proceeding is concerned, the parties' are in agreement.

To the extent that the Commission does address this issue, it should hold that access charges apply. The reason for this is simple: a virtual FX arrangements, like traditional FX arrangements or other toll-free calling arrangement, allows a subscriber to receive calls from a distant exchange without the calling party incurring the toll charges that would normally apply. In place of those toll charges, the called party must pay other charges – in the case of traditional FX service, the customer must subscribe to local exchange service in the foreign exchange and pay transport; in the case of toll-free service, the customer must pay toll charges for calls received. In the case of toll-free calls, the interexchange carrier then pays originating access charges to the originating

local exchange carrier. The situation is the same here: the CLEC has set up a toll-free calling arrangement for its customer. The customer is thus able to take advantage of the local exchange service that Verizon is providing in that distant exchange, yet Verizon not only receives no subscriber revenue from the CLEC customer; it is also deprived of the toll charges that would ordinarily apply. Access charges provide the originating LEC some measure of compensation for the service that it provides.

Q. MS. MONTANO ARGUES THAT VERIZON DOES NOT INCUR ANY ADDITIONAL COSTS IN DELIVERING VIRTUAL FX TRAFFIC. DO YOU AGREE?

A. The claim is misleading. Obviously, the costs of delivering traffic to a CLEC depend on the interconnection architecture in place; if a virtual FX call is delivered to the same point of interconnection as a local call from the same point, Verizon's costs of delivering the traffic will be the same. But if the Commission were to exempt the CLEC from paying the access charges that ordinarily apply to such interexchange traffic (or, even worse, require Verizon to pay the CLEC reciprocal compensation), the Commission would be encouraging the CLEC to implement these arrangements even when they are inefficient. This is because the CLEC (and the CLEC's customers) would not bear the appropriate costs of providing the services that they consume. Thus, Verizon would have to originate and carry a great deal more traffic, and would therefore be required to bear significantly higher costs, than if access charges were properly applied.

Moreover, Ms. Montano ignores the fact that virtual FX arrangements mean that Verizon will be unable to collect toll charges from its customers where toll charges would

apply (but for the assignment of a virtual NXX code). Again, I am not asserting that there is anything wrong with a CLEC setting up such toll free arrangements for its customers, so long as the CLEC complies with applicable state and federal regulations. But it is wrong for the CLEC to attempt to shift the costs of those arrangements to Verizon, and it is also wrong to exempt the CLEC and its customers from bearing an appropriate share of the costs of providing local exchange service in the distant exchange. As long as Verizon is the carrier providing that local exchange service, it is entitled to be compensated for it, and access charges provide that compensation.

Q. MS. MONTANO CLAIMS THAT VERIZON IS ALREADY COMPENSATED FOR THIS BY ITS END USERS.

A. That is wrong. Local exchange charges compensate Verizon for providing service within the local exchange. If a call travels outside the local exchange, Verizon should be entitled to additional compensation. Virtual FX service should be no exception.

Q. MS. MONTANO ALSO STATES THAT REQUIRING PAYMENT OF ACCESS CHARGES WOULD BE INAPPROPRIATE BECAUSE ACCESS CHARGES ARE ABOVE COST. DO YOU AGREE?

A. No. This Commission has approved tariffed intraLATA access charges that are designed to ensure that Verizon can recover the costs of providing local exchange service. In the case of virtual FX service, the CLEC customer is benefiting from the local exchange service that Verizon is providing in that distant exchange, and the Commission has determined that access charges provide the appropriate compensation for that service.

US LEC cannot challenge those access charges in this proceeding, nor does it give any legitimate reason that it should be exempt from the charges that all other intraLATA interexchange carriers must pay.

Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

A. Yes.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petition of US LEC of Pennsylvania, Inc. for Arbitration with Verizon Pennsylvania Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996	)	Docket No: A-310814F7000

REBUTTAL TESTIMONY
OF PETER J. D'AMICO ON BEHALF OF
VERIZON PENNSYLVANIA INC.

July 9, 2002

Q. PLEASE STATE YOUR NAME.

A. My name is Pete D'Amico.

Q. ARE YOU THE SAME PETE D'AMICO WHO FILED DIRECT TESTIMONY IN THIS DOCKET ON MAY 31, 2002?

A. Yes.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to address the arguments raised by US LEC's witnesses concerning network architecture (Issues 1 and 2).

Q. DO YOU AGREE WITH MR. HOFFMAN'S CLAIM THAT "US LEC TAKES ADVANTAGE OF DECREASED TRANSPORT COSTS TO PROVIDE SERVICE OVER A LARGE AREA WITH A SINGLE SWITCH"? (Hoffman Testimony at 5:5-6.)

A. I cannot evaluate this claim because US LEC has refused to provide the information necessary to determine the accuracy of this assertion. In particular, US LEC has refused to provide information on both the physical locations of its customers and the amount of traffic that it delivers to those customers. *See* Response to Verizon Interrogatories No. 3 and 4. Although US LEC states that it has obtained a number of full and partial NXX codes in the Philadelphia and Pittsburgh LATAs, it has admitted that six of its customers "have been assigned NXX codes in areas where they have no physical location." Response to Verizon Interrogatory No. 3. This means that, when Verizon customers in

those areas dial the numbers that have been assigned to those US LEC customers, Verizon must transport the traffic to US LEC's switch in Philadelphia or Pittsburgh, but US LEC is not required to transport the traffic back to the local calling area from which that traffic originated.

US LEC has not indicated how many telephone numbers it has assigned to these six customers or where they are located in relation to US LEC's switches. If, as is the case with many CLECs, these six customers are Internet service providers, then it is likely that the have been assigned numbers in all or nearly all of the NXX codes that US LEC has obtained. Moreover, it is likely that these six customers are located at (or only a very short distance from) US LEC's switches and account for the vast majority of the traffic that Verizon sends to US LEC. If so, then US LEC would not be serving a large area from its switch by taking advantage of decreased transport costs, but instead would be taking advantage of Verizon's existing network to transport traffic to US LEC's switch at Verizon's expense and then providing little or no transport of its own.

Q. DO YOU AGREE WITH MR. HOFFMAN'S CLAIM THAT US LEC "HAS AGREED . . . TO ESTABLISH MULTIPLE POIs IN EVERY LATA IN WHICH IT INTERCONNECTS WITH VERIZION"? (Hoffman Testimony at 6:12-16.)

A. Yes, but this statement is potentially misleading. Mr. Hoffman does not clearly state that, at these POIs, US LEC will only hand off US LEC-originated traffic to Verizon. US LEC, however, will not accept Verizon-originated traffic at these POIs, and instead seeks to require Verizon to bear financial responsibility for transporting traffic originated throughout the LATA to a single POI.

Q. DO YOU AGREE WITH MR. HOFFMAN'S AND MS. MONTANO'S CLAIMS THAT TECHNICAL FEASIBILITY IS RELEVANT TO THE LOCATION OF US LEC'S INTERCONNECTION POINTS? (Hoffman Testimony at 7:6-9; Montano Testimony at 6:19-21.)

A. No. The suggestion that US LEC is entitled to designate any "technically feasible" IP is contrary to the FCC's statements in the *Local Competition Order*, as I explained in my initial testimony. *See* D'Amico Testimony at 14:12 - 15:12. It is also contrary to the decisions of this commission, other state commissions, and of the Third Circuit, as I also explained in my initial testimony. *See id.* at 5:7 - 7:5, 15:13 - 16:13. All of those decisions make clear that US LEC is mistaken in its view that, under federal law, the POI and the IP must be at the same location. *See, e.g.*, Response to Verizon Interrogatory No. 6. The technical feasibility standard applies only to the designation of the physical POIs. If US LEC were also entitled to establish IPs at any technically feasible point, then it could avoid bearing financial responsibility for the costs imposed by its interconnection choices.

Q. DO YOU AGREE WITH MR. HOFFMAN'S CLAIM THAT "VERIZON IS TRYING TO DICTATE THE PHYSICAL MANNER IN WHICH US LEC ESTABLISHES ITS CHOSEN IP"? (Hoffman Testimony at 8:9-10.)

A. No. As I explained in my initial testimony, "VGRIP enables Verizon to *request* that US LEC establish physical POIs that serve as IPs, [but] US LEC remains free to meet its requirements through the establishment of virtual IPs, which do not require it to change its network architecture." D'Amico Testimony at 12:13-16. Moreover, Mr. Hoffman

ultimately admits that his characterization of VGRIP is inaccurate. He states that "adoption of VGIPs [*sic*] would force US LEC to change *either the physical or financial aspect* of its preferred, and existing, interconnection architecture with Verizon." Hoffman Testimony at 9:4-6 (emphasis added).

Q. DO YOU AGREE WITH MR. HOFFMAN'S CLAIM THAT US LEC "*MUST*" ESTABLISH AN INTERCONNECTION POINT THROUGH COLLOCATION AT THE VERIZON TANDEM? (Hoffman Testimony at 11:16-22.)

A. No. As stated above, US LEC does not have to agree to Verizon's request that US LEC establish an IP through collocation at the Verizon tandem. Indeed, Mr. Hoffman again ultimately admits that his characterization of VGRIP is inaccurate. He recognizes that US LEC may "refuse[] to establish such physical connections." Hoffman Testimony at 12:5-7.

Q. DO YOU AGREE WITH MR. HOFFMAN'S CLAIM THAT, IN THE EVENT US LEC FAILS TO ESTABLISH A GEOGRAPHICALLY RELEVANT IP, THEN UNDER "OPTION THREE" US LEC MUST BEAR ALL OF THE COSTS OF TRANSPORTING A CALL FROM THE ORIGINATING END OFFICE TO US LEC'S CHOSEN IP (Hoffman Testimony at 12:8-11)?

A. Yes. However, as I explained in my initial testimony, under "option one" — where US LEC establishes a geographically relevant IP at a Verizon tandem — Verizon can incur more than its share of the transport cost, because it will be responsible for the costs of hauling its traffic from the Verizon customer to the geographically relevant IP, even

though the IP may be located beyond the local calling area. *See* D'Amico Testimony at 11:13-20. Under "option three," US LEC must bear the costs of transporting traffic within the local calling area, calculated using the Pennsylvania PUC's unbundled network element rates, as explained in Verizon's response to US LEC's Interrogatory No. 24. Thus, VGRIP represents a compromise and US LEC is free to choose from among the options that VGRIP presents.

Q. DO YOU AGREE WITH MR. HOFFMAN'S CLAIM THAT "VERIZON WANTS TO CHARGE US LEC FOR DEDICATED TRANSPORT FACILITIES REGARDLESS OF THE AMOUNT OF TRAFFIC IT ORGINIATES FROM THE END OFFICE VERIZON WOULD DESIGNATE AS A VIRTUAL IP"? (Hoffman Testimony at 13:13-17.)

A. Yes. As Verizon has previously explained to US LEC, Verizon will use the unbundled network element ("UNE") rate that the Pennsylvania PUC has established for dedicated transport. However, US LEC incorrectly implies that Verizon will actually install and use dedicated trunks to transport this traffic. *See* Hoffman Testimony at 14:1-8. Under "option three," Verizon will not change the method by which it transports the traffic. Instead, as previously explained to US LEC and as explained in Verizon's response to US LEC's Interrogatory No. 24, it merely will use the UNE rate that the PUC has established for dedicated transport for purposes of the calculation under Verizon's proposed section 7.1.1.1.1.

Q. DO YOU AGREE WITH MR. HOFFMAN'S CLAIM THAT A SINGLE US LEC POINT OF INTERCONNECTION PER LATA IS NOT "EXPENSIVE"? (Hoffman Testimony at 15-16.)

A. No. As I explained in my initial testimony, when Verizon is required to transport a call outside of the local calling area in which it originated, that call is, in effect, a toll call. If the call were between two Verizon customers — for example, if a Verizon customer in Allentown called a Verizon customer in Philadelphia — Verizon would charge its customer in Allentown toll charges for transporting the call to Philadelphia. Under US LEC's proposal, if a Verizon customer in Allentown called a US LEC customer in Allentown, Verizon would still have to transport the call to US LEC's switch in Philadelphia, but could not charge its customer toll charges *and* might have to pay US LEC reciprocal compensation. *See* D'Amico Testimony at 8. Thus, it is clear that, under US LEC's proposal, Verizon would "incur specific costs for which it is not already compensated by the services it provides its customers that originate its traffic." Hoffman Testimony at 16.

In fact, the Ohio Public Utility Commission ("PUC") recently rejected a CLEC's similar "assertion that [an ILEC's] costs to provide transport are *de minimis*." Arbitration Award, *Petition of Global NAPs, Inc. for Arbitration of Interconnection Rates, Terms, and Conditions and Related Arrangements with United Telephone Company of Ohio d/b/a Sprint, et al.*, Case No. 01-2811-TP-ARB, *et al.*, at 7 (Ohio PUC May 9, 2002) ("*Ohio Arbitration Award*"). Indeed, if the costs really were *de minimis* — as Mr. Hoffman suggests — then one suspects that US LEC would not be so adamantly opposed to paying those costs.

Q. DO YOU AGREE WITH MR. HOFFMAN'S CLAIM THAT, UNDER VGRIP, US LEC COULD BE FORCED "TO PROVIDE AN UNDERUTILIZED DIRECT END OFFICE FACILITY TO CARRY VERIZON'S ORIGINATING TRAFFIC BACK TO US LEC'S SWITCH"? (Hoffman Testimony at 19:2-6.)

A. No. As I have previously explained, although Verizon may request that a collocation site that US LEC has established at a Verizon end office be designated as a geographically relevant IP, US LEC is free to refuse that request. If US LEC refused that request, it would not have to establish a direct end office facility, even if such a facility would be efficiently utilized.

Q. DO YOU AGREE WITH MS. MONTANO'S CLAIM THAT VGRIP IS CONTRARY TO THE FCC RULES? (Montano Testimony at 8:19 - 10:16.)

A. No. As I have previously explained, the FCC, this commission, numerous state commissions, and the Third Circuit have all found that it is appropriate to require CLECs to bear the costs of their interconnection choices. *See* D'Amico Testimony at 5:6 - 7:5, 14:12 - 17:9. In addition to the decisions cited in my initial testimony, the Ohio PUC recently held that ILECs should be permitted to charge a CLEC for transporting traffic outside a local calling area to a CLEC's POI so that the CLEC "will have to balance costs and benefits rationally when designing and deploying its network in accordance with the Act and the FCC's . . . rules." *Ohio Arbitration Award* at 7. The South Carolina Public Service Commission, in arbitrating an agreement between Verizon and HTC

Communications, Inc., recently adopted Verizon's similar GRIP proposal[1] and "agree[d] with Verizon that its language . . . [is] consistent with the Commission's ruling" in the *AT&T Arbitration Order* under which a CLEC must bear the costs of its interconnection choices. Order on Arbitration, *Petition of HTC Communications, Inc. for Arbitration of an Interconnection Agreement with Verizon South Inc.*, Docket No. 2002-66-C, Order No. 2002-450, at 58 (S.C. PSC June 12, 2002). The South Carolina PSC stated further: "As we have previously ruled that a CLEC is responsible for paying for facilities necessary to carry calls from distant local calling areas to a single POI, the same conclusion should be drawn in this case and Verizon's [GRIP] language . . . should be adopted." *Id.* at 59. The *AT&T Arbitration Order* is discussed in my initial testimony. *See* D'Amico Testimony at 15:15 - 16:2.

Nor is Ms. Montano correct in claiming that the FCC's *Intercarrier Compensation NPRM* and its *TSR Wireless Order* support US LEC's position here. *See* Notice of Proposed Rulemaking, *Developing a Unified Intercarrier Compensation Regime*, 16 FCC Rcd 9610 (2001) ("*Intercarrier Compensation NPRM*"); Memorandum Opinion and Order, *TSR Wireless, LLC v. U S West Communications, Inc.*, 15 FCC Rcd 11166 (2000) ("*TSR Wireless Order*").

In the *Intercarrier Compensation NPRM*, the FCC acknowledged that "[a]pplication of [its] rules" — including 47 C.F.R. § 51.703(b), on which Ms. Montano relies — "has led to questions concerning which carrier should bear the cost of transport to the POI, and under what circumstances an interconnecting carrier should be able to

[1] Under the GRIP proposal, CLECs must establish physical POIs or virtual IPs in each local calling area in a LATA. *See also* D'Amico Testimony at 15:2-8.

recover from the other carrier the costs of transport from the POI to the switch serving its end user." *Intercarrier Compensation NPRM*, 16 FCC Rcd at 9651, ¶ 112. However, the FCC did not suggest that those rules clearly resolved those questions. (The portion of the NPRM that Ms. Montano quotes as support for US LEC's position is not where the FCC discusses the allocation of financial responsibility for a CLEC's decision to establish only a single physical POI per LATA. *See* Montano Testimony at 8:19 - 9:1 (quoting *Intercarrier Compensation NPRM*, 16 FCC Rcd at 9634, ¶ 70).) In fact, as I stated in my initial testimony, in the *Pennsylvania Order* the FCC clearly held that those rules do not prohibit the drawing of a distinction between the POI and the IP. Numerous other state commissions have also rejected Ms. Montano's reading of 47 C.F.R. § 51.703(b). *See* Order on Arbitration, *Petition of AT&T Communications of the Southern States, Inc., for Arbitration of Certain Terms and Conditions of a Proposed Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to 47 U.S.C. Section 252*, Docket No. 2000-527-C, at 25-26 (S.C. PSC Jan. 30, 2001); Recommended Arbitration Order, *Arbitration of Interconnection Agreement Between AT&T Communications of the Southern States, Inc., and TCG of the Carolinas, Inc., and BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996*, Docket Nos. P-140, Sub 73 & P-646, Sub 7, at 14 (N.C. Utils. Comm'n Mar. 9, 2001), *aff'd*, Order Ruling on Objections and Requiring the Filing of the Composite Agreement, Docket Nos. P-140, Sub 73 & P-646, Sub 7 (N.C. Utils. Comm'n June 19, 2001); *Ohio Arbitration Order* at 6.

Finally, in the *TSR Wireless Order*, the Commission held only that a wireless call that originates and terminates in a local calling area is subject to the Commission's

reciprocal compensation rules. *See TSR Wireless Order*, 15 FCC Rcd at 11166, ¶ 1. The FCC did not address the issue of whether CLECs must be financially responsible when, as a result of their interconnection decisions, local traffic must be transported to a POI outside of the local calling area where it originates.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In Re: Petition of US LEC of Pennsylvania Inc. for Arbitration with Verizon-Pennsylvania Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996	:	**Docket No. A-310814F7000**

REBUTTAL TESTIMONY OF WANDA G. MONTANO
ON BEHALF OF US LEC OF PENNSYLVANIA INC.

US LEC St. 2.1

DATE: JULY 9, 2002

Q: PLEASE STATE YOUR NAME FOR THE RECORD.

A: My name is Wanda G. Montano.

Q: ARE YOU THE SAME WANDA G. MONTANO WHO FILED DIRECT TESTIMONY IN THIS DOCKET ON MAY 31, 2002?

A: Yes.

Q: WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A: To respond to certain issues raised in the testimony of Peter D'Amico concerning Issues 1 and 2 in US LEC's arbitration petition and the testimony of Terry Haynes concerning Issue 6 in US LEC's arbitration petition.

ISSUES 1 AND 2 – INTERCONNECTION

Q: PLEASE RESPOND TO VERIZON'S ARGUMENT THAT IT MAY REQUIRE A SEPARATE IP WHERE THE CLEC REQUESTS AN "EXPENSIVE" FORM OF INTERCONNECTION. (D'AMICO AT 14:8-15:12).

A: My understanding is that this is a very narrow exception and that Verizon must submit cost studies to support its position that US LEC's single IP per LATA is "expensive." In order to charge US LEC for "expensive interconnection," Verizon must comply with the FCC's pricing rules and show what costs it incurs to deliver its originating traffic to the POI/default IP selected by US LEC.[1] Furthermore, Verizon must show that it is not already compensated for

[1] *See* 47 C.F.R. §§ 51.501(b), 51.505(e).

the costs of delivering traffic originated by its customers through the revenues it receives for providing service to those customers.[2]

Q: WHY SHOULD VERIZON BE REQUIRED TO MAKE SUCH A COST SHOWING?

A: As I understand it, regulated utilities like Verizon are routinely required to prove that they are entitled to a certain rate structure by proving the costs that they allegedly incur. This situation is no different. Verizon is asking the Commission to impose a cost onto US LEC and Verizon claims that it is entitled to impose those costs because, allegedly, US LEC's chosen network design is "expensive."

The costs of interconnecting two networks arise in part from the differences between the two networks and in part from the factors noted in Mr. Hoffmann's testimony (available facilities, traffic volume, and distance). If the Commission were to adopt Verizon's proposal without proof, it would have to ignore the fact that Verizon, through its own chosen network design, contributes to the cost of interconnecting two different networks. It would also have to ignore the fact that Verizon is already receiving compensation from its customers for providing them access to the PSTN and therefore could be compensated twice for performing one function. Adopting Verizon's proposal would favor Verizon's network design by imposing all the costs of inter-

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[2] *TSR Wireless, LLC. v. U S West Communications, Inc.,.,* File Nos. E-98-13, E-98-15, E-98-16, E-98-17, E-98-18, Memorandum Opinion and Order, FCC 00-194, ¶ 34 (rel. June 21, 2000) ("*TSR Wireless*") (emphasis added), *aff'd, Qwest Corp. et al. v. FCC et al,* 252 F.3d 462 (D.C. Cir. 2001).

connecting US LEC's and Verizon's networks on US LEC. Such a result is not in the public interest and would impede the development of competition.

Q: MR. D'AMICO REFERS TO STATE COMMISSION DECISIONS THAT HE CLAIMS SUPPORT VERIZON'S POSITION. ARE YOU AWARE OF OTHER STATE COMMISSION DECISIONS THAT SUPPORT US LEC'S POSITION?

A: Yes, I am aware that some state commissions have adopted US LEC's position on the POI/default IP issue. US LEC will include information about these decisions in its briefs following the hearing.

Q: WITH RESPECT TO THE PENNSYLVANIA COMMISSION'S DECISIONS ON POIs, MR. D'AMICO REFERENCES THREE SUCH DECISIONS, THE MCI, FOCAL, AND SPRINT ARBITRATIONS. (D'AMICO AT 5:7-7-18) MR. D'AMICO IMPLIES THAT THE THIRD CIRCUIT OPINION OVERRULING THE COMMISSION'S MULTIPLE POI REQUIREMENT IN THE MCI DECISION SUPPORTS VERIZON'S POSITION. PELASE RESPOND.

A: I am not a lawyer, but I think the quote Mr. D'Amico cites from the Third Circuit opinion supports US LEC's position that Verizon must be required to "prove" its costs. Verizon has simply not provided any cost evidence to the Commission to support its position. In fact, Verizon has stated in response to US LEC's discovery requests that it does not have any traffic studies, cost studies or any other items that relate in any way to the alleged cost of inter-connecting with US LEC at one IP per LATA. Thus, there is no credible

evidence to prove Verizon's self-serving claim that US LEC's chosen network design is "expensive" beyond the claim itself.

Q: PLEASE ALSO ADDRESS MR. D'AMICO'S STATEMENT ABOUT THE FOCAL DECISION AND FOCAL'S SUBSEQUENT ACTIONS. (D'AMICO AT 5:20-6:11)

A: As Mr. D'Amico acknowledges, in the Focal Decision, the Commission found that Focal could select a single POI per LATA that would also be the IP. If, as Mr. D'Amico alleges, the Commission had concerns in that case about CLECs being forced to build multiple physical interconnection points, the Commission also should have concerns about Verizon's VGRIPS proposal at issue here.

The VGRIPs proposal would require US LEC to choose between building multiple interconnection points on the one hand or paying Verizon to transport traffic from multiple interconnection points to US LEC's switch, on the other. While the financial burden of paying Verizon to build the facilities/carry the traffic may be less than the financial burden of building US LEC's own facilities, it still imposes a burden and multiple virtual IPs (especially ones located at Verizon's end offices) could nevertheless impose a substantial financial burden that could act as a barrier to competition. And, knowing that it would have the power to impose such a burden on its competitors, there is nothing to stop Verizon from designing its network inefficiently to impose additional costs on US LEC.

For example, as Mr. Hoffmann explains, US LEC already has paid Verizon to build facilities that Verizon uses to deliver its traffic to US LEC's switch. Under VGRIPs, Verizon could reroute its traffic to another facility in order to impose greater costs on US LEC.

Mr. D'Amico's comment that Focal terminated its arbitrated agreement and moved to a separate agreement with VGRIPs is irrelevant. There are any number of reasons why a company—like Focal—might choose to abandon an arbitrated agreement in favor of an adopted agreement. I do not pretend to know why Focal made that decision in Pennsylvania and I doubt that Mr. D'Amico does either. Regardless of the reason, Focal's decision to adopt the Level 3 Agreement is meaningless in the context of this arbitration.

Q: PLEASE ADDRESS MR. D'AMICO'S COMMENTS ON THE SPRINT DECISION.

A: It is my understanding that Sprint offered a compromise position based in part on its current architecture and in part on a compromise it had reached with BellSouth in a separate arbitration.[3] As Mr. Hoffmann explains, US LEC believes that its current interconnection architecture with Verizon, in which both parties have invested a lot of time and money, is working well. Again, as I've noted repeatedly, even though we've been operating under these arrangements for years, Verizon has not presented any cost evidence to show that the transport costs it bears under the parties' current arrangements are "expensive". Instead,

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[3] *Petition of Sprint Communication Company, L.P. for an Arbitration Award of Interconnection Rates, Terms and Conditions Pursuant to 47 U.S.C. § 252(b) and Related Arrangements with Verizon Pennsylvania, Inc.*, Docket No. A-310183F0002, Opinion and Order at 52 (Pa. PUC Oct. 12, 2001)

Verizon insists on offering worst case hypotheticals that have no basis in fact with respect to the parties' current interconnection arrangements.

Q: PLEASE SUMMARIZE YOUR RECOMMENDATION ON ISSUES ONE AND TWO.

A: Because Verizon has not met its burden of showing that it qualifies for an exception to the POI/default IP rules of the road, the Commission should find that US LEC has the right to maintain its single US LEC-IP in each LATA, and, at US LEC's option, its current interconnection method. The Commission should reject Verizon's attempts to mandate the location of IPs (whether physical or virtual) and the method of interconnection and reject Verizon's transport penalty proposal.

<u>ISSUE 6 – Compensation for Virtual NXX Traffic</u>

Q. DO YOU AGREE WITH MR. HAYNES' STATEMENT THAT THE COMMISSION "NEED NOT ADDRESS THE APPLICATION OF INTRASTATE ACCESS CHARGES TO VIRTUAL FX TRAFFIC" BECAUSE THEY ARE COVERED IN THE PARTIES' TARIFFS? (Haynes at 3, 14).

A. Not at all. It may be true that access charges are governed by the parties' tariffs, but the Commission must decide, in the first instance, whether virtual FX, or virtual NXX arrangements are subject to the parties' reciprocal compensation obligations. Under Verizon's proposed language, so-called virtual NXX traffic would be viewed as intraLATA toll calls and subject to the parties' tariffs for the purposes of compensation, even though those same calls would still be

viewed and treated as local for the calling party. Under US LEC's proposal, virtual NXX traffic would continue to be treated as local and subject to the parties' reciprocal compensation obligations, which is consistent with that traffic being treated as local for the calling party.

Q: PLEASE RESPOND TO VERIZON'S STATEMENT THAT NXX CODES HAVE TRADITIONALLY BEEN USED TO BILL END USERS FOR CALLS, BUT NOT FOR INTERCARRIER COMPENSATION. (Haynes at 6, 8-9).

A: By separating the rating and routing of a call, Mr. Haynes is confusing the issue. As he concedes in his testimony, NXX codes typically have been used for determining how a call is rated to the end-user. US LEC agrees with Mr. Haynes on that point. A call from an end user in a given calling area to another end user with an NXX code associated with the same calling center should be rated as a local call for the end-user. At the same time, however, Mr. Haynes is incorrect in stating that rating codes have not been used to establish intercarrier compensation. As I understand it, since calls to "virtual NXX's" are indistinguishable from calls to a "physical NXX", rating codes have been used for intercarrier compensation purposes as well. Indeed, I have every reason to believe that Verizon has billed US LEC for reciprocal compensation for calls made by US LEC customers to Verizon customers who are utilizing Verizon's own FX arrangements.

Q: DO YOU AGREE WITH MR. HAYNES'S VIEW OF HOW NXX CODES ARE USED TO RATE A CALL TO AN END USER?

A: Absolutely. An end user can only rely on the NXX codes as an indication as to whether a call will be billed to them as a local or non-local call. In fact, as Mr. Haynes notes in his testimony, comparing the rate centers of NXX's is how Verizon in fact rates calls, not by comparing physical location of end users.

Q: IS VIRTUAL NXX TRAFFIC LOCAL TRAFFIC?

A. Yes. For rating and compensation purposes, virtual NXX traffic has been treated as local. As noted above, Verizon rates and bills its customers based on the NXX codes of the calling and called party. If the call is rated as local, Verizon bills its customer for a local call; conversely, if the call is rated as toll, Verizon bills the customer for a toll call.

Q. VERIZON CLAIMS THAT ACCESS CHARGES TYPICALLY HAVE BEEN ASSESSED ON VIRTUAL NXX CALLS, IS THAT CORRECT?

A. No. Verizon is comparing two completely different situations. In the traditional context of interexchange calls, a carrier will compare the originating and terminating point of the call in assessing interstate (as opposed to intrastate) access charges on a third party. But a carrier initially compares the originating and terminating NXXs to determine whether the call is a local call subject to reciprocal compensation or a toll call subject to access charges. As noted above, VNXX calls are in fact rated as local calls, are billed to the end user as such, and have been billed as local for intercarrier compensation purposes, as well. Moreover, Mr. Haynes confuses the issue by addressing conditions that existed prior to the Telecommunications Act of 1996. In the pre-Act era, there was no local competition in Pennsylvania and, therefore, no reciprocal compensation. It

is axiomatic that with competition only in interexchange services, all intercarrier compensation would be between interexchange carriers and the incumbent local exchange carriers in the form of access charges that were dependent on the originating and terminating points of the end-to-end call. That just is not the case anymore.

Q. VERIZON CLAIMS THAT US LEC WANTS A "FREE RIDE" FOR VERIZON'S "VALUABLE SERVICE" IN CARRYING US LEC'S TRAFFIC. PLEASE RESPOND.

A. In the first place, I need to correct a statement from my direct testimony. On page 21, I stated that US LEC "does not currently utilize 'virtual NXX' service in Pennsylvania." That was incorrect. Instead, it appears that four (4) customers in the greater Philadelphia Area and two (2) customers in the greater Pittsburgh Area utilize virtual NXX arrangements; that is, they have been assigned NXX codes in several local calling areas and, while they have physical locations in at least one of those areas, they also have been assigned NXX codes in areas where they have no physical locations.

Second, and more important, there is no "free ride" at issue here. Regardless of where US LEC's customer is located, Verizon routes the call precisely the same way: it is delivered to US LEC at the IP and, from that point on, US LEC incurs all the costs of transporting the call to its customer's location. As noted in issues one (1) and two (2) of this proceeding, it is Verizon's responsibility to carry traffic to the IP that US LEC has selected. That responsibility does not change if the called party has a virtual NXX. It is at the

IP that US LEC receives the financial responsibility for the traffic, regardless of the physical location of the customer. These architecture issues are discussed in greater detail by Mr. Hoffmann.

Q: DO YOU AGREE WITH MR. HAYNES' ASSERTION THAT US LEC IS NOT ENTITLED TO COMPENSATION FOR TERMINATING CALLS TO VIRTUAL NXX CUSTOMERS BECAUSE THOSE CUSTOMERS ALREADY PAY FOR THE SERVICE? (Haynes at 13).

A: No, I do not. Again, Mr. Haynes is confusing the issue. All end users pay their carriers for the privilege of being able to originate and terminate calls. Intercarrier compensation, on the other hand, addresses an entirely different situation—the costs incurred by carriers to terminate calls. The FCC has acknowledged that carriers incur costs in originating and terminating calls and also has acknowledged that in a competitive environment, the carrier originating a call avoids the termination costs associated with that call when it hands the call off to a competing local provider.

Under our traditional 'calling-party-pays' system, the carrier serving the originating party pays the carrier serving the terminating party to compensate that carrier for the costs it incurs in providing the terminating services. Thus, in this situation, US LEC most assuredly provides a valuable service to Verizon customers—it enables those Verizon customers to call entities or individuals served by US LEC. US LEC incurs costs in providing those services—costs that, for these purposes, are assumed to equal those incurred by Verizon—and is entitled to be compensated by Verizon for providing those services.

Q: VERIZON CLAIMS THAT TREATING VIRTUAL NXX CALLS AS LOCAL IS CONTRARY TO INDUSTRY PRACTICE. DO YOU AGREE?

A: Absolutely not. Verizon claims that Virtual NXX is similar to their Foreign Exchange ("FX") products, in that both products provide local numbers outside of the local calling area of an end user. Verizon claims that the end user subscribing to the FX service bears the cost of transporting the calls from the local calling area associated with the NXX to the exchange in which the FX customer is physically located. US LEC's customers also are charged for their virtual NXX arrangements, but that misses the point. Verizon fails to mention how these calls are treated for purposes of intercarrier compensation. Based on our prior experience with Verizon, we have every reason to believe that Verizon has treated its FX calls as local and has billed CLECs, including US LEC for reciprocal compensation for FX calls.

In support of its dubious position, Verizon cites to an FCC case in which AT&T allegedly could have routed calls from Philadelphia to Atlanta, Georgia, so that a caller in Philadelphia would appear to be making a local call when it was, instead, answered in Atlanta. In that case, the FCC ruled that an *inter*LATA FX call was not a local call for the purposes of compensation and thus access charges were due. However, Verizon does not mention that, in the context of an *intra*LATA FX call, it argued to the FCC that "intraLATA FX service is a type of local exchange service." (*AT&T Corp. v. Bell Atlantic-Pennsylvania*, 14 FCC Rcd 556, 589, ¶ 76 (1998), *reconsideration denied*, 15 FCC Rcd 7467 (2000).

Further, Verizon's example is not at all applicable here. The portion of the *AT&T* case that Verizon refers to dealt with an interstate, interLATA FX service. That is an extreme example that is not at all comparable to a Virtual NXX assignment within the same LATA, as is the issue in this proceeding. The Commission should assign no weight to the case and example cited by Verizon.

Q: DO YOU AGREE WITH MR. HAYNES' ASSERTION THAT US LEC DOES NOT HAVE ANY RIGHT TO RECIPROCAL COMPENSATION FOR VIRTUAL NXX TRAFFIC UNDER THE FCC'S RULES? (Haynes at 14).

A: No, in fact, quite the opposite is true. The FCC's *ISP Traffic Order*[4] supports the conclusion that traffic rated as retail local traffic is eligible for reciprocal compensation in the intercarrier context. In the *ISP Traffic Order*, the FCC addressed the decision of the United States Court of Appeals for the District of Columbia Circuit that vacated and remanded the FCC's earlier decision regarding intercarrier compensation for ISP-bound traffic.[5] The FCC viewed the D.C. Circuit's remand order as:

> question[ing] whether this traffic should be considered 'local' for purposes of section 251(b)(5) in light of the ESP exemption, by which the Commission has allowed information service providers at their option to be treated for compensation purposes (but not for jurisdictional purposes) as end users.[6]

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[4] *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Intercarrier Compensation for ISP-Bound Traffic*, CC Dkt Nos. 96-98, 99-68, Order on Remand and Report and Order, FCC 01-131 (rel. Apr. 27, 2001) ("*ISP Traffic Order*"), *rev'd, WorldCom v. FCC*, 01-1218 (D.C. Cir., May 3, 2002).

[5] *Bell Atlantic Tel. Cos. v. FCC*, 206 F.3d 1 (D.C. Cir. 2000), *vacating and remanding*, Declaratory Ruling in Docket 96-98 and Notice of Proposed Rulemaking in Docket No. 99-68, 14 FCC Rcd 3689 (1999) ("*Declaratory Ruling*").

[6] *ISP Traffic Order* at ¶ 28.

Upon further review of the *Declaratory Ruling*, the FCC concluded that the D.C. Circuit may have been right in its analysis of FCC precedent:

> We do recognize, however, that the court was concerned by how one would categorize this traffic under our *prior* interpretation of section 251(b)(5), which focused on whether or not ISP-bound calls were 'local.' That inquiry arguably implicated the compensation mechanism for the traffic (which included a local component), as well as the meaning of 'termination' in the specific context of section 251(b)[.][7]

The FCC decided that, under its precedent, the term "local call" "could be interpreted as meaning . . . *traffic subject to local rates*" in addition to "traffic that is jurisdictionally intrastate."[8] In other words, FCC precedent justifies the payment of reciprocal compensation for traffic that is treated as local traffic, in addition to traffic whose end points are within specific local calling areas. In short, the *ISP Traffic Order* supports a determination that reciprocal compensation for non-ISP-bound traffic using virtual NXX arrangements is appropriate.

Further, in conjunction with the *ISP Traffic Order*, the FCC issued a Notice of Proposed Rulemaking to completely overhaul the existing intercarrier compensation regimes and replace them with a single, unified intercarrier compensation regime.[9] The FCC has identified the use of "virtual central office codes" as an issue to be resolved in its rulemaking proceeding on such a unified intercarrier compensation regime.[10] Thus, the issue of the proper regulatory

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7 *Id.* at ¶ 56 (italics in original).

8 *Id.* at ¶ 45 (emphasis added).

9 *Developing a Unified Intercarrier Compensation Regime*, CC Dkt. No. 01-92, Notice of Proposed Rulemaking, FCC 01-132 (rel. Apr. 27, 2001).

10 *Id.* at ¶ 115.

treatment of traffic using virtual central office codes ultimately will be addressed by the FCC. Until that time, however, this Commission retains the jurisdiction to determine, as it should, that calls using virtual NXX arrangements properly are eligible for reciprocal compensation.

Q: IS US LEC CHALLENGING THIS COMMISSION'S DECISION IN THE FOCAL ARBITRATION ON THE ISSUE OF VIRTUAL NXX?

A: Quite to the contrary. As I read the decision in the Focal arbitration, the Commission appeared to be concerned with CLECs which assigned virtual NXX codes for the express purpose of altering local calling areas or avoiding intraLATA toll charges. As with Verizon's own FX and FX-like offerings, that simply is not the case here with US LEC's virtual NXX arrangement. The services are offered as a way of providing US LEC's customers with the ability to reach a broader geographic area without having to locate expensive facilities in each of those areas. Since the arrangement imposes no greater costs on Verizon, and since the Commission permits Verizon to use FX and FX-like services (and, apparently, to bill US LEC for reciprocal compensation for calls to those FX customers), all US LEC seeks is the right to offer the same services to its customers, and to bill Verizon for reciprocal compensation in the same manner as it bills US LEC.

Q: DOES THIS CONCLUDE YOUR TESTIMONY?

A: Yes.

BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

In Re: Petition of US LEC of Pennsylvania Inc. for Arbitration with Verizon-Pennsylvania Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996	:	**Docket No. A-310814F7000**

REBUTTAL TESTIMONY OF FRANK R. HOFFMANN, JR. ON BEHALF OF US LEC OF PENNSYLVANIA INC.

US LEC St. 1.1

DATE: JULY 9, 2002

Q: PLEASE STATE YOUR NAME FOR THE RECORD.

A: My name is Frank R. Hoffmann, Jr.

Q: ARE YOU THE SAME FRANK R. HOFFMANN, JR. WHO FILED DIRECT TESTIMONY IN THIS DOCKET ON MAY 31, 2002?

A: Yes.

Q: WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A: The purpose of my testimony is to address the arguments raised by Verizon's witness Peter J. D'Amico concerning Issues 1 and 2 in US LEC's arbitration petition.

Q: DO YOU AGREE WITH MR. D'AMICO THAT THE ESSENCE OF THE DISPUTE BETWEEN THE PARTIES REGARDING THE POI AND IP "BOILS DOWN TO HOW TO ALLOCATE FAIRLY THE TRANSPORT COSTS?" (D'AMICO AT 3:18-22)

A: While allocating transport costs between Verizon and US LEC is one of the aspects of the dispute in Issues 1 and 2, it is not the only one. These issues also concern US LEC's ability to maintain its established point of interconnection, as well as its established method of interconnection, with Verizon. Verizon's "magnanimous" offer to share the costs of transporting its own customer's traffic (D'Amico at 11:12-20) is conditioned on US LEC changing its established point of interconnection and method of interconnection. Given the parties' current network architecture design, Verizon's offer is not a compromise at all.

Q: MR. D'AMICO MENTIONS A COUPLE OF TIMES THAT US LEC HAS "MISREAD" VERIZON'S PROPOSED CONTRACT LANGUAGE. (D'AMICO AT 12:1-4, 12:18-19) PLEASE RESPOND.

A: US LEC has not misread Verizon's proposed contract language. Mr. D'Amico may not agree with US LEC's position, or with the words I use to describe their proposed contract language. Verizon prefers words like "choice" and "may refuse" and "significant compromise." But the bottom line is that through VGRIPs, Verizon would force US LEC to "choose" between one of two equally unpalatable options. US LEC would either have to change its existing and preferred physical network architecture to establish new physical connections to Verizon's network or relieve Verizon of its current financial responsibility for transporting Verizon's customers' traffic. In order words, US LEC must either establish the physical network architecture Verizon prefers today, or pay to transport all of Verizon's originating traffic, including transport within the local calling area where the call originated.

Q. US LEC ASKED VERIZON TO CALCULATE THE TRANSPORT PENALTY THAT WOULD APPLY UNDER VGRIPS IF US LEC DID NOT ESTABLISH THE PHYSICAL IPS REQUIRED UNDER VGRIPS. DO YOU AGREE WITH THE ASSUMPTIONS THAT VERIZON USES AS THE BASIS FOR ITS CALCULATION?

A. No. In response to Interrogatory No. 25 Verizon assumes "that no tandem switching or other costs are incurred". This is impossible, as Verizon would only impose the penalty if US LEC did not establish collocated IPs at Verizon's

tandems (or refused to identify an established US LEC end office collocation arrangement as an IP). Since US LEC does not collocate at Verizon's end offices, Verizon's implementation of the penalty would only occur if US LEC established non-collocated POIs at Verizon's tandem(s). Therefore, Verizon's originated traffic will always be tandem switched. If the cost of tandem switching is included in the transport penalty that US LEC would incur under VGRIPs (if it retained its current network architecture), the revised calculation demonstrates that Verizon would deprive US LEC of approximately 44% of the negotiated reciprocal compensation rate.

Q: MR. D'AMICO STATES THAT VERIZON WANTS TO DELIVER ITS TRAFFIC TO US LEC AT A MORE CENTRAL LOCATION. (D'AMICO AT 11:16-17) PLEASE RESPOND.

A: Verizon is aggregating and delivering its traffic to US LEC at a central location today – US LEC's switch. Furthermore, Verizon is using facilities US LEC ordered from Verizon and paid to establish. These ring and point-to-point facilities permit Verizon to aggregate its traffic from many local calling areas and deliver its traffic to US LEC over the facilities US LEC has purchased from Verizon. Regardless of distance, US LEC charges Verizon the non-distance sensitive entrance facility rate contained in Verizon's own state access tariff to transport Verizon's traffic to US LEC's switch.

Q: DO YOU KNOW WHY VERIZON'S VGRIPs PROPOSAL REQUIRES US LEC TO USE A COLLOCATION ARRANGEMENT TO ESTABLISH AN IP AT VERIZON'S TANDEMS?

A: No. Verizon offers no explanation of why VGRIPs requires a collocated IP. In fact, at an earlier stage in negotiations, Verizon offered US LEC a slightly different, and more onerous, Geographically Relevant Interconnection Points ("GRIPs") proposal. Under GRIPs US LEC would be permitted to choose the type of physical IP (Interconnection Attachment, Section 2.1.3), but would be forced to establish a physical IP in every Verizon local calling area. This further indicates the anticompetitive nature of Verizon's proposals, both GRIPs and VGRIPs, which are designed to foist unnecessary costs on US LEC and to improve Verizon's bottom line through increased collocation revenues.

Q: DO YOU AGREE WITH VERIZON'S CHARACTERIZATION OF ITS VIRTUAL IP PROPOSAL AS REQUIRING US LEC TO COMPENSATE VERIZON FOR TRANSPORT ONLY *OUTSIDE* **OF THE LOCAL CALLING AREA IN WHICH THE CALL ORIGINATED? (D'Amico at 10:13-16)**

A: No. Despite Verizon's arguments to the contrary, the text of the Verizon contract language shows that its proposals *require* US LEC to pay for Verizon's transport costs *within* the local calling area if US LEC refuses to establish the additional, physical IPs "requested" by Verizon. As I understand it, that simply does not comply with the requirements of the Act as interpreted by the FCC. In short, Verizon would force US LEC to either establish multiple physical IPs or assume financial responsibility for all transport.

Q: VERIZON ARGUES THAT ITS COST-SHIFTING PROPOSALS ARE JUSTIFIED BECAUSE A SINGLE POI PER LATA IS EXPENSIVE. (D'Amico at 16:18-17:5, 18:21-19:5) DO YOU AGREE?

A: No. As I mentioned in my direct testimony, there are a number of factors that contribute to the cost of interconnecting two networks, including available facilities, traffic volume, and distance. Verizon has not presented any evidence on any of those facts to support its allegations that it is "expensive" to interconnect with US LEC under the parties' current architecture.

Q: VERIZON ALLEGES THAT US LEC SHOULD BEAR THE COSTS OF ITS CHOSEN NETWORK DESIGN. (D'Amico at 2:17-21) PLEASE RESPOND.

A: US LEC does bear the costs of its chosen network design. US LEC serves a diverse base of customers that are physically located in the local calling areas it serves. As such, when US LEC's switch is located in one local calling area and its customer is located in another, US LEC must transport its customer's traffic to US LEC's switch and deliver that traffic to Verizon at Verizon's IP (located at the Verizon tandem or end office). In addition, US LEC must pay Verizon reciprocal compensation for delivering US LEC's traffic from the Verizon IP to the Verizon end user, whether or not the IP and the end user are located in the same local calling area. Similarly, when a Verizon customer calls a US LEC customer, US LEC must accept the traffic at its designated IP and deliver that traffic to its end user customer, including to end users located in another local calling area. Thus US LEC clearly bears the cost of its network design choices.

Q: DOES THIS CONCLUDE YOUR TESTIMONY?

A: Yes.

US LEC Exhibits

MD Arbitration:

Transcript Volumes I, II, and III

US LEC 1:	Hoffman Direct Testimony
US LEC 2:	Hoffman Rebuttal Testimony
US LEC 3:	Montano Direct Testimony
US LEC 4:	Montano Rebuttal Testimony
US LEC 5:	FCC WCB Arbitration Award – POIs
US LEC 6:	excerpt from VZ-VA 271 application (p.13)
US LEC 7:	section of FCC WCB Arbitration Award – compensation for Internet Traffic
US LEC 8:	section of FCC WCB Arbitration Award – compensation for FX Traffic
US LEC 9:	FX schematic - Columbia + Essex + Annapolis
US LEC 10:	VZ-MD's responses to US LEC's 1st set of DRs
US LEC 11:	2 pgs from VZ's website re virtual office solutions

Verizon 1:	US LEC/VZ-MD redline ICA
Verizon 2:	schematic of Baltimore LATA & Essex LCA
Verizon 3:	schematic of Essex LCA
Verizon 4:	map Baltimore LATA
Verizon 5:	US LEC/VZ-PA arbitration transcript
Verizon 6:	US LEC-MD PSC Tariff No. 1
Verizon 7:	D'Amico Direct Testimony
Verizon 8:	D'Amico Rebuttal Testimony
Verizon 9:	website print out of US LEC's products/services
Verizon 10:	schematic (2 circle) drawn up at hearing
Verizon 11:	schematic (3 circle) drawn up at hearing
Verizon 12:	excerpt from Sprint/VZ-FL Interconnection Agreement
Verizon 13:	Haynes Direct Testimony
Verizon 14:	Haynes Rebuttal Testimony

Staff 1:	Corrected Steven Molnar Rebuttal Testimony

COPY

VOLUME I

PUBLIC SERVICE COMMISSION OF MARYLAND

- - - - - - - - - - - - - - - :

IN THE MATTER OF THE : Case No. 8922

ARBITRATION OF US LEC : PREHEARING

OF MARYLAND, INC. VERSUS: CONFERENCE

VERIZON MARYLAND, INC. :

- - - - - - - - - - - - - - - :

Public Service Commission

William Donald Schaefer Tower

6 St. Paul Street

19th Floor Hearing Room

Baltimore, Maryland 21202

Thursday, May 30, 2002- 10:00 a.m.

BEFORE:

DAVID L. MOORE

HEARING EXAMINER

Reported by:

William Bodenstein, Notary Public

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P R O C E E D I N G S

(10:00 a.m.)

HEARING EX. MOORE: Good morning. I am David L. Moore, Public Service Commission hearing examiner. The case on the docket this morning is Public Service Commission Case Number 8922 in the matter of the arbitration of US LEC of Maryland, Inc. Versus Verizon Maryland, Inc. Pursuant to 47 USC Section 252V.

Would counsel at counsel's table identify yourselves for the record, please, starting with the gentleman at my left.

MR. HILL: Good morning. David A. Hill, general counsel for Verizon, Maryland.

MR. PANNER: Aaron Panner, I'm with Kellogg, Huber, Hansen, Todd & Evans, and I am counsel for Verizon Maryland, Inc.

MR. BOONE: Good morning, Your Honor. James W. Boone on behalf of the staff. I'd like to also note Janice Flynn on behalf of the staff as well.

MS. COHN: Good morning. Robin Cohn from Swidler, Berlin, Shereff, Friedman on behalf

of US LEC of Maryland.

MR. SHOR: Good morning, Your Honor. Michael Shor of Swidler, Berlin, Shereff, Friedman, also counsel for US LEC.

HEARING EX. MOORE: All right. We're here this morning for a prehearing conference basically to give me some orientation as to where we are and to set out a procedural schedule and identify any particular procedural and substantive matters that we need to address at this point in the proceeding. And basically to lay out a road map that ultimately gets us to the point where the case is ripe for decision by me.

I'll open it up to you, Mr. Hill.

MR. HILL: I'll let Mr. Panner speak. The parties have reached a general agreement with I think one caveat to a procedural schedule that we think would work that we'd like to submit to you, and I'll let Mr. Panner speak to that.

HEARING EX. MOORE: All right, Mr. Panner, I'll listen to you.

MR. PANNER: Thank you. That's right, we have agreed to a schedule that would govern

testimony and discovery prior to the hearing and have suggested a possible date for a hearing that would work for counsel for both sides and for our witnesses, I believe.

The only issue that remains to be resolved is the question of posthearing briefing. Both sides agree that there should be simultaneous opening briefs, but we think it would be helpful to have reply briefs a week thereafter. It helps to focus the issues and I believe that US LEC thinks that such a reply brief wouldn't be necessary. I'll let them give their own reasons.

That really is the only issue that needs to be resolved.

HEARING EX. MOORE: What is impeding your resolution of that?

MR. PANNER: I think it is not obviously a pitched battle, but we think that it would be useful to have a reply brief. There was some expression of concern that reply briefs lead to sandbagging. That is certainly not the reason that we want it. But we think that it's helpful

to be able to say they have made such and such an argument in their opening brief, here is our answer to that specific argument.

It just helps to focus the issues, that sort of back and forth. So we think reply briefs are useful. We wouldn't build a lot of time into the schedule for it, just a week. We would see them being short and really focused on responding to specific arguments in the opening briefs.

We think that would be helpful to you and helpful in building a record. So that's our position on that issue.

HEARING EX. MOORE: Okay. Ms. Cohn?

MR. SHOR: If I may address it, Your Honor.

HEARING EX. MOORE: Mr. Shor?

MR. SHOR: We have agreed on the procedural schedule. We had some question about the order in which events would take place, but we have resolved that. Frankly, these issues are not new to these parties, they are not new to this industry, they are not new to this commission.

Reams and reams of paper have been produced already on the issues. Verizon could probably tell you right now exactly what our posthearing brief is going to say, and we could probably tell you what Verizon's posthearing brief is going to say.

It just seems to us that with a posthearing brief, a proposed decision from you and the opportunity to address issues to the commission before it acts, we don't need round after round after round after round of briefing to address these issues.

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It just seems to us that the files of

this commission are full enough as it is, and we just don't need another round. Is it going to kill me if you were to suggest that we do a reply brief? Obviously not. We just don't think it's necessary.

HEARING EX. MOORE: Mr. Boone, do you have a nickel in the slot?

MR. BOONE: I do not. The only comment I'll make, I mean, if there is a disagreement, I'm not sure you necessarily have to set a briefing schedule at this point in time. Perhaps we could address that issue at the hearing at a later date. It could become a moot issue by then, perhaps.

But staff doesn't have a position. We'll brief it either way, if we submit a brief.

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If there is to be a reply brief, it will be one week after the initial briefs are due. US LEC understands that this schedule takes us outside of the nine month statutory framework set up in the Act.

We have discussed with Verizon and US LEC is prepared, for these purposes, to waive the

nine month requirement.

HEARING EX. MOORE: Okay. You are putting a waiver on the record at this point?

MR. SHOR: Yes, sir.

HEARING EX. MOORE: Okay.

MR. SHOR: I don't know at this point whether there will be discovery disputes. We have not exchanged discovery yet.

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So it behooves you to work in the spirit of cooperation to get your discovery issues resolved in a way that is mutually satisfactory to each of you, rather than to present it to me. I don't have any problems with deciding, but I can tell you based on past practices and past

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That's another position I don't like to be in because it simply throws things off. This schedule gets factored into my schedule and oftentimes when parties start readjusting and wanting to readjust the schedule, it not only impacts their case, but it impacts what is on our overall calendar.

So I don't like discovery issues. I hope we won't have a problem in that regard in this case.

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US LEC will certainly heed your admonition and consider that. I do want to put on the record that the parties have discussed and agreed that whether it's rebuttal testimony or if ordered a reply brief, that they will in fact in both instances be replies and will not be introducing new materials that would prevent a party from responding to it.

I think that we have worked with Verizon in good faith on this issue in other states and are looking forward to continue to do that and anticipate that that will not be a problem. I think we have agreed that both sides would reserve the right to cry foul if that

representation is in any way violated and something appears in a reply brief that would then otherwise be beyond the scope of rebuttal.

So we have tried to work cooperatively on all of this.

HEARING EX. MOORE: For the sake of completeness, I think what I'd like to do is go ahead and calendar some dates for reply briefs.

But I will reserve the right at some point to indicate whether I think it would be necessary to actually submit reply briefs to me. For the sake of having dates on the calendar and everybody knowing what the anticipated schedule is, let's go ahead and come up with those dates.

MR. SHOR: If I may, Your Honor. With the hearing that's scheduled for the 20th and the 21st of August, I'm assuming that we would have a transcript. If we go to the 21st, I'm assuming that with seven days, we could have a transcript by the 28th.

If we take two weeks out from there, that will take us to September 11th, a rather unfortunate anniversary, but that would take us

to that date for filing of initial briefs. If we were to calendar the reply brief a week later, it would be the 18th.

MR. PANNER: That all sounds fine to Verizon.

HEARING EX. MOORE: Okay. So on 9/11, we would be looking at simultaneous filing of posthearing briefs with a reply, if needed, coming in a week later on the 18th. That works for me.

Let me just recap and make sure my notes are in order. June 10th is the date set for the initial filing of direct testimony, and that would be a simultaneous filing of direct testimony by the parties. June 17th is the date for the exchange of discovery. June 24th is the date for noting any objections to discovery.

July 8th is the date for responding to discovery. July 29th is the date for the simultaneous filing by the parties of rebuttal testimony. And August 20 and 21 are dates set for the hearing. September 11 is the date set for simultaneous filing of posthearing briefs,

and September 18 is the date set for the filing of reply brief, if necessary. Did I get all that right?

MR. SHOR: Yes, Your Honor.

HEARING EX. MOORE: All right. What else do we have?

MR. SHOR: I'd just like to request a clarification, if I could, in terms of service. Would it be acceptable to the Commission to file materials initially with the Commission electronically, with a Fed-Ex delivery the next day? Or how do you want that handled?

HEARING EX. MOORE: Jim, give me some guidance on that.

MR. BOONE: My recollection is we are not receiving electronic filings, it is still a paper filing process. But I'd have to check into that. But my understanding is it is still a paper filing. Electronic copy is required, but it's paper filing.

MR. SHOR: We'll stay with that.

MR. HILL: I can shed some light on that. I think there has been a decision made,

certainly in other matters that Verizon has had with the Commission, that there is still a requirement, Mr. Boone is correct, for the paper filing. Electronic service is in addition to, but not in lieu of the paper file.

MR. SHOR: We are certainly in agreement with the paper filing. The question was simply one of timing.

HEARING EX. MOORE: Right. Let's go with the paper filing.

MR. SHOR: Okay.

HEARING EX. MOORE: We're not quite there yet, but we're heading towards it. Eventually we will get there. All right.

Are there any other matters that we need to deal with this morning?

MR. SHOR: I don't think so, Your Honor.

HEARING EX. MOORE: All right. Clearly we have very able counsel in this case and we'd expect you all to continue to work cooperatively. I have seen some of the papers that have been filed in this matter and apparently there are a

number of things you have already worked out amongst yourselves.

I would encourage you in the spirit of that cooperation to continue to work in that regard. I don't have any problems with deciding a substantive issue if you give it to me, but I can almost guarantee you that to the extent that you can work it out yourselves and I don't have to decide it, you might be overall a little bit happier with the result that you get.

Anything else? Thank you all very much. I look forward to working with you as we get this matter resolved.

(Whereupon, at 10:25 a.m., the prehearing conference in Case No. 8922 was concluded.)

REPORTER'S CERTIFICATE

----------X

IN THE MATTER OF : Case No.

THE ARBITRATION OF : 8922

US LEC OF MARYLAND :

VERSUS VERIZON :

MARYLAND, INC. :

----------X

LOCATION OF HEARING: Baltimore, Maryland

DATE OF HEARING: Thursday, May 30, 2002

I hereby certify that the foregoing proceeding was reported by me, and that the transcript is true, accurate and complete, to the best of my knowledge and belief.

William Bodenstein

Court Reporter

In The Matter Of:

Case No. 8922 - Arbitration of US LEC of v. Maryland, Inc. v. Verizon Maryland, Inc.

Prehearing Conference, pp. 1-20
Vol. 1, May 30, 2002

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VOLUME I

PUBLIC SERVICE COMMISSION OF MARYLAND

IN THE MATTER OF THE : Case No. 8922
ARBITRATION OF US LEC : PREHEARING
OF MARYLAND, INC. VERSUS: CONFERENCE
VERIZON MARYLAND, INC. :

Public Service Commission
William Donald Schaefer Tower
6 St. Paul Street
19th Floor Hearing Room
Baltimore, Maryland 21202
Thursday, May 30, 2002 - 10:00 a.m.

BEFORE:
DAVID L. MOORE
HEARING EXAMINER

Reported by:
William Bodenstein, Notary Public

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Kellogg, Huber, Hansen, Todd & Evans, P.L.L.C.
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JANICE FLYNN, ESQUIRE
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and
ROBIN F. COHN, ESQUIRE
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202-424-7645 (Fax)
rfcohn@swidlaw.com

PROCEEDINGS

(10:00 a.m.)

HEARING EX. MOORE: Good morning. I am David L. Moore, Public Service Commission hearing examiner. The case on the docket this morning is Public Service Commission Case Number 8922 in the matter of the arbitration of US LEC of Maryland, Inc. versus Verizon Maryland, Inc. pursuant to 47 USC Section 252V.

Would counsel at counsel's table identify yourselves for the record, please, starting with the gentleman at my left.

MR. HILL: Good morning. David A. Hill, general counsel for Verizon, Maryland.

MR. PANNER: Aaron Panner, I'm with Kellogg, Huber, Hansen, Todd & Evans, and I am counsel for Verizon Maryland, Inc.

MR. BOONE: Good morning, Your Honor. James W. Boone on behalf of the staff. I'd like to also note Janice Flynn on behalf of the staff as well.

MS. COHN: Good morning. Robin Cohn from Swidler, Berlin, Shereff, Friedman on behalf

Page 5

of US LEC of Maryland.

MR. SHOR: Good morning, Your Honor. Michael Shor of Swidler, Berlin, Shereff, Friedman, also counsel for US LEC.

HEARING EX. MOORE: All right. We're here this morning for a prehearing conference basically to give me some orientation as to where we are and to set out a procedural schedule and identify any particular procedural and substantive matters that we need to address at this point in the proceeding. And basically to lay out a road map that ultimately gets us to the point where the case is ripe for decision by me.

I'll open it up to you, Mr. Hill.

MR. HILL: I'll let Mr. Panner speak.

The parties have reached a general agreement with I think one caveat to a procedural schedule that we think would work that we'd like to submit to you, and I'll let Mr. Panner speak to that.

HEARING EX. MOORE: All right, Mr. Panner, I'll listen to you.

MR. PANNER: Thank you. That's right, we have agreed to a schedule that would govern

Page 6

testimony and discovery prior to the hearing and have suggested a possible date for a hearing that would work for counsel for both sides and for our witnesses, I believe.

The only issue that remains to be resolved is the question of posthearing briefing. Both sides agree that there should be simultaneous opening briefs, but we think it would be helpful to have reply briefs a week thereafter. It helps to focus the issues and I believe that US LEC thinks that such a reply brief wouldn't be necessary. I'll let them give their own reasons.

That really is the only issue that needs to be resolved.

HEARING EX. MOORE: What is impeding your resolution of that?

MR. PANNER: I think it is not obviously a pitched battle, but we think that it would be useful to have a reply brief. There was some expression of concern that reply briefs lead to sandbagging. That is certainly not the reason that we want it. But we think that it's helpful

Page 7

to be able to say they have made such and such an argument in their opening brief, here is our answer to that specific argument.

It just helps to focus the issues, that sort of back and forth. So we think reply briefs are useful. We wouldn't build a lot of time into the schedule for it, just a week. We would see them being short and really focused on responding to specific arguments in the opening briefs.

We think that would be helpful to you and helpful in building a record. So that's our position on that issue.

HEARING EX. MOORE: Okay. Ms. Cohn?

MR. SHOR: If I may address it, Your Honor.

HEARING EX. MOORE: Mr. Shor?

MR. SHOR: We have agreed on the procedural schedule. We had some question about the order in which events would take place, but we have resolved that. Frankly, these issues are not new to these parties, they are not new to this industry, they are not new to this commission.

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MR. SHOR: Okay.

HEARING EX. MOORE: We're not quite there yet, but we're heading towards it. Eventually we will get there. All right.

Are there any other matters that we need to deal with this morning?

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HEARING EX. MOORE: All right. Clearly we have very able counsel in this case and we'd expect you all to continue to work cooperatively. I have seen some of the papers that have been filed in this matter and apparently there are a

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Anything else? Thank you all very much. I look forward to working with you as we get this matter resolved.

(Whereupon, at 10:25 a.m., the prehearing conference in Case No. 8922 was concluded.)

Page 20

REPORTER'S CERTIFICATE

———————X

IN THE MATTER OF : Case No.
THE ARBITRATION OF : 8922
US LEC OF MARYLAND :
VERSUS VERIZON :
MARYLAND, INC. :

———————X

LOCATION OF HEARING: Baltimore, Maryland

DATE OF HEARING: Thursday, May 30, 2002

I hereby certify that the foregoing proceeding was reported by me, and that the transcript is true, accurate and complete, to the best of my knowledge and belief.

Court Reporter

Lawyer's Notes

00021

VOLUME II
PUBLIC SERVICE COMMISSION OF MARYLAND

- - - - - - - - - - - - - - - :
IN THE MATTER OF THE :
ARBITRATION OF US LEC : CASE NO. 8922
OF MARYLAND, INC., VERSUS :
VERIZON MARYLAND, INC. :
- - - - - - - - - - - - - - - :

Public Service Commission
William Donald Schaefer Tower
6 St. Paul Street
19th Floor Hearing Room
Baltimore, Maryland 21202
Tuesday, August 20, 2002 - 10:07 a.m.

BEFORE: DAVID L. MOORE
Hearing Examiner

Reported by:
Diane K. D'Argenio, RPR-RMR

00022

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□00024

P R O C E E D I N G S

(10:07 a.m.)

HEARING EX. MOORE: Ladies and gentlemen, good morning, today is Tuesday, August 20th, 2002, the time is now 10:07 a.m. I'm David L. Moore, Public Service Commission Hearing Examiner. The case on the docket for the morning is Public Service Commission Case No. 8922, in the matter of the arbitration of US LEC of Maryland, Inc., versus Verizon Maryland, Inc., pursuant to 47 USC Section 252-B.

Would counsel at counsel table identify yourselves for the record, if you would, please.

MR. SHOR: Good morning, Your Honor. Michael Shor, of Swidler, Berlin, Shereff & Friedman, counsel for US LEC of Maryland.

HEARING EX. MOORE: Okay, Mr. Shor.

MS. FINN: Good morning, Tamar Finn, also with Swindler, Berlin, Shereff, & Friedman.

MR. ANGSTREICH: Good morning, Your Honor. Scott Angstreich with Kellogg, Huber, Hansen, Todd & Evans representing Verizon.

□00025

MR. PANNER: Aaron Panner with Kellogg, Huber, Hansen, Todd & Evans, representing Verizon.

MS. FLYNN: Janice M. Flynn for the Staff of the Public Service Commission.

HEARING EX. MOORE: Sure, I know you. Anybody else?

MR. HILL: Mr. Moore, David Hill for Verizon. I'm on the record, but will be just watching the proceedings this morning.

HEARING EX. MOORE: Okay. You're welcome to sit at counsel table.

MR. HILL: It's not necessary. I didn't want to crowd the folks who will be doing the work.

HEARING EX. MOORE: All right, Mr. Hill.

Okay. The proceeding today is pursuant to the previously issued June 3rd, 2002 procedural schedule. I take it that we're going to be dealing with all unresolved issues remaining or pertaining to this arbitration matter. Is that correct?

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MR. SHOR: That is correct, Your Honor.

HEARING EX. MOORE: Do you have any good news to give me? Have you been able to resolve even further the issues that were on the table last time we met?

MR. SHOR: I believe that issue 10 has been resolved; issue 7 has been resolved; and issue 11 has been resolved. So the issues that will be before you today are issues 1, 2, 3, 4, 5, 6, 8, and 9.

HEARING EX. MOORE: Mr. Shor, give me an idea of what the timetable is, what you anticipate doing today, and the reason I raise the question is because there's a matter that I'm going to have to take care of for about an hour during the course of the day, and my intention is to incorporate it within the luncheon recess, and I would think that whatever we do this morning we ought to shoot for trying to get things resolved for luncheon break to start at around 12:45. And take a lunch from 12:45 until 2. Resuming at 2. Is there any chance that we could get done

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today?

MR. SHOR: Your Honor, the parties have, the parties are propounding a total of four witnesses, Staff has one witness. We had a prior hearing on the arbitration between the parties in Pennsylvania, and we approached that not on a witness order but on an issue order. So that we dealt, all the witnesses on issue 1 and 2 went, and then all the other issues went. And we found that that worked well. We were able to conclude the Pennsylvania hearing, with almost the same kind of time table for lunch, by approximately 5:00. And I would like to think that the parties have been able to refine dramatically their cross-examination questions so that we could still meet that goal. We'd certainly like to. And I don't think that the time frame that you discussed for a lunch break that would permit you to deal with another matter should necessarily impact on that.

HEARING EX. MOORE: So it's your view that we could potentially wrap everything up today?

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MR. SHOR: Yes, Your Honor. We've also, in that regard we've dispensed with opening and closing statements and witness summaries to try to speed the proceedings. All the parties have agreed to do that.

HEARING EX. MOORE: Okay. I might want to prevail upon you because it's helpful for my orientation to get an opening statement and maybe even a closing. The need for closing will sort of be dictated by what happens during the course of the hearing. But I think, in fact I can tell you, anticipate giving me a brief opening statement to sort of orientate me to where we are.

MR. SHOR: Yes, sir.

HEARING EX. MOORE: All right. If we can get everything resolved today, that will take care of the potential problem that I would be having tomorrow. If we have to go into tomorrow we'd be facing the same kind of thing that we're looking at today, just sort of orienting the hearing so that we can break in at a time that I can have about an hour and 15 minutes during the

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course of the day to deal with another matter. But if we can finish today we won't even have to address that.

Okay. Any preliminary matters that need to be brought to my attention before we get started?

MR. PANNER: No, Your Honor.

HEARING EX. MOORE: Okay. Are we ready to proceed?

MR. SHOR: Yes, Your Honor.

HEARING EX. MOORE: Is it with you, Mr. Shor?

MR. SHOR: Yes. Your Honor, the matter before the Hearing Examiner today is the evidentiary hearing on US LEC's arbitration petition. The petition and the hearing present several issues for you to consider, and ultimately for the PSC to resolve, and they fall into generally two product categories. One is US LEC's interconnection architecture with Verizon, how that architecture is organized, where it's set up, and who bears responsibility for the cost of transporting traffic. And the next area deals

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to some extent with some compensation issues.

On the interconnection architecture issue, that is probably one of the more critical, the most critical issue that confronts the parties. US LEC submits that according to the Act, the Telecommunications Act as implemented by the FCC, and this Commission, it is entitled to choose one point in the LATA from which to deliver traffic to Verizon -- I'm sorry, receive traffic from Verizon, and is entitled to do that at the most technically feasible point, and that according to the FCC regulations both parties bear the cost of transporting traffic on each other's network so that US LEC bears the responsibility for transporting all of its originating traffic to the point where it delivers that traffic, hands off that traffic to Verizon, and Verizon is then responsible for terminating that traffic. And conversely, we read the Act as requiring Verizon to bear all the costs of transporting traffic on its side of the network to the point where it delivers it to US LEC and then US LEC has, assumes the

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responsibility for taking that traffic and terminating to its customers.

This issue has been litigated before this Commission on several occasions, and was recently the subject of an arbitration conducted by the Wireline Competition Bureau at the FCC. And US LEC respectfully submits on this issue that the weight of the law weighs in favor of US LEC's position, that we're entitled to choose one technically feasible point and that each party is to bear the cost of the originating traffic on its side of the network.

The other issues, the compensation issues, we believe that with respect to issues 3 and 4 dealing with voice information services traffic, that Verizon is attempting to carve out yet another category of traffic from the parties' reciprocal compensation obligations. Traffic that otherwise fits within the definition of reciprocal compensation traffic in the agreement and is trying to carve that out and exclude it from their compensation arrangements without any basis in law or in fact.

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And this issue 4, which is related to that, relates to the question of whether US LEC is required to install a separate dedicated trunk for delivering traffic to voice information service providers who are served by Verizon. It is our position that if Verizon has issues with traffic going to its information service providers, then it needs to deal with it on its side of the network and it cannot impose facility requirements on US LEC without demonstrating that there's a need for those facilities or that the traffic supports that need.

The next item is the compensation arrangement that deals with how the parties will compensate each other for so-called foreign exchange arrangements. For decades, carriers have looked at the NPA-NXX of the originating and terminating parties to determine whether the call would be rated and routed and billed as local or toll and indeed to this date the parties continue to do that.

Whether that's, whether the traffic physically originates and terminates in a local

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calling area or whether through an FX arrangement the traffic may conceivably terminate outside of that calling area. That has governed the parties' intercarrier compensation arrangements, Verizon has admitted that it has billed and received reciprocal compensation for calls terminating to its FX customers, as has US LEC, and now Verizon wants to change that without any real serious proposal as to how to separate the traffic, or any real reason for separating it.

So US LEC submits that the parties should continue to base their intercarrier compensation obligations by reference to the NPA-NXX of the calling and called parties. This was also the subject of the recent FCC arbitration decision, and in that case the Wireline Competition Bureau accepted the position that US LEC advocates here.

The next is an attempt by US LEC to try to avoid further litigation in the area of compensation for ISP-bound traffic. The parties agree that at this point in time the compensation arrangements for ISP traffic are governed by the

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FCC, the framework set out in the FCC remand order. The legal framework for that order has been remanded back to the FCC by the D.C. Circuit and US LEC is concerned that there is a distinct possibility the FCC is not going to be able to justify that compensation arrangement, and is concerned that the D.C. Circuit could vacate it.

Wanting to avoid additional litigation and additional problems for this Commission, US LEC proposed a compromise. In essence saying if that compensation framework gets set aside or vacated by the D.C. Circuit we're prepared to still live with the rate structure. We may not necessarily agree that the rates are appropriate, but we're prepared to live with it in the interest of stability, certainty, and avoiding future litigation.

And the final issue that the parties are litigating deals with how the pricing structure of the agreement will be carried out through the course of the agreement. US LEC determined the agreement. US LEC contends that if a price is negotiated and set in the

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agreement or is set by the Commission in the agreement and there are no tariffs that govern that, in other words, if the service is bought from the agreement and not from any tariff, then that should be the price that governs that service or that facility or that arrangement for the life of the contract. Unless the Commission does a formal cost study, in which case they're applicable, the parties' changes in the applicable law provisions would prevail.

Verizon's position is even if a service exists only in the interconnection agreement, if after that agreement is signed, sealed and delivered, Verizon turns around and then tariffs that service, where there was no tariff before, they can change the price. And the price in the tariff will govern.

And US LEC's position is if we're buying a service out of a tariff and we know in advance we're buying a service out of the tariff, then we recognize we're bound by that tariff. And if that tariff changes, then subject to the protections that are available to us to object to

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a tariff, we're prepared to live with that.

The same should be true in the interconnection agreement. If we've got an agreement and we've got a price and the price is governed by that agreement then barring some action by the Commission to change that through a formal cost study Verizon shouldn't be allowed to change it by simply tariffing the service.

In a nutshell, those are the issues that we're dealing with today and those are US LEC's positions on those issues.

HEARING EX. MOORE: Okay.

MR. SHOR: I'm sorry. I did leave one out.

HEARING EX. MOORE: Too late.

MR. SHOR: Okay.

HEARING EX. MOORE: No, go ahead.

MR. SHOR: I'm sorry. Issue No. 5 addresses the question of nomenclature within the agreement. It is US LEC's view that if we look back over the course of telecom history there have been originating parties and there have been terminating parties. Calls are originated, calls

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are terminated, and that's what's determined the way parties exchange traffic, measure traffic and bill each other for traffic. And Verizon is unhappy with the phrase terminating party, and wants to institute a new concept called the receiving party.

That's not defined in the agreement, but it would change the way the parties relate to each other by taking the whole idea away, the whole idea of originating and terminating traffic and now having originating and receiving traffic. And I would like to say that it should be straightforward and simple and I'd like to say we can get it out of the way but we have had so much litigation in this Commission and others over the concept of terminating traffic, that we are deeply concerned that if we accept it, the idea of receiving traffic, and yet reciprocal compensation obligations were still defined in terms of a terminating party as opposed to a receiving party, then we would be back here again in further litigation on whether we're entitled to be compensated because it goes to the

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receiving party, not the terminating party, or traffic is received and not terminated. So I would like to think we could have gotten rid of it but given again the litigation that has run rampant throughout the country, we simply can't agree to that change in nomenclature without a fear that it's going to change the party's compensation obligations.

HEARING EX. MOORE: So on this point you're going to be asking me to come up with a definition or are you going to be giving me a choice of two or more definitions to choose from to apply to your agreement?

MR. SHOR: There's only two options. It's either going to be, at various points of the agreement it's going to be the terminating party or it's going to be the receiving party. Verizon has not defined it. Terminating party we contend is fairly clear and understood and is a term in common usage and practice in the industry, receiving party is new and we would submit that the onus is on Verizon to define it. They did not submit any testimony on the subject.

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HEARING EX. MOORE: Okay. All right. Who should I be listening to for Verizon?

MR. PANNER: Your Honor, Mr. Panner.

HEARING EX. MOORE: Mr. Panner.

MR. PANNER: There are a number of issues in this proceeding that are governed by the plain requirements of federal law and they are somewhat interstitial, really, in the agreement, but there are two very significant issues here that really go to whether competition in Maryland will develop according to the situation in which carriers who can offer real efficiencies are able to succeed or whether as the FCC warned, abilities to exploit regulatory rules that permit a carrier to shift costs to the incumbent rather than bear the cost of the services they provide will permit that carrier to flourish, based on that misallocation of costs rather than on any real efficiency.

HEARING EX. MOORE: You agree with Mr. Shor's broad formulation of the issues as being basically two, one dealing with architecture and the responsibility for

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compensation of the traffic on that architecture and the second being the broad issues dealing with compensation?

MR. PANNER: With the exception of issue 4, which I think really has to do with neither of those issues. I think that's basically correct.

HEARING EX. MOORE: Is that the nomenclature issue?

MR. PANNER: No, issue 4 has to do with the separate trunking for certain types of voice information service traffic.

HEARING EX. MOORE: All right. Go ahead.

MR. PANNER: In issue 1 the question is whether, when a CLEC and the terms in this agreement will be available to any CLEC, when a CLEC chooses to adopt a certain architecture to serve its customers and that architecture imposes significant costs on Verizon to transport traffic from a distant local calling area to the US LEC's switch, the question is whether US LEC should be permitted to impose all the costs of transporting

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the traffic to the switch on Verizon or whether it should bear a fair portion of those costs. Those are costs for which Verizon is not otherwise compensated under the rate structure.

It's comparable to the type of transport work in many cases that Verizon would have to do to transport an intraLATA toll call but Verizon is receiving no compensation for that from its customers. US LEC, by contrast, when it has to transport traffic a distance to its customers, it can impose a different rate structure and collect additional compensation from its customers. So the question is should US LEC be able to require Verizon to bear the cost of its expensive interconnection arrangement by requiring Verizon to transport the traffic.

Now, the FCC has said that if a CLEC chooses an expensive interconnection arrangement that it can be required to bear a fair portion of that, the cost of that expensive interconnection arrangement, and the testimony this morning will explain why the choice that US LEC wants to make for its interconnection architecture is indeed

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such an expensive choice. And again, if the Commission adopts a rule that requires Verizon to bear those costs, what it will do is send the wrong pricing, the wrong party will be bearing the cost of the choice that's made by the CLEC and the CLEC will not, neither the CLEC's customers nor the CLEC will face the correct incentive to adopt an efficient, appropriate architecture to serve its customers. The true costs of that architecture should be reflected in the costs that the carrier is required to bear, the carrier's customers are required to bear. And that's really the essence of the parties' disagreement on interconnection architecture.

We will explain in our briefs subsequently that our interconnection architecture proposals are consistent, both with the prior decisions of this Commission on this issue, and with the FCC's determinations on this issue in prior orders.

With respect to issue 3, that deals with voice information services traffic. That's really a purely legal issue. The parties have

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agreed that traffic that is intrastate or interstate, exchange access, information access, or exchange services for exchange access or information access. That's a phrase from the FCC's rules. The parties have agreed that that is not subject to reciprocal compensation.

And so the question is simply is voice information access, voice information services, does it fall within that category. Verizon's not trying to carve out anything new, Verizon's not trying to create any type of exemption that is not in the law that indeed the parties have not already agreed to. The simple question is the proper characterization of a particular type of traffic here. And Verizon's bottom line is that to the extent this traffic falls within that category as defined in federal law it should not be subject to reciprocal compensation.

Issue 4 also deals with types of voice information services traffic. But it really does not have to do with compensation issues. The evidence will show this morning that this, the type of traffic at issue here, that is traffic

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for which a separate charge is imposed by the voice information services provider is the type of traffic that US LEC does not permit its customers to originate. It will not allow its customers to make these calls, so that the requirement for separate trunking really should be a matter that does not concern them.

The reason for the separate trunking as will be explained in the briefs deals with the proper control and billing of 976 type traffic. It's charges, it's traffic for which separate charges are imposed, it's important to be able to control that traffic because callers can incur fees, and there has to be a way to collect those fees, those charges from the person making the call.

As I say, the evidence will show this morning US LEC won't even permit its customers to make these calls. So its objection to the requirement that they, if they chose to send it, that it be over a trunk that can be controlled and monitored properly is something that has not been explained.

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Issue 5, I note that deals with the question of whether receiving or terminating is an appropriate term to use. Now, as Mr. Shor said, there's been a great deal of litigation over the meaning of terminating. Terminating is not defined in the agreement either that I'm aware.

And the fact is that the FCC has held that certain types of traffic that are being exchanged here do not terminate, are not terminated by the carrier receiving it. The carrier receives it, passes it on to another entity, for instance, an Internet service provider, and that may be terminated at a later point.

The issue is not one, we're not asking you to resolve this issue of what does it mean to terminate traffic. It's an issue that we believe is clear under federal law but we're not asking you to resolve it. The key point is that we have issued a, we have used a neutral term, receiving. It's a term that Mr. Shor used in his opening statement to refer to traffic that we

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send to US LEC. So it's something that's readily understandable when traffic is received. It doesn't mean anything different from what received means in any other normal, everyday context.

And what we are trying to do is avoid litigating this issue of what this term, what this word terminating means, a word that is, has been the cause of a considerable amount of litigation. We use the term receiving to refer to traffic that indisputably is terminated as well as traffic for which there is at a minimum a great deal of controversy over whether it's terminated. What US LEC is trying to do is gain a collateral litigation advantage. We propose a neutral term that doesn't raise these problems, they've insisted in injecting this issue into this proceeding when it really doesn't belong here.

Issue 6 deals with virtual FX traffic, as Mr. Shor explained. Now, in a virtual FX arrangement as the evidence will show this morning, what's happening is that there may be a

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customer, say, in Columbia, Maryland, but they want to have a telephone number in, say, Essex. The Essex local calling area. Because that permits them to give, to advertise that number so people in Essex can call that number without incurring a toll charge.

The evidence will show this morning that US LEC charges its customers for this service. The evidence will show this morning that they advertise the service based on the ability of the, on the customers being able to offer those distant Verizon subscribers the ability to make a call without incurring a toll charge. And yet what US LEC would have this Commission do is require Verizon, even though Verizon is the one who is being deprived of the toll charges that would normally apply to this call, because the call, the evidence will show that the call is traveling exactly as would have an intraLATA toll call from Essex to Columbia Maryland, over Verizon's facilities. They want to not only deprive Verizon of the intraLATA toll charges that would ordinarily apply, but they

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want Verizon actually to pay them for the privilege of delivering the traffic all the way from Essex to Columbia in the form of reciprocal compensation.

And that is precisely the type of arrangement the FCC has said encourages regulatory arbitrage, that undermines healthy competition in the local market, and so they think this issue is a very serious one. The Commission has never addressed it, and to permit payment or reciprocal compensation on virtual FX traffic is to encourage a practice that really undermines genuine local competition.

There's nothing necessarily wrong with setting up this type of arrangement, it's not that it's a bad thing to do, but then the payment of compensation should be rational. That is, US LEC should be paying Verizon for originating this traffic, rather than the other way around. Because Verizon is essentially originating a toll-free traffic that US LEC delivers to its customers in every toll-free arrangement, all sorts of 800 number arrangements. The carrier

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who delivers the traffic pays the originating carrier access charges, and that's Verizon's position in this proceeding with respect to toll-free traffic that happens to be set up on a virtual FX basis.

Issue 8 deals with what should happen if federal law, the current requirements of federal law change. Frankly, this Commission doesn't have the authority to impose anything but what federal law requires in this area. US LEC is not trying to preserve what federal law currently requires, they want to change what federal law requires, they want to change the rate structure by eliminating the rate caps that the FCC imposed, and the FCC noted these rate caps were extremely important because it's the rate caps that prevent greater exploitation of what the FCC said was a regulatory arbitrage opportunity that was undermining competition, namely payment of reciprocal compensation on nonISP bound traffic.

So what US LEC has proposed is inappropriate on the merits, but more important,

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this Commission, the federal rule governs this issue and if the federal rule should change, the parties have a change of law provision in their agreement that will incorporate that change of law.

But the parties should not be, no arrangement should be imposed that US LEC believes will be to its private advantage by eliminating a rate cap that it may find or a volume cap that it may find onerous.

And with respect to issue 9, again, what US LEC is attempting to do is to establish arbitrage opportunities for itself. Tariffs, as you know, are generally applicable rates. They apply to all carriers, they're binding on Verizon. If there is a tariff charge that governs, Verizon believes that that should govern all carriers equally.

Tariffs as you know are not adopted without an opportunity for appropriate regulatory review, whether they're filed in the federal jurisdiction or in this jurisdiction. And what US LEC wants to be able to do is say well, I have

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a rate in my agreement, if I like it, I keep it. If there's a better rate in the tariff, I'll take the service under the tariff, because it would be available to me.

All that Verizon is saying is that where there's a binding rate that binds Verizon and all CLECs, it ought to bind US LEC as well. They shouldn't gain any special advantage, and that's what issue 9 is about, Your Honor.

And I think that that covers the issues that remain for a decision here.

Verizon has indeed offered testimony with respect to issues of interconnection architecture and then the virtual FX issues. We believe that the remaining issues are purely issues of law and policy that will be, that the Commission can decide based on the papers.

HEARING EX. MOORE: Okay. Ms. Flynn?

MS. FLYNN: Your Honor, Staff's approach in this case was to look at the issues, and see which ones we felt had public policy concerns beyond the US LEC and Verizon's agreement. We selected the issues 1 and 2

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primarily because we felt that the Commission had recently looked at this issue, had looked at it in the past, and again, recently in the spring decision looked at it, and come to a determination. And we felt that the US LEC position more closely followed what the Commission just decided in January in the Sprint arbitration. We're not saying they're identical positions, US LEC and Sprint are identical positions, but the US LEC positions are closer to what the Sprint decision was, and that was a full Commission decision, so we felt bound to that decision.

Obviously, bound to the Sprint decision, I felt US LEC was closer to the Sprint decision than the Verizon position in this case.

And that was recently bolstered by the FCC's order in the Virginia arbitration that some parties have referred to. We felt this order came out very closely in favor of the US LEC position, and that in that respect we filed testimony to support that position.

The other issue we addressed was issue

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No. 6, which was the routing unit rating of calls.

HEARING EX. MOORE: I thought you said you were addressing issues 1 and 2.

MS. FLYNN: 1 and 2. We did 1 and 2 and then we also did issue 6. And issue 6 was the issue of virtual FX traffic. And here again, while I don't believe the Commission has specifically addressed this issue recently, the FCC order did, and once again, we believe that the FCC order came out in favor of the US LEC position. And because of that we feel that's the right position for the Commission to come to at this time, and we filed testimony to support that.

And that's really all Staff came to do in this case. And that's what we have.

HEARING EX. MOORE: Do you plan to put on a witness?

MS. FLYNN: Yes, Mr. Molnar filed rebuttal.

HEARING EX. MOORE: Okay, Mr. Molnar.

MS. FLYNN: Yes.

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HEARING EX. MOORE: Okay. That gives me a pretty good orientation. Are we ready to proceed, Mr. Shor?

MR. SHOR: Yes, Your Honor. We are. US LEC calls Frank Hoffmann to the stand. Whereupon,

FRANK R. HOFFMANN, JR.

A witness, was called for examination by counsel on behalf of US LEC, and, having been first duly sworn, was examined and testified as follows:

HEARING EX. MOORE: Sir, state your full name and business address for the record.

THE WITNESS: My name is Frank R. Hoffmann, Jr. I work for US LEC Corporation, I'm located at 6801 Morrison Boulevard, in Charlotte, North Carolina.

HEARING EX. MOORE: Are your witnesses going to, I think you telegraphed to me before that you had structured your witnesses according to the issues that I'm going to be facing. Is that how you're going to proceed?

MR. SHOR: Yes, Your Honor.

Mr. Hoffmann addresses issues 1 and 2, issues 1

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and 2 really work together. They are so closely linked that to separate would really not be viable, and Mr. Hoffmann will offer testimony only as to issues 1 and 2.

HEARING EX. MOORE: Okay. All right. Witness with you.

DIRECT EXAMINATION

BY MR. SHOR:

Q. Thank you. Mr. Hoffmann, did you cause to have prepared 23 pages of direct testimony that was filed in this matter on or about June 10, 2002?

A. Yes.

Q. Do you have any changes to that testimony?

A. No.

Q. If I asked you those questions today, would your answers be the same?

A. Yes.

MR. SHOR: Your Honor, US LEC would respectfully submit or request the direct testimony of Frank Hoffmann on behalf of US LEC of Maryland be admitted subject to

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cross-examination.

Q. Mr. Hoffmann, did you cause to have prepared seven pages of rebuttal that was filed in this matter on or about August 9, 2002?

A. Yes.

Q. Do you have any changes to that testimony?

A. No.

Q. If I asked you those questions today, would your answers be the same?

A. Yes.

MR. SHOR: Your Honor, US LEC would ask the Commission to admit the rebuttal testimony of Frank R. Hoffmann on behalf of US LEC of Maryland, Inc., subject to cross-examination.

I have copies for the Commission and the reporter.

HEARING EX. MOORE: Okay.

MR. SHOR: Your Honor, Mr. Hoffmann is available for cross-examination.

MS. FLYNN: Your Honor, have we had these exhibits marked 1 and 2?

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MR. SHOR: Do you typically mark testimony as exhibits?

HEARING EX. MOORE: Yeah. Did you give a set to the reporter?

MR. SHOR: I did.

HEARING EX. MOORE: Okay. Why don't.

MR. SHOR: I wasn't sure in Maryland whether the practice was to mark the testimony as exhibits or simply admit that as testimony and then identify exhibits. If you'd like to mark these as US LEC Exhibits 1 and 2, that's fine.

HEARING EX. MOORE: Right. We can mark them as we go along. Why don't you do that. Mark the direct testimony dated June 10 of Mr. Hoffmann as US LEC Exhibit 1, and the rebuttal testimony dated August 9, 2002, as US LEC Exhibit 2.

(US LEC Exhibit Nos. 1 and 2 were marked for identification.)

MR. ANGSTREICH: Thank you, Your Honor.

CROSS-EXAMINATION

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BY MR. ANGSTREICH:

Q. Mr. Hoffmann, I'd like, before we get started, to make sure we're all using terminology in the same manner. And specifically on issues 1 and 2 the terminology issue is point of interconnection, or P-O-I or POI, and interconnection point or IP, thankfully not described as IP. I just want to make sure, as I understand it, are you familiar with the responses to the Staff's data request that US LEC filed?

A. Yes, I am.

Q. Do you recall that one of the responses suggested that Mr. Hoffmann does use the term IP in the same manner as defined by Verizon?

A. Yes.

Q. And just to make clear, the interconnection point or IP is the point where financial responsibility for traffic passes from the originating carrier to the receiving carrier?

A. Correct.

Q. And as far as point of

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interconnection, that's not a disputed definition in the parties, between parties, is it?

A. I do not believe so.

MR. ANGSTREICH: Just to get this out of the way, Your Honor, US LEC attached to its petition a copy of a marked-up interconnection agreement reflecting proposals by Verizon and then strike-throughs and double underlines reflecting proposals by US LEC. Is that already part of the record or should we introduce that as an exhibit?

HEARING EX. MOORE: Let's introduce it as an exhibit.

MR. ANGSTREICH: We'll mark this as Verizon 1.

(Verizon Exhibit No. 1 was marked for identification.)

BY MR. ANGSTREICH:

Q. Sir , if you'll turn to the glossary section of the agreement.

I believe it's page 34. If you'll look at Section 2.66.

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There are no cross-outs or double underlines to indicate that there's a dispute on point of interconnection, is there?

A. No.

Q. I just wanted to confirm that.

Under the party's current arrangement where are the points of interconnection in the Baltimore LATA?

A. The Baltimore LATA points of interconnection are located at the Charles Street access tandem, the Annapolis access tandem, and the Pikesville local tandem.

Q. Just to make clear, are there any connections in the Baltimore LATA between the parties' networks?

A. Not that I'm aware of, given my understanding of point of interface and that the point of interface must be on Verizon's network.

Q. I'm sorry, you used the term point of interface?

A. I did that before. Point of interconnection, I'm sorry.

Q. Do they mean the same?

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A. To me they do. Not always to everyone.

Q. That's all right. Going back to the interconnection point, under Verizon's proposed definition the interconnection point does not also have to be a point of interconnection, is that correct?

A. That is correct.

HEARING EX. MOORE: I'm sorry, ask that question again?

Q. Sure. Under Verizon's proposed definitions, an interconnection point or IP does not also have to be a point of interconnection or POI?

A. Correct.

Q. Under the parties' current arrangement, what is the interconnection point for Verizon originated traffic in the Baltimore LATA?

A. US LEC's switch.

Q. And US LEC's switch is not at the Charles Street or Annapolis tandem or the Pikesville local tandem?

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A. No, it's not.

Q. It's located in Columbia, Maryland; is that correct?

A. That is correct.

Q. So currently the US LEC IP is not in fact located at the point of interconnection?

A. Correct.

Q. I'd like to give you a schematic of the Baltimore LATA.

If I may approach, Your Honor.

HEARING EX. MOORE: Yes, sir.

MR. ANGSTREICH: I have here what I'd like to mark as Verizon Exhibits 2 and 3.

(Verizon Exhibit Nos. 2 and 3 were marked for identification.)

HEARING EX. MOORE: Which one is 2? The Baltimore LATA?

MR. ANGSTREICH: The Baltimore LATA. We'll start with the one with the bigger circle on it.

BY MR. ANGSTREICH:

Q. Just to walk through the Baltimore

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LATA diagram to make sure that when we talk about this schematic we're all on the same page here, the large circle shaded in sort of medium gray represents the Baltimore LATA, which obviously is not circular in nature. The small circle at the top is the Essex local calling area, as you can see. And US LEC has obtained telephone numbers associated with the Essex local calling area? Is that correct, Mr. Hoffmann?

A. Subject to check, I would agree.

Q. Do you know if US LEC has customers physically located in the Essex calling area?

A. If we have a code in Essex, yes, we do.

Q. Now, the triangle near the Essex local calling area which is not marked is the Verizon local tandem which serves the Essex local calling area. Just to keep you oriented on the diagram, oriented on the circle, down at the bottom right is Columbia local calling area and the box inside the US LEC switch which we already discussed is located in Columbia.

I'd like to look at the Essex local

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calling area blow-up, which is the same thing you see on the big diagram, only easier on the eyes. Mr. Hoffmann, assuming that the capital letters here represent customers, with A, B and C being Verizon customers and D being a US LEC customer, the box as being end offices, the triangle again being a tandem switch, do you agree that A and B are served out of the same end office in this diagram?

A. Yes, it appears that way.

Q. Whereas C is served out of the second end office?

A. Yes, I see that.

Q. And then D, and you may have to look back at the big diagram to see the end of this line, you see a line running out from C out to the space, it actually attaches to the US LEC switch. If US LEC were to serve a customer in Essex it would be some kind of long loop or transport facility connecting that customer to the US LEC switch, is that correct?

A. Yes, they would be connected to our switch.

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Q. Now, I'd like to just take you through examples where people in our pictures call each other.

So let's assume that A and B, both Verizon customers served out of the same end office, telephone each other. Now, are you familiar with the way Verizon's network architecture is set up?

A. Not really.

Q. Not really. Did you testify as to the way Verizon's network architecture is set up?

A. I testified on a high level as a layman's understanding of your access network versus your local network.

Q. Did you use to work for Verizon, Mr. Hoffmann?

A. Yes, sir, I did. About five years ago.

Q. Did the network change significantly to your knowledge in the last five years?

A. I really couldn't say.

Q. You testified that Verizon's network uses a large number of switches each serving a

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relatively small area?

A. Yes, I did.

Q. And that Verizon's local network is comprised of multiple end office connections between each and every end office?

A. Yes, I did.

Q. And may include one or more local tandems used to control traffic congestion?

A. Yes.

Q. And that the type of network is typically referred to as a spider web network architecture?

A. Yes.

Q. Thank you.

Now, in completing a call from person A to person B here, would you agree that Verizon would normally switch that call within the end office in order to complete the call from A to B?

A. I would agree if they both draw a dial tone from that office, yes.

Q. Now, how about Verizon's now person A has now decided to place a phone call to person C? Would Verizon perform originating switching

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out of the end office on the left in the diagram?
A. I would believe so, yes.
Q. And then that call would normally be transported over the trunk that's shown connecting the two boxes?
A. Customer A to C?
Q. Customer A to C, yes, sir.
A. Yes, I would assume the first route would be interoffice facility.
Q. And then Verizon would then perform terminating switching at the second end office, the box on the right, in order to complete the call to C?
A. I believe that would be correct.
Q. Now, you mentioned that going over the trunk would be the first option. Is it possible that in some circumstances congestion on the trunk would cause the call to be routed through the local tandem which is the triangle?
A. Yes, I would agree.
Q. But the norm, it sounded like you said would be for the traffic to be transported directly between the end offices?

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A. Yes. If existing capacity was there, yes, it would go that way.
Q. Would Verizon ever transport this call to Columbia in order to complete it?
A. I couldn't answer that question.
Q. If Verizon doesn't have any tandem switches in Columbia, would Verizon ever transport it to Columbia in order to complete the call?
A. I don't believe I'm in a position to answer that question.
Q. Let's assume that person A is going to call US LEC's customer, which is person D. To complete that call, is it correct the call would again be switched at the end office that is attached to A?
A. Yes.
Q. We've got to go back to the picture of the Baltimore LATA to see where US LEC's switch is. But is it correct that after being switched, after the originating switching in the end office, that call would then be transported from the Verizon end office to US LEC's switch in

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Columbia?

A. Yes, it would be. My assumption would be that Verizon would transport the call which originated with your end user A to the point of interconnection, at the, I really couldn't say. I would assume it would be either the Pikesville local tandem or the Charles Street access tandem. And then over a facility to US LEC's switch, and then US LEC would transport that call back to your customer D in the Essex local calling area.

Q. Okay. So as far as the distance from the Essex local calling area to the switch in Columbia, Verizon would perform the transport and possibly some tandem switching to get to the point from here to there? (Indicating.)

A. Yes. And it is my understanding that that is Verizon's obligation under federal regulations.

Q. And that's a legal understanding? A legal statement?

A. That is not my intent. That is my understanding of the regulations and how they

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apply to the industry.

MR. SHOR: Would counsel please allow the witness to finish?

MR. ANGSTREICH: I'm sorry. I'll definitely do that.

Q. It's not a technical or engineering requirement, though?

A. No. Not that I'm aware.

Q. Thank you. Do you know how far it is from Essex to Columbia?

A. No, I do not.

Q. Would you accept subject to check that it's about 20 miles?

A. I'll accept that subject to check, yes.

Q. And so currently does Verizon or US LEC bear the costs of transporting this call or we're presuming from A to D those 20 miles?

A. I'm sorry, could you repeat that? From A to --

Q. Well, the portion of it from A to US LEC's switch. Does Verizon or US LEC bear the cost of that transport currently?

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A. Verizon bears that cost.
Q. And that would also be true under US LEC's proposal in this proceeding?
A. That Verizon would continue to bear that cost? Yes, sir.
Q. Thank you.
As compared to a call between A and B that we've discussed previously, does A pay Verizon anything more when it chooses to call D?
A. That would really depend on the calling plan that A has purchased from Verizon. I'm not sure I can answer that question.
Q. If D is located in Essex, D could be A's neighbor, is that correct?
A. It's possible, yes.
Q. If D is A's neighbor, they might even have telephone numbers with the same exact NPA and NXX codes. The first six digits of their phone number could be identical?
A. This is A calling D?
Q. Yes.
A. Assuming that US LEC ported D's number, yes.

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Q. When A places a call to the person who has the same first six digits, that's normally billed as a local call?
A. I'm not able to answer that question.
Q. So you're unaware if Verizon received any additional compensation for transporting the call from the end office in Essex to US LEC's switch, that it doesn't receive when it transports the call either as we've discussed within the end office from A to B or between the two end offices from A to C?
A. I wouldn't know whether you got more or less compensation, or if you had subsidies involved in other rates that may possibly compensate you for those calls. I simply cannot answer that question. I'm sorry.
Q. You mentioned that after the call gets to the US LEC switch, US LEC then transports it back to its customer in Essex, D. And then US LEC would then perform terminating switching in its switch in Columbia?
A. Yes, we would.
Q. And this is essentially the same

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function that Verizon would perform in our A calling C example, in the end office that serves C?

A. Relative to terminating switching, yes, I would agree.

Q. That's what I was referring to. And US LEC would be compensated by Verizon for performing that switching termination?

A. Through reciprocal compensation of toll rates, yes, I agree.

Q. I'm sorry, I want to talk about C, you can see in the diagram on the Baltimore LATA who's attached to and served out of US LEC's switch in Columbia and he's a Columbia customer. Now let's assume A, instead of calling D, now decides to call E. Do you know if that's an intraLATA toll call from A to E?

A. I do not know.

Q. Would you accept subject to check that Columbia is not part of the Essex local calling area under Verizon's normal rate plans?

A. I would accept that, yes.

Q. And so if it is an intraLATA toll

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call, then when A calls E, A pays an intraLATA toll carrier, who might be Verizon, toll charges for that call?

A. I would believe so, yes.

Q. Now, to transport the call from A to E, Verizon again does originating switching in its end office serving A, is that correct?

A. Yes, you would.

Q. And it again transports the call from the switch in Essex to US LEC's switch in Columbia, is that correct?

A. Yes.

Q. It may well go over the same trunks and through the same tandems as the call from A to D as far as getting from the end office switch in Essex to the US LEC switch in Columbia?

A. I do not know, but that's possible.

Q. But just to confirm when the call is from A to E, Verizon receives toll charges from its customer?

A. Normally I believe you're correct, yes.

Q. But when Verizon, when A calls D,

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Verizon does not receive those toll charges?
A. No.
Q. Enough with the schematic. I have a map of the actual Baltimore LATA.
I'd just like to pass around, mark this as 4.
(Verizon Exhibit No. 4 was marked for identification.)
BY MR. ANGSTREICH:
Q. Now, the piece of this map that we're interested in is the one labeled LATA 3, which is in the four grays, to my eye the lightest.
Now, under the language -- I'm sorry, would you like more time to study the exhibit?
A. No, that's fine.
Q. Under the language that US LEC has proposed here, would US LEC's interconnection point have to be in Columbia?
A. No.
Q. So US LEC's interconnection point could be down at this far tip of the LATA? At the very bottom of LATA No. 3?

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A. Yes, that is correct.
Q. The top left corner, top right corner, right smack dab in the center?
A. Anywhere within the LATA, yes.
Q. And this is true of any other CLEC that would opt into or could opt into the agreement that's approved as part of this arbitration, correct?
A. Yes, it's my understanding that Verizon has those, however, should Verizon feel someone is abusing their interconnection responsibilities you could bring that cause to the Commission and litigate.
Q. I'm sorry, Mr. Hoffmann, what do you mean by abusing?
A. I would assume, placing that IP in a location that Verizon felt was not appropriate.
Q. I'm sorry, could you be a little more specific?
A. No, I'm sorry, I can't.
Q. I guess I'm still having trouble understanding this notion of how if a CLEC was abusing, your word, Verizon could bring an

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action. Would placing the interconnection point too far away from -- if you could just give an example of what would constitute abuse or may well, what in your mind would constitute abuse?

MR. SHOR: Objection. I think it calls for speculation by the witness because he said he felt that, his testimony was if Verizon felt a CLEC was abusing. He certainly wasn't suggesting that he had his own definition of abuse. So I think it's calling for speculation.

HEARING EX. MOORE: Can you answer the question?

THE WITNESS: No, I'm truly not prepared to give examples.

HEARING EX. MOORE: Move on.

MR. ANGSTREICH: Thank you, Your Honor.

BY MR. ANGSTREICH:

Q. Wherever US LEC put its interconnection point under US LEC's proposal, Verizon would have to transport traffic to that point.

A. And US LEC would charge a nondistant-

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sensitive entrance facility for that.

Q. I don't believe you answered my question. I think there might have been an implicit "yes." If US LEC puts its interconnection point anywhere in the LATA, Verizon will be responsible for transporting traffic to that point?

A. Yes. That is my understanding of Verizon's obligations under federal regulations.

Q. And Verizon would not receive any compensation from US LEC for this transport?

A. From US LEC for a call that originated on Verizon's network? No. It is not my understanding I'm obligated to pay you anything.

Q. And that's, that's reflected in US LEC's proposal here?

A. Yes, I believe it is.

Q. Now, in response to the data request that Staff submitted, US LEC, I'm sorry, you're familiar with those, yes?

A. Yes, I am.

Q. Now, US LEC stated in those responses that it locates its switch, which I understand is

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its interconnection point, as close to Verizon's tandems as economically possible in order to minimize the distance between the switch and the tandem. Is that correct?

A. Yes, I believe that is correct.

Q. And we've discussed that US LEC's switch in the Baltimore LATA is in Columbia, Maryland?

A. Yes, we have.

Q. Do you know which tandem is the closest tandem to US LEC's switch?

A. Access tandem I believe is Charles Street. The closest tandem I believe is Pikesville.

Q. Do you know how far it is from US LEC's switch in Columbia to Verizon's access tandem on Charles Street which, just to make sure, is the Baltimore Charles Street as opposed to Charles Street somewhere else?

A. I believe it's 14 miles.

Q. I have 15, but 14 I can work with. Now let's assume there are two people, two US LEC customers, one's located in Columbia,

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the other one is in Baltimore. Both have purchased the exact same local exchange package from US LEC. Is it possible that US LEC would charge the customer in Baltimore more than it charged the customer in Columbia?

A. I'm sorry, I'm not familiar with our marketing practices or our local service tariffs.

Q. Okay. You had mentioned that in our example of the call from A to D, back to our picture of the Baltimore LATA, that US LEC, after it receives the traffic at its switch, would have to then send the traffic back to D in Essex.

A. Correct.

Q. US LEC doesn't always have to send the traffic back to the local calling area where it's originated, is that correct?

A. No, the call will terminate wherever the end user is resident.

Q. So if there was an end user resident in, say, the Columbia local calling area such as person E in this diagram here, E could have a telephone number that's associated with the Essex

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local calling area?
A. Yes, if they purchased foreign exchange service, yes.
Q. And US LEC has in fact assigned telephone numbers associated with the local calling area to customers that are actually located in some other local calling area?
MR. SHOR: Your Honor, this witness is not put forward on issue 6. This witness is here on issues 1 and 2 and these questions deal directly with issue 6.
MR. ANGSTREICH: I disagree, Your Honor. The issues also deal, the questions, pardon, also deal with issues 1 and 2, and specifically the statement in Mr. Hoffmann's testimony to the effect that US LEC serves people from a wide variety of areas from its switch in Columbia. If the people are actually located in Columbia but have numbers associated with other local calling areas, then they're serving a much smaller area.
HEARING EX. MOORE: I'll allow the question. Can you answer the question,
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Mr. Hoffmann?
MR. SHOR: Could you repeat the question, please?
(The record was read by the reporter.)
A. No, I believe you've misinterpreted my testimony. What I was attempting to impart is that we have a single switch that serves a large area. I do not believe in any way I was indicating that people in that large area are assigned numbers from other local calling areas.
Q. If I could refer you to page 6 of your rebuttal testimony. Lines 8 through 12. Do you have a copy up there?
A. Actually, no.
(Handing.)
Q. Now, at lines 8 through 12 if I'm reading this correctly, you say that US LEC does provide foreign exchange service to some customers in Maryland, and has never requested an NXX code for the sole purpose of providing foreign exchange service.
A. Yes, that is correct.
Q. So US LEC has assigned telephone

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numbers to customers who are located in one area when the number is associated with a different area, an area where they're not physically resident? That's what I understand that to mean.

A. Yes, and I believe that was contained in US LEC's discovery response to Staff.

Q. I'd like to move now to Verizon's proposal in this proceeding. And you've testified that Verizon is trying to dictate US LEC's physical network architecture, is that correct?

A. Yes, it is.

HEARING EX. MOORE: What are you referring to?

MR. ANGSTREICH: Here I'm referring to Mr. Hoffmann's direct testimony at page 8. Which the precise lines I will quote, Your Honor. I believe it's lines 10 and 11. Actually I was referring to line 15, I apologize.

Q. Now, under Verizon's proposal, is it correct that US LEC can choose any technically feasible point of interconnection on Verizon's network?

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A. No. And the reason I say that is because Verizon has attached conditions to each of the three options I have available to me which makes them unpalatable and penalizes me for not using the type of interconnection at the location that Verizon desires me to interconnect.

Q. I'm sorry. And those relate to US LEC's choice of point of interconnection?

A. No, those relate to my form of interconnection.

Q. I was talking just about the place of interconnection right now.

A. Yes. You have restricted my choice of POI in that it must be at the tandem and that it must be established at a collocation or I'm penalized, and you move my IP to a virtual location at your originating end offices.

Q. Can you explain what you mean by penalty or penalize?

A. Penalize means you reduce the reciprocal compensation rate I receive for terminating a call.

Q. And how does Verizon, how is that,

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quote-unquote, penalty calculated under Verizon's proposal?

A. My understanding is you use a combination of things. Being UNE rates, rates you may pay to a third party, costs that you may incur from US LEC and other costs.

Q. Let's start with UNE rates. Can you explain what you mean by UNE rates?

A. Unbundled network element rates.

Q. And those are set by Verizon or by the Maryland State Commission?

A. Those are rates which are set by the Commission.

Q. And Maryland, the Maryland Commission, do you have familiarity with how the Maryland Commission set those rates?

A. No, I do not.

Q. Do you have familiarity with how state commissions in general set unbundled network element rates?

A. No, I don't.

Q. Are you familiar with the standards in the 1996 Telecommunications Act with respect to

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unbundled network rates?

A. No, I have not been responsible for cost studies in many years. I'm not familiar.

Q. I'm sorry, you just mentioned cost studies.

A. Correct.

Q. Cost studies have something to do with the rates that are established under the 1996 Act?

A. It's my understanding, I'm sorry, I didn't mean to interrupt.

Q. Are the cost studies related to rates that are set under the 1996 Act for unbundled network elements?

A. My understanding is there is an association between costs and rates.

Q. Have you heard the term TELRIC?

A. Yes, I have.

Q. Are you aware that stands for Total Element Long Run Incremental Cost?

A. I believe you're right.

Q. Are you aware that the Supreme Court has described the rates that are established

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through the TELRIC method as all but confiscatory?

A. No, I'm not aware of that.

Q. Are you aware the rates established under unbundled network elements are generally very low?

A. Rates that are very low, I'm sorry, I don't follow you.

HEARING EX. MOORE: I wish you both would keep your voices up so I could hear.

THE WITNESS: I'm sorry.

MR. ANGSTREICH: I'm sorry.

HEARING EX. MOORE: Keep your voice up.

BY MR. ANGSTREICH:

Q. But the unbundled network element rates as you said do bear a relation to costs?

A. I believe they're based on costs.

Q. Actually, you have the interconnection agreement still out there, don't you?

A. Yes, I do.

Q. If you'll turn to page 63.

A. Yes.

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Q. If you'll look at a mostly crossed-out paragraph of 7.1.1.3.

A. Yes.

Q. And maybe ten lines from the bottom of that paragraph on the right-hand side there's a B.

A. Yes, I see that.

Q. Is this portion the portion that you were describing or referring to as the penalty?

A. Yes.

Q. If we could just step through that for a second, it says that US LEC shall, and I'm reading through the strike-through here, US LEC shall bill and Verizon shall pay only the lesser of the negotiated intercarrier compensation rate or the end office reciprocal compensation rate for relevant traffic, less Verizon's transport rate.

Now, is that transport rate calculated using the unbundled network element rates?

A. I believe the response you provided in discovery utilized the UNE rate for direct transport. I could be wrong.

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Q. And in calculating the amount of the so-called penalty, that would be the transport incurred in our Baltimore picture from the Essex end office to the Columbia, to US LEC's switch in Columbia?

A. Yes, that is correct.

Q. I'm sorry, Mr. Hoffmann?

A. My response was yes.

Q. And as far as the adjustment to the reciprocal compensation rate the next one is, mentions tandem switching. Is that also calculated using the unbundled network element rate?

A. I do not know.

Q. Would you accept subject to check that that's Verizon's understanding?

A. Subject to check, yes. But it was not included in your discovery response, so --

Q. And that would be for the tandem switching actually performed in transporting the call? If any, admittedly, from the Essex end office to US LEC's switch in Columbia?

A. As Verizon has no direct end office

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trunking from your network to mine, therefore, all of your traffic is being tandem switched, I would assume that tandem switching element would apply to the penalty.

Q. So the cost would be adjusted by the amount of tandem switching that Verizon actually performs to transport the call?

A. Correct.

Q. And the last reference is to other costs. And there I think you had listed a number of things but they are to the extent that Verizon purchases transport from US LEC or a third party. That's what it says.

A. Correct.

Q. And those would be Verizon's actual costs?

A. Based on whatever you purchased, yes, they would be the actual costs.

Q. So just to summarize, if US LEC as you said is forced to have its costs adjusted, the costs would reflect the actual transport and switching that Verizon performed in transporting the call from Essex to Columbia?

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A. Correct. The costs for which I do not believe I'm obligated under federal regulations to pay.

Q. I understand that that's our disagreement, I just wanted to confirm. Mr. Hoffmann, you testified in Pennsylvania, is that correct?

A. Yes, sir.

Q. On these same issues?

A. Yes, I did.

Q. And I believe I was not there but Mr. Panner was there at that time, he was questioning you.

A. Yes, he was.

MR. ANGSTREICH: Your Honor, if I can approach, I'd like to introduce a portion of that transcript.

HEARING EX. MOORE: Yes.

MR. ANGSTREICH: And I'm referring here to page 43 of the transcript. Lines 13 through 16. If you could read the question and then the answer.

HEARING EX. MOORE: Just a minute.

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This is Verizon No. 5.

MR. SHOR: Your Honor, I think instead of having excerpts, the parties have agreed that Exhibit 5 will be the whole transcript. We will have to provide copies of the whole transcript after the hearing, if that's acceptable with you.

HEARING EX. MOORE: Okay. What I have here is only a part of the transcript?

MR. ANGSTREICH: Yes. Actually we do have one copy of the whole transcript.

MR. SHOR: No, because we'll copy it two-sided.

HEARING EX. MOORE: Why is it necessary to have the whole transcript?

MR. SHOR: In case we need to refer to it later instead of marking another portion of it as a separate exhibit.

(Verizon Exhibit No. 5 was marked for identification.)

HEARING EX. MOORE: Okay. All right. At this point we're at page 43?

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MR. ANGSTREICH: That's correct.
HEARING EX. MOORE: And what's your question.
BY MR. ANGSTREICH:
Q. Mr. Hoffmann, if you could read from lines 13 through 16 on that page.
Is it correct that under Verizon's proposed contract language, that US LEC may choose any technically feasible point of interconnection?
A. Yes, that is my understanding.
Q. That's not exactly the same answer -- strike that. I'm sorry. You've testified, Mr. Hoffmann, and here I'm referring to your direct testimony on page 10 at lines 8 through 11. That under Verizon's proposal US LEC could be required to establish collocation arrangements within 30 days. Is that correct?
A. Yes.
Q. Which section of Verizon --
HEARING EX. MOORE: I'm sorry, page 10 in the transcript?
MR. ANGSTREICH: I'm sorry, Your

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Honor, we switched to Mr. Hoffmann's direct testimony.
HEARING EX. MOORE: So I can set the transcript aside?
MR. ANGSTREICH: For now, yes.
HEARING EX. MOORE: All right.
MR. ANGSTREICH: And I am referring to page 10 at lines 8 through 11.
BY MR. ANGSTREICH:
Q. Which section of Verizon's proposal is it that could require US LEC to establish a collocation within 30 days?
MR. SHOR: I'm going to object simply to the extent that the lines he refers to in the direct do not make any specific reference to 30 days. In the testimony, rather.
MR. ANGSTREICH: I would refer Your Honor to line 21 on the same page, which does make reference to a 30-day transmission period Verizon proposes for moving the IP from the switch to a collocation arrangement.
HEARING EX. MOORE: This all appears to be a part of the same response to the same, to

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one question, right?
MR. ANGSTREICH: That's correct.
HEARING EX. MOORE: Okay. I'll overrule the objection.
BY MR. ANGSTREICH:
Q. Which part of Verizon's proposal is it that would require US LEC to establish a collocation arrangement within 30 days?
A. I believe that would be Section 7.1.1.3, the interconnection attachment.
Q. And that's on page 63 of the interconnection agreement which we passed out earlier. Marked as Verizon Exhibit 1. Most of that paragraph is struck through, but I'd like to start with the portion that's not struck through. Which says that in any LATA where the parties are already interconnected prior to the effective date of the agreement, US LEC may maintain its existing IP. Is that correct?
A. That is correct, but that's not the entire sentence.
Q. I stopped at that point. I'll continue with the rest of the sentence. US LEC's
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current IP is the IP at its switch in Columbia?
A. In the Baltimore LATA, yes.
Q. Continuing on with that sentence, it says that Verizon may request in writing to transition that IP to the IPs, the geographically relevant IPs described in two prior sections above. Is that correct?
A. You're paraphrasing, but yes, you're correct.
Q. It says after that, upon such request, the parties shall negotiate mutually satisfactory arrangements for that transition. I'm paraphrasing correctly again?
A. I believe so, yes.
Q. Now, it says, if the parties have not reached agreement on such arrangements within 30 days, one of two things happen. Either the parties may pursue available dispute resolution mechanisms, or the cost adjustment provision that we've just discussed, or were discussing earlier kicks in. Is that correct?
A. No. I disagree. A may happen. B most definitely does happen. And that is the B

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you referred to earlier, which I referred to as Verizon's penalty.

Q. But if the parties haven't, what is it that has to happen in 30 days, Mr. Hoffmann, according to this section of the proposed agreement?

A. The parties need to negotiate.

Q. They don't have to establish a collocation arrangement in 30 days.

A. Well, if I wanted to avoid the penalty I would have to.

Q. There's no provision in the agreement that requires, in the sense that it obligates, in the sense that US LEC would be in violation of the agreement if it chose not to establish a collocation arrangement, is there?

A. If I'm willing to accept less than the negotiated reciprocal compensation rate, no, I do not have to establish collocation.

Q. You make reference in your testimony to a number of consequences that would follow if US LEC actually were forced to, strike that, if US LEC actually did establish collocation

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arrangements. Is that correct?

A. Could you point me to my testimony, please?

Q. By all means.

On page 10 at line 15, for example, there's a reference to a collocation cost.

Further back, on lines 19 through 24, continuing on through page 19 at the top of 20, there's a question on why US LEC objects to designate some collocation arrangements as IPs. On page 20, lines 15 through 21, line 11, just picking those in skimming through.

So you would agree that your testimony suggests that if US LEC actually established collocation arrangements there would be consequences to its network architecture that would follow?

A. Yes, because that would be a change to my existing architecture.

Q. But if US LEC did not establish those collocations, none of those consequences would occur?

A. The collocation-related consequences,

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no. But I would still have a transport offset to my recip comp rate.
Q. Mr. Hoffmann, turning to that cost adjustment of transport offset, you've testified, and here I'm referring to your rebuttal testimony on page 3, lines 21 and 22. Do you have a copy of that, Mr. Hoffmann?
A. Yes, I do.
Q. You make reference to Verizon's proposal requiring US LEC to assume financial responsibility for transport costs within the local calling area. And you've emphasized the word within. Can you explain why you've emphasized that word?
A. Yes. Could you repeat what page it was on again, please?
Q. Page 3, the word within appears on line 22.
A. The reason that is emphasized, in other states, I'm not sure whether it has happened in Maryland, some commissions have found that CLECs are responsible for transport outside the local calling area. And what I'm trying to

□00100
point out here is that in Verizon's proposal you want me to pay for transport within the local calling area as well. So that's why that is italicized.
Q. Thank you. Can we look back at the picture of the Baltimore LATA for a second.
This is not drawn to scale. I do have the map also if you'd like to use that. Would you agree that the distance from the end office to the edge of the local calling area is relatively short as compared to the much longer distance from the edge of the local calling area to US LEC's switch?
A. There does appear to be a difference given the way you've drawn this diagram.
Q. Would you agree that it would be easy to calculate the portion of transport that was outside the local calling area versus the portion that was in the local calling area?
A. To calculate the portion of the distance within the local calling area versus the portion that's without?
Q. That's correct.

□00101

A. I would assume that that could be done.

Q. Would US LEC be willing to pay for the transport that Verizon performs from the edge of the local calling area to US LEC's switch?

A. No.

Q. US LEC is not willing to pay for any of this transport, whether it's within or without the local calling area, is that correct?

A. No. Nor is it my understanding that US LEC is obligated to pay for that cost.

Q. Again you're testifying as to your understanding of the requirements of federal law?

A. Yes, sir.

Q. Mr. Hoffmann, you've testified here if you turn a couple of pages in your rebuttal testimony to page 5, line 14, that Verizon has offered no explanation for why a geographically relevant interconnection point must be established via collocation. Is that correct?

A. That is correct.

Q. Have you reviewed Verizon's responses to US LEC's discovery requests?

□00102

A. Yes.

Q. Did Verizon state there that it would consider a counterproposal by US LEC that modified Verizon's virtual geographically relevant interconnection point proposal, or VGRIP, to include multiple interconnection options?

A. Yes, but it is my understanding again, subject to federal regulations, that I'm only required to establish a single point of interconnection rather than multiple.

Q. So if US LEC could establish geographically relevant interconnection points as Verizon defined in Verizon's proposal using any methods that US LEC saw fit, would US LEC agree to Verizon's proposal?

A. You say geographically relevant versus virtual. Do you mean GRIPs or VGRIPs?

Q. I mean what's referred to in, on pages 62, well, yes. 62 and 63 of the interconnection agreement, and 61, 62 and 63, on 7.1.1.1, and 7.1.1.2. Which refers to geographically relevant interconnection points.

□00103

A. So that's your virtually geographically relevant interconnection point proposal.

Q. It is the proposal that Verizon's made in this proceeding.

A. I would not agree to the extent that Verizon gets to pick the points or that there must be multiple.

Q. So US LEC's position is that regardless of the methods available, it only has to establish a single IP in each LATA that it operates in?

A. Correct.

Q. Going to your direct testimony, Mr. Hoffmann, page 16; you quote from paragraph 199 of the local competition order, and this starts at line 4 and ends at line, actually, I'm only interested in lines 9 to 13. And if you could read the portion that starts with the word of course on line 9 through the end of that paragraph.

A. Of course, a requesting carrier that wishes a technically feasible but expensive

□00104

interconnection would, pursuant to Section 252-D-1, be required to bear the cost of that interconnection, including a reasonable profit.

Q. So would you agree that consistent with the portion that you've just read that if a CLEC selects a network architecture that qualifies as expensive, then the CLEC would have to compensate an incumbent carrier for additional cost that the incumbent bears?

A. That appears to be what this sentence says. However, I do not believe the federal FCC has instituted rules relative to this issue, nor do I believe Verizon has put forth any evidence indicating that my choice is expensive.

Q. Well, turning on to that, if you look at the next page, lines 1 and 2, you state that a single IP per LATA is not automatically expensive.

HEARING EX. MOORE: Where are you referring to?

MR. ANGSTREICH: His direct testimony, page 17, lines 1 and 2, automatically appears at the line of start 2.

□00105

Q. Does this mean that US LEC's proposal which allows -- strike that. US LEC's proposal, just to confirm, allows it to have only a single IP per LATA, correct?

A. That is correct.

Q. So having a single IP per LATA under US LEC's proposal could in fact be expensive under paragraph 199, is that correct?

A. I do not know.

Q. You've testified that it's not automatically expensive.

A. Correct.

Q. Does that not imply that it could be expensive?

A. I would assume it would be possible.

Q. When you referred earlier to a CLEC creating or selecting an abusive interconnection scheme, were you referring to a scheme that would be expensive under paragraph 199?

MR. SHOR: I think it was asked and objected to and the objection was sustained.

MR. ANGSTREICH: I don't remember an objection.

□00106

HEARING EX. MOORE: Let me hear your question again.

(The record was read by the reporter.)

A. I would assume from Verizon --

HEARING EX. MOORE: Wait a minute.

THE WITNESS: I'm sorry.

HEARING EX. MOORE: Can you answer the question?

THE WITNESS: Yes.

HEARING EX. MOORE: Okay. I will overrule the objection.

A. It is my assumption, given the focus Verizon has placed on what they call an expensive form of interconnection, that you would possibly consider that to be an abuse.

Q. Turning back to page 16, Mr. Hoffmann. There's a second block quote on that page at the bottom. And here you're quoting some questions from a notice of proposed rule-making that the FCC issued in April, 2001. The last sentence, if you could read that, sir.

A. Is the efficiency concern limited to those instances in which traffic between two

□00107

networks is unbalanced and/or where transport is required beyond a certain distance.

Q. Now, are those factors that would be relevant to determining whether a CLEC's interconnection choice is expensive under paragraph 199?

A. That is what the FCC is asking for information on. I do not know if they would consider that to be expensive or not as they have not yet ruled.

Q. You've suggested that Verizon has not demonstrated that US LEC's choice is expensive. Is that correct?

A. Yes, I made that statement.

Q. In assessing Verizon's showing on that score, would the questions whether traffic between the two networks is unbalanced or transport is required beyond a certain distance be relevant to your assessment?

A. I don't know that my assessment is important. I believe it's the assessment of the FCC or the state Commission as to whether a form of interconnection is expensive or not.

□00108

Q. Has US LEC made any proposals that would limit Verizon's obligations when traffic is out of balance by a certain, when traffic is out of balance?

A. No, I do not believe there's any proposal relative to traffic balance in the interconnection agreement.

Q. Has US LEC made any proposals that would limit Verizon's obligations based on how far away US LEC locates its interconnection point?

A. Yes.

Q. Could you describe that proposal?

A. We have proposed that U.S. LEC would continue to charge Verizon a nondistant-sensitive entrance facility from the point of interconnection to US LEC's interconnection point, to mitigate Verizon's concerns relative to distance, and that Verizon would continue to pay that rate under the new agreement, just as US LEC pays for the interconnection facility from our IP to your POI, and pays that to either Verizon or a third-party transport provider.

□00109

Q. Is that in your proposed language in the interconnection agreement, Mr. Hoffmann?
Do you need more time, Mr. Hoffmann?
A. Yes. As you know, it's a rather large document. I don't know that I can put my finger on it right at this moment.
HEARING EX. MOORE: Are you aware, what he's looking for, where it's located?
MR. ANGSTREICH: No. I'm asking the question, if you're willing to point it out later, that's fine as well. I don't have follow-up questions either way.
A. I believe it would be on page 53.
Q. Save us all the trouble. And I'm sorry, where on 53?
A. In Section 2.1.5.3.
Q. Thank you.
A. Which states a nondistance-sensitive entrance facility obtained from US LEC, from the POI to the US LEC IP.
Q. Thank you. If I could turn back again to page 17 of your testimony. And I'm referring to the paragraph at lines 11 through 18.

□00110

Actually, I'm sorry, 11 through 17. In this paragraph you point to three reasons why the cost of a single IP per LATA could vary. Is that correct?
A. Yes.
Q. The first of them states that Verizon may have facilities already available to carry Verizon's originating traffic from the local calling area to US LEC's IP. Is that correct?
A. Yes. Facilities is one variable.
Q. It's also correct, though, that Verizon may not have those facilities available?
A. Highly unlikely, but possible.
Q. And even if there were an existing facility Verizon still incurs costs using an existing facility, is that correct?
A. Depending on whether that facility is fully depreciated, yes, there may be some cost involved.
Q. You've also testified that there might only be a de minimis amount of traffic exchanged from a local calling area.
A. Correct.

□00111

Q. It's also correct that there might be a very large amount of traffic?
A. Correct.
Q. And if the traffic volume were de minimis, then the amount US LEC would be required to pay under the offset would also be de minimis? Is that correct?
A. The cost that I referred to US LEC is not obligated to pay? Yes.
Q. And if the costs, if the amount of traffic were not de minimis but were in fact extremely large, we've discussed US LEC's proposal that would mitigate those costs to Verizon, is that correct? Based on balance of traffic?
A. That is correct. I do not believe either party made a proposal based on traffic balance. US LEC or Verizon.
Q. And finally, you testified that the third factor is the distance from the local calling area to the IP might be minimal.
A. Yes.
Q. Of course, it might not be as well?

□00112

A. That is very possible.
Q. And if it was very far away, if on our map of the Baltimore LATA, the switch were down here at the bottom, and the calling area was about as far as away as you can get up here at the top, US LEC's proposal, pardon, strike that, the cost might be very high?
A. I couldn't say whether it be high or low.
Q. You testified that the distance has something to do with whether or not there are substantial costs, with the result from a single IP per LATA?
A. But it is not a factor that can be analyzed alone.
MR. ANGSTREICH: I think I'm done with this witness, Your Honor.
HEARING EX. MOORE: Okay. Ms. Flynn?
CROSS-EXAMINATION
BY MS. FLYNN:
Q. I just wanted to clarify some of the terms, this is a highly technical area, I think it's easy to get lost with the proposals and what

□00113
the proposals are. You talked on, I believe it was page 63, you were talking about the penalty, what you characterized as the penalty in Section 7.1.1.3. Is the penalty you're referring to the same thing as the transport offset or is that two different things?
A. They are one and the same.
Q. And that consists of, if you could just, could you walk us through how this would be calculated?
A. My understanding of page 63, 7.1.1.3-B, the first part states US LEC shall bill and Verizon shall pay only the lesser of the negotiated intercarrier compensation rate or the end office reciprocal compensation rate for relevant traffic.
Q. So it's only the lesser of the negotiated intercarrier compensation rate?
A. That's the first part.
Q. Do you know what that is?
A. Well, there are two rates contained in the interconnection agreement. There's a rate for traffic that US LEC terminates, originates,

□00114
rather, terminates on Verizon's network through their tandem, and there's a tandem reciprocal compensation rate. They also have an end office reciprocal compensation rate which is slightly lower which is for traffic directly terminated to Verizon's end office. US LEC is then compensated for traffic it terminates for Verizon based on the blend of traffic I send them.
So in other words, today all of my traffic terminates to Verizon's access tandem. Therefore I pay Verizon the access tandem reciprocal compensation rate. And the pricing attachment of the interconnection agreement dictates that they pay me that same rate. However, right off the bat here in B, they're immediately only going to pay me first of all the lower rate.
Q. Or the negotiated intercarrier compensation rate. Is that different than the end office reciprocal compensation rate?
Do you have a separately negotiated intercarrier compensation rate in this agreement or are they the same as the

□00115
Commission-determined end office termination rate?
A. The rates are Commission-determined.
Q. You understand my question.
A. Yes.
Q. Okay. So we're dealing with the end office reciprocal compensation rate?
A. Right. So when you start in B, the first thing is I'm going to get the lower end office rate regardless of the mix of my traffic I'm terminating to Verizon. Then Verizon will deduct the transport rate. I would assume multiplied by the mileage between their originating end office and my IP.
Q. And that's how transport rates are calculated, based on mileage? Is that correct?
A. Okay. The next item would be tandem switching rate to the extent the traffic is tandem switched. And other costs. To the extent Verizon buys something either from US LEC or a third party. I have no control over the appropriateness of the other costs that Verizon may choose to transport their traffic to me.

□00116
That's my understanding of how the calculation is based.
Q. Thank you for that. I'd like to also go to the timing issue. You said that if the parties have not reached an agreement within 30 days, then this would apply. If the parties did reach an agreement within 30 days, would you then have time to build out your collocation before this would kick in? If you understand my question.
A. No. I cannot provision collocation in 30 days under Verizon's interface.
Q. Right, I know you can't. But if you agreed that you would collocate and the collocation took 76 days to provision, would this tandem, would this, what you call the transport offset apply in the interim under this agreement?
A. As you know, it's possible. The parties could agree to virtually anything. Absent that agreement, and simply relying on the interconnection agreement in front of me, it states, I'm now hearing your question more

□00117

clearly. No, the agreement states that if I reach agreement within 30 days, then neither A nor B would apply.

Q. Okay. That's just what I wanted to understand.

A. But my experience is I have not been able to negotiate anything within 30 days.

Q. Could you also, I have one more question, and that is on page 53, your entrance facility 2.1.5.3 section. If you could explain that, what would this charge be? What would it consist of, I mean, the nondistance-sensitive entrance facility?

HEARING EX. MOORE: Where are we looking at?

MS. FLYNN: On page 53 of the interconnection agreement, at the top paragraph.

HEARING EX. MOORE: I see.

BY MS. FLYNN:

Q. Provision of nondistance-sensitive entrance facility. I just want you to explain what that is, how that differs from a collocation arrangement.

□00118

A. The entrance facility is a dedicated, flat rated, nondistance-sensitive, nonusage-sensitive facility, and the rate would come from US LEC's Maryland state tariff.

Q. I'm just really trying to understand what an entrance facility is, I guess would be the question, very basic. Very high level.

A. Either a DS-1 or a DS-3.

HEARING EX. MOORE: What is that?

A. A DS-1 is a, gosh, talks about a transmission level, a speed, I believe it is 1.5 Meg, megabits. Contains 24 voice grade channels, can carry 24 simultaneous conversations. Is a two-way facility, versus a DS-3 which has a higher capacity, I believe it's 145, contains 28 DS-1s, each DS-1 then containing the 24 voice grade equivalents. So I believe a DS-3 has 672 channels and a DS-1 has 24.

MS. FLYNN: That's all I have.

HEARING EX. MOORE: Redirect?

MR. SHOR: Could we take a short break to focus on redirect?

HEARING EX. MOORE: Sure. How much

□00119

time do you need?
MR. SHOR: Five minutes.
HEARING EX. MOORE: Let's take a ten-minute break and reconvene at, let's come back at five minutes after 12. No, make that ten minutes after 12.
(Recess taken -- 11:58 a.m.)
(After recess -- 12:10 p.m.)
HEARING EX. MOORE: Okay. Redirect.
MS. FINN: Yes, sir. I'll be doing redirect.

REDIRECT EXAMINATION

BY MS. FINN:

Q. Mr. Hoffmann, can you pull out Verizon Exhibit 1 again, please?
I'm sorry, Verizon Exhibit 2. Do you recall the discussion where you were discussing about a call going from A to B and a call from A to C and a call from A to D?
A. Yes.
Q. And you discussed Verizon's originating transport responsibilities?
A. Yes, we did.

□00120

Q. Can you also talk about what happens when US LEC receives the call from Verizon?
A. When US LEC --
MR. ANGSTREICH: Objection. Not within the scope of the direct testimony.
MR. PANNER: Of the cross.
MR. ANGSTREICH: Of the cross. Pardon me.
MS. FINN: Well, you were going through the scenarios of a call from A to D and I'm just talking about the rest of the call completion.
MR. SHOR: I think it is within the scope. You talked about the facility from US LEC to its customer and US LEC taking the call to the customer.
MR. PANNER: And that was the scope of the cross-examination, Your Honor, was with respect to a call from a Verizon customer to a US LEC customer. There was no question in the cross-examination about a call from a US LEC customer to a Verizon customer. So I don't understand what the redirect refers to.

00121

MR. SHOR: That's not what she asked.
MS. FINN: I'm still talking about a call from Verizon A to US LEC D.
MR. PANNER: Sorry, Your Honor.
HEARING EX. MOORE: So you withdraw the objection?
MR. ANGSTREICH: Yes. You can answer.
HEARING EX. MOORE: The question again is I think, take it you're going after the reverse set of call circumstance?
MS. FINN: Right now I'm just trying to talk about A to D. When the call originates with Verizon customer A.
HEARING EX. MOORE: And you want to go to D?
MS. FINN: To D. And I'm asking Mr. Hoffmann, US LEC accepts the call from Verizon, and what happens after that?
A. When US LEC accepts the call at their switch, our IP, we're then responsible to transport that call to the customer's location. In this scenario it would be up to customer D in

00122

the Essex local calling area.
HEARING EX. MOORE: Wait a minute. Just a second. Let me go back because it's a little confusing. Where does it, in your example, your question, what's the originating point of the call?
MS. FINN: Customer A.
HEARING EX. MOORE: The call starts at customer A and goes to customer D, is that your question?
MS. FINN: Correct.
HEARING EX. MOORE: Verizon's customer A and D is your customer?
MS. FINN: Correct.
HEARING EX. MOORE: Okay.
And your answer again?
A. In that situation, when the call is accepted at US LEC's switch, US LEC will then transport that call to the customer's location, wherever that customer may be within the LATA. In this case we would transport the call back to the Essex local calling area to customer D.
HEARING EX. MOORE: So somehow or

□00123
another the call from customer A has to somehow or another get from A to E? And then goes from E back to D?
THE WITNESS: If you would like to reference the US LEC switch as E, yes. I believe Verizon set up this diagram E was another end user.
HEARING EX. MOORE: Oh, I'm sorry.
THE WITNESS: Similar to A, B, C and D.
HEARING EX. MOORE: I'm sorry. I called it E only because the E is pointing to the square. I really meant the square which is the US LEC switch.
THE WITNESS: Yes. They would transport that call I would assume through the point of interconnection at either the access tandem or local tandem in the Baltimore LATA. I would receive it at my switch and I would then transport that call to my end user D, to terminate it.
HEARING EX. MOORE: Okay. Let me, since you mentioned that, the triangle on this
□00124
diagram, could be, is this, this could be either the tandem on Charles Street or in Pikesville? Is that what this triangle is supposed to --
MR. ANGSTREICH: I think I said it was the Pikesville, the local tandem, but I would have to --
MR. MOORE: All right. So when you set this up, the triangle represents the Pikesville tandem?
MR. ANGSTREICH: That's correct.
HEARING EX. MOORE: Okay, I'm sorry. Go ahead.
BY MS. FINN:
Q. Mr. Hoffmann, let's actually talk a little bit about the call pattern because there's no line here between the Pikesville tandem and your switch.
A. Correct.
Q. But somehow when Verizon originates the traffic it comes from customer A and it gets to their tandem, actually when they deliver it. What do they deliver it over? There should be a line there, right?

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A. Yes. They would deliver the call from their tandem to US LEC's switch over what I have termed an entrance facility.

Q. Could you just to make sure everybody's clear, could you explain the entrance facility again and what US LEC proposes to charge?

A. Yes. An entrance facility is a facility which connects the two networks, traffic which terminates on US LEC's network, that facility would enter our network, and is composed of the requisite number of wires necessary to establish either a DS-1 or a DS-3 facility. Which Verizon would use to terminate its traffic to US LEC.

HEARING EX. MOORE: Let me, I'm a nontechnical person, so bear with me. Let me make sure I understand something. The unseen line between the triangle which represents the Pikesville tandem and the square representing the US LEC switch is connected, then, by what you characterize as an entrance facility?

THE WITNESS: Yes, sir.

□00126

HEARING EX. MOORE: And that entrance facility is either, is either a D-1 or a D-3, whatever?

THE WITNESS: Yes, sir.

HEARING EX. MOORE: Okay. All right. Go ahead.

BY MS. FINN:

Q. Mr. Hoffmann, if the distance between that triangle, Verizon access tandem, and the US LEC switch, the square, does it matter if that distance is one or 14 miles to the rate that US LEC would charge for that facility?

A. No. US LEC's proposal has that facility rated at a nondistance-sensitive, nonusage-sensitive flat rate. So from a cost perspective, the purchaser of that facility should be indifferent as to the distance because there is not a distance component included in the rate for the entrance facility.

Q. And then when US LEC transports the traffic back to customer D over this line between your switch and customer D, who bears the cost of that transport?

00127

A. US LEC bears that cost.
Q. And what compensation do you receive from Verizon for terminating that call?
A. Verizon would pay US LEC either reciprocal compensation or toll charges, depending upon the originating and terminating telephone call.
Q. And under Verizon's VGRIPs proposal --
A. Under Verizon's VGRIPs proposal, US LEC would not only be responsible for the cost to transport the call from our switch to customer D, but we would also be responsible for the cost from the central office serving customer A to US LEC's switch, and the Verizon proposal is that that would be distance-sensitive.
Q. Now, Mr. Hoffmann, I'd like to reverse the situation and talk about a call going from US LEC customer D to a Verizon customer A.
MR. ANGSTREICH: Objection.
HEARING EX. MOORE: Give me the question again?
Q. I'd like to talk about a call that

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begins at US LEC customer D and is delivered, terminated to Verizon customer A.
HEARING EX. MOORE: Okay.
MR. ANGSTREICH: She hasn't asked a question, but we sort of telegraphed this objection some time ago.
HEARING EX. MOORE: All right. Ask the question.
Q. Mr. Hoffmann, who is responsible for bearing the transport cost of bringing the call from customer D to US LEC's switch?
MR. ANGSTREICH: Objection, Your Honor, outside the scope of cross.
HEARING EX. MOORE: The coin has two sides on it. If you've described for me the face side of the coin, why shouldn't I be entitled to hear about a description of the reverse side of that coin?
MR. ANGSTREICH: The VGRIP proposal that we're discussing, Your Honor, only pertains to what you referred to as the tails side of the coin. The parties are in agreement as to the flip side. It's not a disputed issue in this

□00129

arbitration.

HEARING EX. MOORE: He says it's not a disputed issue as to, as it relates to your question of going from D, to A.

MS. FINN: What is a disputed issue is what's a fair allocation of transport costs and Verizon has raised that numerous times, what is a fair allocation of transport costs, and I think in order to show the allocation of transport costs, you need to look at the total transport costs for exchanging traffic between the parties.

HEARING EX. MOORE: The allocation of transport costs relates to what issue?

MS. FINN: Issues 1 and 2.

HEARING EX. MOORE: And you told me Mr. Hoffmann is to deal with issues 1 and 2?

MS. FINN: That's correct.

HEARING EX. MOORE: I'll overrule the objection.

A. The call that would originate with US LEC customer D and terminate at Verizon customer A, US LEC would be responsible to carry that call

□00130

from customer D's location in the Essex local calling area to US LEC's switch or IP in the Columbia local calling area, we would then transport that call over the entrance facility which US LEC purchased from Verizon or a third party to the tandem. So US LEC would be responsible for carrying that call from D to our switch to the point of interface, and then paying Verizon reciprocal compensation or toll to terminate the call.

Q. So Mr. Hoffmann, when the call originates with customer D, US LEC carries the call from D to its switch and back to --

MR. PANNER: Objection. Sorry, I thought you were done.

HEARING EX. MOORE: Let her ask the question.

MR. SHOR: Are we dealing with two objecting counsel or one?

MR. PANNER: You argued another objection, Michael.

HEARING EX. MOORE: I'm not going to get into that. I can sort it out. Let her ask

□00131
the question. Go ahead, Ms. Finn, ask the question.
BY MS. FINN:
Q. So Mr. Hoffmann, when US LEC originates a call, it's responsible for carrying it to US LEC's switch and then to Verizon's tandem, correct?
MR. ANGSTREICH: Objection, Your Honor.
A. Correct.
MR. ANGSTREICH: The question is leading.
MR. PANNER: Withdraw it.
HEARING EX. MOORE: This is redirect. Next question.
BY MS. FINN:
Q. Mr. Hoffmann, do you remember when you discussed the LATA and how US LEC, under US LEC's proposal, could put its switch anywhere in that LATA?
A. Yes, I recall.
Q. And what is US LEC's proposal to kind of mitigate any concern Verizon might have over
□00132
where US LEC locates its switch within the LATA?
A. US LEC has hoped to mitigate Verizon's concern on this issue of our locating our switch in the far corner of a LATA by charging only a nondistance entrance facility which is not sensitive, which is not changed based on distance.
Q. Do you also remember when you discussed various factors that could influence the cost of an interconnection arrangement?
A. Yes, I do.
Q. And in your opinion, is any single one of those factors determinative?
A. No. All factors must be considered in conjunction with one another.
Q. And do you also remember the discussion about what you call the transport penalty and how it's calculated?
A. Yes.
Q. And the discussion of UNE rates and your understanding of UNE rates?
A. Yes, I recall that.
Q. I believe you said UNE rates are cost

00133
based?
A. Yes, it's my understanding that UNE rates are composed of cost plus some amount of profit that the ILEC is allowed to earn.
So those rates are cost plus.
Q. Then do you recall the discussion about whether or not the parties would agree within 30 days to establish a collocated US LEC IP?
A. Yes, I recall that discussion.
Q. Mr. Hoffmann, do you have experience negotiating with Verizon?
A. Yes, quite extensive experience.
Q. And in your experience, will you be able to negotiate that within 30 days?
A. I'd say it's highly improbable. I've never been able to get Verizon to agree with me on virtually anything within 30 days or 60 days. In fact, I believe this negotiation session started last November.
MS. FINN: I have nothing further, Your Honor.

EXAMINATION

00134
BY HEARING EX. MOORE:
Q. Let me, Mr. Hoffmann, ask you something to clarify something in my own mind. Tell me again, the question that was presented to you was a call originating on Verizon to your customer D and terminating with Verizon's customer A. Tell me again what the cost was or you gave a description as to what the compensation was to be and you said that, well, tell me again what the compensation is for that, for the routing of that call.
A. Yes, Your Honor. The compensation, when I deliver the call to the point of interface, which would be at the triangle, the compensation which I would pay Verizon would be either recip comp for a local call or toll for them to terminate that call to customers A, B or C. The other costs involved in completing that call would be the cost which US LEC would incur to get the customer's traffic from their location D to the US LEC switch in the circle marked with a E, then along an entrance facility which US LEC would purchase, from the US LEC switch to the

□00135

triangle. So I would have network costs getting from D to my switch and then from my switch to Verizon's tandem, and then in addition I would pay Verizon either recip comp or toll access rates to complete that call.

Q. Okay. What would determine whether you would, would pay reciprocal compensation for a call?

A. The originating and terminating NXX of the originating and terminating, calling and called party.

HEARING EX. MOORE: All right. That's all I have at this point. Any further questions?

MR. ANGSTREICH: Just one, Your Honor.

RECROSS-EXAMINATION

BY MR. ANGSTREICH:

Q. Mr. Hoffmann, you were discussing the call from D when D calls A, and we had discussed when A calls D. Do you have any sense of what proportion of the traffic is in each type of call? That is, how often -- I'll just stop

□00136

there.

A. No, I'm not aware.

Q. I'm sorry. Let me see if I can clarify. Do you have any sense of what the traffic balance is currently between the two parties' networks?

A. No, I'm not aware of what the current balance is. I believe it is roughly in balance, though, but I do not know the specific ratio.

MR. ANGSTREICH: Thank you. Nothing further.

HEARING EX. MOORE: Anything further from Mr. Hoffmann?

MR. SHOR: No, Your Honor.

HEARING EX. MOORE: May he step down?

MR. SHOR: Yes.

HEARING EX. MOORE: Thank you, sir.

(Witness excused.)

HEARING EX. MOORE: This witness has been kind of long. Can you give me an idea of what remains?

MR. SHOR: Ms. Montano for issues 1 and 2, and you'd have to ask him how long his

□00137

cross is going to be.
HEARING EX. MOORE: So you're just going to have two witnesses?
MR. ANGSTREICH: I don't expect a very long cross.
MR. SHOR: The judge had wanted to break at 12:45.
MR. PANNER: Unless you need a lot of time to prepare her redirect.
MR. SHOR: No.
HEARING EX. MOORE: Let's get your second witness, at least get that witness on.
MR. SHOR: Your Honor, US LEC calls Ms. Wanda Montano to the stand.
Whereupon,

WANDA G. MONTANO

a witness, was called for examination by counsel on behalf of US LEC, and, having been first duly sworn, was examined and testified as follows:
HEARING EX. MOORE: Ma'am, state your full name and business address for the record.
THE WITNESS: Wanda G. Montano, US LEC Corp., 6801 Morrison Boulevard, Charlotte, North

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Carolina.
HEARING EX. MOORE: Witness with you.

DIRECT EXAMINATION

BY MR. SHOR:
Q. Ms. Montano, did you cause to have prepared 33 pages of direct testimony to be filed in this matter on or about June 10th, 2002?
A. Yes, I did.
Q. Do you have any changes or corrections to that testimony?
A. No, I do not.
Q. If I was to ask you these questions today, would your answers be the same?
A. Yes, they would.
MR. SHOR: Your Honor, US LEC would ask the Commission to admit the direct testimony of Wanda G. Montano on this matter subject to cross-examination.
(US LEC Exhibit No. 3 was marked for identification.)
BY MR. SHOR:
Q. Did you cause to have prepared 19

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pages of rebuttal testimony filed in this matter on or about August 9, 2002?

A. Yes, I did.

Q. Do you have any changes or corrections to that testimony?

A. No, I do not.

Q. If I asked you those questions today would your answers be the same?

A. Yes, they would.

MR. SHOR: Your Honor, US LEC respectfully requests you admit the direct and rebuttal testimony of Wanda G. Montano on behalf of US LEC subject to cross-examination. I have copies for the Commission and for the reporter. May I approach.

HEARING EX. MOORE: Yes. In the interest of convenience may I give the reporter, this will be, the direct testimony will be US LEC Exhibit 4, and the rebuttal testimony -- 3, rather, and the rebuttal would be US LEC 4.

HEARING EX. MOORE: Yeah, let her mark it first.

(US LEC Exhibit Nos. 3 and

□00140

4 were marked for identification.)

MR. SHOR: Ms. Montano is available for cross-examination.

CROSS-EXAMINATION

BY MR. ANGSTREICH:

Q. Ms. Montano, Mr. Hoffmann and I were discussing a case where US LEC has a customer located in Columbia and a customer located in Baltimore. Is there, we're assuming they're purchasing the same calling package from US LEC. Is it possible that they would pay different prices for a package?

A. Yes, it is.

Q. Why would they pay different prices for a package?

A. US LEC does market-based pricing based on our cost structure. Since we purchase most of our underlying facilities from Verizon and you charge me differently based on different mileage bands that I buy from you, that I would in turn charge my customers different mileage bands.

MR. ANGSTREICH: Your Honor, if I

□00141

could approach, I just want to introduce US LEC's tariff which discusses some of these issues Ms. Montano and I were discussing.

HEARING EX. MOORE: Yes.

MR. ANGSTREICH: The portion I'm referring to here is what's on page original sheet 53.

HEARING EX. MOORE: This is Verizon Exhibit 6.

MR. SHOR: Is this the full tariff? They're not consecutively numbered, there are some dot pages, so it's not necessarily the 53rd page.

HEARING EX. MOORE: This is Verizon 6.

(Verizon Exhibit No. 6 was marked for identification.)

MR. SHOR: What page are you referring to?

MR. ANGSTREICH: Original sheet 53.

BY MR. ANGSTREICH:

Q. Just quickly, this page lists three

□00142

different schedules based on the distance the customer is from US LEC's switch?

A. That's correct.

Q. And the distance break points are at 10 miles and 16 miles?

A. Yes.

Q. So the customer in Essex who is about 20 miles away would pay even more than the customer in Baltimore?

A. That appears to be correct.

MR. ANGSTREICH: I'm done, Your Honor.

MS. FLYNN: I have no questions for this witness.

HEARING EX. MOORE: Any redirect?

MR. PANNER: Your Honor, I just want to note that we're going to recall Ms. Montano for the remaining issues, but we're done with issues 1 and 2.

MR. SHOR: Wait a minute. I just have one redirect.

MR. ANGSTREICH: No, we're done. We were saying we were done.

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HEARING EX. MOORE: I was looking back to you on redirect. Go ahead.

REDIRECT EXAMINATION

BY MR. SHOR:

Q. Since we've had an extensive cross. Am I correct in understanding that the difference in price structure for US LEC is due to the different prices that the services you purchase from Verizon cost you?

A. That's correct.

Q. And that those are distance-sensitive costs that Verizon charges you?

A. That is correct.

MR. SHOR: I have nothing further.

HEARING EX. MOORE: Okay. May Ms. Montano step down?

MR. SHOR: For issues 1 and 2, yes. I think it makes sense for her -- yes, because we'll go to Pete now. After lunch.

(Witness excused.)

HEARING EX. MOORE: I understand. All right. Where are we?

MR. PANNER: Your Honor, we can take

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advantage, if you want to take advantage of the time, we could swear our witness and introduce his testimony just to save the five minutes that that would take after lunch.

HEARING EX. MOORE: Okay, we can do that.

This is your witness on issue 1 and 2?

MR. PANNER: Yes, Your Honor. And Your Honor, I'll take, just so that you know who's, I'm sorry that you're getting the stereo, I'll take care of introducing his testimony.

HEARING EX. MOORE: Okay. No problem.

Whereupon,

PETER D'AMICO

a witness, was called for examination by counsel on behalf of Verizon, and, having been first duly sworn, was examined and testified as follows:

HEARING EX. MOORE: Sir, state your full name and business address for the record.

THE WITNESS: My name is Peter J. D'Amico, D, apostrophe, A-M-I-C-O. I'm an

□00145

employee of Verizon, my business address is 416 7th Avenue, Pittsburgh, Pennsylvania.

HEARING EX. MOORE: Witness with you.

DIRECT EXAMINATION

BY MR. PANNER:

Q. Mr. D'Amico, did you cause to have prepared 17 pages of direct testimony dated June 10th, 2002, in this proceeding?

A. Yes.

Q. If those same questions were asked of you today would your answers be the same?

A. Yes.

MR. PANNER: Your Honor, I'd like to introduce the direct testimony of Mr. D'Amico as Verizon Exhibit 7. Subject to cross-examination.

HEARING EX. MOORE: Very well.

(Verizon Exhibit No. 7 was marked for identification.)

BY MR. PANNER:

Q. Mr. D'Amico, did you cause to have prepared 14 pages of rebuttal testimony dated

□00146

August 9, 2002 that was introduced and earlier filed in this proceeding?

A. Yes, I did.

Q. Do you have any changes to make to that rebuttal testimony?

A. Yes, as a matter of fact I do. On page 10, starting on line 7, in the sentence that starts under US LEC's, currently it says rate guide. I would like to change that to tariff.

MR. SHOR: What line is that?

THE WITNESS: It's page 10, line 7.

Q. And it starts with what?

MR. PANNER: We've got a small correction and it does make sense to give you the testimony to look at but we'll introduce it after the change. We'll pass it out as an exhibit. It is demonstrative. I apologize for the confusion. We're now to the rebuttal testimony where he has a correction. And you were looking at the direct.

HEARING EX. MOORE: Okay.

Q. Mr. D'Amico, you were describing a change that you had to your testimony on, to your

00147
rebuttal testimony dated August 9th, 2002 on page 10 at line 7?
A. Yes. Again, the sentence starts, under US LEC's rate guide. Instead of it saying rate guide it should say tariff.
Q. And are there other changes to make?
A. Yes. The sentence after that on line 8, it says see US LEC's rate guide, instead of rate guide, replace that with Maryland tariff. And right after that where it says Section 6.1.2, replace that with Section 5.2.
Q. So it should be US LEC's Maryland tariff Section 5.2? Is that correct?
A. Correct.
Q. And are there any other changes?
A. Yes. On that same line 9, within the parentheses where it has a customer, instead of it being a capital A, it should be a lower case a, as well as instead of it being an upper case or capital C it should be a lower case c in customer.
Following through, on that same line 9 where it says distance between the customers,

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again that's a capital upper case C, it should be a lower case c. And then the last change is instead of it saying on line 10, respective ILEC, it should say dominant.
Q. So that would then read, if I were to read through with your corrections, the parenthetical phrase would say, a customer's rate schedule is dependent on the distance between the customer's dominant serving wire center and the US LEC switch? Is that correct?
A. Yes.
Q. Thank you. Do you have any other changes or corrections to make to your testimony?
A. No, sir.
Q. Aside from that correction, if you were asked these questions today, would you give the same answers?
A. Yes.
MR. PANNER: I introduce Mr. D'Amico's rebuttal testimony as Verizon Exhibit 8. Subject to cross-examination.
HEARING EX. MOORE: Very well.
(Verizon Exhibit No. 8 was

□00149

marked for identification.)

HEARING EX. MOORE: Very well. Does that conclude?

MR. PANNER: We offer Mr. D'Amico for cross-examination, Your Honor.

HEARING EX. MOORE: Okay. Verizon 7 and 8 shall be admitted.

(Verizon Exhibit Nos. 7 and 8 were received in evidence.)

HEARING EX. MOORE: Okay. Let's break for recess at this point and reconvene at 2:00.

(Recess taken -- 12:45 p.m.)

(After recess -- 2:00 p.m.)

HEARING EX. MOORE: We're back on the record. Are we ready for this witness, Mr. Shor?

MR. SHOR: Yes, Your Honor.

MS. FINN: I'll be cross-examining Mr. D'Amico, Your Honor.

HEARING EX. MOORE: Okay.

CROSS-EXAMINATION

□00150

BY MS. FINN:

Q. Good afternoon, Mr. D'Amico.

A. Good afternoon.

Q. Mr. D'Amico, as I understand your testimony, you believe that separating the POI or the physical point of interconnection from the IP or the financial point of demarcation where transport responsibility shifts is consistent with FCC rules, is that correct?

A. Yes.

Q. And you have testified that VGRIPs, the Verizon proposal in this proceeding, gives US LEC the right to choose the IP where that financial responsibility shifts? Is that correct?

A. They can choose the IP, but in association with that choice Verizon's VGRIP proposal has certain aspects to it.

Q. So basically Verizon defines the choices US LEC may make?

A. It lists them, defines, however you want to say that, yes.

Q. As I understand it, one of the choices

□00151

is that US LEC may establish an IP via collocation at each Verizon tandem where US LEC assigns local telephone numbers; is that correct?

A. Yes.

Q. Correct me if I'm wrong but another option is that US LEC may establish a virtual IP as a Verizon end office? Correct?

A. Yes.

Q. Now, turning to the first option, would you agree with me in this case that the IP is a physical connection between the parties' networks?

A. In the case of a collocation arrangement, yes.

Q. So can we call this the physical IP for purposes of our discussion?

A. Sure.

Q. Would you agree with me that a physical IP is the same thing as a POI, a place where the two wires of two networks twist together, basically?

A. Again, they're at the same place, so in the example you just mentioned, the POI and

□00152

the physical IP would be at the same location. Yes.

Q. Same location, but they're not the same thing? Can you explain that?

A. Correct. They're two different terms, therefore, I wouldn't combine them together to say that they're, you know, the definition becomes one, even though they're in the same location. The point of interconnection is the physical wires twisting, and the physical IP in this example is the point of financial responsibility. They just happen to be in the same location in your example.

Q. Okay. The contract that Verizon has submitted I believe as Exhibit 1. Are you familiar with Section 2.1.3 of the interconnection attachment?

A. Yeah. I mean, I don't have it in front of me, but I'm familiar with the interconnection attachment.

Q. Would you like to have it in front of you?

A. That would probably help.

□00153

MR. ANGSTREICH: I have a copy, it's not the entire one, but I believe it has the sections you want. (Handing.)

Q. Section 2.1.3 lists the methods that US LEC may choose to interconnect with Verizon, correct?

HEARING EX. MOORE: What page is that?

MS. FINN: I'm sorry. It's on page 52.

A. Yes.

Q. And those methods include a collocation arrangement established by US LEC, a collocation or entrance facility established by a third party, or an entrance facility and transport link that US LEC purchases from Verizon. Correct?

A. Correct.

Q. But isn't it true that under VGRIPs US LEC may only use collocation to establish the physical IP?

A. I'm not sure I would say that. Again, that's one option where the IP would be at the

□00154

collocation cage, but they could also have a situation where Verizon carries its traffic to the US LEC switch and that's where we get into this so-called offset, the transport offset.

Q. But I asked you about a physical IP. And in order to establish a physical IP, doesn't US LEC have to do that through collocation?

A. Yeah, under that arrangement, sure.

Q. And US LEC may not use an entrance facility to establish a physical IP, is that correct? Under your proposal?

A. I'm trying to think if there could be an example. I suppose, there could be an example where an entrance facility is used. I'm just having a hard time picking one out at the moment. In other words, let's just say that US LEC has an IP at a Verizon end office and that IP is used for traffic from that Verizon end office to that IP. For traffic from throughout the rest of the LATA, or to, from traffic from an area that is served by that tandem, if US LEC has a collocation cage in that particular tandem, then I guess it's possible that Verizon could lease

00155
entrance facilities from US LEC for that traffic from the Verizon end office to that Verizon tandem.
Q. But I'm talking about the establishment of the US LEC IP.
A. Yes. That's what I was talking about.
Q. And that Verizon would lease entrance facilities from US LEC to establish a US LEC IP?
A. Yeah. For that traffic from, I guess it would be all traffic with the exception of traffic from that particular end office. Verizon could, I'm not sure how probable, but could lease entrance facilities from US LEC from that end office collocation to their collocation at the tandem.
Q. And do you know, does this happen today? Is this a remote possibility or --
A. It doesn't happen today with US LEC. I can't say that other CLECs haven't done that.
Q. Can you please turn to page 62 of the contract?
A. Okay.

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Q. I'm going to focus on the top paragraph which is all struck through, just a minute, please. It's 7.1.1.1, begins at the bottom of 61 and carries over to page 62. Towards the bottom of that first paragraph, do you see the sentence that begins in the US LEC as a receiving party?
A. Hold on.
Q. These lines are kind of making me dizzy here. So this is a paragraph on page 62?
A. Yes. And it's near the end?
Q. It's, well, in my copy it's 14 lines up.
A. Okay. Thank you.
Q. So that reads in the US LEC as a receiving party, US LEC will establish geographically relevant IPs by establishing an IP at a collocation site at each Verizon tandem in a LATA. Correct?
A. Yes, that's what it says.
Q. So that requires US LEC to use a collocation arrangement to establish an IP at its tandem, correct?

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A. Yes.
Q. Mr. D'Amico, did you review the parties' current network architecture arrangements in preparing your testimony?
A. A little bit.
Q. Did you hear Mr. Hoffmann testify today that US LEC interconnects with Verizon through purchase of entrance facilities to your tandems?
A. Yeah, this morning he mentioned the use of entrance in, I think the switch was in Columbia.
Q. So it would be fair to say, with respect to that arrangement, that the entrance facility does not qualify as a physical IP under that section we just read, 7.1.1.1?
A. Not under that section, no.
Q. Can you point me to another section in the contract that permits US LEC to establish a physical IP via an entrance facility?
A. Other than the example that I gave you?
Q. Well, you gave me an example but I'd

□00158

like to know where that is in the contract.
A. Oh, okay.
I guess maybe the only other spot is on page 63, 7.1.1.3. And that's talking about LATAs where the parties have already interconnected.
Q. Mr. D'Amico, under the Section 7.1.1.3, doesn't Verizon have the right to request that parties change their current network architecture?
A. Yes.
Q. And the right to make that request is in Verizon's sole discretion, correct?
A. Yes.
Q. So during the term of this agreement Verizon could decide that the entrance facility no longer suffices and ask US LEC to establish a collocated IP, correct?
A. Correct. Which again we would either, we'd have to agree in 30 days on an arrangement, and if either of the parties couldn't agree or US LEC decided they didn't want to establish an IP at the tandem, then again we would have this

□00159
provision with the compensation of the transport.
Q. Can you please turn to page 11 of your direct testimony?
A. Okay.
Q. On lines 5 through 6 you state that Verizon is willing to incur this extra --
HEARING EX. MOORE: What page? I'm sorry.
MS. FINN: Page 11 of the direct. Lines 5 through 6.
Q. You state that Verizon is willing to incur this extra transport cost in exchange for the ability to deliver its traffic to US LEC at a more central location.
First, Mr. D'Amico, what do you mean by extra?
A. Extra would be the transport from a local calling area outside of the tandem location. In other words, I believe we used Essex this morning as an example, so if traffic originated from Essex from the Essex local calling area, Verizon would be willing to carry
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that traffic to the tandem and then even though we're carrying that traffic outside of the local calling area, and charging our customer a local call in this example, we're incurring transport outside of the local calling area. And so that's what it's referring to as extra.
Q. So the extra is transport outside of the local calling area?
A. Yes.
Q. And I take it since you said you're willing to deliver it to the tandem that by more central location you mean the Verizon tandem?
A. Yes.
Q. But isn't it true that Verizon is only willing to incur this extra transport if US LEC establishes a collocated IP at the Verizon tandem?
A. That's the current proposal, yes. The VGRIP.
Q. So in other words, the current entrance facility at Charles Street, Verizon is not willing to incur extra transport to deliver traffic to US LEC there?

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A. Well, if the question is is Verizon willing to deliver our traffic over US LEC entrance facilities, and not be charged for that, that would be something that we could discuss. But if your question is is Verizon willing to deliver its traffic over entrance facilities and then be charged for those, that basically defeats the purpose of us recovering our costs.

Q. So are you recovering your costs through requiring US LEC to pay collocation?

A. No, we're still incurring some costs, again, to get it from the various local calling areas to the Verizon tandem. But as our proposal, as a compromise position, we're willing to do that so that we could drop it off at, you know, at this centralized location.

Q. But as the proposal stands right now in the contract you're only willing to do that if you drop it off at a collocation arrangement at your tandem.

A. Yes, that's the current language.

Q. Mr. D'Amico, today under the parties' current network architecture Verizon is

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delivering, is financial responsible for delivering its traffic all the way to US LEC's switch, is that correct?

A. That's the current arrangement, I believe, yes.

Q. Can you turn to page 4 of your direct, please.

A. Okay.

Q. At lines 6 through 12. You are citing the Maryland Commission's MFS order, correct?

A. Yes.

Q. And I believe you cited for the proposition that a CLEC can choose its POI so long as it interconnects at one point within each access tandem serving area within a LATA, correct?

A. Yes.

Q. Correct. Is it your testimony that Verizon can limit US LEC's choice of establishing a physical IP collocation and still be in compliance with this MFS order?

A. Could you run that by me again?

Q. Is it your testimony that Verizon can

□00163
limit US LEC's choice of establishing a physical IP collocation and still be in compliance with this order?
A. Yeah.
Q. So you read the MFS order to require a collocated IP in each access tandem area?
A. It doesn't get that specific. In other words, Verizon's proposal, I don't think violates this order. It may, it adds more language or it adds more parameters to the arrangements.
Q. Mr. D'Amico, are you familiar with the FCC rules that require Verizon to offer any technically feasible method of interconnection to a CLEC?
A. Yeah, I mean, I've heard the term, the sentence, I can't give you the legal background to it.
Q. Would it be fair to state that an entrance facility is a technically feasible method of interconnection?
A. Sure. But again, we're not limiting the ability of an entrance facility. What we're

□00164
trying to say is if Verizon delivers it to the US LEC switch, we're looking for a way to compensate Verizon for that transport that's outside the local calling area. And that's our proposal to do it. The VGRIP.
Q. Is it also your testimony that if Verizon has only one tandem in a LATA, Verizon can designate additional VGRIP locations at end offices within the tandem serving area?
A. Yes.
Q. And there's no limit to the number of additional VGRIPs locations Verizon may designate, is there?
A. I don't think the language is that specific, no. It's just, it's kind of open.
Q. Is it your testimony that Verizon can designate these additional POIs or physical IPs within a single access tandem area and still be in compliance with the MFS order?
A. Again, we're talking about interconnection points, and the final result is that we could still be delivering Verizon traffic as we do today to US LEC, it just gets into the

□00165
compensation of that transport.
Q. Mr. D'Amico, I'm asking about the physical points that you could ask US LEC to designate within an access tandem serving area and you can ask them to designate more than one when you only have a single tandem, correct?
A. Well, see, you're asking about IPs. An IP is associated with a financial obligation. The point of interconnection is a different story. That's a physical thing.
Q. But we're talking about a physical IP. Are you saying because you change the name to physical IP it's somehow no longer subject to the MFS order or the FCC rules?
MR. PANNER: For the term physical IP, it was introduced by counsel, it was not a term that Mr. D'Amico introduced or used. So he didn't, I think it's argumentative and misrepresents prior testimony to suggest that he used the term in a certain way. She introduced the term and asked him to accept a certain definition of it and now she's trying to use it to suggest that he said something that he didn't,

□00166
Your Honor.
HEARING EX. MOORE: I'm not sure I heard that it way. I'll overrule the objection. Answer the question, if you can.
A. What was the question again?
MS. FINN: Would you please read that back.
(The record was read by the reporter.)
A. I think, and this is where I'm going to have to just not give my opinion so much as just what I've seen. In my testimony I've said that the VGRIP proposal doesn't violate the FCC rules. So this is the VGRIP proposal, so I would say that it doesn't violate the FCC rules, but again, I'm not an attorney. And that would be some legal discussion on that point, I guess.
Q. Can you please turn to page 12 of your testimony, direct again?
A. Okay.
Q. On this page I believe you discuss the Maryland Commission's ruling in the Verizon/ Sprint arbitration. Correct?
A. I see the U.S., or the North Carolina.

□00167

Q. I'm sorry, you know what? I read the wrong number. It should be on page 5. I apologize. Page 5, beginning at line 12.

A. Yes. That's the Sprint Maryland arbitration. With Verizon.

Q. Mr. D'Amico, isn't it true that when the Commission arbitrated the agreement between Sprint and Verizon, the Commission actually adopted Sprint's proposal over Verizon's VGRIPs proposal?

A. Yes, they did.

Q. And isn't it your understanding that under this, the Sprint arbitration, the Sprint IPs do not have to be at Verizon's tandems but only within a reasonable proximity of Verizon's switching centers?

A. Yes, that was one aspect of it. There was additional parameters about call volumes and distances.

Q. Mr. D'Amico, Verizon has not proposed any call volume thresholds or distance thresholds in this proceeding, have they?

A. Correct.

□00168

Q. As you understand the Commission's decision, Sprint does not have to collocate to establish its IPs, does it?

A. No. Not under that order.

Q. And in fact according to your testimony, if the Sprint IPs do not have to be at Verizon's switching centers the Sprint IPs could be at Sprint's switch?

A. Yes. And again, obviously we had an issue with that, and we still feel that although they tried to address our concerns, with expensive interconnection points, we're not sure that the Sprint arrangement goes all the way to do that.

Q. But Verizon is complying with the Sprint arbitration order?

A. Yes, they are.

Q. I'd like to turn to the virtual IP option under VGRIPs now. And I think you've stated that US LEC doesn't have to establish these physical IPs, instead it can establish virtual IPs, correct?

A. Yes.

□00169

Q. And the virtual IP may only be established in a Verizon end office, not a tandem, correct?

A. Correct.

Q. Now, can you turn to page 10 of your direct testimony, please.

A. Okay.

Q. Beginning at line 18. If US LEC chose to place its POIs in places that are not at VGRIP locations, Verizon would deliver its traffic to US LEC's chosen POI location, but could recover the additional transport and other costs for delivering the traffic to that location. Do you see that?

A. Yes.

Q. Mr. D'Amico, if Verizon wants to deliver its traffic to US LEC at a central location which I think you defined before as Verizon's tandem, but US LEC wants to keep its current IP at its switch, shouldn't the additional transport cost be measured from the Verizon tandem to the US LEC switch?

A. No, I don't believe so. Again, under

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this proposal, which is basically a compromise position, Verizon is still hauling this traffic from all of these various local calling areas. So I mean, picture the LATA and then all of these dots as local calling areas and then US LEC has a switch in Columbia.

Verizon is willing to incur all of the added transport from these various local calling areas because again, remember, we're just getting a local call from our end user, but yet normally a call from all of these outlying areas to Columbia would be a toll call. So it's kind of out of balance. It's a local call from a Verizon billing its end user perspective but yet we're incurring this, the cost to carry it as a toll call.

So you've got to take into consideration all of that transport and what we're saying, I'll tell you what we can do is establish a point at the tandem, Verizon will carry it this distance, even though it's outside the local calling area, but in exchange for that, US LEC, pick it up at the tandem. Now, if you

□00171

don't want to do that, we've already compromised on this piece, and so by compromising, by just saying, well, if I don't want to do it at the tandem, I'll just do this five-mile or ten-mile whatever this leg is, you've eliminated the compromise that Verizon has on this portion. So you're basically doing a compromise of a compromise. So that's, I mean, that's what the VGRIP proposal is, and that's how we've, you know, outlined it.

Q. Mr. D'Amico, do you know what volume of traffic Verizon has to deliver outside of a local calling area in order to get it to US LEC's IP?

A. Other than someone mentioned to me that the ratio is like five to one, I don't know how much of that is, and the five being Verizon delivering traffic to US LEC versus US LEC sending, you know, so it's five calls versus one call, I don't know how much of that is carried outside the local calling area, but whether it's, you know, a lot or a little, a little today or could be a lot tomorrow, and this arrangement is

□00172

shared by other CLECs. So CLECs could also have, create a, you know, a cost issue for Verizon, or the cumulative effect of all of the CLECs having Verizon carry this traffic out to the local calling area is what we're trying to address.

Q. Mr. D'Amico, do you know the distances Verizon currently delivers its traffic from local calling areas to the US LEC switch based on the current traffic patterns?

A. Again, I don't have any of those specifics of distances or volumes or anything of that nature.

Q. Isn't it true that under the virtual IP option that Verizon is not willing to bear the cost of transport within the local calling area?

A. I'm not sure, could you expand on that.

Q. Under the virtual IP option --

A. Okay. So basically the language says from the originating end office, to the US LEC switch. And so I mean, that's what the language says. It could travel within the local calling area. In other words, if you drew a symmetrical

□00173

circle and said that the end office is in the middle, then there could be some transport within the local calling area. You could also have it near the ends as well.

Q. Or it could be on the far end of the local calling area?

A. Yes.

Q. So US LEC, under the virtual IP option US LEC bears the cost of transporting Verizon's originating traffic within the local calling area?

A. Yes. Under the VGRIP proposal, but again, I thought I heard this morning that US LEC doesn't want to pay for any of it, so I guess if we just focused on that point, then, and that's our only issue, then you might be able to hammer down on that.

Q. Can you turn to page 2 of your testimony, please?

A. We're still on direct, right?

Q. Still on direct.

A. Okay.

Q. Do you see lines 11 to 14?

□00174

A. Yes.

Q. I'm going to paraphrase here. If US LEC chooses a single point in a LATA it should be financially responsible for hauling the call when the call leaves the local calling area?

A. Yes.

Q. So that's not entirely correct because US LEC is also responsible for hauling the call within the local calling area within the virtual IP option, correct?

MR. PANNER: Objection. Compound.

HEARING EX. MOORE: Can you answer?

A. I mean, that's what this is saying, that they should be responsible for the traffic outside the local calling area. Yes.

Q. Didn't you just testify that under the virtual IP US LEC is also responsible for transport within the local calling area?

A. Under that piece of VGRIP, yes. And again you, have to remember that the VGRIP is a package.

Q. Mr. D'Amico, doesn't this sentence describe that piece of VGRIP?

□00175

A. This describes the scenario that Verizon is trying to address.
Q. Which I've said is the virtual IP option?
A. The virtual IP is Verizon's remedy to the fact that it's hauling calls outside of the local calling area, and VGRIP is an attempt to address those costs. It's a package.
Q. The virtual IP remedy, so to speak, for your cost of hauling calls outside the local calling area includes your cost of hauling the call within the local calling area.
MR. PANNER: Objection. Asked and answered.
HEARING EX. MOORE: Overruled.
THE WITNESS: That means I answer it, right?
MR. PANNER: Yes.
A. I usually write them on my hand.
Yes. And again, for that little piece or whatever that piece is, that's what the language states in the VGRIP proposal.
Q. And it could be little, it could be

□00176

large, we don't know because we don't know the distances involved here.
A. Well, I would say, yeah, without getting into specifics of the size of the local calling area, again, the meat of the issue is from the local calling area to the US LEC switch.
Q. Going back to the MFS and Sprint orders you cited on pages 4 and 5?
A. Okay.
Q. Do you recall that those orders also addressed each LEC's financial responsibility for delivering its originating traffic to the single POI per access tandem serving area?
HEARING EX. MOORE: Would you repeat that, please?
Q. Yeah. Do you recall that those orders also addressed each LEC's financial responsibility for delivering its originating traffic to the single POI per access tandem serving area?
A. So this is the MFS as well as the --
Q. As well as the Sprint.

□00177

A. -- Sprint. Definitely the Sprint addressed it, I'm not sure about the MFS agreement.

Q. But the Sprint order said that each LEC was financially responsible for delivering its traffic to the POI?

A. I'm not sure if it used POI or if it said, you know, Sprint could pick its IP and --

Q. But it used one or the other term, correct?

A. Right.

Q. Mr. D'Amico, today under the parties' existing architecture US LEC is financially responsible for getting its traffic to Verizon's switches, correct?

A. Correct.

Q. And US LEC bears that financial responsibility even if US LEC's switch is outside the local calling area where US LEC delivers a call to Verizon, correct?

A. Yes. US LEC decides where it locates its switch and therefore they have to get it to Verizon's IPs, and there's various ways to do

□00178

that, various transport options.

Q. And I think we already discussed that under the current arrangements Verizon bears financial responsibility for carrying its originating traffic to US LEC's switch. I'd like to ask if Verizon bears that responsibility whether or not US LEC's switch is within the local calling area where the call originated. Under today's arrangements.

A. I'm not sure, but I don't believe, I'm not that familiar with today's contract.

Q. But it's your understanding that you bear financial responsibility to deliver Verizon's originating traffic to US LEC's switch?

A. Yes.

Q. And Verizon's VGRIPs proposal addresses Verizon's originating traffic, not US LEC's originating traffic, correct?

A. Correct.

Q. So under VGRIPs, Verizon can ask US LEC to pick up the tab beginning at Verizon's end office, but US LEC may not ask Verizon to pick up the tab beginning at US LEC's switch?

□00179

A. Correct. And I mean, again, the issue is, in today's environment, Verizon is hauling its traffic to the US LEC switch. And that traffic is going out, I won't say is going outside, the language, the proposed language that we're trying to do is address the situations where we're hauling a call outside the local calling area. So the current arrangement, even though we're doing it, we're incurring costs that we're not able to recover. And that's why we have this as an issue.

Q. Mr. D'Amico, can you point me to a dollar figure in your testimony that shows me the costs you're incurring under today's arrangement?

A. No. I don't have any specific numbers on studies or anything that Verizon has done.

Q. So you haven't done any cost or traffic studies that you've submitted in this proceeding?

A. No. Again, we're identifying the issue, I think even the Maryland Commission has agreed that there is a situation where Verizon could be hauling it long distances and delivering

□00180

it to a CLEC's point of interconnection. So to quantify that, we haven't gone that step, but clearly the problem is there, and folks have recognized it, and other than the Sprint agreement, in Maryland, which attempts to reduce our concerns, which we don't think has gone far enough, I mean, that's why we're here.

Q. Mr. D'Amico, I think you cited the FCC's NPRM in your rebuttal testimony? On page 12.

A. Probably. Yeah. It's on page 12 of the rebuttal.

Q. Were you here for discussion with Mr. Hoffmann about some of the factors the FCC is considering as part of that NPRM?

A. Yeah. I mean, I don't know if I was focused in on it, but I was sitting in the back there.

Q. Would you like to see a copy of the NPRM?

A. No.

Q. And two of the factors the FCC is discussing, and I think it actually came out of a

□00181

quote of Mr. Hoffmann's testimony, we could also give you that if you wanted to look at it, were the balance of traffic and distance, do you recall that?

A. Yeah.

Q. Do you agree that costs could vary based on the balance of traffic?

A. If there's a lot of traffic coming from Verizon to the CLEC, that would heighten the situation. That would increase our costs. So in that scenario, yes, balance of traffic definitely has a bigger factor.

Q. And could costs also vary based on distance?

A. Yeah. I mean, I'm not a cost person, but typically they do.

Q. Could the costs also vary based on the terrain over which the carrier has to transport the traffic?

A. You mean if you have to go over the Grand Canyon?

Q. Or over the mountains?

A. Or over the mountain? I suppose, but

□00182

I don't know how they engineer that.

Q. And is it possible that costs could vary based on whether or not facilities are already available or you have to augment facilities and build new ones?

A. Let me think about that one.

If you have to build brand new facilities, there's costs associated with that. If you have to augment something that's existing, I guess there would be different costs associated with that. But again, I'm not sure that I'm the right cost guy to, I'm just kind of saying, you know, it makes sense to me.

Q. But do I understand your testimony that even though many factors could influence the cost of delivering traffic, you think the Commission should consider interconnection as expensive as soon as the call leaves the local calling area?

A. Sure.

Q. Can you please turn to the, I believe you used Sparks Glencoe in your testimony on page 7. Direct.

00183

A. Okay.
Q. I believe in this example you're discussing a call from a Verizon customer located in Sparks Glencoe to a US LEC customer that is also located in Sparks Glencoe, is that correct?
A. Yes. On page 7.
Q. Now, on lines 19 through 20, you say normally the call described above would be charged as an intraLATA toll call because of how it was routed. Correct?
A. Yes.
Q. So if this call was between two Verizon customers located in Sparks Glencoe, and it was routed through Columbia for some reason, would Verizon be charging its customers a toll call?
A. No. I think the example that I was trying to make was that normally a call from Sparks Glencoe to Columbia would be an intraLATA toll call.
Q. But Sparks Glencoe to Sparks Glencoe would be a local call?
A. Correct.

00184

Q. And if US LEC picks up the Sparks Glencoe call in Columbia and carries it back to Sparks Glencoe for termination, US LEC cannot charge you terminating access charges, correct?
A. Right.
Q. They'd charge you for reciprocal compensation?
A. Excluding all that ISP stuff, yes.
Q. Can we turn to your rebuttal testimony now. On page 2.
A. Okay.
Q. Lines 12 through 13. You state nonetheless, these customers may very well have been assigned numbers in all or nearly all of the NXX codes that US LEC has obtained.
A. Okay.
Q. Mr. D'Amico, what is the basis for this statement, please?
A. Let me catch up.
I think the point that I was trying to make here is that the CLEC may not actually haul the call back to the local calling area, and they may deliver it to a customer that's right across

□00185
the street from their switch.
Q. Okay. But isn't this sentence talking about numbers and NXX codes? I mean, I understand your physical transport argument but I think this sentence talks about US LEC could have assigned, you know, numbers from NXX, a hundred NXX codes to a single customer. And I'm asking you what's the basis for that statement.
A. It could do that.
Q. But you don't know if in fact US LEC does that?
A. No.
Q. It's just speculation?
A. That's something that could happen. And if US LEC isn't doing it, and again I don't have information whether they are or they aren't, they could.
Q. The next sentence. Moreover, it is likely that these customers are located only a very short distance from US LEC's switches. Again, can you tell me the basis for that statement?
A. That's kind of a general thing where

□00186
we've run into this situation, where the customers are right across the street. And they're, the call isn't actually going back to the local calling area.
Q. So it's a general situation, but you're not sure if it's specific to US LEC?
A. No. And I think it gets more into the VFX issue, which is, what, 3 and 4?
Q. Six, I believe.
A. Six.
Q. But you included it in your testimony on issues 1 and 2.
A. Right.
Q. That's why I'm asking you questions about it.
A. Right.
Q. You understand.
A. Right.
Q. And then I think it's the very next sentence, thus, these customers could well account for the vast majority of the traffic that Verizon sends to US LEC.
A. Correct.

□00187

Q. Again, this is a general statement and you don't have traffic studies so you're not sure if it applies to US LEC?

A. Correct. And I'm not even sure if we did have traffic studies, if we would know where that end user of US LEC's is physically located.

Q. Can you please turn to the Q and A at the top of page 5 of your rebuttal. I'm afraid we're going back to entrance facilities here.

A. Okay.

Q. Do you still have the contract in front of you, Mr. D'Amico?

A. Sure.

Q. Can you look at page 53, Section 2.1.5.3?

A. Okay.

Q. First of all, that section doesn't have any red line in it, right?

A. No.

Q. So presumably this is a section the parties have agreed to?

A. Yep.

Q. Can you read that section, please?

□00188

You don't have to read it out loud, just read it for yourself to make sure you understand it.

A. I was going to say. The whole thing?

Q. Yes.

A. Okay.

Q. In your testimony, you seem to say that Verizon is not responsible for paying a nondistance-sensitive entrance facility.

A. Correct. Well, I think this example is saying, you know, hey, Verizon delivered to US LEC's switch and if you don't want to do that, then you can buy an entrance facility from US LEC to do that. And my response to that is we're hauling these calls from outside the local calling area, and it's kind of going in the other direction for us to pay for that entrance facility as opposed to either being compensated for our transport or delivering it to a collocation arrangement.

Q. Mr. D'Amico, doesn't Section 2.1.5.3 say that Verizon can agree to pay US LEC for that entrance facility?

A. Yes, but this is the example that I

□00189

gave before, where Verizon would be delivering traffic from throughout the LATA to an end office, to a collocation arrangement that US LEC has at a Verizon end office. And then purchasing entrance facilities from US LEC to get to their IP at the tandem collocation arrangement. That's the scenario that, the one that I can think of that addresses this.

Q. But this Section 2.1.5.3 doesn't say anything about it being at an end office.

A. No. It's very generic. Is says this is what can happen.

Q. So if the POIs at the Verizon tandem and the US LEC IP is at the US LEC switch, then doesn't the section state that Verizon would pay an entrance facility?

A. No. Because if, under the VGRIP Verizon wouldn't be responsible to get to the US LEC IP.

Q. All right. But I'm stating that under the US LEC position, if the POI is at the tandem, and the US LEC IP is at its switch, the section says Verizon can use a nondistance-sensitive

□00190

entrance facility obtained from US LEC from the POI, which is at the Verizon tandem to the US LEC IP, which under US LEC's position is at its switch. Correct?

A. Yes. I mean this section works both with Verizon's VGRIP proposal as well as US LEC's proposal. So you kind of have to go back to Section whatever, 7, to look at the respective parties' proposals or language on IPs and all that.

Q. Mr. D'Amico, if the entrance facility is nondistance-sensitive, do you agree that it would address any concern about distance between a Verizon tandem and a US LEC switch?

A. We still would have a situation where Verizon is hauling that traffic from all of these points, the local calling areas throughout the LATA to the Verizon tandem.

Q. But if the Commission is concerned about that distance between Verizon's tandem and US LEC's switch, the nondistance-sensitive entrance facility eliminates that distance concern from the tandem to the US LEC switch.

□00191

Correct?

A. Let me just make sure I understand the scenario. Today we're incurring costs from all the local calling areas to the US LEC or to the tandem. And we're not recovering those costs through our end user, but under US LEC's proposal, we would then pay a nondistance-sensitive entrance facility. It just seems to be going in the wrong direction. We're incurring added costs instead of recovering our costs from carrying outside the local calling areas.

Q. Mr. D'Amico, you're still not answering my question.

A. Sorry. Try it again.

Q. If we look solely at the piece between the Verizon tandem and the US LEC switch, and if the Commission is concerned about the distance, you know, if US LEC's switch is located one mile versus 50 miles from Verizon's tandem, the nondistance-sensitive nature of an entrance facility addresses that concern for that piece of the tandem to the US LEC switch.

A. For that specific isolated piece, if

□00192

Verizon wanted to purchase transport from US LEC, that would address it. If Verizon's self-provisioned, then we would be building that 50 miles or whatever it is. So the choice would be build 50 miles, versus lease an entrance facility.

Q. And I think you stated earlier that Verizon's costs of delivering its traffic from the local calling area to the tandem are not recovered in its end user rates? Did I hear that correctly?

A. That's my understanding.

Q. And where in your testimony can I find evidence of that?

A. Evidence of where I said it?

Q. Evidence of the cost Verizon incurs to deliver the traffic from the local calling area to the tandem, first.

A. Other than me describing a situation where point A to point B is normally a toll call, but yet we're not allowed to recover intraLATA toll from the end user, I mean, that's an example. I don't have the costs broken out of

□00193
what that is.
Q. And have you submitted the rates that you charge your local customers in this docket?
A. No.
Q. Let's go to page 9 of your rebuttal, please.
Lines 3 to 5, I guess. In this example I think we're talking about a Verizon customer in Sparks Glencoe calling another Verizon customer in Sparks Glencoe. Right?
A. Yes.
Q. You state in completing that call, Verizon bears the cost of switching the traffic in an end office and if necessary transporting the call between two end offices in that local calling area? Correct?
A. Correct.
Q. And I assume based on your testimony that you would do that for a local rate paid by your customer?
A. Yes. I mean the local tariffs would cover what we charge our local end user.
Q. And as we discussed earlier under the

□00194
virtual IP option, Verizon will not bear the cost of transport within that local calling area but US LEC will pay that transport cost, correct?
A. This is back to the virtual IP at the end office?
Q. Yes.
A. Yes.
Q. Mr. D'Amico, do you reduce the rate your local customer pays since US LEC is now compensating you for transport within the local calling area?
A. No. And we don't add the rate either when Verizon carries it outside the local calling area to a US LEC location. From what I understand, Verizon's local exchange tariffs define the local calling area and they set those rates. The VGRIP is trying to address the transport outside of that calling area.
Q. Mr. D'Amico, you keep saying outside the local calling area. Which concerns me because I think we've established that VGRIPs also requires US LEC to pay for transport within the local calling area. And --

□00195

A. Under that aspect, yes. Sorry.
MR. PANNER: She hasn't asked a question. And, you know, he's made a statement, it seems to me you've explored it thoroughly, so I would object to any further questions along this line.
HEARING EX. MOORE: Overruled.
Q. Mr. D'Amico, are you aware that Verizon operates a local tandem in the Baltimore LATA?
A. I think that's Pikesville? Yes.
Q. And can you please explain the function of a local tandem?
A. It's used for the delivery of intraLATA traffic.
Q. Is it used for the delivery of local calls?
A. In exchanging local calls with CLECs, yes.
Q. But not from a Verizon customer to a Verizon customer, the calls never overflow to a local tandem?
A. Yeah, there's overflow through

□00196

tandems.
Q. So it's possible for the local rate paid by your customer you will switch it through a local tandem?
A. Yes.
Q. And under the virtual IP option in VGRIPs, if you switch a call from a Verizon customer to a US LEC customer through a local tandem, isn't it true that under the virtual IP option you propose to charge US LEC for that tandem switching?
A. Yes. It says applicable switching, I believe, in the language.
Q. Again Mr. D'Amico, do you know if you reduce the rate paid by the Verizon end user customer since US LEC is paying for that tandem switching?
A. Same answer that I gave before. No, we do not, as well as we do not increase it in the other situation.
Q. Turning to page 10 of your rebuttal now. I believe lines 7 through 10. You're discussing US LEC's tariff.

□00197

A. Yes.
Q. Are you aware of whether US LEC serves business customers primarily?
A. No.
Q. Are you aware if Verizon charges different rates for residential and business customers?
A. I think they do.
Q. And are you aware whether or not Verizon's rates include a distance factor?
MR. PANNER: Objection. Foundation, beyond the scope of his direct.
MS. FINN: I think Mr. D'Amico has testified about the local rates, and the toll rates, and whether or not the local rates cover the cost of carrying the call some distance, and he's also testified about US LEC's rates and how they include a distance factor, and so I'm trying to explore if Verizon's local rates include a distance factor, when they're calculating local rates.
HEARING EX. MOORE: You say it's beyond the scope?

□00198

MR. PANNER: He has not testified to Verizon's rate structure or to the nature of Verizon's business rates or what they contain, so I don't see why, I don't see where, I don't think, he's just said he's not that familiar with the rates. I don't see where the foundation is or how this is beyond, how this goes to anything in the direct testimony.
HEARING EX. MOORE: I'm inclined to agree. I'll sustain the objection.
Q. Can you turn to page 11 of your rebuttal testimony now, please.
A. Okay.
Q. Lines 9 through 11, it looks like. Accordingly those rates, and I think you're referring to the UNE rates here, provide a means for calculating the uncompensated expenses that Verizon incurs as a result of US LEC's chosen network architecture. Do you see that?
A. I do see that.
Q. So you would agree with me that you talked about a means but you haven't done these calculations?

□00199

A. Well, sure, they've, when we filed our unbundled network element rates for transport there was a, you know, a big proceeding, you know, to formalize those rates. And so what I'm trying to do here is not determine what they are, you know, because either they've already been or it's in an open proceeding. I'm just saying that those would recover the costs from the end office to the US LEC switch.

Q. In order to determine those costs you'd have to know the distance, the minutes of use, to apply those rates?

A. Yeah. Sure. You would have to establish some assumptions or some criteria.

Q. And you would have to put those two together in order to establish the cost that Verizon incurs?

A. Sure. I think there's a formula somewhere to do that. Or address that.

Q. On that line 10, Mr. D'Amico, you also talk about uncompensated expenses.

A. Yes.

Q. And Mr. D'Amico, can you please point

□00200

me to the place in your testimony where you show the expenses you incur, and compare that to the local rates your customers pay?

A. I don't do that.

Q. I'm sorry?

A. I don't show that comparison.

Q. Can you turn back to page 9 of your rebuttal?

A. Okay.

Q. You say the local service rates that Verizon charges its customers compensate Verizon for performing those tasks? Do you see that?

HEARING EX. MOORE: Where?

MS. FINN: I'm sorry. Lines 5 to 6.

A. Yes.

Q. And those tasks include switching the traffic in an end office and if necessary transporting the call between the end offices?

A. Right.

Q. That's from the prior sentence?

A. Yes.

Q. And then down at the bottom of the page, line 21, beginning at line 21. I'm sorry,

□00201

beginning at line 22, I guess we need to read both sentences together. Under US LEC's proposal it would not be required to compensate Verizon for that transport and switching. Nor would Verizon receive compensation for those costs from any other source.

Do you see that?

A. Correct.

MS. FINN: Your Honor, I guess I'd like to ask you to revisit the objection Mr. Panner raised because I think that these sentences show that Mr. D'Amico is trying to testify about the relationship between the costs and its local rates. And that's why I'd like to explore distances considered.

HEARING EX. MOORE: I think you're right. I reverse my earlier decision. You can ask that question.

MR. PANNER: Your Honor --

HEARING EX. MOORE: It's his testimony. This is cross.

MR. PANNER: Actually his testimony went to something different, but I'm happy to

□00202

have her go ahead.

HEARING EX. MOORE: Okay. Go ahead.

Q. So Mr. D'Amico, do you know if Verizon's local rates are calculated by reference to some kind of distance factor?

A. I don't know.

Q. Thank you. Let's turn to the last page of your rebuttal testimony, please.

On this page I believe you discuss the recent arbitration order of the Wireline Bureau of the FCC, right?

A. Yes.

Q. I'm sorry. Can we go back to the rates issue for one brief moment.

A. Sure.

Q. I think you testified earlier that there is probably a difference between Verizon's residential and business rates?

A. I think they treat them differently, yeah.

Q. Do you know if the difference could include something like a distance factor or the facilities that the business customers purchase?

00203

A. No. I just remember from my early days as a service rep in the business office there was a residential group and there was a business group, so I assume they treat them differently.

Q. So is it possible that Verizon could recover some of its costs from higher rates charged to business customers?

MR. PANNER: Objection.

HEARING EX. MOORE: Basis?

MR. PANNER: Foundation. He's testified that he doesn't know about that.

MS. FINN: I think he's talking about uncompensated costs, and I'm trying to explore what he believes his rates compensate for. And he knows that there are differences between residential and business rates.

HEARING EX. MOORE: Does that mean that if he knows there's a difference because he knows that, that it automatically flows that that difference is a source of compensation?

MS. FINN: No, I'm asking if he knows that.

00204

HEARING EX. MOORE: Okay. Answer the question.

BY MS. FINN:

Q. Do you know, due to any difference in local and business rates, if business rates compensate Verizon for some of the costs it incurs?

A. No, I don't know that.

Q. Now back to the last page of your rebuttal.

A. Okay.

Q. On lines 11 through 12, I guess going a little bit farther, you said that the Bureau's decision does not cite or discuss the FCC's holding in the local competition order, and you're referring to paragraph 199 there. Do you see that?

A. Yes.

Q. Mr. D'Amico, I take it you reviewed this order to make sure that the Wireline Bureau did not cite paragraph 199?

A. The relevant sections that address my issues.

□00205

MS. FINN: I'd like to introduce, mark as Exhibit US LEC No. 5 an excerpt of this FCC order, Your Honor.

(US LEC Exhibit No. 5 was marked for identification.)

MS. FINN: May I approach?

HEARING EX. MOORE: Yes.

How much more do you have, Ms. Finn?

HEARING EX. MOORE: Okay. When a lawyer says ten minutes you double that and it comes a little bit closer to how much it's going to take.

MR. SHOR: You asked how much time she would have, you didn't ask how much he would have.

HEARING EX. MOORE: All right.

THE WITNESS: Ten minutes for me.

BY MS. FINN:

Q. Mr. D'Amico, does this look like the order you cite in your testimony?

A. Yes. Part of it.

Q. Can you please turn to page 25.

□00206

A. Okay.

Q. Do you see towards the bottom of that top paragraph, do you see that footnote 113?

A. Yes.

Q. Can you read the sentence that ends at footnote 113, please.

A. Verizon maintains that its proposal is consistent with the Commission's Local Competition First Report and Order, which stated that a requesting carrier that wishes a technically feasible but expensive interconnection would, pursuant to Section 252-D-1, be required to bear the cost of that interconnection.

Q. And footnote 113 cites to paragraph 199 of that order? Is that correct?

A. Yes.

Q. So in fact this order does cite to that paragraph? Isn't that true?

A. I mean, it states that, you know, Verizon maintains that, but it doesn't really say anything one way or the other about it.

Q. But it does cite to that paragraph.

00207

A. Yeah, if you want to --
Q. And are you aware that in this order, the Wireline Bureau rejected Verizon's VGRIPs proposal in favor of the proposals propounded by the CLECs?
A. Yeah, I had heard that.
Q. And Mr. D'Amico, do you recall that discussion we had about that nondistance-sensitive entrance facility?
A. Yes.
Q. Can you please turn to page 34 of this order?
A. Okay.
Q. Can you read paragraph 64, please.
A. Verizon argues that if the Commission does not accept the VGRIPs proposal, it should permit Verizon to address its legitimate transport concerns by preventing the petitioners from charging it distance-sensitive rates for transport.
Q. Mr. D'Amico, does that sound like the nondistance-sensitive entrance facility US LEC is proposing?

00208

A. Yeah. I mean, it's related to it.
Q. Mr. D'Amico, are you aware that in this order the Wireline Bureau actually found that Verizon has to pay distance-sensitive rates for that transport?
A. Yes. And I --
Q. Then turning back to your rebuttal testimony, lines 14 and 15, you state, finally, I note that the Bureau's order has not yet been reviewed by the FCC. Do you see that?
A. I do see that, yes.
Q. Mr. D'Amico, is Verizon complying with the Bureau's order right now as far as you know?
A. Yes. Well, it's my understanding that there was time frames to come up with contract language, and, you know, go through that, so they're doing that, those steps to comply with it.
Q. And Mr. D'Amico, are you aware that Verizon has offered CLECs in Virginia the interconnection arrangements ordered by the Wireline Bureau?
A. Yeah, I think they did.

□00209

Q. And Mr. D'Amico, is it your testimony -- Your Honor, US LEC would like to mark another exhibit, Exhibit No. 6. And this is the Verizon Virginia application for 271 authority. An excerpt.

May I approach?

HEARING EX. MOORE: Yes.

(US LEC Exhibit No. 6 was marked for identification.)

BY MS. FINN:

Q. Could you please turn to page 13 of this application.

A. Okay.

Q. Do you see towards the bottom of the page, right before the last paragraph starts, Verizon is sending an industry letter advising CLECs in Virginia that Verizon will accept such requests from CLECs?

A. Yes.

Q. Are you aware if Verizon has actually sent that letter?

A. I think they have.

□00210

Q. And such requests refers back to the interconnection architecture ordered in the Wireline Bureau order? Is that correct?

A. I think it addressed everything in the order.

Q. Okay. So Verizon has offered that to all CLECs in Virginia, is Verizon willing to offer it to US LEC in this proceeding?

A. I'm pretty sure, you know, the letter stated in Virginia, our position in Maryland is what it is. Is our VGRIP proposal.

Q. Mr. D'Amico, why are you unwilling to offer what the Wireline Bureau ordered in Maryland?

MR. PANNER: Objection.

HEARING EX. MOORE: Overruled.

MR. PANNER: I thought it mischaracterized, but perhaps I'm mishearing.

HEARING EX. MOORE: What's the basis for the objection?

MR. PANNER: I thought it mischaracterized prior testimony, but I may be mishearing. I take it what they meant to ask him

□00211

is why Verizon is not offering the Wireline Bureau. But I didn't hear it that way. That's why I objected.

HEARING EX. MOORE: Okay. Ask your question again, Ms. Finn.

MS. FINN: I'm happy to phrase it that way. I'm not sure if I did actually.

MR. PANNER: You said why are you offering it in Maryland.

HEARING EX. MOORE: No, it was just the opposite. I thought why are you offering it in Virginia and not in Maryland.

MR. PANNER: Oh, okay.

A. In Virginia we're abiding by the order, and in Maryland, we don't feel that the Virginia order, although the Virginia order says that our proposal is, it complies with FCC rules, so we don't feel that in Maryland that we're violating, you know, the rules, and so we're trying to address the transport issue.

The FCC Bureau, in a way, and maybe this is just my characterization, said that NPRM was going to look more into the transport issue,

□00212

and while we're glad that that's going to happen, we feel that, you know, a state could look at it right now just as other states have done in North Carolina and South Carolina and Ohio and other states, and because we're not violating any of the FCC rules, we could address it in Maryland.

Q. Mr. D'Amico, the Wireline Bureau did find that the CLEC's proposal was more consistent with FCC rules than VGRIPs, right?

A. Yes.

Q. And it did not limit its decision to Virginia law, correct?

A. I don't know how that worked.

Q. But it applied federal rules? You know that it did apply federal rules?

A. I'm pretty sure it looked at the federal rules.

Q. So the only difference between Verizon's willingness to offer the proposal in Virginia and not willing to offer it in Maryland is 50 miles? The distance between Virginia and Maryland?

MR. PANNER: Objection.

□00213
Mischaracterizes prior testimony.
HEARING EX. MOORE: It's argumentative. I'll sustain.
MS. FINN: Nothing further, Your Honor.
HEARING EX. MOORE: Ms. Flynn.
MS. FLYNN: Good afternoon, Mr. D'Amico.
HEARING EX. MOORE: Before you get started, we're not going to get done today, right?
MR. SHOR: It depends on what time you want to finish.
HEARING EX. MOORE: What does that mean? If I want to finish at ten o'clock tonight you could get done today?
MR. SHOR: I don't know how much cross-examination they have for Ms. Montano on the remaining issues and I don't know how much cross-examination he has for the Staff witness, Mr. Molnar.
But you're probably right.
HEARING EX. MOORE: So after
□00214
Mr. D'Amico we're looking at Ms. Montano again.
MR. SHOR: First Mr. Molnar, then Ms. Montano, and Mr. Haynes.
MR. PANNER: Verizon's witness on issue 6.
HEARING EX. MOORE: We're going to be here tomorrow.
Can we wrap up with Mr. D'Amico today?
MR. SHOR: Yes.
HEARING EX. MOORE: Because I need to tell my boss for scheduling purposes for something else that we're doing that we're going to be going tomorrow and we can make other adjustments. It's not going to impact what we do tomorrow, but it will impact the other matter that needs to be dealt with. Okay? So why don't we count on finishing Mr. D'Amico today, then adjourn and reconvene tomorrow morning at 10.
MR. SHOR: I thought maybe perhaps we could, if we finish with Mr. Molnar today we would completely finish up issues 1 and 2, although he does offer testimony on issue 6.

00215

MS. FLYNN: We agreed earlier that you would just ask questions on issue 6, out of turn, so we could complete Mr. Molnar in one piece. We wouldn't have to recall him to the stand.

MR. SHOR: That's fine with me, but I'll leave it up to your discretion. I'm more than happy to address him tomorrow as well.

HEARING EX. MOORE: We've got it scheduled for two days, I'd just as soon, my brain starts to fog over at a certain point in time, especially dealing with stuff like this.

And I know you all, as important as this is, you don't want me trying to make decisions with a foggy brain. So it would be better if we wrap up today and come back tomorrow. And I'm fresh, you're fresh, and we can do it correctly.

MR. SHOR: Okay, go ahead.

CROSS-EXAMINATION

BY MS. FLYNN:

Q. Mr. D'Amico, I have very little for you. You were the same witness who testified in the Sprint arbitration proceeding, were you not?

00216

A. Yes.

Q. And are you familiar with the decision that came out of the Sprint arbitration?

A. Yes.

Q. I have a copy of that decision here, and I would hope you will read one paragraph of it that discusses the VGRIP decision in Maryland.

A. Okay.

MR. PANNER: Your Honor, could we know what he's looking at?

MS. FLYNN: Yes. This is the Sprint, I'm sorry. This is the Commission order, it's page 30. And this was issued October 1, 2001.

MS. FLYNN: It's page 29.

MR. PANNER: Mine says October 24. Are we talking about the same order?

MS. FLYNN: October 24. I'm sorry. My eyes are going. It's terrible.

A. So upon down to where?

Q. Down to the end of the highlighting.

A. Okay. Upon consideration of this issue, we believe that the policies established

00217

in the MFS decision govern this area and that Verizon's GRIP and VGRIP would subvert such prior decision and effectively penalize CLECs for their right to choose the point of interconnection in the access tandem serving area. During the testimony in this case, it became clear that Verizon disagrees with the provisions of the MFS decision that co-carriers are required to establish only one interconnection point within the tandem serving area, and that there was no requirement to pay for transport beyond such interconnection point.

Q. Now, Mr. D'Amico, was the VGRIP proposal that you proposed here in the Sprint decision the same as the one you're proposing today?

A. Yeah. Fundamentally the same thing.

Q. And is it the same VGRIP proposal that you proposed before the FCC?

A. Pretty much the same thing.

Q. But you're unwilling to, well, I won't do the follow-up question.

MS. FLYNN: That's all I have, Your

00218

Honor.

HEARING EX. MOORE: Any redirect?

MR. PANNER: We will have a little bit, Your Honor. Could we have five minutes?

HEARING EX. MOORE: Yeah. Why don't we, 3:35. Reconvene at 3:35.

(Recess taken -- 3:27 p.m.)

(After recess -- 3:35 p.m.)

HEARING EX. MOORE: Okay. Where were we. Redirect?

MR. ANGSTREICH: Redirect, Your Honor.

HEARING EX. MOORE: Go ahead.

REDIRECT EXAMINATION

BY MR. ANGSTREICH:

Q. Mr. D'Amico, during her questioning, Ms. Finn used the term physical IP. Is that term in the agreement or Verizon's version of the agreement?

A. No. In Verizon's agreement there's two terms. Point of interconnection, which is the physical twisting of the wires, if you will, and then there's the interconnection point, which

□00219

is a financial responsibility point.

Q. So those two might overlap?

A. Correct. Those, even though they're separate defined terms, they could be in the same location, as well as being in different locations.

Q. Another suggestion that Ms. Finn made is in the interconnection agreement Verizon defines the possible interconnection points that US LEC can choose -- off the record.

(Discussion off the record.)

Q. US LEC could maintain its not geographically relevant interconnection point at its switch, though. Under Verizon's proposal.

A. Yes. Yes. Under that scenario, the physical location would remain the same, the POI would remain the same, it's just that the IP would be a financial aspect and we would recover the transport that way.

Q. Ms. Finn also asked some questions about calls in the Sparks Glencoe local calling area.

A. Yes.

□00220

Q. Now, earlier, I had a discussion with Mr. Hoffmann about the Essex local calling area. For purposes of that discussion is there any relevant difference between Essex and Sparks Glencoe?

A. No.

Q. If it's okay I'm going to say Essex because it's shorter. If there are two customers in Essex, two Verizon customers, would Verizon ever transport the call to Columbia in order to complete the local call?

A. No.

Q. But if there's a US LEC customer in Essex and a Verizon customer calls a US LEC customer in Essex, would Verizon transport the call to Columbia?

A. Yes. US LEC's switch is located in Columbia so Verizon would have to transport that call down to Columbia.

Q. If US LEC's switch were located in Annapolis, would Verizon have to transport it there?

A. Yes.

□00221

Q. Would Verizon ever, assuming US LEC's switch is not in Essex or in the Essex local calling areas, would Verizon ever be able to complete a call between a US LEC customer, I'm sorry, a Verizon customer in Essex to a US LEC customer in Essex without the call leaving the local calling area?

A. Not if their point of interconnection was located outside the local calling area in this example.

Q. So is it correct to say that 100 percent of the time, every call from a Verizon customer to a US LEC customer in Essex would leave the local calling area?

A. Yes. In that example.

Q. Ms. Finn also asked about the calculation of the costs that Verizon incurs as a result of that transport. You had mentioned something about a formula. Are you suggesting that it's just a question of math?

A. What I was referring to was the calculation of the offset. As a way to use the unbundled network element rates and to apply some

□00222

assumptions to that and to come up with an operational way to apply that offset.

Q. But assuming you know the distance and the number of switches, it's just multiplication then?

A. Correct.

Q. Can I borrow your copy of the Sprint arbitration, because your paginations are a little bit different than mine.

May I approach, Your Honor.

HEARING EX. MOORE: Yes.

MR. SHOR: What page are you looking at?

MR. ANGSTREICH: The bottom of page 29.

BY MR. ANGSTREICH:

Q. Mr. D'Amico, if you could read from accordingly, it's very long, to the end of the paragraph?

A. Okay. Accordingly, we reaffirm our prior interconnection policies contained in the MFS decision, including the requirement of one point of interconnection per access tandem

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serving area with the general policy that carriers are responsible for their own traffic up to the point of interconnection.

Q. Can you stop right there for a second, Mr. D'Amico. Under US LEC's proposal, Verizon is required to transport traffic -- is required to bear financial responsibility for carrying its originating traffic up to the point of interconnection or the IP?

A. To the interconnection point, the IP.

Q. Continue reading, thank you.

A. However, in recognition of Verizon's concerns that distantly located points of interconnection could result in high costs, we accept the Sprint compromise proposal as a reasonable measure to protect Verizon from absorbing unreasonably high costs for transport of traffic.

The Sprint compromise would require the establishment of additional interconnection locations once traffic reaches certain volumes and distances, while also requiring new facilities to be established within a reasonable

00224

proximity of Verizon's switching centers.

We believe this proposal strikes a reasonable compromise to protect Verizon from the cited fear of long and expensive interconnection points chosen by Sprint while preserving the right of CLECs to choose interconnection points, which right we believe is necessary to enhance the competitive environment and establishment of new companies.

Q. Thank you, Mr. D'Amico. One final question. The Sprint agreement, is US LEC able to opt into that?

A. Yes.

Q. I have one follow-up question. Can you describe what it means for a company to opt into an agreement?

A. Basically, the term that I've heard is MFN, most favored nations. It basically says that, and I forget what part of the rules, but one CLEC can adopt the provisions of another carrier in that state. So US LEC could come in and say I want the Sprint agreement, and we would process that.

□00225

Q. So that means US LEC could get the precise terms that this Commission has already established in the Sprint order for its own interconnection agreement?

A. Yes, it's my understanding.

MR. ANGSTREICH: Thank you very much. No further questions at this time.

EXAMINATION

BY HEARING EX. MOORE:

Q. I have a question. In this case, what is the interconnection point or the point of interconnection? Is it at the Pikesville tandem?

A. The, in the current example, or the current architecture, US LEC's interconnection point is at their switch. And so therefore, Verizon is responsible to get its traffic to US LEC's switch, even though those calls are coming from outside of the various calling areas.

Q. I'm having difficulty visualizing this. So I heard earlier that looking at this diagram which was Verizon Exhibit 2, and correct me if I'm wrong now at this point, is this a

□00226

reflex of the current architecture that's being addressed in this agreement? Or is this just an example for purposes of discussion?

MR. PANNER: Your Honor, I think that it's a schematic that represents the, that represents the call flow and where the wires go, and I think that under the current architecture, and obviously US LEC will correct me to the extent I get this wrong, under the current architecture and the current arrangement, the question of financial responsibility is that we, that Verizon is bearing the cost and the burden of getting the call to the US LEC switch over those wires. Often they're, who is, who actually lays the wires in the ground or what's called provisioning a facility, that I don't know the answer to that.

I don't know precisely how those are set up under the current arrangement. But the question financial responsibility is we're responsible to get it there and we may make different arrangements to do that, including sometimes there will be a situation where Verizon

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will purchase the use of a facility that US LEC had provisioned by Verizon in the first place. So that actually who's doing the work and putting the physical wires in the ground doesn't necessarily reflect who bears the responsibility, but in terms of who bears the financial responsibility, it's Verizon bears the responsibility under the current arrangement to get the call to the US LEC switch.

MR. SHOR: In answer to your question about the specific diagram, the only piece of it that I know is fact is that US LEC's switch is in Columbia. And Mr. Hoffmann testified that there are, US LEC has POIs at the Charles Street tandem, the Pikesville tandem, and the Annapolis tandem. I don't know that those are specifically represented on that schematic.

HEARING EX. MOORE: Right. They're not. Okay. I'm trying to get a visual picture of, because apparently conceptually what I've heard thus far is that, one of the arguments is that I thought I heard you say, Mr. Shor, that in your view Verizon's position was one in which it

□00228

was causing or seeking to bring about a change in your client's architecture. And that from your point of view, that that wasn't something that was appropriate or should be done. Is that a generalized characterization that's correct?

MR. SHOR: That is correct. It's either that we have to change the architecture or they impose what we have termed transport penalties on us.

HEARING EX. MOORE: So where is the physical connection of your system to Verizon's network? That's at the Columbia switch? Is what you're telling me?

MR. SHOR: The physical connections --

HEARING EX. MOORE: That's where the systems, that's where the plug goes into the wall?

MR. SHOR: It's my understanding the physical connections are at the three tandems. The plugs go in the wall in Annapolis, Charles Street, and Pikesville.

HEARING EX. MOORE: Okay. And that, the physical connection is different from the

□00229

point of, from the POI? From the POI?
MR. SHOR: The physical connection is the POI.
HEARING EX. MOORE: So there are three POIs?
MR. SHOR: Yes. US LEC I think delivers traffic to those three POIs to Verizon.
MR. PANNER: I think, Your Honor, at least it was Mr. Hoffmann's testimony that they pick up traffic there as well.
HEARING EX. MOORE: Okay. That makes sense. Okay.
MR. PANNER: Your Honor, once you figure this out you can explain it to counsel.
HEARING EX. MOORE: Between now and the end of the day tomorrow hopefully I'll have enough of an understanding of it that we can make an intelligent decision.
All right. Who's next?
MR. SHOR: We have to, let me see if we have any recross. I don't believe we do, let me just double-check.
HEARING EX. MOORE: All right.

□00230

MR. SHOR: We have nothing further.
HEARING EX. MOORE: May Mr. D'Amico step down?
MS. FLYNN: I have nothing further.
HEARING EX. MOORE: All right. Thank you, sir.
(Witness excused.)
HEARING EX. MOORE: We're finished for the day, I take it. We will reconvene at 10. I can tell you based on the other matter I was suggesting that I will have to deal with when we start tomorrow, we'll go from 10 to about 12. Precisely at 12, we can't go beyond 12:00. We'll break an hour, hour and 15 minutes for lunch and reconvene at, say, 1:15, and hopefully finish up.
MR. SHOR: Would it assist Your Honor if we started at 9:30?
HEARING EX. MOORE: I don't have any problems with that. I'll be here. It's you all who are coming from different places, and traffic tends to thin out a little bit if people have to get here by ten, but if you want to be here at

□00231

9:30 so we can start at 9:30, that's fine with me.

Is it okay with you, Madam Reporter?

THE REPORTER: Yes.

MR. SHOR: Off the record.

(Discussion off the record.)

MR. PANNER: Your Honor, just to clarify, Mr. D'Amico has a flight this evening and will not be back, if that's all right with Your Honor.

HEARING EX. MOORE: That's fine. If nobody else has any need for any further testimony for any other witness that has testified, you're free to release them.

All right. Thank you all very much. We'll see you first thing tomorrow morning at 9:30.

(Whereupon, the hearing on Case No. 8922 adjourned at 3:54 p.m.)

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REPORTER'S CERTIFICATE

IN THE MATTER OF THE ARBITRATION OF US LEC OF MARYLAND, INC., VERSUS VERIZON MARYLAND, INC.	:	CASE NO. 8922

LOCATION OF HEARING: Baltimore, Maryland

DATE OF HEARING: Tuesday, August 20, 2002

I hereby certify that the foregoing proceeding was reported by me, and that the transcript is true, accurate and complete, to the best of my knowledge and belief.

_____

Court Reporter

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US LEC 1	57	
US LEC 2	57	
US LEC 3	139	
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US LEC 5	205	
US LEC 6	209	
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VOLUME III

PUBLIC SERVICE COMMISSION OF MARYLAND

- - - - - - - - - - - - - - - - :
IN THE MATTER OF THE :
ARBITRATION OF US LEC : CASE NO. 8922
OF MARYLAND, INC., VERSUS :
VERIZON MARYLAND, INC. :
- - - - - - - - - - - - - - - - :

Public Service Commission
William Donald Schaefer Tower
6 St. Paul Street
19th Floor Hearing Room
Baltimore, Maryland 21202
Wednesday, August 21, 2002 - 9:30 a.m.

BEFORE: DAVID L. MOORE
Hearing Examiner

Reported by:
Diane K. D'Argenio, RPR-RMR

00236

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P R O C E E D I N G S

(9:30 a.m.)

HEARING EX. MOORE: Good morning, ladies and gentlemen. Today is Wednesday, August 21st, 2002, the time is now 9:34 a.m. I'm David L. Moore, Public Service Commission Hearing Examiner, the case on the docket for this morning is continuation of a matter that got started yesterday, Public Service Commission Case No. 8922, in the matter of US LEC of Maryland, for arbitration with Verizon Maryland, Inc., pursuant to 47 USC 252-B, Communications Act of 1934, as amended by the Telecommunications Act of 1996.

For the record, will counsel identify themselves, please, starting with you, Mr. Shor.

MR. SHOR: Thank you, Your Honor. Good morning, Michael Shor, Swidler, Berlin, Shereff & Friedman, for Petitioner US LEC of Maryland, Incorporated.

MR. PANNER: Aaron Panner, Kellogg, Huber, Hansen, Todd & Evans, for Verizon Maryland, Inc.

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MR. ANGSTREICH: Scott Angstreich, also Kellogg, Huber, Hansen, Todd & Evans, also for Verizon.

MS. FLYNN: And Janice M. Flynn for the Staff of Public Service Commission.

HEARING EX. MOORE: Thank you very much. Ready to resume?

MR. SHOR: Your Honor, if possible, we would like to request a slight shift from the order we had discussed yesterday. My remaining witness has a flight, and we'd like to put her on the stand now as opposed to the order we had discussed yesterday, if that's acceptable to you.

HEARING EX. MOORE: That's fine.

MR. SHOR: Also as a preliminary housekeeping matter US LEC would like to move the admittance of the prefiled direct and rebuttal testimony of Mr. Frank Hoffmann who was subject to cross-examination yesterday. And we'd also like to move the admission of US LEC Exhibits 5 and 6, which were introduced during the cross-examination of Mr. D'Amico yesterday

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afternoon.

HEARING EX. MOORE: Okay. Any objection?

MR. PANNER: No objection, Your Honor.

MS. FLYNN: None.

HEARING EX. MOORE: Without objection, those exhibits shall be admitted into the record.

(US LEC Exhibit Nos. 1 and 2 were received in evidence.)

(US LEC Exhibit Nos. 5 and 6 were received in evidence.)

MR. SHOR: As well as the testimony of Mr. Hoffmann?

HEARING EX. MOORE: Yes.

MR. SHOR: Your Honor, US LEC would like to call Ms. Wanda Montano to the stand. She has offered testimony on the remaining issues that are still in dispute between the parties. We have already marked her prefiled direct and rebuttal testimony as Exhibits I believe 3 and

00241
4. US LEC 3 and US LEC 4.
HEARING EX. MOORE: That's correct.
Just as a way of letting you know what I anticipate for the morning, I look to, I think 11:45 as the break point for the morning, and we'll break, let's say from 11:45 to 1:15. That should give me enough time to take care of the other matter. Hopefully we can get all of this taken care of today in terms of remaining witnesses for the hearing. Is that your all's sense?
MR. ANGSTREICH: Yes, Your Honor.
MR. SHOR: I'd like to say we could finish by 11:00, but that's overly optimistic.
HEARING EX. MOORE: All right. If we can, we can. If not, as I say, when we put this on the schedule it was blocked out for two days. So aside from the matter that I need to take care of, we're here for the duration. Okay.
MR. SHOR: Ms. Montano is available for cross-examination on issues 3, 4, 5, 6, and 8 and 9.
HEARING EX. MOORE: Ms. Montano, you

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were previously sworn yesterday and you're still under oath.
THE WITNESS: Yes, sir.
Whereupon,
WANDA G. MONTANO
a witness, was called for examination by counsel on behalf of US LEC, and, having been previously duly sworn, resumed and testified further as follows:
CROSS-EXAMINATION
BY MR. PANNER:
Q. Good morning, Ms. Montano.
A. Good morning.
Q. Under the agreed terms of the agreement as it now stands between the parties, do you agree that traffic that is intrastate or interstate, exchange access, information access or exchange services for exchange access or information access is not subject to reciprocal compensation?
THE WITNESS: Can I read over your shoulder just to see the words he said?
(Reading realtime screen.)

00243

A. As those words were defined in the ISP remand order and subject to whatever happens to that order on remand, yes, I would agree with your statement.

Q. And just to clarify, if you would look at Verizon Exhibit 1, which is the marked-up interconnection agreement.

MR. SHOR: Do you have a copy for her?

(Handing.)

Q. If you could turn to page 64. Provision 7.3.1, could you read that?

A. Reciprocal compensation shall not apply to interstate or intrastate exchange access, information access, or exchange services for exchange access or information access.

Q. And there's no red lining or other marks on that paragraph, is that correct?

A. No.

Q. So the parties have agreed to that term, is that right?

A. Yes.

Q. So would you also agree that under the plain terms of that provision, that any traffic

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that is in fact interstate or intrastate, exchange access, information access, or exchange services for exchange access or information access is not subject to reciprocal compensation?

MR. SHOR: Asked and answered.

HEARING EX. MOORE: Overruled.

A. Yes.

Q. Okay. Can you now turn, please, to page 43 of Exhibit 1. And if you could look to proposed Section 5.1. Would you agree that under that definition, voice information service is defined to mean a service that provides either recorded voice announcement information or a vocal discussion program open to the public?

A. This is a disputed item in the negotiations between the parties, but as it is written, those words are there.

Q. Okay. So I've correctly represented what, how voice information services are defined?

A. As it's written, yes.

Q. Can you describe your understanding of

□00245

what it means to, what recorded voice information, recorded voice announcement information is?

A. My understanding is that it's things like time, temperature, information services that are typically referred to with a 976 prefix on the call.

Q. So would you agree that such services allow the caller to retrieve information?

A. Yes.

Q. Can you describe US LEC's proposal with respect to treatment of voice information services?

A. US LEC's proposal on voice information services is that it is, that Verizon is attempting to carve out a class of services to be exempt from recip comp that we do not believe should happen.

Q. Okay. So --

A. It's local traffic and we should be able to bill for it.

Q. I understand that's your position, but what would you propose, would you propose

□00246

deleting the definition of voice information services from the agreement?

A. Yes, we would.

MR. PANNER: That's all I have on issue 3, Your Honor.

And I'm going to move on to issue 4.

Q. Ms. Montano, what are caller-paid information services?

A. Is that in my testimony somewhere?

Q. It's not in your testimony, it is in US LEC's Maryland tariff.

A. May I see the tariff?

Q. Certainly.

MR. PANNER: It's already in the admitted, Your Honor, as Exhibit 6.

May I approach the witness, Your Honor?

HEARING EX. MOORE: Yes, you may.

(Handing.)

A. Do you have a page reference?

Q. I do. If you could go to Section 5.1 of the tariff, which is original sheet 52.

If you would look at the second

00247
paragraph on this page, it says the Company service cannot be used to originate calls to other telephone companies, caller-paid information services, e.g. 900, 976. Did I read that correctly?
A. Yes, you did.
Q. What are caller-paid information services?
A. I believe the example that's given there is the one that I spoke of earlier. 900, 976 calls.
Q. So they're calls that are made for purposes of retrieving information?
A. Yes.
Q. And what's the significance of caller-paid?
A. As opposed to an 800 or a toll-free number.
Q. Can you explain to --
A. In 900 and 976 calls, the person who originates the call pays for the call. So in the case of 900, it's similar to a toll call, it typically goes the to help desk, I think there

00248
are some other applications of inbound calls where people are retrieving information and the calls are typically fairly expensive, they require a significant billing arrangement that we have chosen not to get into and not to implement. We've blocked the calls, and we tell our customers that.
Q. So you block all calls to caller-paid information services?
A. I can't say that we block all calls, a particular customer may on an individual basis ask us to permit them to make the calls, and then we have to go out and make arrangements to do that. But for the most part it is our standard default unless the customer requests otherwise.
Q. Are you aware whether you permit any customers in Maryland to make those calls?
A. I am not aware of Maryland.
Q. And according to your tariff, calls to those numbers and other numbers used for caller-paid information services will be blocked by the Company's switch? Is that correct?
A. That's correct.

00249

Q. Now, you said that the charges for these calls are typically, I think you said very high. I may be using the wrong modifier, but you said there are significant charges imposed?
A. As opposed to normal LD charges, yes.
Q. LD being long distance?
A. Yes.
Q. So are the charges for the telecommunication service?
A. They are charges from the Company that is providing the information service that are significant.
Q. I see. So the charges are not for the transmission, the long distance service, the charges are for the information that's retrieved?
A. That's correct. It's a bundled service. When you call into a 900 number and you pay $1.95 a minute to get your horoscope read, for example, then you're paying for that information, and let's say it's $1.95 a minute and that all goes, and the transmission is part of that.
Q. Now, so the caller pays a separate

00250

charge -- strike that. Do you object to the requirement for separate trunking for such calls?
A. Yes, I do.
Q. Why?
A. Because we don't believe that we need a separate trunk group, nor do we believe that this traffic should be carved out in any way that would segregate it as being different.
Q. But you agree the traffic is different from telecommunications traffic in that there's a separate and very high charge imposed? Is that correct?
A. By the information provider, not by the telecom provider.
Q. And who's responsible for billing that? For billing that charge?
A. It depends on how it's set up with the information provider.
Q. Might the telephone company be responsible for billing that charge?
A. If the billing arrangements are in place, yes.
Q. But you stated that you do not

□00251

generally permit your customers to originate this traffic? Is that right?

A. That's correct.

Q. So the separate trunking requirement would impose no obligation on you, is that correct?

A. It would impose an obligation if you would force me to do that.

Q. But if you didn't originate any such traffic, you wouldn't be required to do that? Is that correct?

A. I guess not.

Q. What is US LEC's proposal with respect to that disputed Section 5.3 which relates to the separate trunking requirement?

A. Are we back to the interconnection agreement now?

Q. Yes, we are.

MR. PANNER: And that is also on page 43, Your Honor.

A. Our proposal with regard to anything to do with this particular item is that it should be struck in its entirety from the agreement.

□00252

MR. PANNER: I'll be moving on to issue 5, Your Honor.

Q. Ms. Montano, were you here yesterday when Mr. Shor made his opening statement in this case?

A. Yes, I was.

Q. And were you here yesterday when Mr. Hoffmann testified?

A. Yes, I was.

Q. Did you hear Mr. Shor refer to traffic that US LEC receives from Verizon?

A. It's possible.

Q. Would you accept subject to check that Mr. Shor referred to traffic that US LEC receives from Verizon?

A. Yes.

Q. Did you hear Mr. Hoffmann make repeated reference to traffic that US LEC receives from Verizon?

A. Subject to check, yes.

Q. Did you know what they meant?

A. Without either one of them explaining what they meant, I would not care to speculate.

00253

Q. So it's your testimony that when Mr. Shor referred to traffic that US LEC receives from Verizon, you did not know what he meant?
A. No.
Q. Did you ask him what he meant afterwards?
A. No.
Q. So your lawyer made a reference to traffic received from Verizon, you found that incomprehensible, and yet you did not ask him what he meant?
A. No.
MR. SHOR: To the extent he would be inquiring into any communications that might have taken place they would have been privileged and I think that's about as far as I'm going to let her go. She said there were no conversations but he's inquiring beyond that.
MR. PANNER: I withdraw it.
HEARING EX. MOORE: It's withdrawn.
BY MR. PANNER:
Q. Did you ask Mr. Hoffmann what he meant when he referred to receiving traffic?

00254

A. No.
Q. Does Mr. Hoffmann work for you?
A. Yes, he does.
Q. Did you not find it strange that your employee would use a term that you found incomprehensible during testimony?
MR. SHOR: Objection. Mischaracterized her testimony. She didn't say she found it incomprehensible, she said without asking Mr. Hoffmann she didn't know how he was using it.
HEARING EX. MOORE: Rephrase the question, if you can.
Q. You didn't ask your employee why he used a term you did not understand when he referred to traffic which was at issue in this proceeding?
A. No.
Q. Have you ever received a letter?
A. Yes.
Q. Do you know what the word receives means in that context?
A. Yes.

□00255

Q. Has US LEC ever received traffic from Verizon in the State of Maryland?
A. We have had traffic terminated to us by Verizon in the State of Maryland.
Q. You're saying that Verizon terminates that traffic?
A. Yes.
Q. It's your testimony that when Verizon originates traffic it also terminates it?
A. It terminates it to my network if it's destined to my subscribers, yes.
Q. Do you pay Verizon, when Verizon originates and terminates calls to your network, do you pay reciprocal compensation for that termination?
A. No, because when the traffic terminates to us we charge them.
Q. But you're saying that Verizon terminates that traffic?
A. The words originating and terminating are used to indicate the direction of the traffic when we discuss whether traffic is coming into or out of a network.

□00256

Q. And you just said that Verizon terminates traffic to US LEC. Is that correct?
A. Yes.
Q. So when Verizon, a Verizon caller makes a call that is delivered to a US LEC customer, Verizon terminates the traffic?
A. Yes, it terminates it into my network.
Q. Okay. And who should be paid reciprocal compensation? Is it the party that terminates the traffic?
A. It is the network that originates the call that is -- that pays reciprocal compensation to terminate the call on the other network.
Q. But you said in a call that a Verizon customer makes Verizon terminates the call. Is that correct?
A. To a point on my network, yes. I then pick up the call and carry it.
Q. But who performs the termination function?
A. How do you define termination function?

00257

Q. How do you define termination function.

MR. SHOR: Objection. This is getting a little argumentative.

MR. PANNER: Your Honor, the key question here is whether the word receiving is more appropriate than the word terminating. One of the objections that Mr. Shor made in his opening statement is the word received is not defined. She has asked me how I defined terminating, I didn't use the term, she used the term, I'm asking her how she is using the term.

MR. SHOR: I'm just suggesting that it's getting a little argumentative.

HEARING EX. MOORE: Overruled.

BY MR. PANNER:

Q. How do you define termination. You've been repeatedly referring to Verizon terminating a call to US LEC's network. How do you define that term?

A. It's the point at which a call leaves your network and therefore it's terminated at your network and it hits someone else's network.

00258

Q. Are you familiar with the 1998 FCC ruling that held that -- strike that. Are you familiar with the 1999 FCC ruling in which the FCC reiterated its conclusion that calls bound for ISPs do not terminate, are not terminated by the carrier serving the ISP but continue on to points on the Internet?

A. Is that a legal conclusion you're asking me to draw?

Q. I'm asking if you're familiar with that word.

A. Yes.

Q. Thank you.

MR. PANNER: I have nothing further on issue 5, Your Honor. I'll move on to issue 6.

Q. Ms. Montano, does US LEC offer FX service in Maryland?

A. Yes, we do.

Q. Can you describe for the Hearing Examiner what an FX service is?

A. A foreign exchange service allows a subscriber in one area to have a local number in another area for purposes of its customers

□00259

reaching them without having to pay toll charges.

Q. How many FX customers does US LEC have in Maryland?

A. Eleven.

Q. And Ms. Montano, really just to clear up a confusion, I'd like to introduce now Verizon Exhibit 9. However, there's a, which will be the -- may I have a moment, Your Honor?

HEARING EX. MOORE: Sure.

MR. PANNER: Forget it. I won't introduce it.

Q. Ms. Montano, are you familiar with your responses to the Staff data request?

A. Yes.

Q. And are you aware of your response to the question does US LEC currently use virtual FX service, skipping ahead, if yes, please explain the type and quantity of such service arrangements? Are you familiar with US LEC's response to that question?

MS. FLYNN: Your Honor, could I just, could you tell me what question that is?

□00260

MR. PANNER: It's question 7.

Q. Are you familiar with the fact that US LEC responded that it provides virtual FX service to 12 customers in the State of Maryland?

A. Yes.

Q. Was that incorrect?

A. Yes, it was.

Q. So it's 11?

A. It's 11.

Q. Does US LEC have any customers outside of Maryland to which US LEC assigns numbers, Maryland numbers?

A. Can you repeat that again?

Q. Does US LEC have any customers located outside of Maryland to which US LEC assigns Maryland numbers?

A. Yes.

Q. Do you know how many of those customers there are?

A. Subject to check, I believe it is 14.

Q. Fourteen.

A. Yes.

Q. And those are not identified in your

00261
responses to the interrogatories?
A. No.
Q. So there's 14 additional customers with Maryland numbers who are, who were not identified in response to the Staff or our interrogatory concerning FX service in Maryland?
A. That is correct, except that we do not provide foreign exchange service to them.
Q. Okay. We'll get to that.
Now, returning to the question of your FX customers -- let me return to one further question. You said that for the customers who are outside of Maryland you do not provide FX service to those customers?
A. That's correct.
Q. What service do you provide?
A. We provide them with a service that we call local toll-free, where a subscriber that is anywhere within our 14-state service area may call that subscriber, reach our switch in that distant city, the call is terminated there as a local call, we regenerate that call on our long distance network, carry it across our long
00262
distance network and deliver it to that subscriber, who has purchased that Maryland number, and the Maryland subscriber pays long distance calls, a long distance call for that service.
Q. We'll be spending a lot of time on this later, but, or some time on this later, but to clarify, are any of those 14 customers that you referred to located either in the District of Columbia or in northern Virginia within the 236 LATA?
A. No.
Q. Returning to FX service, foreign exchange service provided to customers in Maryland, do you impose a charge for foreign exchange service?
A. Yes, we do.
Q. And in fact, the charge is, if I remember correctly, a $1,000 nonrecurring charge plus $500 each month for this charge? Is that correct?
A. Actually, you have it backwards. The nonrecurring is $500 and the monthly recurring is

00263
$1,000.
Q. So customers are paying $12,000 a year for this service? Is that correct?
A. If they purchase the full year service, yes.
Q. Is that charge on top of other local exchange service charges that you impose on those customers?
A. Typically the customers are also purchasing local service from us and so they would be paying whatever charges relate to the other services that they purchase. They could also be purchasing data and Internet services as well.
Q. Can you explain for the Hearing Examiner what your customers get for that $1,000 a month?
A. They receive a phone number in a distant calling area that allows customers to reach them there. For example, you could have a florist here in Baltimore who wanted a number in, who wanted local service in some distant city here in Maryland. And they could call locally,
00264
they could get business here in their Baltimore office, and that's why we would do that.
MR. PANNER: I'd like now to introduce Verizon Exhibit 9.
(Verizon Exhibit No. 9 was marked for identification.)
BY MR. PANNER:
Q. Do you recognize this?
A. It appears to be a printout from our website.
MR. PANNER: I move the admission of Verizon Exhibit 9.
HEARING EX. MOORE: Any objection?
MS. FLYNN: None.
HEARING EX. MOORE: Without objection, Verizon Exhibit 9 is admitted.
(Verizon Exhibit No. 9 was received in evidence.)
MR. PANNER: Your Honor, as an aside, we'll go back at a subsequent point and clean up the admission of the prior exhibits.
HEARING EX. MOORE: I understand.

00265
BY MR. PANNER:
Q. If you could turn to the second page of this exhibit. And go down to near the bottom of the page, the second paragraph from the bottom. It describes foreign exchange as an enhanced local service, is that correct?
A. Yes.
Q. It says this involves inbound-only calls. Is that correct?
A. Yes.
Q. Toll-free to the calling party, correct?
A. Yes.
Q. Which is paid for by the called party.
A. Yes.
Q. It also says if desired the service includes a listing in the foreign White and Yellow Pages of the incumbent local exchange carrier's directory. Is that correct?
A. Yes.
Q. So as you've described it, if your foreign exchange customer was assigned a number
00266
that was associated with the area where that customer is actually located, the calls at issue would be toll calls, is that correct?
A. That's correct.
Q. And US LEC is being paid by its customer so that the calling party will not incur a toll charge. Is that correct?
A. That's correct.
Q. And according to this, when you say which is paid for by the called party, you're referring to the toll charges, is that correct?
A. Yes.
Q. So you're being paid toll charges by your customer on these calls? Is that correct?
A. No, that's not correct. We are being paid the flat rate per month charge.
Q. In lieu of toll charges?
A. That's correct.
Q. To be clear, if a Verizon customer makes the call, the toll charges that are being paid in lieu of, they're making a payment in lieu of toll charges, that was your testimony, correct?

00267

A. Yes.
Q. The toll charges are ones that the Verizon customer would have paid to Verizon, is that correct?
A. Yes. Or to whoever their long distance pick is.
Q. And if it was, just to explain, when you say a long distance pick, it might be the case that a local customer could use another carrier to carry intraexchange LATA toll call charges?
A. That's correct.
Q. And in that case the intraLATA toll charges would be paid to that carrier, is that correct?
A. Yes.
Q. And in that case the intraLATA toll carrier would pay access charges to Verizon, is that correct?
A. I can't speak to what your relationship is with other interexchange carriers.
Q. So you don't know if there would be

00268

access charges paid?
A. No, I do not.
Q. Does US LEC ever act as an intraLATA toll carrier for an ILEC customer?
A. No, we do not.
Q. Would you accept subject to check that on intraLATA toll calls carried by an interexchange carrier that there are access charges paid?
MR. SHOR: I'm going to object to that one. I think she said she doesn't know. If that's something he wants to prove with his witness, he can.
HEARING EX. MOORE: Sustained.
Q. Now, you have stated that US LEC is paid by its customer to relieve the Verizon customer of the necessity of paying toll charges. Have I summarized your testimony correctly?
MR. SHOR: Objection. Mischaracterizes. She talked about an originating party, not necessarily Verizon.
MR. PANNER: I asked her if I've

□00269

characterized her testimony correctly. If I haven't, I'm sure she'll correct me.

HEARING EX. MOORE: Well, can you answer that question?

THE WITNESS: Yes, sir.

HEARING EX. MOORE: Answer it.

A. No, I do not believe you've characterized my testimony correctly. The caller who's calling any foreign exchange service customer, whether it's provided by US LEC, by Verizon, by any independent telephone company or any other CLEC --

I lost my train of thought.

What I'm trying to say is there are multiple carriers that can originate a call to a foreign exchange number that terminates on anybody else's network that provides the same service.

Q. In the case of a call from a Verizon customer, to a US LEC foreign exchange service, and let me first add, with that issue in mind, those are the calls at issue in this proceeding, correct?

□00270

A. I suppose.

Q. We're not talking about calls originated by other carriers because those wouldn't be on Verizon's network, would they?

A. They potentially could be if they came through your tandem as a transit function.

Q. Okay. But they're not originated by Verizon, do you agree?

A. No.

Q. Is transit traffic at issue in this proceeding?

A. I do not believe so.

Q. It's not, is that right? The parties have settled any issue regarding transit traffic, is that correct?

A. I believe so.

Q. So we are talking about traffic that's originated on Verizon's network and sent to a US LEC FX customer, is that correct?

A. And traffic that originates on the US LEC network that's sent to a Verizon foreign exchange subscriber.

Q. Okay. But in terms of US LEC's FX

00271
service we're talking about Verizon originated calls, not calls originated by somebody else?
A. Yes.
Q. And in the case of those calls, it's your testimony that US LEC's customers paid a charge, a payment in lieu of the toll charges that the Verizon customer would otherwise incur. Is that correct?
A. Yes.
Q. Now, do you provide any other service for the $1,000 a month?
A. I do not believe so.
Q. Now, what payment do you propose to make to Verizon in lieu of the toll charges that Verizon would have been able to collect if you had not set up this FX arrangement?
A. I don't believe that's been discussed by the parties.
Q. Isn't the issue in this proceeding intercarrier compensation for these calls?
A. Yes, I believe our position is that the calls are local calls and should be subject to reciprocal compensation.

00272
Q. So you're being paid a payment in lieu of toll charges by your customer, correct?
A. Yes. So is Verizon when they offer the service.
Q. Fine. But your position is that Verizon should nonetheless pay you, is that correct?
A. And your position is that when the call is in reverse I should pay you. In fact, Mr. Haynes' testimony says that those calls are happening and that today I am paying you for recip comp calls because you can't segregate them.
Q. Okay. Can you read that response back.
(The record was read by the reporter.)
Q. What is Verizon's position with respect to reciprocal compensation for FX calls?
A. I believe your position is that it should be not included.
Q. And that's true whether the calls go from US LEC to Verizon or from Verizon to US LEC, isn't that correct?

00273

A. I believe so.
Q. So you mischaracterized Verizon's position when you said that we thought that those calls should be subject to reciprocal compensation, didn't you?
A. What I said was that you had testified that you in fact are sending, are billing me for those calls today.
Q. No, what you said was that when, that when the call was in reverse that we should pay you. Wasn't that your testimony?
A. Our position is that FX calls are local calls and should be subject to reciprocal compensation regardless of which direction the call originates in.
Q. You testified to what Verizon's position is and you've been involved in these negotiations. I'd like you to, you also stated that Verizon's position is that these calls should be subject to reciprocal compensation when they're sent to Verizon. Do you believe that's Verizon's position or did you misspeak?
MR. SHOR: Your Honor, I believe this

00274

is getting a little argumentative.
MR. PANNER: Your Honor, she characterized --
HEARING EX. MOORE: It is to some extent, but I think he's trying to get some clarification. I'll allow it at this point.
A. Mr. Panner, this has been a long and drawn-out negotiation. The point -- are you going to let me finish?
Q. Yes.
A. The point is that you, Verizon's position may be that these calls should not be included. Our position is that they should be included. In the discussions that we have had with your, with representatives of Verizon, their position is it is very difficult if not impossible to identify the calls. Therefore, and the position you've also taken in the negotiations is that the calls are de minimis.
Q. Just to clarify, Verizon's position in the negotiation as you understand it is that FX and FX type calls, calls that are interexchange on an end-to-end basis should not be subject to

00275
reciprocal compensation whichever direction they flow, isn't that correct?
A. No, that is not correct. My belief is that Verizon's position is that calls that originate to my subscribers that have virtual FX, have foreign exchange numbers, should not be subject.
Q. Can you turn to Exhibit 1?
HEARING EX. MOORE: Which Exhibit 1? Verizon Exhibit 1?
MR. PANNER: Verizon Exhibit 1, Your Honor. Page 64.
Q. If you could look at provision 7.2 in the middle of the page. If you could read the last sentence of that provision as it was proposed by Verizon, that is, with the strike-throughs, and without the added underlined language?
A. The designation of traffic as reciprocal compensation traffic for purposes of reciprocal compensation shall be based on the actual and terminating points of the complete end-to-end communication.

00276
Q. If I can read that, it says the designation of traffic as reciprocal compensation traffic for purposes of reciprocal compensation shall be based on the originating and terminating points of the complete end-to-end communication. Have I read that right?
A. That's what I read.
Q. Thank you.
Can you explain to me how that language distinguishes between traffic going from US LEC to Verizon and traffic that's going from Verizon to US LEC?
A. It doesn't.
Q. So the rule is that Verizon has proposed is identical for Verizon and for US LEC, is that correct?
A. It appears to be so.
Q. So Verizon has always proposed that for US LEC traffic sent, originated traffic sent to Verizon that the actual originating and terminating points of the call should control? Is that correct?
A. I can't speak to the term "always,"

00277
because this is just the final. I don't know what may have happened in earlier iterations.
Q. Fair enough. In the proposal that we have before us here that was proposed to US LEC, Verizon proposed that traffic originated by US LEC would be treated, would be subject to reciprocal compensation if, well, the determination whether it should be subject to reciprocal compensation would be based on its actual end-to-end nature? Is that correct?
A. That's correct.
Q. And is it your understanding that an FX call would not be subject to reciprocal compensation based on its end-to-end nature under Verizon's understanding?
A. I don't understand your question.
MR. SHOR: Could you read it back, please?
(The record was read by the reporter.)
A. I simply don't understand what you're asking me.
Q. Fine. If there is an FX, foreign exchange call that is interexchanged on an

00278
end-to-end basis, what is your understanding of Verizon's position with regard to whether that call is subject to reciprocal compensation?
A. My understanding is it would not be subject to reciprocal compensation.
Q. Thank you.
I realize there was a little bit of a detour so if these questions have been asked and answered, I apologize in advance, but I return to my outline after a bit of a detour.
For calls that Verizon customers originate to your foreign exchange customers, you don't wish to pay Verizon anything for that, for those calls? Is that correct?
A. That's correct.
Q. And you want Verizon to pay you, is that correct?
A. Reciprocal compensation, yes. It's a local call.
Q. Even though your customers are paying you $1,000 a month in lieu of the toll charges? Is that correct?
A. That's correct.

□00279

Q. And the toll charges are ones that Verizon's customers would otherwise pay on the calls at issue here?
A. Yes.
Q. What innovative technology do you use to provide this service?
A. Can you define innovative?
Q. You stated that you use innovative technology to provide this service. What did you mean?
A. Where did I say that?
Q. Leaving aside for a moment whether you said it before, do you believe that US LEC uses innovative technology to provide this service?
A. I believe that we use whatever state of the art technology that is there that is built into our switches or network. Whether I characterize it as innovative, I don't know.
Q. So what's special about -- do you use any technology for providing virtual FX services that you don't use for providing any other services?
A. I'm not a technical expert, I'm not an

□00280

engineer, but subject to check, I would say no.
Q. If we could turn to page 21 of your direct testimony. Could you read lines 10 to 12?
A. Customers want to use virtual NXX codes because it allows them to take advantage of state of the art, currently-available technologies to allow consumers to reach their businesses without having the disincentive of a toll call.
Q. And you've now testified that there are no innovative technologies used to provide this service, is that correct?
MR. SHOR: Objection. Mischaracterizes her testimony. That's not what she said.
HEARING EX. MOORE: Can you answer the question?
THE WITNESS: I answered it earlier, Your Honor. I said I'm not an engineer, I'm not a technical expert, but subject to check I believe we use whatever technology is in our network that we use to provide other services. Most of the communication companies operate using

□00281
the same technical platforms.
Q. When you say -- okay.
MR. PANNER: Your Honor, I'm going to use the white board for a minute to do a little bit of rudimentary diagramming.
Q. Now, what I've drawn on the board, Ms. Montano, is a diagram in which we have two separate distant local calling areas. Area A and area B. Do you understand that?
A. Yes.
Q. Now, if there is a call from customer X to customer Y, where X is located in local calling area A, and customer Y is located in that different local calling area B, is that a local call?
A. It would depend on their provider's tariffs and what they define as a local calling area.
Q. Well, I just stated that that's local calling area A and local calling area B is separate. You said that you understood that. So local, as we've defined this, as we've drawn the diagram, customer Y is in a different local
□00282
calling area. It's not within the local calling area for caller X. Do you understand that?
A. Yes.
Q. Is the call from X to Y a local call?
A. Not as you've defined it.
Q. So that call from X to Y is not a local call as you've defined it?
A. Yes.
Q. Now suppose customer Y has been assigned an NPA-NXX code assigned to area A. Still your testimony is it's not a local call. Correct?
A. You're saying that customer Y now has a phone number in area A?
Q. Yes.
A. That's now a local call.
Q. But before you said the call from X to Y was not a local call.
A. If the NPA-NXX is associated with customer Y, is in Y, no, that's toll because that's the way he's defined in the rating schedules of whatever company is providing the service. If they now have, if customer Y now has

00283
a number in A, then that now becomes a local call.
Q. So now it's a local call.
A. I assume the customer's purchasing foreign exchange out of either Verizon's tariff or mine.
Q. So if customer Y has a -- let's say that this is Essex and this is Columbia. Even though Y is Columbia because it's been assigned a number associated with Essex, it's now a local call?
A. Yes.
Q. Now, let's say that that customer Y is in Columbia, South Carolina. Is that a local call?
A. No, that's an interexchange call.
Q. That's an interexchange call. So it's not correct that the NPA-NXX defines the destination of the call as local, is that correct?
A. Industry standard rating practices looks at the beginning, at the originating NPA-NXX and the terminating NPA-NXX and

00284
determines how a call is routed and rated.
Q. But you stated that even though the call is rated and routed according to NPA-NXX, if the customer is located in Columbia, South Carolina it's not a local call, it's an interexchange call, is that correct?
A. It depends on the service that the customer has purchased from their telecommunications provider.
Q. It was your testimony -- so you testified earlier that a call from customer X to customer Y, if customer Y has an NPA-NXX associated with that local calling area, and if customer Y is located in Columbia, South Carolina, you said that's an interexchange call. That was your testimony, correct?
A. No. That mischaracterized my testimony. If the customer, if Y is in Columbia, South Carolina and X is in Columbia, Maryland, and they have numbers associated with those local calling areas, then that is an interexchange call. If the customer in Columbia, South Carolina now has a number that is associated

00285
Columbia, Maryland, the call from a Columbia, Maryland subscriber to that Columbia, Maryland number is a local call.
Q. So it's your testimony that -- are you familiar with interLATA FX service?
MR. SHOR: Your Honor, is there a reason why he's standing over here?
HEARING EX. MOORE: Sort of try and limit yourself to the area of the board, and not approach the witness unless it's absolutely necessary.
BY MR. PANNER:
Q. Are you familiar with interLATA FX service?
A. I'm familiar with the two words. I don't know what you mean when you put them together, though.
Q. Okay. I'd like to turn to page 14 of your rebuttal testimony. And I'd like you to read the portions of lines 16 and 17 that come after that colon.
A. In that case, the FCC ruled that an interLATA FX call was not a local call for the

00286
purposes of compensation and thus access charges were due.
Q. What is an interLATA FX call?
A. Well, it appears that it is a call that crosses a LATA boundary.
Q. You've testified about what the FCC held with respect to interLATA FX calls. Did you know what you were talking about when you referred to an interLATA FX call?
A. Yes.
Q. What did you mean?
A. A call that crosses a LATA boundary.
Q. Would it also be a call in which the NPA-NXX of the calling party and the called party are associated with the same local calling area?
A. Yes.
Q. And your testimony is that the FCC held that that was not a local call. Is that correct?
A. Yes.
Q. So when you testified before that the NPA, if the NPA-NXX of the customer is in Essex or Columbia, for that matter, Maryland, and the

□00287
customer in Columbia, South Carolina were associated with the same local calling area, when you testified that that would be a local call, your testimony was contrary to what the FCC held in that order, is that correct?
MR. SHOR: It calls for a legal conclusion by the witness.
MR. PANNER: The witness has testified as to what the FCC held.
HEARING EX. MOORE: Hold on. Ask the question again?
Q. You stated earlier that if a calling party and a called party both had NPA-NXX codes, telephone numbers, associated with the same local calling area in Maryland, that that would be a local call even if the customer who is being called was physically located in another state and another LATA. Was that your testimony?
A. Subject to check, yes.
Q. And yet you testified here that the FCC ruled that an interLATA FX call was not a local call for the purposes of compensation. Is that correct?

□00288
A. Yes.
Q. So your earlier statement was contrary to what the FCC ruled.
MR. SHOR: Calls for a legal conclusion by the witness. The FCC order speaks for itself.
MR. PANNER: I'm asking her to characterize her own testimony with respect to the FCC order that she has herself interpreted in her testimony.
MR. SHOR: Your Honor, he's not --
HEARING EX. MOORE: Hold on, I'm thinking about this.
MR. SHOR: I need to respond to some of this. He hasn't discussed how the service in that order was provisioned.
HEARING EX. MOORE: Let me think about it because I'm inclined to, because I thought with regard to the question I heard from Ms. Montano something in addition. I thought what I heard you say earlier was as to whether it's local or something else, it depends on the nature of what it is that the customers have

00289
purchased from the provider. Is that what you said?
THE WITNESS: Yes, sir.
HEARING EX. MOORE: So it sounds like, and you can correct me if I'm wrong, it sounds like the customer could purchase something from the provider that wouldn't necessarily fit directly into this definition that Mr. Panner is now proposing. Is that correct?
THE WITNESS: I believe so.
HEARING EX. MOORE: Okay.
BY MR. PANNER:
Q. If you could tell us what that is, Ms. Montano.
A. A company could design a product that provided a customer with different calling patterns for different prices. I can't speculate on what a particular company might do. But there are different configurations that are out there.
Q. Can you describe for me what an interLATA FX service is?
HEARING EX. MOORE: Well, we've been over that. I think even I understand that at
00290
this point based on what the witness has said. It's interLATA if the calls transfer across an intraLATA boundary. You know, I don't need to hear that again. But it sounds like, to my untrained technical ear, it sounds like you could have an arrangement in which you have these calls crossing an intraLATA boundary, which would ordinarily make them a toll call, but it be treated based on the package that's been purchased by the customer, could be treated as a local call. Is that what you're saying?
THE WITNESS: Yes.
MR. PANNER: Your Honor, then I'm going have to explore this for a long time because it's very important, this is really the heart of this issue, and I think there's been a lot of things said that have, frankly, confused the record. And I'm going to have to spend a lot of time on this to try to get it straight. Because the assignment of NPA-NXX codes and the call patterns and who's paying what to whom, those are issues that nailing it down is absolutely at the heart of this issue.

□00291

MR. SHOR: Your Honor, can I object to this speech that's going on here? If he has questions, let him ask them.

HEARING EX. MOORE: Counsel is making an argument to me that he's trying to persuade me to a point of view to rule on, essentially rule on a motion. Or an objection.

It seems to me, to try and focus this, that what, the attention needs to be placed on -- strike that.

MR. PANNER: Your Honor, if you'll give me a few more minutes I'll try to wrap it up. But, you know, it's going to take longer and be more difficult if Mr. Shor imposes asked and answered objections because the questions may sound similar but the distinctions are important. Obviously, you know, he's going to object as he wishes and I'll respond to the objections but I'm going to try to do it as quickly and efficiently as I can to explain the point.

HEARING EX. MOORE: Well, the important thing is that I end up with the

□00292

appropriate understanding of everybody's position so that those matters in dispute can be fairly resolved.

MR. SHOR: Your Honor, I've never intended to impose any limits on what he asks, how he asks it, and my only objection initially was that it called for a legal conclusion by the witness. I've not imposed any asked and answered objections. I personally think he's made his point, but he can do whatever he wants.

HEARING EX. MOORE: You don't have to explain your logic. I understand what's going on.

BY MR. PANNER:

Q. I apologize for the mess, but I'll try to walk you through this, Ms. Montano.

Now, I've drawn a diagram here on which I have three circles, one is Essex, Maryland, one is Columbia, Maryland, one is Columbia, South Carolina. Now, in all the calls I'm going to discuss with you, X is a Verizon customer, and the box inside there is the Verizon end office switch. Do you understand that?

00293

A. Yes.
Q. Just to try to be somewhat faithful to the technical way in which these calls are routed, I've drawn a triangle here which is a tandem switch. Do you understand what a tandem switch is?
A. Yes.
Q. And for, would you agree with me that a tandem switch is a place where traffic from many different switches is collected and then routed so that it can be routed more efficiently?
A. Yes.
Q. And then I've shown traffic being routed out of this tandem to a box here which I will label POP. Do you know what a POP is?
A. No.
Q. Do you know a point of presence is?
A. Yes.
Q. Have you ever heard that referred to as a POP?
A. Yes, I've heard it referred to as a POP. I don't understand what context you're using it in, though.

00294

Q. Fair enough. But you're familiar with the idea of an IXC's POP?
A. Yes.
Q. Do you know that an IXC's POP is the place within a local area where a long distance carrier picks up traffic? Is that right?
A. Yes.
Q. Then routes it over to the long distance network? Is that right?
A. Yes.
Q. And this box here represents US LEC's switch. Do you understand that?
A. Yes.
Q. Now, is it correct that in an interLATA FX call, this customer Z who is located in Columbia, South Carolina, would be assigned a number associated with that local calling area in Essex? Is that correct?
A. Are you asking me if we provide that service? As an FX?
MR. PANNER: Can you read back the question?
(The record was read by the reporter.)

□00295

A. Mr. Panner, I have no idea because I don't know who's assigning the phone number and who's providing the service.

HEARING EX. MOORE: Let me ask something because she said something that sort of caught my ear. Is the diagram that he's drawn and the hypothetical that he's posing, is that reflective of the service that is provided by US LEC?

THE WITNESS: No, sir, it's not.

HEARING EX. MOORE: Or would be providing under this agreement?

THE WITNESS: No, sir, it's not.

HEARING EX. MOORE: So why are we dealing with this hypothetical?

MR. PANNER: Well, Your Honor --

Q. Ms. Montano, do you have a situation where you would receive a call at your switch here, for this customer Z in Columbia, South Carolina, assigned a number associated with Essex? I don't ask in particular, but for example, do you offer service like that?

A. The long distance portion of my

□00296

company does, yes. We provide it pursuant to our long distance tariffs.

Q. So US LEC does provide the service like the one I've drawn on the board? Is that correct?

A. We provide a service where a customer in Columbia, South Carolina could have a number in Maryland. Is terminated as a local call by an originating network to us, is a local call that terminates there. We then remote call forward the call on our long distance network and we charge the customer a long distance charge for that call.

Q. But then it's correct that US LEC has a service where it assigns a customer in Columbia, South Carolina, a number in, associated with, for example, Essex, Maryland, and the caller from, Verizon caller from Essex would make that call to the US LEC customer in South Carolina without incurring toll charges. Is that right?

A. No, the customer pays a toll charge.

Q. The calling party pays a toll charge?

□00297

Is that your testimony?
A. No, I did not say the calling party does.
Q. So it's correct that the calling party does not incur a toll charge. Is that right?
A. That's correct.
Q. Now, in the case of interLATA FX service provided that you've talked about in your testimony, it's correct, is it not, that the call is routed by Verizon to the IXC's point of presence, and then the call is taken over the IXC's long distance network and then is delivered eventually to that customer Z? Is that correct?
MR. SHOR: Could you read back the question, please.
(The record was read by the reporter.)
MR. SHOR: I believe that mischaracterizes her testimony because he's talked about an interexchange call and then an interLATA FX call and it's my understanding that they're different.
MR. PANNER: Let me clarify, Your Honor, because I realize there's ambiguity. Let

□00298

me try to clarify.
BY MR. PANNER:
Q. You referred in your rebuttal testimony to interLATA FX calls that are not local calls that are subject to access charges. Is that correct?
A. Yes.
Q. And in that case the call is routed to the IXC's point of presence, and that's a switch, isn't it?
A. It could be. I am not privy to how interexchange carriers design their networks.
Q. So you're not aware whether an IXC's point of presence includes a switch?
A. Sometimes they do. It's possible it doesn't.
Q. But it could?
A. It could.
Q. It could be a switch. Correct?
A. Yes.
Q. And then the IXC would route that call over its long distance network? Is that right?
A. Yes.

00299

Q. And it would be delivered to that customer Z in Columbia, is that correct?

MR. SHOR: Your Honor, I don't know whether he's characterizing the type of service that was at issue in the FCC's order or whether he's coming up with his own type of service, and yet he's asking her questions about the FCC order without telling us that that's the way they did it. So I'm having a bit of a disconnect here.

MR. PANNER: Ms. Montano seemed to understand the questions. If she doesn't understand, I'm sure she'll ask for clarification.

HEARING EX. MOORE: I think, if she doesn't understand, if you don't understand his question or the underlying assumption of his question or you think there's an underlying assumption in the question that you don't agree with, so indicate. You don't have to answer something or attempt to answer something that you don't understand.

THE WITNESS: Yes, sir.

MR. PANNER: Can you read back the

00300

question?

(The record was read by the reporter.)

A. Yes.

Q. Now, US LEC offers a service that it calls, I believe it calls it local toll-free service? Is that right?

A. Yes.

Q. And in a local toll-free service, you offer customers in distant local calling areas the opportunity to get numbers associated with other local calling areas, is that right?

A. Yes.

Q. Now, in the case of those calls, the local toll-free calls, I'm going to describe the routing, you correct me if I'm wrong. I'll give you the opportunity to correct me. That call would originate with the Verizon customer in, for example, Essex, correct?

A. Yes.

Q. Verizon would route it through a tandem to US LEC's switch? Is that right?

A. I believe so.

Q. US LEC would then route that call over

00301
its long distance network? Is that correct?
A. That's correct.
Q. And deliver it to the customer Z? Is that correct?
A. That's correct.
Q. So in substance the call's identical to the interLATA FX call in terms of its routing. Is that correct?
A. I would say that it's not identical because the call terminates in our switch in Columbia and we regenerate a new call through the use of remote call forwarding.
Q. Who makes that second call?
A. We do.
Q. US LEC does?
A. Yes.
Q. So US LEC is the calling party?
A. Yes.
Q. Is that your position?
A. Yes.
HEARING EX. MOORE: Let me put a bow on my train of thought with respect to the last question. So therefore, that in your view makes

00302
it identical or not identical to an otherwise interLATA call simply because the call terminates on the LEC's switch and then, according to your description, is regenerated to go forward to Columbia, South Carolina.
THE WITNESS: That's correct.
HEARING EX. MOORE: And for that reason, it's that mechanism that says that that call is not identical to an otherwise interLATA call that would go from X to the POP to Columbia?
THE WITNESS: Yes, sir.
HEARING EX. MOORE: Okay.
BY MR. PANNER:
Q. Are you familiar with any FCC decisions, I'm asking if you're familiar with them, that have considered the question whether intermediate switching of a call of the nature of the intermediate switching that US LEC is performing here permits a carrier to treat a call as two calls?
A. No.
Q. You're not familiar with any such?

□00303

A. No.
Q. And you would agree with the issue of whether you're correctly characterizing that termination is really a legal issue that this Commission should consider?
MR. SHOR: Can you repeat that question, please?
Q. You've made a statement that it should be treated, that the call should be treated differently in these two examples because in one case it terminates at your switch and you regenerate a new call and in the other case there is no such termination. Is that right?
A. Yes.
Q. Would you agree that whether that call terminates is a legal issue for this Commission to decide in this proceeding?
A. I believe so. I'm not a lawyer.
Q. Okay. What function is being performed in the US LEC switch that makes that call terminate?
A. Remote call forwarding.
Q. Can you explain that to the Hearing

□00304

Examiner and to me?
A. This is a layman's explanation because I'm not a technical engineer. My understanding is that the call terminates, there is a software function in the switch that the user has programmed or someone has programmed that says when a call comes to this number, regenerate it some place else. And this is the new destination number. And that remote call forwarding is available to almost anyone. So for example, if at home I wanted, if I went to the beach for the week and I wanted to remote call forward my number at home, I could do that in my home switch. Then I would be responsible for the long distance charges that would be incurred when those calls were call forwarded from my home to my beach house.
Q. Okay. So there's nobody in the switch who answers, there's nobody sitting in the switch who picks up the phone and says, oh, now I have to make a new call, correct?
A. No.
Q. So the point of the view of the call

00305

flow, the call flows through the switch to the ultimate destination; is that right?

A. No, when the call terminates to that local number, the switch sees that it's coming in and there's a function, a software function that says oh, I now have to dial a new number, and the switch then dials that new number.

Q. The switch does it?

A. Yes.

Q. So it comes into the switch and goes out of the switch?

A. Yes.

Q. Goes through the switch?

A. Yes.

Q. That's what switches do, isn't that right? They connect calls through from the calling party to a called party, along different switches? That's what switches are for, isn't that right? Routing calls?

A. Yes.

Q. Now, would you agree that the functionality -- strike that. In the case of the interLATA, what we've agreed is an interLATA FX

00306

service here, customer Z is paying their interexchange carrier for the privilege of being able to receive calls from Essex without customer X incurring a toll charge. Isn't that right?

A. I believe so.

Q. In the case of US LEC's local toll-free service, customer Z is paying US LEC for the privilege of being able to receive calls from Essex without the Verizon caller incurring a toll charge, isn't that right?

A. Yes.

Q. So the functionality is identical, isn't that right?

MR. SHOR: Objection to the characterization functionality. The result may be the same, but I don't know what he means by functionality.

MR. PANNER: If she doesn't understand she will ask for clarification or she won't understand.

THE WITNESS: I don't understand what he means by functionality.

BY MR. PANNER:

00307

Q. The service that's being provided is identical in the two situations, the function that's being provided, the service that's --

A. Are you asking me if the function is different when the remote call forwarding is involved versus a traditional foreign exchange service?

MR. PANNER: I'll withdraw the question.

Q. In your rebuttal testimony on page 14 at lines 13 through 16, you talk about an FCC case in which AT&T allegedly could have routed calls from Baltimore to Atlanta so that a caller in Baltimore would appear to be making a local call when it was instead answered in Atlanta. Do you see that?

A. Yes.

Q. Would that be an accurate description of your local toll-free service, leaving aside the, I don't know if you provide service in Georgia, but leaving that aside, would you agree that that's an accurate description of your local toll-free service?

00308

A. Yes.

Q. You've testified, have you not, that NPA-NXX designations have traditionally governed intercarrier compensation?

A. Yes.

Q. Can you give me an example of a holding from any Commission, from anybody, that relates to that issue prior to 1996?

A. No.

Q. Can you provide me any documentation with respect to that claim?

MR. SHOR: Your Honor, I don't think this is a time for discovery. If he wanted it during discovery, he could have asked it.

MR. PANNER: Exploring foundation, Your Honor.

HEARING EX. MOORE: What was the question again?

MR. PANNER: Sure. She's made a statement, Your Honor, that NPA-NXX codes of the called number and the calling -- excuse me, the NPA-NXX code, the number, to put it simply, defines intercarrier compensation that is what

00309

the carriers have to pay each other when a call is made from a customer of one to a customer of another. That was her, that's her testimony.

HEARING EX. MOORE: Okay.

MR. PANNER: So I want to know what her basis for saying this, she's asserted there's a tradition, I want to know the --

HEARING EX. MOORE: Well, ask it that way. Ask what's the basis for that contention.

MR. PANNER: I'm exploring. She said there's no regulatory decision, I'm asking if she's aware of any industry documentation that would back that up.

A. I did not say that there was no orders, I said I wasn't personally familiar with them. So you mischaracterized my testimony. Secondly, I believe --

Q. I'm sure the --

A. If I had opportunity to do the research and provide you with the documentation that it would come out of either the ordering and billing form, ATIS, or would come out of some sort of Telcordia documentation.

00310

HEARING EX. MOORE: What was that last --

THE WITNESS: Telcordia. Telcordia is a company based in New Jersey formerly known as BELLCORE, and was formerly owned by the Bell Operating Companies and created at divestiture for the purpose of providing technical information.

Q. Would you agree with me that in the order you discussed, the Bell Atlantic Pennsylvania order that you discussed in your rebuttal that the FCC held that NPA-NXX designations did not govern intercarrier compensation in that circumstance of interLATA FX traffic?

MR. SHOR: Objection to the extent that it calls for her to make a legal conclusion.

HEARING EX. MOORE: I take it he's asking about what is meant by what she's saying in her testimony. Is that fair?

MR. PANNER: Yes, Your Honor. She's testified to what that order holds and she's also

□00311
made statements about what the tradition is with respect to these designations and so I want to explore that.
A. I don't have the order in front of me so I would have no, I could not answer the question.
Q. In your rebuttal testimony, you've stated that the FCC ruled that an interLATA FX call was not a local call for the purposes of compensation and thus access charges were due. Is that correct?
A. That's what it says.
Q. And that's your testimony, isn't it?
A. Yes.
Q. And yet in those calls the NPA-NXX designations are associated with the same local calling area, isn't that right?
A. I don't have the order in front of me. I cannot answer the question.
Q. You said before that in that case, a call that was, that AT&T could have routed a call from Baltimore to Atlanta so that a caller in Baltimore would appear to be making a local

□00312
call. What does that mean, appear to be making a local call?
MR. SHOR: Your Honor, would you ask the counsel if he's not going to be at the board to please not approach the witness?
HEARING EX. MOORE: Yeah. Can you sort of limit --
MS. FLYNN: Your Honor, I have an objection to that as well, this pacing back and forth. I know it's not intentional.
MR. PANNER: I'll sit down.
MS. FLYNN: Yeah. Generally we do sit down when we cross-examine witnesses here. I know it wasn't intentional, but it is distracting.
MR. PANNER: I didn't mean to be distracting.
HEARING EX. MOORE: Sure.
A. I believe you've asked me what I mean by using the words would appear to be.
HEARING EX. MOORE: Where is that at?
MR. PANNER: It's in here, rebuttal testimony at lines 15 and 16, Your Honor. On

□00313
page 14.
HEARING EX. MOORE: All right.
A. I believe it's a description of the fact that if the call, caller is calling a local number, it appears it's a local call from their perspective of making the call.
Q. And so when you say it appears to be a local number, you're saying that the NPA-NXX designations would require it to be treated, would, that the NPA-NXXs are associated with the same local calling area? Is that right?
A. Yes.
Q. And in that case, you would agree, then, would you not, that the NPA-NXX codes do not govern intercarrier compensation?
A. No, I don't think I would agree with that.
Q. Well, you've testified that for purposes of compensation, it was not a local call and thus access charges are due. Is that correct?
A. Yes.
Q. And you've testified that the NPA-NXX

□00314
codes are associated with the same local calling area, is that correct?
A. Yes.
Q. So even though the NPA-NXX codes are associated with the same local calling area, for purposes of intercarrier compensation it is not treated as a local call. Is that correct?
MR. SHOR: Your Honor, the difficulty, I'm objecting because I think there's a disconnect between what he's asking and what she's testifying. She's testified that it depends on the service that's provided by the carrier and it depends on how it's provided. He's asking her questions about an FCC order without saying anything about the similarity or how that service was provisioned. So she's said there may be circumstances, he's asking about an order and if he wants to lay a foundation as to how it was provided in that particular circumstance, fine. Otherwise, she's answered the question and we need to move on.
MR. PANNER: Your Honor, they have made a statement about the NPA-NXX designations

00315
govern intercarrier compensation traditionally. That statement, I'm getting at the foundation of that statement. I believe that she has testimony that shows that that is incorrect. I'm trying to draw that out, and frankly, the witness is being, is simply answering questions in ways that I think the record will reflect require clarification. So what I'm trying to do is get that clarification.

MR. SHOR: But he's asking her about a particular order without stating at all how the service in that order was provided or how the specific call was routed when the witness has testified that there are different ways of providing it.

MR. PANNER: No, Your Honor.

MR. SHOR: Since it depends as the witness has stated on how it's provided I believe there's a disconnect.

MR. PANNER: Your Honor, I have not asked her about a particular call, about the results of the particular order beyond what she herself testified. She has made a statement

00316
about NPA-NXX designations governing intercarrier compensation. It's quite clear I'm trying to draw out from her how she squares that statement with her statements in her rebuttal testimony concerning this FCC order.

Now if there are reasons that these issues that Mr. Shor is trying to raise are relevant, I'm sure she'll explain that in her testimony. But it's very important to the issue in this case, it's just at the heart of the issue, you know, how NPA-NXX designations relate to intercarrier compensation as opposed to call rating and routing. That's what this issue is about so it's very important to be clear about what her position is with respect to these issues. So it's very important for purposes of the record I'm trying to build to present to Your Honor in the brief and to present to the Commission that we are clear about what's at issue in, for example, the case that she discusses in her rebuttal testimony.

MR. SHOR: And that's the point. He's talking about a specific case, and asking her to

00317
draw conclusions about the specific case without discussing with her how the service was provided in that specific case. When she has testified, and he may like it, he may not like it, that the way she provides it, she believes is different.

MR. PANNER: Your Honor, if he wants to do redirect and get how the, that's what redirect may be about, but I'm asking her questions.

MR. SHOR: I'm just making an objection.

MR. PANNER: These are perfectly reasonable questions and perfectly understandable questions that she can respond to. And I don't, they're absolutely relevant. He hasn't suggested that they're not. They haven't been asked and answered, so he's not suggesting that, so he's suggesting there's other information. I'm asking a question. If she doesn't understand it she won't answer.

MR. SHOR: The specific objection here is foundation. Because he's not laid the foundation for the specific question that he's

00318
asking.

MR. PANNER: Your Honor, she's testified in her rebuttal testimony as to what the FCC held in a particular case. How can there possibly be an objection on foundation. She's testified to it.

MR. SHOR: You have not explored with her on the --

HEARING EX. MOORE: Gentlemen, hold on. I've heard enough.

MR. SHOR: That's the foundation.

HEARING EX. MOORE: I've heard enough. I am, at this point I'm somewhat inclined to agree with Mr. Shor. Because quite frankly, his suggestion is that the complete foundation has not been sufficiently laid as it relates to this particular FCC order. An order that, the questions that you are now asking can be properly answered.

And I tend to agree with that because in listening to the questions, I'm, in my head I'm trying to make the appropriate comparisons, if you will. The appropriate comparisons being

□00319

is the situation that you are interrogating the witness about, that in effect are we comparing an apple to an apple, an orange to an orange, or are we comparing an apple to an orange. And I can't make that distinction in my own head, and I think that's because there are certain assumptions that are being made by both the questioner and the answerer of the question about what is in the underlying FCC order. Which I have no understanding of at all.

So I'm somewhat at a loss, quite frankly, in trying to keep separated in my own mind the distinctions that you are attempting to make with the questions that you ask. Now, I'm not trying to tell you how to do it, but if I were I think dealing with trying to point out inconsistencies in the testimony of the witness with whatever the appropriate reality is, I would extract out of that testimony the statement, and ask that witness to, with the appropriate foundation as to whatever the reality is that you're dealing with, then ask that witness how this statement squares with this reality that

□00320

you're trying to compare it to.

That would allow me to have some understanding of the comparison that you're trying to make a -- am I making sense?

MR. PANNER: What I am trying to do, and I realize that there's a lot of, there's been a lot of backing and filling, and I'm doing my best to work with the witness here.

HEARING EX. MOORE: Sure.

MR. PANNER: And to ask questions that can be answered in a straightforward way, and certainly what I'm trying to do is bring out from the witness the relevant similarities, the relevant facts that are in her testimony, in her characterization of the services at issue here. And explain, through the use of her testimony, and admittedly sometimes the punch line may not be immediately evident, hopefully it will be by the end of the proceeding, if not today, after the briefs have been filed. But the facts that I'm trying to bring out here, and perhaps part of the problem is I'm just trying to take her too far and I should be more content to allow the

□00321
facts to sit in the record and then use them later, Your Honor. And I'd be happy to do that if you give me, if you can indulge me with a couple more minutes, perhaps I could do that in a way that will permit me to build the record that I need and will not unduly --
HEARING EX. MOORE: We're now within a half an hour of when I intend to break for the morning session. Can we finish with this witness within that time frame?
MR. PANNER: Certainly, Your Honor. As to the issues, this is the last one I have.
HEARING EX. MOORE: Okay. How soon?
THE WITNESS: My flight's at 12:30.
MR. PANNER: I'll try to wrap it up, Your Honor, it wasn't my intention to go so long.
HEARING EX. MOORE: Okay. Be as expeditious as you can.
MR. PANNER: I'll certainly try.
BY MR. PANNER:
Q. You talk about an FCC case in which AT&T allegedly could have routed calls from

□00322
Baltimore to Atlanta, so that a caller in Baltimore could appear to be making a local call when it was, instead, answered in Atlanta. That was your characterization of the order, is that correct?
A. Yes.
Q. So it's your understanding of the order that based on NPA-NXX codes assigned that the call appeared local? Is that correct?
A. Yes.
Q. And it's also your testimony in that case that the FCC held that for purposes of intercarrier compensation, access charges were due. Is that correct?
A. Yes.
MR. PANNER: I won't go any further.
Q. Now, under US LEC's proposal, if NPA-NXX codes of two customers are associated with the same local calling area, would the originating party be required to pay reciprocal compensation?
A. Yes.
Q. Even if it were an interLATA FX call?

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A. No.
Q. What language is in the US LEC proposal that makes that clear?
A. I really don't know. I'd have to take a long time to look through the agreement.
MR. PANNER: Okay. I have nothing further, Your Honor.
HEARING EX. MOORE: Okay. Ms. Flynn? Do you want a shot?
MS. FLYNN: I just have a couple questions I want to clarify for the record. Because there were some terms that, frankly, I didn't understand.
CROSS-EXAMINATION
BY MS. FLYNN:
Q. In the very beginning of Mr. Panner's cross, you discussed the traffic not subject to reciprocal compensation. That's at page 64, Section 7.3.1. And he pointed out that in your markup of the agreement, you would have deleted the definition of voice information services, which was page 43. That's Section 5.1. So my question to you is does that render meaningless a
00324
portion at least of Section 7.3.1 you would have deleted? Would that render that meaningless? Is this something that should be marked out or have I misunderstood it? Actually, it's page 64.
A. I don't know. I think I'd have to think about that one.
Q. Okay. I just wanted to ask the question.
You also referred to a LATA 236. What is that?
A. That's the Washington, D.C. LATA, and our switch in northern Virginia serves the Maryland portion of that LATA. And we interconnect at the Chevy Chase tandem to provide services to customers on the Maryland side of that LATA.
Q. The Washington, D.C. LATA, would that be on this map, LATA 4? Or, is Washington, D.C. its own LATA?
A. Washington, D.C. is its own LATA and it includes a portion of Virginia, it includes the District itself, and a portion of Maryland.
Q. So that would be, Verizon Exhibit 4,

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would that be that white section here? Or is that --
A. I've not seen that.
Q. Let me show that to you.
A. This is the Virginia portion. The square is the District of Columbia, and then there's a portion of this area in Maryland that's also part of that LATA.
Q. But it's not, that is not the same as LATA 4?
A. This document was produced I believe by Verizon, it defines LATA 4 as being the Maryland portion of the Washington LATA.
Q. All right, thank you.
Why would a customer prefer, I don't know if this is a question that you can answer, but why would a customer prefer the virtual FX service to an 800 number for its customers?
A. I think it's more a matter of perception to the customer as to whether or not you have a local presence. 800 numbers sometimes are seen as, well, I could be in California, offering a service in Baltimore, versus if you've

□00326
got a local number it looks like you are local, and I think it's all just marketing semantics more than anything.
Q. Is there an economic benefit to having a virtual FX service over an 800 number to the customer? Are 800 numbers a lot more expensive to the customer or can you answer that?
A. Without speaking to what different companies provide in terms of their pricing, I really couldn't answer the question definitively.
MS. FLYNN: Fair enough. Thank you. That's all I have.
REDIRECT EXAMINATION
BY MR. SHOR:
Q. I'll try to be quick.
In connection with issue 3 and the voice information services in the questions from Mr. Panner and from Ms. Flynn, the question came up, Ms. Flynn directed your attention to 7.3.1 of the interconnection agreement on page 64. And you talked about reciprocal compensation shall not apply to interstate or intrastate exchange

□00327

access, information access or exchange services for exchange access or information access. Do you see that?

A. Yes, sir.

Q. And she asked you whether that definition, that section would need to be deleted or whether the discussion of voice information service would render that section moot. Do you remember that?

A. Yes.

Q. Would it be fair to say that there is some traffic that would fit within Section 7.3.1 that is not voice information services traffic?

A. Yes.

Q. So therefore that definition would apply to traffic outside of voice information services?

A. That's correct.

Q. And there would be no need to eliminate that definition?

A. That's correct.

Q. Are you familiar with the FCC, the recent decision of the FCC Wireline Competition

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Bureau arbitration?

MR. PANNER: Objection.

A. Yes.

HEARING EX. MOORE: Basis?

MR. PANNER: Outside the scope of the cross. She wasn't asked about that.

MR. SHOR: I just asked if she was familiar with the order. I'm about to explore the substance.

HEARING EX. MOORE: Okay. You can ask is she familiar. You may be cut off if there's a follow-up.

BY MR. SHOR:

Q. So to your knowledge did the Wireline Competition Bureau in that case address whether the definition of Internet traffic is included the traffic that is defined here in Section 7.3.1?

A. Yes, it did.

MR. PANNER: Objection.

HEARING EX. MOORE: I'm going to overrule.

MR. SHOR: I'd like to mark as US LEC

□00329
Exhibit 7 a section of the FCC, the arbitration order in the Wireline Competition Bureau's arbitration.

(US LEC Exhibit No. 7 was marked for identification.)

MR. PANNER: Your Honor, if I could renew my objection. If Mr. Shor could identify what portion of my cross-examination this relates to, I'd be grateful.

MR. SHOR: Whether reciprocal compensation is due for this traffic.

MR. PANNER: Your Honor, I didn't ask her that question.

MR. SHOR: You most certainly did.

HEARING EX. MOORE: Counsel.

Are you suggesting your efforts to get at the compensation issue did not relate to this FCC order?

MR. PANNER: I don't believe, Your Honor, that any question that I asked her, that this FCC order goes to that. Obviously there's no question that Mr. Shor will use this FCC order

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in his briefing and that's entirely appropriate, but I don't see what basis there is for asking the witness about an order about which I did not ask her and where he has identified no issue on which I did examine her that this goes to.

MR. SHOR: I'm not aware that cross-examination, that I am not allowed to redirect on an issue that he raised and bring in some extraneous material solely if he raises the existence of the order.

HEARING EX. MOORE: He has a point. It's an appropriate point to raise an objection to redirect that goes beyond the scope of the cross. All I'm trying to tease out is whether or not your reference to this order or this portion of the order at this point goes to any issue that he addressed in his cross.

MR. SHOR: He discussed, he questioned, examined the witness on the definition of reciprocal compensation traffic which is defined in Section 7.3.1 and discussed with her whether or not there was something that the parties agreed to and discussed with her the

00331
relationship of that traffic to voice information services traffic. And suggested to her, asked her whether she felt that that traffic would be eligible for reciprocal compensation.
MR. PANNER: Your Honor --
MR. SHOR: Excuse me.
MR. PANNER: I didn't realize you weren't finished, Mr. Shor. Sorry.
MR. SHOR: And I am now doing redirect examination on that issue and that's the extent of it.
MR. PANNER: Your Honor, the record will reflect that I did not ask her if voice information services traffic fell within that definition. And I did not ask her if it was subject to reciprocal compensation.
HEARING EX. MOORE: I tend to agree on that point and I think you may be right. My question is whether or not the issue of compensation, I take it as it relates to the FX service, which is what you were trying to get at, that is my --
MR. SHOR: This is a different issue,

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Your Honor.
MR. PANNER: Your Honor, this relates and I realize it now feels like ancient history, but this relates to issue 3 which is whether voice information services traffic should be subject to reciprocal compensation. So as I say, I don't, Mr. Shor has stated that in my direct I brought out issues of whether voice information services fell into -- let me put that a little more precisely. He's suggesting that I asked Ms. Montano whether voice information services fell within the definition in 7.3.1. I did not ask her that question.
He also suggests that I asked her whether such traffic is subject to reciprocal compensation under the agreement. Again, I don't believe I asked her that question. And so I don't see a basis for redirect on this issue.
MR. SHOR: He did ask her what US LEC's position was, he did explore with her whether voice information services would fit these categories, and he's certainly discussed the issue of whether it's subject to recip comp,

□00333
which is the main issue in this proceeding. Whether he asked a specific question or not does not define the scope of redirect. I would submit to you.

MR. PANNER: And Your Honor, I would submit that that's precisely what defines the scope of redirect is whether it goes to an issue, normally what the purpose of that is if there's a factual statement that she made in response to a question that needs to be clarified, you know, I welcome Mr. Shor to ask the question that would clarify that. But what's happening here is he's trying to introduce additional direct testimony, in my view, about what the FCC order held. Again I know I'm going to see the FCC order in the briefing and that's fine, but I don't think it's an appropriate topic for redirect. I think it goes outside the scope of the cross, Your Honor.

HEARING EX. MOORE: I think I'm going to overrule the objection.

MR. SHOR: As I leaf back in my notes it looks like the very first question you asked made reference for the witness to page 43,

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Section 5.1.

MR. PANNER: Your Honor, there's no question that I did explore with her the definition of voice information services in the agreement and I did explore with her what the agreement provides with respect to certain categories of traffic, but as to the issues that Mr. Shor has identified, I don't believe I asked her any questions. I don't want, I'm not trying to delay this needlessly, but I don't think that redirect should be an opportunity to set up a soapbox.

MR. SHOR: My notes are not always 100 percent clear, but I wrote the question as any traffic that is within 7.3.1 is not subject to reciprocal compensation, and the witness answered yes.

MR. PANNER: If it's going to that issue, what 7.3.1 provides, I don't understand how the FCC order goes to that.

MR. SHOR: I haven't had an opportunity to examine the witness on it yet.

HEARING EX. MOORE: I'm going to

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overrule the objection. Go ahead.
BY MR. SHOR:
Q. Would you please direct your attention to paragraph 257. Would you read, please, the first sentence which goes down to footnote 864.
A. The petitioners assert that Verizon's proposed contract, which provides that reciprocal compensation does not apply to interstate or intrastate exchange access, information access, or exchange services for exchange access or information access, is over-inclusive and could be read to exclude from reciprocal compensation not only ISP-bound traffic, but also other forms of information access traffic, or more broadly, all of the traffic types listed in Section 251-G.
Q. Now, is your understanding the quotation there that begins at the last line of page 126 and goes up to, through three-quarters of the line on 127 is essentially the same as the definition in 7.3.1 of our proposed contract?
A. Yes, it is.
Q. Would you please direct your attention to page 128, paragraph 261. Would you read that

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first sentence in, please?
A. We disagree with Verizon's assertion that every form of traffic listed in Section 251-G should be excluded from Section 251-B-5 reciprocal compensation.
Q. Would it be your understanding and only your understanding that based on this arbitration order, that voice information services traffic would be eligible for reciprocal compensation under this agreement?
A. Yes, it would.
MR. PANNER: Objection.
Q. Now, with respect --
MR. PANNER: Objection. I have an objection.
MR. SHOR: She's already answered.
MR. PANNER: He's asked a question, he hasn't laid a foundation.
HEARING EX. MOORE: What was the question again?
MR. SHOR: I asked based on her understanding of the FCC's order would voice information services traffic be eligible for

□00337

reciprocal compensation under the parties' agreement.

MR. PANNER: And I object that he laid a foundation, it's leading, and it's outside the scope of the direct. That question is entirely inappropriate, Your Honor.

HEARING EX. MOORE: I'm going to overrule.

BY MR. SHOR:

Q. Thank you. With respect to issue 4 on the question of direct trunking for voice information services traffic, I believe you were questioned on whether US LEC currently blocks that traffic?

A. Yes, I do.

Q. Do you recall that? You recall that you said typically the default provision is that US LEC does block that unless the customer requests otherwise?

A. Yes.

Q. So there are in fact circumstances under which customers could be entitled to have access to voice information services?

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A. That's correct.

Q. And in fact US LEC could change its policy and not block those calls, is that right?

A. That's correct.

Q. So therefore the trunking requirement that would be imposed by the agreement could have a financial impact on US LEC, is that right?

A. Yes, it could.

Q. Now, with respect to issue No. 5, addressing the concept of terminating or receiving party, do you remember that discussion?

A. Yes, sir.

Q. Do you remember the discussion about terminating or receiving? Would you direct your attention, please, to page 64 of the Verizon Exhibit 1.

A. Yes, sir.

Q. Section 7.2. Would you please read the first sentence of that provision, paragraph into the record, please?

A. The parties shall compensate each other for the transport and termination of reciprocal compensation traffic delivered to the

□00339

terminating party in accordance with Section 251-B-5 of the Act at the rates stated in the pricing attachment.

Q. That doesn't refer to traffic being received, does it?

A. No, it does not.

Q. And it doesn't set the parties' compensation obligations with respect to who is the receiving party, does it?

A. No, it does not.

Q. And if you look at the bottom of that paragraph, would you read again, forgetting for a moment the strike-through and the underline, so that you would read it -- sorry. Let me read the sentence as it was originally written. The designation of traffic as reciprocal compensation traffic for purposes of reciprocal compensation shall be based on the actual originating and terminating end point -- terminating points of the complete end-to-end communication. Do you see that?

A. Yes, sir.

Q. Does it refer to receiving points

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there?

A. No, it does not.

Q. Thank you. Now, I will try to get through issue 6 as quickly as I possibly can.

Are you familiar again with the, are you aware that the FCC arbitration order addressed the question of reciprocal compensation for FX traffic?

A. Yes, it did.

Q. And are you aware that there was a discussion in that order concerning the NPA-NXX designations?

A. Yes.

MR. SHOR: I'd like to mark as US LEC Exhibit 8, a section of the FCC order addressing toll rating and virtual foreign exchange.

(US LEC Exhibit No. 8 was marked for identification.)

BY MR. SHOR:

Q. Now, do you recall the discussion about whether the NPA-NXX designation governs compensation?

□00341

A. Yes, sir.
Q. You remember we had quite a discussion about this. Would you direct your attention, please, to paragraph 301.
HEARING EX. MOORE: What page?
MR. SHOR: Page 143.
A. Yes, sir.
Q. Would you please read that paragraph into the record?
A. We agree with the petitioners that Verizon has offered no viable alternative to the current system, under which carriers rate calls by comparing the originating and terminating NPA-NXX codes. We therefore accept the petitioners' proposed language and reject Verizon's language that would rate calls according to their geographical end points. Verizon concedes that NPA-NXX rating is the established compensation mechanism not only for itself, but industrywide. The parties all agree that rating calls by their geographical starting and ending points raises billing and technical issues that have no concrete, workable solutions

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at this time.
Q. Now, based on your review of that order, is your understanding that Wireline Competition Bureau directed that the parties use the NPA-NXXs of the originating and terminating parties to govern intercarrier compensation arrangements?
A. Yes, it is.
Q. Thank you. Now, you had a number of questions about this diagram that Mr. Panner drew involving Essex, Columbia, Maryland and Columbia, South Carolina, do you recall that?
A. Yes, sir.
Q. Do you recall he asked you a number of questions about how the various calls were transferred and he asked you some questions about an FCC order addressing a service known as interLATA FX service? Do you recall that?
A. Yes, sir.
Q. Do you know how the service in that particular order was provisioned?
A. No, I do not.
Q. Do you have any idea whether the call

□00343

that was at issue or calls that were at issue in that particular order terminated in the LATA where the call originated and then were regenerated and sent out?

A. I have no idea how they worked.

Q. And yet US LEC, as I understand it, your distinction between a service where the call does not terminate in the LATA but rather is just handled as one continuous call from the originating party to the terminating party differs from US LEC's service. Is that correct?

A. That's correct.

Q. What is that essential difference?

A. The essential difference is that call terminates and we regenerate the call.

Q. So in fact in your service the call terminates in Maryland and is regenerated before going someplace else.

A. That's correct.

Q. Now, do you recall Ms. Flynn asked you a question the distinction between virtual FX service and 800 service?

A. Yes, sir.

□00344

Q. As I understand it, US LEC's service that's provided here is not virtual FX, is that right?

A. That's correct.

Q. What is it called?

A. It's called local toll-free.

Q. Can you direct me to, you have the local tariff there which is Verizon Exhibit 6?

A. Yes.

Q. Can you direct me to the point in that tariff where US LEC's local toll-free service is described?

A. It's not in this tariff.

Q. And why is that?

A. Because it's in our long distance tariff.

Q. And as you understand it there is a fundamental difference between US LEC's foreign exchange service and US LEC's local toll-free service?

MR. PANNER: Objection.

A. Yes.

MR. PANNER: Objection.

□00345

HEARING EX. MOORE: What is the objection?
MR. PANNER: It's leading.
HEARING EX. MOORE: Overruled.
BY MR. SHOR:
Q. Now, there were some other conversation, other questions that dealt with the call from area -- I'm going to have to, I won't eliminate your drawing here, you had X in area A and Y in area B. Do you recall that?
A. Yes, sir.
Q. And you recall that Mr. Panner asked you whether the call from X to Y in that arrangement without any expanded service or any FX, whether that was an intraLATA toll call? Do you recall that?
MR. PANNER: Objection. Mischaracterizes my question.
HEARING EX. MOORE: Overruled.
A. Yes, sir.
Q. And you recall he asked you to discuss the situation where Y has a number associated with X's local calling area. Do you recall that?

□00346

A. Yes, sir.
Q. And he asked you whether that becomes a local call. Do you recall that?
A. Yes, sir.
Q. In fact, isn't it just rated as a local call?
A. Yes, sir.
Q. It doesn't become a local call, it's rated to the originating caller as a local call, is that correct?
A. That's correct.
Q. Now, as you understand it, with US LEC's switch in area B, if in fact customer Y in area A is a US LEC customer, do you understand how that call is routed?
A. Yes, sir.
Q. How is it routed?
A. The call is still routed by Verizon to our interconnection point, slash, POI. I've probably got the terms mixed up. But wherever they hand off their traffic to us. And then we deliver that call to our customer, whether it's a toll call or whether it's an FX call.

00347

Q. So in this arrangement, Verizon takes the call from X to US LEC's switch, is that right?
A. That's correct.
Q. And US LEC takes the call and brings it back to Y, is that correct?
A. That's correct.
Q. Now, in this situation where Y in area B simply has the number associated there, what does Verizon do?
A. Same thing that they did in the other scenario.
Q. So Verizon brings the call from calling area A to US LEC's switch, is that right?
A. That's correct.
Q. The service that Verizon provides, is that any different when the call goes back to area A or whether it stays in area B?
A. No, it's not.
Q. So the services that Verizon provides does not change depending on the location of the called party.
A. That's correct.

00348

Q. And based on your understanding of cost, would you agree that the cost that Verizon incurs to carry the call to US LEC's switch is the same?
A. It is.
Q. Now, to your knowledge, does Verizon offer an FX product?
A. Yes, they do.
Q. To your knowledge does it provide a similar functionality?
A. Yes, it does.
Q. And under the current arrangement if the US LEC customer calls a Verizon customer that utilizes FX service, has Verizon been billing US LEC reciprocal compensation for that call?
A. Yes, they have.
Q. To your knowledge has US LEC been paying it?
A. Yes, we have to.
Q. To the extent that any toll charges have been lost, has Verizon offered to pay you any of those during this period?
A. No, they have not.

□00349

Q. So the way that the parties have exchanged traffic to date, and let me make sure that this is correct. In both instances with both foreign exchange products, each carrier has been billing and paying the other reciprocal compensation.

A. That's correct.

MR. SHOR: Your Honor, I've got one more minute, I'm trying to finish.

MR. PANNER: Your Honor, I'm going to have to recross, and it's going to be pretty long.

HEARING EX. MOORE: Let's ask your question.

MR. SHOR: Well, if he's doing recross and she's going to miss her flight, then I'd just as soon not have to rush. If there's no way he's going to finish in, if there's no way she can get out and you've got to break, then I'd prefer not to have to rush it. I could explore this on redirect in greater detail.

MR. PANNER: Your Honor, I need to recross. I mean, he's introduced, I know he goes

□00350

very fast, he's introduced a lot of stuff. It's stuff, I'm sorry, I've got to go over it. There's been a number of statements made with respect to, you know, what work is being done with Verizon's FX service with respect to this FCC order. I've got to go into it.

HEARING EX. MOORE: What time is your flight, ma'am?

THE WITNESS: 12:30.

HEARING EX. MOORE: You say you've already checked in?

THE WITNESS: Yes, sir.

MR. PANNER: Your Honor, I can try to do it, if you can go to noon I can try to do it in 15 minutes.

THE WITNESS: I'm going to miss the flight no matter what at this point.

HEARING EX. MOORE: How much of an imposition would it be for you to stay here? At this point?

THE WITNESS: I'll do whatever the Court needs me to do.

HEARING EX. MOORE: How much more time

□00351

would you need to recross this witness?
MR. PANNER: On the issues that Mr. Shor has raised, I think I could do that in a short time, 15 minutes. But, you know, there's really, there are a few issues I think need to be drawn out, Your Honor, but it's not, I don't think it will be extensive. But I do need a recross.
HEARING EX. MOORE: Are there matters that could be dealt with on the brief? Because quite frankly, at this point, I have a pretty good conceptual framework based on your cross already and based on what Mr. Shor has done on redirect. That these matters could be addressed in briefing if there are some things that you really think need to come to my attention because it would have an impact on the ultimate outcome.
MR. PANNER: Well, Your Honor, I hate to be the bad guy, obviously.
HEARING EX. MOORE: I'm not, don't characterize it that way.
MR. PANNER: You're asking me if I want to waive recross, I don't think it would be,

□00352

I don't think it would be appropriate. As I say, I can do it very fast, but I do think that Mr. Shor has raised issues on his redirect that need to be clarified.
HEARING EX. MOORE: Okay.
THE WITNESS: Can we go off the record for a minute?
(Discussion off the record.)
HEARING EX. MOORE: Why don't we go ahead and break in a minute and reconvene at 1:15.
MR. SHOR: If this is the case I have not finished my redirect.
HEARING EX. MOORE: I understand. You've got one more question.
MR. SHOR: I may have a little bit more because I was trying to rush to get her out.
(Luncheon recess -- 11:48 a.m.)

□00353

A F T E R N O O N S E S S I O N

(1:13 p.m.)

HEARING EX. MOORE: Okay.

MR. SHOR: I just have a few more questions on redirect, Your Honor.

HEARING EX. MOORE: Okay.

BY MR. SHOR:

Q. Ms. Montano, do you remember there was some questioning from Mr. Panner concerning the charges that US LEC, the rates that US LEC charges customers for foreign exchange services?

A. Yes.

Q. Do you know whether by any chance Verizon charges foreign exchange service for those customers?

A. Yes, they do.

Q. Do you have any understanding as to what rates they charge?

A. In their toll service tariff there is a rate per mile and there's a rate for up to 25 miles, and then if it's over 25 there's a secondary rate you add to that, and if it's greater than 50 miles you add a third rate, and

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then there is a charge per path.

Q. Path, what does that mean?

A. That means that for every path that the customer can receive a call on they have to pay for the channel. I think it's around $14 a month.

Q. So as you understand it there are charges that Verizon assesses on its customers for the privilege of using foreign exchange service?

A. That's correct.

Q. Do you have any understanding as to what US LEC's customers get for the charges that they pay?

A. Yes, for the flat rate that we provide the customer they get 99, they can have 99 simultaneous calls coming in.

Q. Do you have any understanding as to whether the charges that US LEC has for a foreign exchange are competitive with services, similar services provided by other carriers?

A. We believe that they are.

Q. I believe you testified that US LEC's

00355
foreign exchange customers also typically purchase local exchange service?
A. That's correct.
Q. Is it your understanding that US LEC's foreign exchange services typically have physical locations in addition to whatever virtual locations they may obtain?
A. I'm sorry.
Q. Is it your understanding that a foreign exchange customer that US LEC has will have an office somewhere in Maryland?
A. Yes, they will.
Q. And that they will get local service out of that office?
A. They will.
Q. And that they may just purchase a presence in a different calling area through US LEC's foreign exchange service but they do have a presence in Maryland?
A. Absolutely.
MR. SHOR: I have nothing further on redirect, Your Honor.
HEARING EX. MOORE: Mr. Panner.

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MR. PANNER: Thank you.
CROSS-EXAMINATION
BY MR. PANNER:
Q. Ms. Montano, I'd like to direct your attention first of all to the exhibit that Mr. Shor introduced at the beginning of your cross, which I'm having trouble locating, I'm afraid.
MR. SHOR: Which one?
MR. PANNER: I believe it's --
HEARING EX. MOORE: No. 7?
MR. PANNER: On the front of it it says definition of Internet traffic.
MR. SHOR: Yes.
BY MR. PANNER:
Q. You read part of the language in paragraph 257, on page 127 there's also a statement that says Cox argues that Verizon's proposed language improperly reverses the presumption in Section 251-G, exempting the traffic type listed therein from reciprocal compensation rather than as the statute requires, leaving in place previous compensation regimes

□00357

until they have been superseded by new rules.
Do you see where it says that?
A. Yes.
Q. Do you agree with Cox's argument there?
A. I can't render an opinion at this point. The reason why is you've got a one-sentence summary of what was probably a very long argument in Cox's reply brief that was footnoted. And without going looking at their reply brief I would prefer not to. Because I really don't know until I understand all the different pieces.
Q. Okay. Well, let's take out the words Cox argues that. Then it says, Verizon's proposed language improperly reverses, et cetera. Leaving aside its characterization as Cox's argument, do you agree with that statement, that Verizon's proposed language improperly reverses the presumption, et cetera, et cetera?
A. I don't know whether I agree or not agree, without sitting down and analyzing what they're saying here. I think you're putting me

□00358

on the spot here to make a legal -- a conclusion that I'm not prepared to make without studying it further.
Q. Would you agree with me that the language, that Verizon's proposed language referred to here is the exact language to which US LEC has already agreed to govern reciprocal compensation?
A. No, I wouldn't agree with you until I've had an opportunity to study it. You've got one sentence that I need to understand better.
Q. Okay. Here it says reciprocal -- I'm not referring to that sentence anymore, Ms. Montano.
HEARING EX. MOORE: Where are you referring to?
MR. PANNER: It says reciprocal compensation.
HEARING EX. MOORE: Where are you referring to?
MR. PANNER: In paragraph 257 it refers to proposed language, and the language is quoted in the first sentence which Ms. Montano

00359
read before and rendered an opinion on, Your Honor, in response to Mr. Shor's question, that said that reciprocal compensation does not apply to interstate or intrastate exchange access, information access or exchange services for information access and exchange access.
Q. Would you agree that that was Verizon's proposed language?
A. Yes.
Q. Now, if I take you to paragraph 7.3.1 of the proposed agreement, on page 64 of Exhibit 1, you testified before that US LEC has agreed to that language. Is that right?
A. Yes, I have.
Q. Can you read that language again? I know you read it earlier but I'd like you just to read it for the Hearing Examiner, please.
A. Reciprocal compensation shall not apply to interstate or intrastate exchange access, information access, or exchange services for exchange access or information access.
Q. So the fact that the FCC did not accept that language doesn't affect the fact that

00360
US LEC has already agreed to it here, isn't that right?
A. Yes.
MR. PANNER: Your Honor, I've written up some diagrams that relate to what was written on the board and I haven't asked, Mr. Shor has had a brief chance to look at them, I have not shown them to Ms. Flynn. I don't know if Mr. Shor is going to have any objections to them, but maybe we can speed this up, work that out later to try to speed things up for Ms. Montano and let her out of here.
HEARING EX. MOORE: Very well.
Q. Now, this is a diagram Mr. Shor drew showing a local calling area A, a local calling area B, a Verizon customer X, a US LEC customer Y?
A. Yes.
Q. He also showed a situation, did he not, where there was a US LEC customer Y in that local calling area, is that right?
A. Uh-huh. Yes.
Q. Now, in the case, in this diagram that

□00361

Mr. Shor drew there's a customer Y located here in the local calling area B which I take it is Columbia because that's the US LEC switch, is that right?

A. That's right.

Q. So customer Y is located close to the US LEC switch, is that right?

A. In that diagram, yes.

Q. Do you have foreign exchange customers that are located close to your switch in Maryland?

MR. SHOR: Objection to the use of the word close. What does it mean? Foundation.

HEARING EX. MOORE: Are you really asking if you have customers in the Columbia area where the switch is?

MR. PANNER: That's a good start.

Q. Do you have foreign exchange customers in the Columbia area where the switch is?

A. Subject to check I believe we have two in Columbia.

Q. Would you agree that a customer that's within five miles of the switch is close?

□00362

A. Sure.

Q. And do you have FX customers that are within five miles of your switch?

A. Not knowing how large the Columbia local calling area is I can't say they're within five miles. I know that we have a couple of customers who are within the Columbia local calling area.

Q. Certainly it's possible they could be within five miles, but you don't know?

A. Yes.

Q. So they could be close?

A. Yes.

Q. In this call from the Verizon customer X to this US LEC customer Y that's located in the Columbia area, this is Essex, this is Columbia. Who's doing the longer haul? Verizon that's getting it to your switch, or US LEC that's getting it from the switch to the customer?

MR. SHOR: Can I ask a point of clarification in that example? Is Y physically located, is it an FX call or is it a, what kind of call is it?

□00363

MR. PANNER: Your Honor, I don't see how that's an objection to my question. If she doesn't understand the question she'll ask for clarification. I really think that Mr. Shor is using the objections as an opportunity to try to make suggestions to the witness and I don't think that that's fair.

HEARING EX. MOORE: Is this an objection?

MR. SHOR: It was an objection. Rephrase question. Objection as to form.

HEARING EX. MOORE: Overruled. If you can answer the question, answer the question. If you can't or if it's not clear, you indicate you can't answer it or it's not clear.

THE WITNESS: Yes, sir.

HEARING EX. MOORE: She's the one that's responding to the questions, not you.

MR. SHOR: Okay.

A. Are we talking about, and I'm asking this because we've had the objection in the middle of this and I want to make sure I understand the question. Are we talking about an

□00364

FX call? A foreign exchange call?

Q. Why does it matter whether we're talking about a foreign exchange call?

HEARING EX. MOORE: Well, let me interject because it kind of matters to me. Because again, you need to play to my brain, okay.

MR. PANNER: I'm trying to do that, Your Honor.

HEARING EX. MOORE: And everybody else in here as far as I'm concerned is an expert. I'm not in this area. I'm not an expert in this area. So if you leave me in a fog, you know, you don't help yourself.

MR. PANNER: I agree with that, Your Honor, and I'm doing my best to clarify.

HEARING EX. MOORE: So to talk about calls in one breath and an FX call in another breath and some other kind of call in the third breath, to me it all gets jumbled up into being a thing called a call ultimately, and if you don't want me treating it that way, then you need to make the appropriate distinction so that I can

□00365

keep this stuff straight in my head.

MR. PANNER: I appreciate that, Your Honor. And I think that, well, that's fine. I certainly do want it to be clear and I certainly do think those distinctions may be important.

BY MR. PANNER:

Q. So let's take the example of a call where Y is not an FX customer. So this is a call from X to Y. Not an FX customer, Y is a US LEC customer. Verizon takes the call to the US LEC switch. Is that right? Responsible for taking the call to US LEC's switch in your view?

A. They're responsible for getting the call to my POI. My point of interconnection. Which happens to be the switch.

Q. Okay. Ms. Montano, if you introduce additional complications into your answer I'm going to have to try to clarify them and that's going to take longer. Are you responsible for getting the call to your switch? Excuse me. Is Verizon responsible for getting the call to your switch? Yes or no.

HEARING EX. MOORE: Can you answer the

□00366

question yes or no?

THE WITNESS: I'm thinking. Just give me a moment.

My understanding of our network architecture is that we have a point of interconnection with Verizon in each of your access tandem serving areas and that's where you get the call to us and then we carry it the rest of the way.

Q. Is it your position that Verizon is only responsible for paying for that transport up to the access tandem?

A. To our point of interconnection in the access tandem area.

I'm sorry. I'm confused. You're right.

Q. So, to back up --

HEARING EX. MOORE: What's right, that you're responsible for getting the call to the switch?

THE WITNESS: There's a physical demark and financial demark and I was getting the two confused and I apologize. Verizon is

00367
responsible for getting the call to my switch.
Q. And that's true whether it's an FX call or a local call as we'd all agree is a local call, isn't that right?
A. Yes.
Q. So in the case of Y, whether it's a local customer or an FX customer, who's doing the longer haul? We're talking about, again, this is a diagram that you responded to before, Mr. Shor drew it, you didn't express any complication about understanding it. Y is within the local calling area B, which we assume is Columbia because the US LEC switch is there, and we have another local calling area. Who is doing the longer haul?
A. In that particular call I would assume Verizon is carrying it more miles.
Q. Now, if we're talking about a foreign exchange service, Mr. Shor asked you about the charges that you impose. How many telephone numbers do they get for that payment?
A. One.
Q. They get one number.

00368
A. There is an opportunity for them to purchase additional numbers.
Q. What, how would they purchase additional numbers?
A. By subscribing to them for $12 a month each.
Q. So for each number they pay $12 a month?
A. That's correct.
Q. So they could obtain numbers in -- in your discovery responses you said that you have been -- would you accept subject, well, it was in your discovery responses that you've been assigned 23 full or partial NXX codes in the Baltimore LATA. Do you recall that response?
A. Yes.
Q. So for $12 a month per number, a customer could get numbers throughout the Baltimore LATA?
MR. SHOR: Objection. Mischaracterizes the witness' testimony.
Q. Is that correct?
HEARING EX. MOORE: Wait a minute.

00369

Can you answer the question?
THE WITNESS: Yes.
HEARING EX. MOORE: Objection overruled.

A. I don't know that I have enough knowledge to know from our marketing folks whether or not that $12 is for additional numbers in the same calling area, like if they decided they wanted three numbers for whatever, or if that's across the LATA. I just don't know what the answer is.

Q. So you've testified that for $12 a month, I just want to make sure I understand where your testimony stands. You've testified that for $12 month an FX customer could get additional numbers?

A. That's correct.

Q. Per number.

A. Yes.

Q. But you don't know whether those numbers could be in various local calling areas?

A. No, I don't. I never thought to ask my marketing people that clarifying question.

00370

Q. Incidentally, when you deliver an FX call to that customer Y, as opposed to a local call to that customer Y, what additional function are you performing?

A. Transport.

Q. In which case?

A. In the foreign exchange case.

Q. You're providing additional transport in the foreign exchange case?

A. Yes.

Q. Can you explain to me where the transport, where the transport starts and where it goes?

A. The transport that we provide goes from our switch to the customer's location.

Q. Now, in the foreign exchange case you agree we're talking about a call from X to Y. So in the foreign exchange case Y is over here in the foreign exchange, right?

A. Yes.

Q. So the transport you're talking about is the piece within the local calling area between the US LEC switch and the customer Y, is

00371
that correct?
A. In that particular example, yes.
Q. And in this case it's a local call, the transport is going all the way here, right?
A. Yes.
Q. If you're offering that service you'd be hauling the call all the way back, right?
A. Yes.
Q. But you're charging this customer more, isn't that right?
A. You're confusing apples and oranges. In one case a customer is buying one service and in another case the customer is buying another service. And as I understand it our retail rates are not at issue in this hearing.
Q. Well --
HEARING EX. MOORE: Let me, for my own information, you say differences in service, the difference being one is an FX service and the other is what, just local dialing?
THE WITNESS: Basic local service. Local dialing.
HEARING EX. MOORE: All right.

00372
BY MR. PANNER:
Q. So in one case you've assigned a number that's in a different place and in the other case you've assigned a number that's associated with the local calling area?
A. When a customer purchases foreign exchange from US LEC they are purchasing not only foreign exchange, they're also purchasing local service from us. As well. We don't provide one without the other.
Q. Right. But you make a separate charge for local service, is that right?
A. That's correct.
Q. Mr. Shor asked you in the case of a foreign exchange call, he said that when the call from X goes to Y, he said -- strike that. You testified that Verizon provides FX service, is that right?
A. Yes.
Q. Suppose the situation is reversed and we're talking about a call from US LEC's local exchange customer Y to the Verizon customer, a Verizon foreign exchange customer located in

00373
Essex, X. Do you understand the scenario?
A. No, I don't. Would you repeat it again?
Q. Sure. Suppose that a US LEC customer located in Columbia, Y, calls a Verizon foreign exchange customer X.
A. Yes.
Q. Do you know what, so that this foreign exchange customer in Essex has been assigned a number associated with the Columbia local calling area. Do you understand that scenario?
A. Yes.
Q. Do you know what office, what central office the Verizon foreign exchange customer gets local exchange service out of?
Let me try to refine that question, so I'll withdraw the previous one. Would a Verizon foreign exchange customer with a Columbia number get service out of a central office located, a central office serving the Columbia exchange or a central office serving the Essex exchange?
A. I'm not an expert on Verizon's network design, but I would assume that they're going to

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draw dial tone out of their local office where they are physically located. Geographically located. Which would in this case be Essex.
Q. So would you accept --
A. As a contrast --
Q. You made reference -- I'm sorry, if you want to continue your answer?
A. I'd just say as a contrast US LEC uses one switch to serve the entire LATA and that is the equivalent of us having a switch in each local calling area.
Q. You said you looked at Verizon's tariff, isn't that right?
A. I've looked at a number of Verizon's tariffs over my career.
Q. You testified to what Verizon's tariff requires for FX service, didn't you?
A. Yes.
Q. You did. Okay. Now, are you familiar with the fact that the tariff says that when you purchase foreign exchange service you get local exchange service out of the foreign office, not local office?

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A. No, I'm not.
Q. Are you familiar with the fact that what you're paying for foreign service is a private line or dedicated transport from the office associated with the foreign exchange through to your location outside that exchange? Are you familiar with that?
A. No.
Q. So are you familiar with the fact that those charges are based on the functions that Verizon is actually performing when it provides that service?
A. I'm sorry, I don't understand the question.
HEARING EX. MOORE: Let me ask something. What difference does it make? Verizon's architecture is not US LEC's architecture.
MR. PANNER: Well, Your Honor, that's true. But Mr. Shor spent some time on redirect asking Ms. Montano about Verizon's charges and so I think it's important to illustrate that in the case of Verizon, the charges that the customer is
00376
paying, well --
HEARING EX. MOORE: All you're saying is that the charges that a Verizon customer pays is based on Verizon's architecture. It sounds like it to me.
MR. PANNER: That's right, Your Honor, and I'm contrasting that to the situation with US LEC where the charges have no relation to the architecture.
HEARING EX. MOORE: Well, that sounds more like a conclusion at this point.
MR. PANNER: That's right. We have to introduce the evidence to get to the conclusion, Your Honor.
HEARING EX. MOORE: All right. Go ahead.
MR. PANNER: Do you know what, Your Honor, at that, I have nothing further so I'm willing to sit down. Thank you.
HEARING EX. MOORE: Okay. Ms. Flynn, do you have anything based on that?
MS. FLYNN: No, Your Honor. Thank you.

□00377

MR. SHOR: I have maybe two or three based on his recross.

HEARING EX. MOORE: Okay. This is the last bite at this apple.

MR. SHOR: Yes. I understand.

REDIRECT EXAMINATION

BY MR. SHOR:

Q. Ms. Montano, do you recall Mr. Panner asking you questions about the transport here between local calling area A and local calling area B?

A. Yes, sir.

Q. He asked you first about a call in a situation where US LEC's customer Y is physically located in the Columbia exchange. Do you recall that?

A. Yes, sir.

Q. And the Verizon customer is physically located in the Essex exchange.

A. Yes, sir.

Q. These are two different calling areas, is that right?

A. Yes, sir.

□00378

Q. Is that a local call or a toll call?

A. I believe it's a toll call.

Q. If it's a toll call, is the call going to be routed necessarily by Verizon directly to US LEC's switch in the same way a local call would be routed?

A. I believe it would be routed the same way.

Q. Verizon would, as a, doesn't depend on who the customer has chosen --

MR. PANNER: Objection. Asked and answered.

MR. SHOR: I haven't asked and answered anything.

HEARING EX. MOORE: Overruled.

BY MR. SHOR:

Q. Does it depend on who the Verizon customer has chosen as its intraexchange carrier?

A. Yes, I testified to that earlier and I forgot to include that in this round of the answer.

Q. So depending on who the carrier has chosen it may be routed differently?

□00379

A. That's correct.
Q. And if it's a local call with the US LEC customer in the Essex exchange, then it goes to US LEC's switch and then US LEC brings it back to Essex; is that right?
A. That's correct.
Q. Now, Mr. Panner asked you some questions where US LEC's foreign exchange customer is located in the Columbia exchange; is that right?
A. Yes.
Q. Do you have foreign exchange customers who are located in other parts of Maryland?
A. Yes, I do.
Q. Any in Annapolis?
A. Subject to check I believe there's one.
Q. Any north of Baltimore, east of Baltimore?
A. Yes, sir.
Q. So there are some potentially, forgive me for going over here, we have a calling area C and US LEC's foreign exchange customer in its

□00380

physical location there; is that right?
A. That's right.
Q. So in that case physically the US LEC foreign exchange customer with a physical location in calling area C, and let's call that Annapolis, could have a number associated with Essex, is that right?
A. That's correct.
Q. And in that case, Verizon is going to take that call and deliver it to US LEC's switch. Is that right?
A. That's correct.
Q. And US LEC is going to deliver it from Columbia down to Annapolis; is that right?
A. Yes, sir.
Q. Would you consider that to be close to US LEC's switch?
A. No, I would not.
Q. And who provides the function of getting the call from US LEC's switch to US LEC foreign's exchange customer in Annapolis?
A. US LEC does.
MR. SHOR: Thank you. I have nothing

00381
further.
HEARING EX. MOORE: Okay. I take it Ms. Montano, you may step down.
THE WITNESS: Thank you, sir.
HEARING EX. MOORE: Thank you.
(Witness excused.)
HEARING EX. MOORE: Mr. Shor, who's up next?
MR. SHOR: Your Honor, US LEC will rest its case. I would like to move the admission of the US LEC exhibits that were introduced today and also move for admission into evidence formally of Ms. Montano's direct and rebuttal testimony.
HEARING EX. MOORE: Okay. I have on my personal list, US LEC Exhibits 1 through 8. So you want to move all of those in?
MR. SHOR: That's correct, Your Honor.
HEARING EX. MOORE: Any objection?
MS. FLYNN: No.
HEARING EX. MOORE: Without objection, US LEC Exhibits 1 through 8 shall be moved into
00382
evidence.
MR. SHOR: And Ms. Montano's direct and rebuttal testimony.
HEARING EX. MOORE: Yes.
(US LEC Exhibit Nos. 3 and 4 were received in evidence.)
(US LEC Exhibit Nos. 7 and 8 were received in evidence.)
HEARING EX. MOORE: All right, who's next?
MR. SHOR: Your Honor, could we do some housekeeping. We have some schematics of some of these diagrams, and I suppose what I should probably do is identify --
HEARING EX. MOORE: Yeah, we need to identify those and get them in.
MR. PANNER: That's what I was about to do, Your Honor.
MR. SHOR: Off the record?
HEARING EX. MOORE: Yes.
(Discussion off the record.)

00383

HEARING EX. MOORE: How are we going to label those, LEC or Verizon exhibits?
MR. SHOR: Since I have drawn this diagram I would label this US LEC Exhibit 9.
HEARING EX. MOORE: And which one is that?
MR. SHOR: May I show Your Honor?
HEARING EX. MOORE: Yes.
MR. SHOR: It is the initial diagram we had of Columbia A and B with Essex representing A and Columbia representing B, since that's what we were referring to, and then adding C down here which we referred to as Annapolis. So it would be a schematic of the foreign exchange.
HEARING EX. MOORE: Okay.
(US LEC Exhibit No. 9 was marked for identification and received in evidence.)
MR. PANNER: Your Honor, just again as a housekeeping matter, first I'd like to, and I think some of these exhibits I may have already moved the admission of. But I have nine Verizon

00384

exhibits so far and I'd like to make sure they're all admitted into the record.
HEARING EX. MOORE: Right. According to my personal exhibit list you've got nine exhibits. So you want to move in all nine?
MR. PANNER: I'd like to move these in. If Mr. Shor would like me to identify them I will, but otherwise I'd like to move them in at this time.
MR. SHOR: I'm okay.
HEARING EX. MOORE: Any objection?
(No response.)
HEARING EX. MOORE: Without objection Verizon Exhibits 1 through 9 are admitted into evidence.
(Verizon Exhibit Nos. 1 through 9 were received in evidence.)
MR. PANNER: Your Honor, I'd also like to move the admission, as long as Ms. Flynn has no objection, of Verizon's Exhibits 10 and 11. Which are the schematics that I drew up on the board earlier. That's the first very simple

00385
one. And the second one which we had so much fun with.
HEARING EX. MOORE: Why don't we call the two-circle one schematic 1 and it's Exhibit No. 10.
HEARING EX. MOORE: And the three-circle one is schematic 2 and it's Exhibit No. 11.
(Verizon Exhibit Nos. 10 and 11 were marked for identification and received in evidence.)
MR. SHOR: Your Honor, off the record again.
(Discussion off the record.)
HEARING EX. MOORE: We're going to take a five-minute recess.
(Recess taken -- 1:50 p.m.)
(After recess -- 1:52 p.m.)
HEARING EX. MOORE: Are you up, Ms. Flynn?
MS. FLYNN: Yes, I am.
HEARING EX. MOORE: Okay.

00386
MS. FLYNN: Your Honor, I'd like to call Steve Molnar to the stand.
Whereupon,
STEVEN MOLNAR
a witness, was called for examination by counsel on behalf of Staff, and, having been first duly sworn, was examined and testified as follows:
HEARING EX. MOORE: Mr. Molnar, for the record state your name and business address?
THE WITNESS: My name is Steve Molnar, my address is 6 St. Paul Street, Baltimore, Maryland 21202.
HEARING EX. MOORE: Ms. Flynn, your witness.
DIRECT EXAMINATION
BY MS. FLYNN:
Q. Ms. Molnar, can you state your position?
A. Regulatory economist in public communications with the Public Service Commission.
Q. Do you have before you a document which has been labeled as the direct testimony of

00387

Steve Molnar, consisting of ten pages of text and two attachments?

A. Yes.

Q. Mr. Molnar, did you prepare this document?

A. Yes.

Q. Do you have any additions or corrections to make to this document?

A. Yes, I have three corrections. Well, the cover page, my testimony should be labeled rebuttal testimony rather than direct testimony.

On page 2, line 4, the issue numbers should read, 1, 2 and 6, not 2, 3 and 6. And finally, on page 7, the number in the footnote was omitted, it should be footnote No. 9. That's all my corrections.

Q. Thank you. With those corrections, if I were to ask you the questions contained in this document today, would your answers be the same?

A. Yes.

MS. FLYNN: Your Honor, Staff would like to have this document marked as Staff Exhibit No. 1. And moved into evidence at this

00388

time.

HEARING EX. MOORE: Do you have any copies?

MS. FLYNN: Yes. One.

HEARING EX. MOORE: Do they have copies?

MS. FLYNN: Yes. It's been prefiled. We'd ask that it be moved into evidence at this time.

HEARING EX. MOORE: Any objection?

(No response.)

HEARING EX. MOORE: Without objection, the corrected rebuttal testimony of Steven Molnar should be admitted into evidence.

(Staff Exhibit No. 1 was marked for identification and received in evidence.)

MS. FLYNN: The witness is available for cross-examination.

MR. PANNER: Your Honor, a couple points. First, Mr. Angstreich will be questioning Mr. Molnar with respect to issues 1 and 2 and I'll be doing issue 6, and that's the

00389

way we divided up before, I take it there's no problem with doing that?

MS. FLYNN: I have no problem.

HEARING EX. MOORE: That will be fine.

MR. SHOR: I'm going to reserve. I have no questions at this time.

HEARING EX. MOORE: All right. Witness with you.

MR. ANGSTREICH: I'll start then, Your Honor.

CROSS-EXAMINATION

BY MR. ANGSTREICH:

Q. Mr. Molnar, you testified about the Sprint agreement that the Commission approved last year; is that correct?

A. Yes.

Q. I assume you reviewed the agreement in preparation of the testimony?

A. Yes.

MR. ANGSTREICH: If I may approach, Your Honor. I'd like to introduce as Verizon Exhibit 12, I believe, a copy of an excerpt of

00390

that agreement.

MR. SHOR: Agreement?

MR. ANGSTREICH: It's the actual interconnection agreement that was approved.

(Verizon Exhibit No. 12 was marked for identification.)

BY MR. ANGSTREICH:

Q. Mr. Molnar, I'd like to direct your attention to page 115 which is only about six or seven pages into the document. And specifically to Section 1.2.3.1. Give me a second. If you could turn back one page to page 114 and look at Section 1.2.2.1.1. It's the third numbered paragraph on page 114. If you could just read that short sentence into the record, sir?

A. Sprint shall make available to Verizon at least one Sprint IP in each LATA.

Q. And if you go down two paragraphs to 1.2.2.1.3, if you could read that.

A. In addition to Sprint's obligations under Sections 1.2.2.1.1, and 1.2.2.1.2 above, Sprint shall make available to Verizon the

□00391

Sprint-IPs provided for in Section 1.2.3.1 below.

Q. Now we'll turn to Section 1.2.3.1 on page 115. To speed things up, if I could summarize here, would you agree that this section of the agreement says that Sprint shall make available to Verizon technically feasible points of interconnection which includes three different subsections, jumping down now to 1.2.3.1.3, the bottom of the page, which is in addition to the preceding two paragraphs, upon request by Verizon and subject to certain conditions in the following subsections, Sprint shall make available to Verizon additional technically feasible points of interconnection at which Verizon can deliver traffic to Sprint, and virtual points of interconnection as described below, and that each such point of interconnection shall be the Sprint IP for traffic delivered by Verizon to that point of interconnection.

A. Sorry, what paragraph are you referring to?

□00392

Q. It's 1.2.3.1.3, on 115 to 116. It's the carryover paragraph on those two pages.

A. Yes.

Q. Now I'd like to jump to page, just to make sure the "yes" is that there will, Sprint may be required to establish additional physical or virtual points of interconnection which will serve as the Sprint IP? In addition to the other ones that it's required to establish?

A. The language says that Sprint shall make available additional technically feasible interconnection points. I'm not sure about if it requires them to do that.

Q. Does it say that it shall do so upon request by Verizon?

A. Yes.

Q. And subject to certain conditions?

A. Yes.

Q. So presuming the conditions are met and Verizon makes the request, they would have to do that?

A. Presumably, yes.

Q. If we could turn to page 117. Most of

□00393

this page is taken up with paragraph 1.2.3.1.3.6. We'll just call subsubparagraph six to save everybody some time. And this, Mr. Molnar, do you agree, discusses the situation in which Sprint does not make available to Verizon a physical point of interconnection pursuant to the preceding provisions, of this set of paragraphs?

A. Yes.

Q. And in that case, does this section provide that Sprint shall make available a virtual point of interconnection?

A. Yes.

Q. And just to go back to before, these points of interconnection, whether physical or virtual, will also be an interconnection point or IP?

A. Yes.

Q. If such a virtual interconnection point is created, we look at the large paragraph for whatever reason that covers, goes left to right across the entire page. Does that paragraph state that for traffic delivered by

□00394

Verizon to Sprint, Sprint shall compensate Verizon for that transport?

A. Yes, and it goes on, yes.

Q. And does it go on to state that the compensation shall be from the virtual point of interconnection to the physical point of interconnection?

A. Yes.

Q. And does it state that, this is about midway through the paragraph, that the rate for transporting shall be an amount equal to the charges provided for in part 4, Section 1-B?

A. Yes.

Q. And part of this excerpt includes that, I believe it's the next to last, I apologize, I appear not to have included that. Would you accept subject to check that Section -- will you accept subject to check that part 4, Section 1-B includes the unbundled network element rates?

A. Sure.

Q. Thank you. Mr. Molnar, in preparing your testimony, did you review the Staff brief

□00395

that was submitted during the Sprint proceeding?
A. No.
Q. May I show you a copy of that brief?
A. Sure.
MR. ANGSTREICH: I'd like to mark this as Verizon Exhibit 13.
MS. FLYNN: Your Honor, to complete the record, I really think that we should have, if not the complete agreement, at least the section you referred to in terms of unbundled network elements.
MR. ANGSTREICH: I'd be happy to supplement the record also, there were a number of issues, really only this one is relevant here, but I'd be happy to provide the entire Staff brief as well.
MS. FLYNN: Yes. I'd like to know where you're going with this, with the Staff brief.
(Verizon Exhibit No. 13 was marked for identification.)
BY MR. ANGSTREICH:

□00396

Q. Mr. Molnar, does this appear to be a Staff brief filed in the arbitration proceeding between Sprint and Verizon Maryland from last year?
A. Yes, it is.
Q. And if you turn to page 13 of that brief. If you could read the first sentence of the second full paragraph on that page which begins "in fact."
A. In fact, Sprint's witness Hunsucker acknowledged that it is reasonable for a CLEC to be responsible for the transport costs once the traffic reaches a material threshold.
Q. And if you look at the next paragraph. Is it correct that this discusses the seven rules for interconnection points that the Maryland Commission set forth in the MFS Intelenet order?
A. Yes, it does.
Q. And if you turn to the top of page 14, if you could read the first actual sentence of that page which begins these seven rules?
A. These seven rules govern points of

00397
interconnection and the proposal outlined herein is consistent with these rules.
Q. Just to make clear, the proposal outlined herein is the Sprint proposal that was ultimately adopted, is that correct?
A. I don't believe so. I believe Staff had a different position.
Q. If you could turn back to page 13. If you could read the second sentence of that full paragraph, the second full paragraph which you read a portion of previously?
A. Staff proposes?
Q. Yes.
A. Staff proposes a threshold of 24 or more trunks as the point at which Sprint will be required to provide its own transport.
Q. And by own transport, you understand that to mean from some place prior to the point of interconnection to Sprint's IP?
A. I assume so, but I don't know that for sure.
Q. And on page 14, when the brief says that the proposal is consistent with these rules,

00398
do you agree that what the brief is saying is that the proposal under which the CLEC rather than Verizon would bear certain transport costs is consistent with the MFS Intelenet seven rules?
MS. FLYNN: Objection. Your Honor, I think that the attorney is putting my witness in an unfair advantage of, he said that he was familiar with the Sprint agreement but not necessarily the Staff brief and Staff position in that prior case, and I think to ask him to draw conclusions as to what position Staff may have took in its initial brief in this proceeding is really unfair to Mr. Molnar.
HEARING EX. MOORE: Well, if Mr. Molnar can't answer the question, he can indicate he can't answer the question.
A. Could you repeat the question?
MR. ANGSTREICH: Could you repeat the question.
(The record was read by the reporter.)
A. That's what the brief says, yes.
Q. Now you testified on page 8 of your

T00399

testimony that US LEC's proposal most closely reflects the prior decision of this Commission. Is that correct?

A. Yes.

Q. But the Sprint agreement as we've discussed, Mr. Molnar, provides for the possibility of there being multiple IPs? Is that correct?

A. Yes, it does.

Q. But you've also testified that under US LEC's proposal, US LEC could maintain a single IP per LATA, is that correct?

A. That's all they're obligated to do, yes.

Q. So no matter what Verizon requests, US LEC could consistently refuse to establish a second IP in a LATA?

A. I'm sorry, could you repeat that one more time.

Q. No matter what Verizon requests, how reasonable or unreasonable, US LEC could consistently refuse to establish a second IP per LATA under their proposal here?

T00400

A. I believe so. I mean, that's my position, yes.

Q. And that's no matter what the traffic volume is?

A. Unless the parties agree to thresholds that might change the number of IPs. Right now we don't have them.

Q. So the parties have not agreed to any such thresholds?

A. That's my understanding.

Q. Were you here for Mr. Hoffmann's testimony?

A. Yes.

Q. Did you hear Mr. Hoffmann state that US LEC would not agree to such thresholds?

A. I don't recall it, but he may have said that. I don't recall it.

Q. In addition, as we discussed, the Sprint agreement provides for virtual IPs, is that correct?

A. I'm not sure.

Q. If we look back on page 117 of the agreement. The long thin paragraph at the top of

00401

the page, does it not say that Sprint shall make available to Verizon a virtual point of interconnection?

A. I'm sorry, what page are you on?

Q. Page 117.

A. And where are you reading from?

Q. About a third of the way through the thin, long paragraph.

A. Yes, it does state that.

Q. And going back to the top of page 116, does it not say that each such point of interconnection shall be the Sprint IP?

A. Yes, it does.

Q. And if we look back at page 115 we see that both points are either a physical point or a virtual point of the interconnection?

A. Yes.

Q. So you agree that the Sprint agreement provides for the possibility of virtual IPs?

A. Yes, it does.

Q. US LEC's proposal does not provide for the possibility of virtual IPs, does it?

A. It does not nor does it have to,

00402

that's correct.

Q. I didn't catch the second half.

A. It does not, nor in my view does it have to.

Q. But the Sprint proposal does provide for that?

A. Yes.

Q. And as we discussed on page 117, the Sprint agreement provides that at least in some instances it will be Sprint and not Verizon that will be responsible for the transport costs that we've discussed here.

A. Yes, it does.

Q. US LEC's proposal does not provide that, does it?

A. It does not, nor does it have to.

Q. But it does not?

A. It does not, that's right.

Q. I'm sorry, one last point. On pages 5 to 6 of your testimony, sir, you testified that a Sprint-like arrangement would reduce Verizon's cost of transport in certain instances -- I'm sorry, back up. A Sprint-like arrangement if

00403
adopted here would reduce Verizon's cost of transport in certain instances because US LEC would be responsible for the transport costs, is that correct?
A. Yes.
MR. ANGSTREICH: I have nothing further on issues 1 and 2. I believe Mr. Panner has some questions on issue 6.
MR. PANNER: I do, Your Honor, thanks.
HEARING EX. MOORE: Witness with you.
CROSS-EXAMINATION
BY MR. PANNER:
Q. Good afternoon, Mr. Molnar.
A. Good afternoon.
Q. In your testimony, on page 10, you refer to Verizon attempting, and I'm now quoting, to change Commission policy through provisions in interconnection agreements?
A. Yes.
Q. What Commission policy are you referring to now?
A. The requirements for interconnection.

00404
The MFS decision that only provides or only requires one interconnection point or one point of interconnection per access tandem serving area.
Q. So you're referring there to interconnection architecture?
A. Yes.
Q. You are not referring to virtual FX traffic?
A. Well, certainly that's another matter that's unresolved at this point.
Q. It's unresolved at this point?
A. Yes.
Q. So the Commission has not resolved that issue?
A. Not with respect to virtual FX, no.
Q. So Verizon is not seeking a change in the Commission's policy at all, is it?
A. Well, no, there is no policy on virtual FX.
Q. Oh, okay. So in fact Verizon is not trying to make a change, the Commission has to adopt one policy or the other?

□00405

A. Well, Verizon is prescribing a certain mechanism for virtual FX that we think is inappropriate but as you say, it's not a change but it would be a mechanism for it --

Q. Not a change?

A. Yes.

HEARING EX. MOORE: Mr. Molnar, keep your voice up, sir.

Q. You just stated that we think it's inappropriate. Is that correct?

A. Yes.

Q. Can you show me where in your testimony you explain that?

A. That I think which is inappropriate? Virtual FX?

Q. You just said you think it's inappropriate. What were you referring to?

A. I don't recall what I said.

Q. Okay. We were talking about the treatment of virtual FX traffic, is that right?

A. Okay.

Q. And you testified that you believe Verizon's position is inappropriate?

□00406

A. Could you direct me where I said that.

Q. Well, that's what I'm asking. You said we think it's inappropriate during the cross-examination here. I'm asking you where you made that, where that testimony is in your rebuttal testimony.

A. I haven't offered an explanation in depth and we basically relied on what the FCC did with respect to virtual FX. I think the FCC acknowledged that there could be issues associated with virtual FX but at the same time they recognized that there were technical issues, perhaps billing problems that were unresolved, and until those were examined in some sort of detailed way, it felt that the language that the petitioners in the arbitration proceeding were proposing was the more appropriate solution for that particular matter.

Q. So you're simply referring to what the FCC found?

A. Basically, yes.

Q. Have you done your own investigation?

A. I wouldn't call it an investigation.

□00407

I think there are potential issues with virtual FX service that relate to transport costs. I think those matters require more examination than what you can do in an arbitration case because there are certain time constraints that we have here. There was some discussion this morning about segregating traffic or problems with segregating traffic. The FCC made references to certain other problems. Those are the kinds of things that I think could be resolved before this Commission and apparently the FCC can't do anything more at this point.

Q. Have you looked into the issue of whether it's possible to segregate this traffic?

A. No.

Q. So you have no idea whether there are technical issues related to it at all except for what the FCC says, is that right?

A. That's correct.

Q. But you do believe that there are issues related to whether the costs are allocated in an appropriate way for reciprocal compensation as paid, is that what you said earlier?

□00408

A. I think there could be issues related to transport costs, yes.

Q. So the Commission has to resolve that issue, they haven't resolved it before, they have to resolve it in this proceeding, isn't that right?

A. No. They can't, I don't believe the Commission can resolve it in this proceeding because it's a complicated issue that I think needs some amount of investigation that requires discovery, it requires a whole lot of review before I think this matter can be resolved. And I think that's pretty much what the FCC found as well.

Q. Well, so what you're saying is if the Commission doesn't resolve it, what's the resolution?

A. Well, the Commission will resolve it if it's presented to them in some sort of generic way. I don't think that can be done in the context of an arbitration proceeding.

Q. I'm just, you know, you're a regulatory economist. They have to adopt a rule,

□00409
don't they?
A. They can't adopt a rule until the problem is presented.
Q. Isn't it presented in this arbitration?
A. It is presented in this arbitration, but this isn't the correct forum that would allow them to come to a reasonable conclusion in my opinion. And if the FCC could not do it, I don't believe we could do it.
Q. So you're saying that whatever the Commission does would be unreasonable?
MS. FLYNN: Objection. Your Honor. I think that's --
MR. PANNER: I withdraw it.
HEARING EX. MOORE: Very well.
BY MR. PANNER:
Q. You agree that the Commission has to resolve this issue.
A. Well, they don't have to resolve it until it's presented to them as an issue. Outside of the scope of an arbitration proceeding.

□00410
Q. Would you agree that there was testimony today that demonstrated that there are calls that Verizon originates that go to US LEC customers that are virtual FX calls?
A. Yes, and as I stated earlier, I believe there are issues associated with cost recovery for transport.
Q. As it was described this morning do you think that rate is a regulatory arbitrage problem?
A. I don't know.
Q. Did you look into that?
A. No.
Q. Don't you think that would be relevant to the Commission's resolution of this issue?
A. It would be if they were examining the issue in a generic proceeding.
Q. So they should adopt a wrong rule because it's not a generic proceeding?
MS. FLYNN: Objection, Your Honor.
A. I don't believe it's the wrong rule.
HEARING EX. MOORE: Sustained.
A. I believe the policy --

□00411

HEARING EX. MOORE: You don't have to answer, I sustained the objection.

BY MR. PANNER:

Q. Is there any sound basis in regulatory economics for treating these calls as local calls?

A. Yes, because that's what FX service is, it's a local service. It provides local calling to a distant exchange.

Q. For purposes of intercarrier compensation is there any sound reason --

A. Yes, it's a local call.

Q. Okay. So you're saying it's a local call. Is that your testimony?

A. Yes.

Q. The call travels from exchange A to exchange B, is that correct?

A. Yes.

Q. Still local?

A. Yes.

Q. Who gets the compensation for -- does US LEC's customer pay them for the service?

A. It doesn't matter. It's a local call

□00412

because of the NXX code assignment.

Q. I asked you a question. Does US LEC's customer pay US LEC for the service?

A. For which service?

Q. For foreign exchange service.

A. If they're a foreign exchange customer, yes.

Q. Okay. Well, we're talking about a foreign exchange call, aren't we?

So, and we heard testimony this morning that those payments are for, are in lieu of toll charges, aren't they?

A. Yes.

Q. Why would the customer make payments in lieu of toll charges if it's a local call?

A. The call is rated as a local call, the call is transported on a long distance base. I mean, that's what FX service is.

Q. And who's doing the transport?

A. Verizon.

Q. So who should be compensated for the transport?

A. Well, that's an issue that needs to be

□00413

resolved.
Q. On what basis would Verizon not properly be compensated for that?
A. It's a local call.
Q. When you say it's a local call what do you mean?
A. It's a local call to the calling party.
Q. It's a local call to the calling party. Are toll-free calls, in a toll-free call, does the originating carrier collect any additional compensation from the calling party?
A. No.
Q. And yet the originating carrier is paid access charges for such calls, isn't it?
A. Yes.
Q. It is. Okay. And in an interLATA FX arrangement here, did you hear testimony about that this morning?
A. Yes.
Q. And in an interLATA FX call there's no additional charge, it's a locally rated call, isn't it?

□00414

A. I don't recall the substance of the discussion, but I believe that's correct.
Q. Okay. And yet the interexchange carrier is required to pay access charges for such a call, isn't it?
A. Yes.
Q. And that's because it's getting access to the local exchange, isn't it?
A. Yes.
Q. And in this example, US LEC also is getting access to the local exchange, isn't it?
A. Yes.
Q. So shouldn't Verizon get compensated for that?
A. Well, that's an issue that has to be resolved.
MR. PANNER: I have nothing further, Your Honor.
HEARING EX. MOORE: Mr. Shor?
MR. SHOR: Just a couple of questions.
HEARING EX. MOORE: You don't have to ask a question if you're not going to advance the ball.

00415

MR. SHOR: I'll stop. I don't have any questions for this witness.

HEARING EX. MOORE: Any redirect?

MS. FLYNN: I --

HEARING EX. MOORE: Same rule applies to you.

MS. FLYNN: I do have redirect.

HEARING EX. MOORE: If you can't advance the ball, don't ask the question.

REDIRECT EXAMINATION

BY MS. FLYNN:

Q. Mr. Molnar, when you were asked if that was considered a local call, you were explaining why. Could you explain why you believe that is a local call? The call that Mr. Panner was discussing with you?

A. The calling party is dialing a local exchange code and therefore it's rated as a local call, and the calling party does not pay a toll call.

Q. The other question I have is if you could explain what the, how the FCC left this issue in its Virginia arbitration.

00416

A. The FCC, as I stated earlier, the FCC recognized that there were issues that at least in their view were not resolvable or the solutions were not known at this point in time, and they did note that they would examine the issue further in a rule-making proceeding that is now under way. So that they can obtain industry input and parties that wish to raise this matter as well as other issues can do that.

MS. FLYNN: That's all I have. Thank you.

HEARING EX. MOORE: May Mr. Molnar step down?

Thank you, sir.

(Witness excused.)

HEARING EX. MOORE: Who's next?

MR. PANNER: The last witness, Your Honor, I believe is Mr. Terry Haynes. And if I could go off the record for a second.

(Discussion off the record.)

Whereupon,

TERRY A. HAYNES

a witness, was called for examination by counsel

00417
on behalf of Verizon, and, having been first duly sworn, was examined and testified as follows:
HEARING EX. MOORE: Sir, state your full name and business address for the record.
THE WITNESS: My name is Terry A. Haynes, business address is 600 Hidden Ridge, Irving, Texas, zip is 75038.
MR. PANNER: Your Honor, just one housekeeping matter before I introduce the witness. Mr. Angstreich introduced a portion of the Sprint agreement, we're going to provide the entire agreement. He also introduced a portion of the Staff brief, we'll provide the entire Staff brief and introduce those as, and we'd like to introduce those as Verizon Exhibits I believe 12 and 13.
HEARING EX. MOORE: Is that absolutely necessary?
MR. PANNER: Well, for the purposes of clarity of the record I thought Your Honor might want to have those to refer to. If you'll take judicial notice of them, then we don't need to introduce. I believe those are noticeable

00418
documents, they were filed with the Commission, and the other is a filed interconnection agreement, so if you'd prefer to do it on judicial notice, we'd prefer, it makes the record less bulky.
MS. FLYNN: Your Honor, if I could just interject. The Staff brief is easily obtainable from the website. The Verizon Virginia, the Verizon/Sprint arbitration order is not that easily obtainable.
MR. PANNER: We'd be happy to provide it to counsel on an informal basis. Whatever Your Honor prefers.
HEARING EX. MOORE: The Sprint --
MS. FLYNN: I wouldn't necessarily ask for the entire agreement, just the UNE rate section that you referred to.
HEARING EX. MOORE: That would be that section 4?
MS. FLYNN: Right.
HEARING EX. MOORE: Yeah.
MR. PANNER: We're sorry about that, Your Honor, obviously there are a lot of

□00419

documents to get together and we meant to include that.

HEARING EX. MOORE: Yeah, if you want to include that, that might suffice, rather than the whole thing. If I need the whole thing I have access to it.

MR. PANNER: Fine. So the Staff brief, I'll be happy to provide a copy to Mr. Shor, if that will be convenient, and then we'll go ahead and introduce the excerpts from the Sprint agreement as Exhibit 12.

HEARING EX. MOORE: That's fine.

MR. PANNER: We'll supplement that.

(Verizon Exhibit No. 12 was marked for identification and received in evidence.)

DIRECT EXAMINATION

BY MR. PANNER:

Q. Mr. Haynes, did you cause to have prepared direct testimony, 19 pages long, dated June 10th, 2002 in this proceeding?

A. Yes, I did.

□00420

Q. And do you have any, if I were to ask you the questions that are contained in this document today, would your answers be the same?

A. They would be the same with one correction.

Q. Okay.

A. There was a typographical error on page 13. At the bottom of the page, the word compensation is spelled creatively.

Q. Okay. Mr. Haynes, I think you may be talking about your rebuttal testimony.

A. No, I'm looking at direct testimony.

Q. I should have known better than to disagree. Can you show me where that is?

A. The question is, do you agree with US LEC's claims that enforces the FCC's reciprocal, and the version I have which I think is the last one is spelled C-O-M-E-P and it should be P-E.

Q. Thank you, Mr. Haynes. To make absolutely clear, if you see the numbering is not quite right, but between lines 4 and 5 of the direct testimony. It says at the beginning of the line it says reciprocal and it should be

□00421

compensation rules rather than -- if that's correct on your copy.

MR. SHOR: I don't see where he's talking about here.

MR. PANNER: On page 13.

MR. SHOR: In the question. There you go.

A. I didn't catch it until I was rereading it. So my apologies.

Q. The questions are entirely my responsibility. So. Do you have any other corrections to make to your direct testimony?

A. Not to the direct, I do not.

Q. And did you cause to have prepared 16 pages of rebuttal testimony dated August 9th?

A. Yes, I did.

Q. And do you have some corrections to make to that?

A. I have one correction on page 6. We had a gremlin, the wrong state on line 4. It has Pennsylvania, it should read Maryland.

Q. Okay. And aside from this correction, if I were to ask you the questions today, would

□00422

your answers be the same?

A. Yes, they would.

MR. PANNER: Your Honor, I offer into evidence the direct testimony of Terry Haynes as Verizon Exhibit 13 and the rebuttal testimony.

HEARING EX. MOORE: That would be 14 according to my list.

MR. PANNER: Your Honor, do you want the Staff brief rather than subject to judicial notice into the record?

MS. FLYNN: I thought the Staff brief was going to be judicially noted.

MR. PANNER: It's whatever is more convenient for you really.

HEARING EX. MOORE: It's not an exhibit. So we're looking at direct testimony is 13, rebuttal is 14.

MR. PANNER: Yes, Your Honor.

(Verizon Exhibit Nos. 13 and 14 were marked for identification and received in evidence.)

MR. PANNER: Verizon offers the

□00423
witness for cross-examination, Your Honor.
HEARING EX. MOORE: Mr. Shor.
CROSS-EXAMINATION
BY MR. SHOR:
Q. Good afternoon, Mr. Haynes, it is a pleasure to see you again.
A. Likewise.
Q. Thank you for bearing with us through some possibly unrelated and also unrelated testimony today, yesterday and today. I do have just a few questions I'd like to ask you, please. Does Verizon offer a service known as foreign exchange in Maryland?
A. I believe they do. I'm more generally knowledgeable in some other states but I believe they have a similar service here.
Q. Do you know how foreign exchange service works?
A. I know the general concept. Can I explain it? Yes.
Q. Would you, please?
A. Our foreign exchange as it's generally offered nationally involves a customer, much like

□00424
the examples we used earlier, and we could pick two disparate towns where they're nonlocal to one another, and the customer that's requiring a service gets a presence with a number that's associated some distance from them in the other local calling area.
And then Verizon provides a dedicated facility from point A to point B, and that dedicated facility then allows two-way conversation over that connection, so a foreign exchange customer would have the option of receiving calls from around the area where the other calling number is associated. It would also be able to make calls outward to customers in that remote area. So in the examples we used earlier there could be a two-way communication between the points.
Q. So as I understand it, with its foreign exchange service, Verizon assigns a telephone number to a customer who is physically located in a calling area different than the calling area where the NPA-NXX is assigned?
A. That is correct.

□00425

Q. And would it be fair to say that that FX service gives that customer in essence a presence in the calling area in which the customer is not physically located?

A. That is correct. It actually allows them to, by virtue of the person requesting the service, buying it from us, they in a sense get a toll service provided much like a very limited capacity 1-800 service in a sense because they can only receive calls from that one other local area that the service is tied to. So it's like a mini 1-800 type service using local numbers instead.

Q. And it allows individuals who reside in the foreign exchange to reach that customer via a local call, not a toll call?

A. That's correct. And the compensation for what would have been toll traffic is actually paid by the FX customer through their monthly rate.

Q. So in fact Verizon does charge its FX customers for service?

A. Yes. The people that are buying pay

□00426

us compensation we think is reasonable to make up for the toll traffic that we would have received if we were on the other end initiating the call.

Q. So in part the charges are intended to compensate Verizon for the loss of the toll revenue?

A. Yes.

Q. Do you know whether Verizon advertises its FX services offering that benefit to customers?

A. I really don't know how they promote it in the tariff. I presume it's described in some detail in the tariff, but I don't know how they describe it.

Q. Do you know in its retail offerings to potential customers, does it advertise foreign exchange service to those customers as giving them the ability to have customers reach them with a local call instead of a toll?

A. I think what it would communicate, and this is once again speculation on my part based on some experience with the general nature of the calls, my understanding is that a customer buying

00427

FX service from us would understand, an easy example I'm familiar with in another state, I might be a small business like an appliance business or an air conditioning company. They have a nearby town and they'd like to make it possible for the nearby town in the area they'd be able to serve and be able to reach them locally, they may only be a few miles away, but if it's normally a toll call, they'd like to have the capability for that nearby town to reach them without that customer incurring a toll charge. So they buy the service and I think they understand what that's getting as far as that provision of the FX.

Q. My question is whether you have any knowledge of whether Verizon advertises its service as offering that capability?

A. Oh, I don't know how, once again, I'm not sure how they advertise or promote. I'm really not acquainted with that portion of it.

Q. Do you have any idea how many FX customers Verizon has in Maryland?

A. I do not.

00428

Q. Do you have any idea across Verizon's territory how many FX customers it may have in any particular location or area?

A. The only statistic that I have that may be helpful is in Florida we recently did an FX study trying to analysis how much traffic we received coming into Verizon from CLEC customers. We were trying to determine that. So if that's any indication, Florida would suggest it's about half of one percent of our customer base.

Q. A half to one percent?

A. A half of one percent.

Q. Do you know how many customers Verizon has in Maryland?

A. I meant to get the number and I don't know the number. I should be able to tell you but I didn't check that before coming in.

Q. Would it be reasonable to assume it's somewhere in excess of a million?

A. I would think certainly. Several million I would imagine, but I just didn't bring the number in with me.

00429

Q. So it's fair to say Verizon would have several thousand FX customers in Maryland?
A. I think that's reasonable.
Q. Do you know if any of Verizon's FX customers are collocated in Verizon with any of its switches?
A. I don't know. I would be surprised if they were but I don't know that.
Q. Do you have any idea of the average distance between a Verizon FX customer and the switch serving the physical location?
A. No, I really haven't researched it so I don't have any idea of the statistics.
Q. Any idea whether they could be situated close by those switches, and close being defined as Mr. Panner did earlier as within five miles?
A. It would be hard for me to speculate. I would think generally it's going to be from one populated area to another, so I think the customer buying the service would be within a few miles of the switch where they're normally getting local dial tone.

00430

Q. So it could be anywhere from five miles to more than that?
A. I think it could probably easily range from one to ten or 12 miles without any question about it. Just the normal serving area that we have.
Q. So am I correct in understanding that when a Verizon customer calls a Verizon FX customer, the originating caller is rated as if they had made a local call?
A. That's correct. They're rated as a local, that's correct.
Q. And it is billed as a local call to that customer?
A. To that customer, yes. It's treated as a normal local call to the customer originating traffic toward one of Verizon's FX numbers.
Q. And as I understand it, when a CLEC customer here, let's say US LEC, if a US LEC customer calls Verizon's foreign exchange customer, the call is also -- strike that. When a US LEC customer calls a Verizon FX customer,

□00431
Verizon has been billing US LEC reciprocal compensation for that call?
A. That's my understanding. I'd like to elaborate on my answer to that because the background for it I think is important. For the number of years that I've been around the phone business, which is 23. Now, most of that time the understanding was that the number and the physical location coincided with one another. So based on that coincidental factor they built the billing system saying if the number and physical location are good accurate depictors of those two things, then I can use the number for billing purposes.
But a few years back with the 1996 Act and where business has developed competition, it's no longer a safe bet to assume that the physical location of the customer and the number coincide. So the billing system is built with that understanding thinking that they coincide with one another but now it's no longer safe based on our experience to expect it to always be that way. So in our position that we proposed

□00432
here we're saying from our own perspective we have billed it that way because of the way the system is built, but we don't agree that it's fairly charging US LEC or other companies that are terminating traffic to our FX customers. It should be treated as access traffic.
Q. But up until at least at this point in time, it is correct to say that Verizon has been billing and collecting recip comp from US LEC and other carriers for calls to your FX customers?
A. I'm comfortable we've been asking for it. I don't know what the collection arrangements have been, but I feel comfortable that we ask for it because that's what the system automatically does based on how it's designed.
Q. Do you have any idea what a Verizon customer pays for FX service?
A. I think actually Ms. Montano had more knowledge of our present arrangements than I do, to be honest. She went over more detail on this than I had. I know it varies between the distance the points are served, but beyond that I don't know any specific dollar amount.

00433

Q. Do you know any specific dollar amounts in any states at all?

A. No, I really haven't researched that, and I know it's distance-sensitive, but beyond that, and it goes up, and I didn't know it was by bands like Ms. Montano covered earlier, I wasn't aware of the 25 and 50 miles, but I did know it was distance-sensitive. As you stretch it out further you pay more.

Q. Now, does Verizon offer a service known as enhanced IntelliLinQ PRI hub service in Maryland?

A. Yes, they do. Well, I believe they do in Maryland. It's my understanding in most of the former NYNEX and Bell Atlantic states it's offered. I'd have to confirm it's in Maryland but I believe it is.

Q. Just for ease of reference we'll call that enhanced IntelliLinQ. How does that service work?

A. The service is a data-only service that's offered primarily to ISP providers or people that would have ISP type services. And

00434

the way that it functions, a local caller, I guess we could go back to the examples we have here, if you were in Essex and you were an IP or an ISP that wanted to have that service you would have a hub, a box where the calls are concentrated somewhere within the LATA. And that box would allow the traffic from Essex to flow into the local switch in Essex, and then from that local switch it may or may not pass through the tandem. It would be delivered to a concentration point that Verizon builds extra. They actually buy a box that pulls this traffic together and once it reaches that box, it's then handed off to the Internet service provider over a dedicated link that the Internet service provider buys separately. It's not a part of the service.

Q. So that allows ISPs to have local numbers in a variety of local calling areas?

A. Yes. They normally locate one of these concentration boxes, I'd have to check the Maryland architecture, see how it's set up here, but I know in some states they have as many as 20

□00435
or 30 of these concentration boxes, so generally you have traffic routed from these disparate points across the LATA into, in most cases a local presence that would come to a physical box that's very close to the end user customer. And -- I'm sorry --

Q. Go ahead.

A. I was just going to add to that, the service is a one-way service, it is one way meaning that the outgoing, there's no way to outgo to that customer, that customer has to initiate the contact by dialing a phone number. They reach that ISP through a dial-up process.

Q. So it is possible for an ISP served by Verizon to have a number, a local number in every local calling area within the Baltimore LATA?

A. That is possible, yes.

Q. As I understand it that ISP would not have a physical presence in every calling area, it's simply a virtual presence?

A. They would have a virtual presence in the sense that all this traffic in that local presence across the LATA would be concentrated

□00436
together and delivered to this box that Verizon has deployed somewhere within the LATA.

Q. And again as we say that gives that ISP a virtual presence in all those calling areas?

A. That is correct.

Q. And that permits the ISP's customers to reach the ISP by dialing a local call?

A. That's correct. They dial a local office number that would be available to them to reach that ISP.

Q. And otherwise, if the ISP only had a physical presence somewhere, in order to reach that ISP from a distant calling area it would involve a toll call?

A. Some sort of toll call, either that or a 1-800 number, one of the two.

Q. And if the individuals calling the ISP are CLEC customers, do you know whether Verizon has been billing recip comp?

A. Actually, I don't know. I mean, I would, well, I'd be speculating. I don't know for sure.

00437

MR. SHOR: I'd like to mark as US LEC Exhibit 10 a copy of Verizon Maryland's responses to US LEC of Maryland's first set of discovery requests.

(US LEC Exhibit No. 10 was marked for identification.)

BY MR. SHOR:

Q. Let me direct your attention first, please, to page 10. Interrogatory No. 60. The question reads, have you, Verizon, ever billed or received reciprocal compensation for calls received from customers of CLECs or other LECs for termination to your FX customers located in Maryland. Please explain your answer.

Do you see the answer?

A. Yes, I do.

Q. Let me try to see if I can read this. If a CLEC customer originates a call to a Verizon FX customer with an assigned NXX code associated with the same local calling area as the NXX code of the originating CLEC customer, Verizon would ordinarily bill, paren, and therefore also

00438

receive, close paren, reciprocal compensation on such a call. Do you see that?

A. Yes, I do.

Q. Does that fairly state your understanding of what has transpired today?

A. Yes. I think it amplifies what I said a minute ago.

Q. And if you look on page 62, question, page 11, question No., interrogatory No. 62. It says, please state whether you offer any FX-like service. Do you currently offer any services or products to your customers other than your FX service under which a customer can obtain a telephone number with an NXX associated with a local calling area that is different from the local calling area in which the customer has a physical presence.

Do you see that?

A. Yes.

Q. And you see the answer?

A. Yes.

Q. It says, Verizon offers enhanced IntelliLinQ PRI hub service and Internet protocol

00439
routing service in Maryland.
A. Yes, I see that.
Q. And then if you direct your attention to page 13, interrogatory No. 75, have you ever billed or received reciprocal compensation for calls received from customers of CLECs or other LECs with termination to your customers who have purchased or subscribed to FX-like services. Do you see that?
A. Yes, I do.
Q. And you see it directs US LEC to the response to interrogatory No. 60. Do you see that?
A. Yes, I do.
Q. And interrogatory No. 60 as we pointed out states that if a CLEC customer originated a call to a Verizon customer then Verizon would bill and receive it?
A. Yes, I see that.
Q. Would bill and receive reciprocal compensation. Would it be fair to say if a CLEC customer calls a Verizon-enhanced IntelliLinQ customer where the number is associated with the

00440
CLEC's number, that Verizon has billed and received reciprocal compensation for that?
A. That's why I say it's possible. I wasn't certain it was possible, this suggests to me it was possible, but I was just not positive.
Q. Do you know how many enhanced IntelliLinQ customers Verizon has in Maryland?
A. Unless we provide it in here, I don't. I've checked it in other states and I know it's varied, but --
Q. Let me ask you this: In a situation where Verizon has received authority to provide interLATA services, is it possible for an enhanced IntelliLinQ service customer to have the physical location outside of the LATA in which its numbers are assigned?
MR. PANNER: Objection. Foundation.
HEARING EX. MOORE: Can you answer the question?
THE WITNESS: Yes, I can.
HEARING EX. MOORE: Overruled.
A. Because the word possible was in your question, correct?

00441

Q. Yes.
A. In answering the question, it goes back to the kind of broad description I gave a moment ago. Whenever we concentrate the traffic together to this hub device that's part of the service that Verizon deploys extra, it's not part of the normal switch infrastructure. I know for example it's not unusual to spend tens of millions of dollars to deploy that extra infrastructure for this service. When they deploy that, the hand-off to the ISP customer is leased separately and that connection could go wherever they paid for it.
So in answer to your question, it could, it could not. I wouldn't know with certainty. It depends on where it starts and where it stops. It's going to start at the hub, but however much transport they're willing to pay to get it to some other point where their data switch is located, that would be determined by whether it's inside the LATA or outside the LATA as I understand it.
Q. So assume for me just for a minute

00442

that Verizon has received authority in Maryland for interLATA services, just make that assumption with me.
A. Okay.
Q. Would it be possible then for an enhanced IntelliLinQ customer to have its physical location in Richmond, Virginia?
A. Once again, based on where they buy the beginning of that hub connection and where it terminates, if they bought a link from the hub and let's say it's right in the middle of one of the LATAs in Maryland to Richmond, Virginia, if they're willing to pay for the transport as a separated dedicated link then, yes, it could.
Q. And you said that if a CLEC customer calls a Verizon customer, Verizon-enhanced IntelliLinQ customer with the number associated with that CLEC customer's local calling area, that Verizon would be billing and receive reciprocal compensation for that call, is that right?
A. Would be, well, I need to be careful. I want to be sure I understand the example.

00443
We're saying that a Verizon end user, for example, dials the number that's associated with the ISP provider that's purchased service from us.

Q. No, we're saying a CLEC customer in Maryland calls Verizon's enhanced IntelliLinQ customer in Maryland who has purchased possibly a transport to its physical location in Richmond, Virginia.

A. Right.

Q. So it is possible that Verizon has billed the CLEC reciprocal compensation for that call?

A. I would say under the current understanding I have it would be possible, yes.

Q. And now let me just go back to the FX arrangement for a minute, the foreign exchange. Again assume with me that Verizon has been granted interLATA authority in a particular state, possibly Maryland or elsewhere. Would it be possible for Verizon's foreign exchange customer to be physically located outside of the LATA?

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A. To my understanding of the service, no.

Q. But with enhanced IntelliLinQ that is possible?

A. Once again, the IntelliLinQ service is a data service, it's not a voice service. It's strictly aimed at transmission of a data connection to that hub. So it's not equivalent to our FX service in my understanding of it.

Q. In your understanding, assuming that we've got an enhanced IntelliLinQ customer who is in Maryland and it has local calling numbers throughout Maryland, that the charges that Verizon imposes on the customer in part recovers the lost toll revenue from the calls from the local customer to the ISP?

A. I'll try to respond to that, be sure I capture what you said, see if I get it right back. My understanding is the product has been priced in such a way that it allows a charge to be built into the cost of the service that compensates Verizon's network portion for the network transport provided. So we're financially

00445
made whole from a network provision perspective by that charge being built into the service itself.

Q. And is that in part, please forgive my ignorance here, in part is that replacing the lost toll revenue?

A. Yes, it would.

Q. Now, does Verizon, I believe we noted that Verizon does offer a service called Internet protocol routing?

A. Yes, IPR, yes.

Q. How does that work?

A. It is actually almost identical to the other service in terms of the functionality. It's the same concept, it provides a way to bring the traffic together, concentrate it, pass it along. The telling difference as I understand it between the two products from talking to the product managers, because I'm not an expert in either one but I know a little bit about each, the main difference is one has with it a network management feature. So in one product you have the functionality provided that's basically

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identical in the other product, the difference being that if you buy the IPRS you get a center that manages the network that watches it, makes sure it's always up and running. With the other service you have no guarantee built in, somebody kind of watching over your shoulder making sure everything is running properly. So one has a little risk if you want to provide a very high level of service where there's no outage, the other doesn't have that guaranteed built-in protection.

Q. But with your IPRS service, I understand that's basically offered to ISPs?

A. That's correct.

Q. And in that situation the ISP could have a local number in all of the Baltimore LATAs' local calling areas?

A. Yes, that's correct.

Q. And like with your enhanced IntelliLinQ service, the ISP has a physical location some place else and all the calls are routed to that?

A. That is correct.

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Q. And like with the enhanced IntelliLinQ, in that arrangement if there's proper authority the IPRS customer could be outside of the LATA?

A. Yes. As I understand it, once again, that link that they provide for themselves they buy from us or a long distance provider or somebody, whoever they hire or purchase that link from, they can go physically anywhere.

Q. And like with the other FX and FX-like services, to the extent that a CLEC customer dials in to one of Verizon's IPRS customers, and it's using a local number associated with the CLEC's local calling, customer's local calling area, Verizon potentially has been billing and receiving recip comp for that call?

A. I think that's what is happening. I believe that would be the case just based on how the system is built to work, designed to work.

Q. Again with the IPRS service the charges that Verizon imposes or applies to the service in part are designed to compensate it for lost toll revenue?

00448

A. Yes, it's designed so that that transport piece that's part of the service has a compensation element designed into the service. So we're made whole financially as a result of the transport provided.

Q. Would you agree with me that if the CLEC customer in I think Essex, calls, in the absence of IPRS would call the ISP in Columbia, let's say, that that would be a toll call?

A. If they dialed it directly unless they use something like the 1-800 number, if they dialed it directly to the other number it would be a toll call.

Q. And in that arrangement the CLEC would be entitled to access charges for giving its customer access to the Verizon customer in Columbia?

A. In that case as I understand it it would be a basic voice call that would be used for data purposes, so I think, yes, it would.

Q. And under the current arrangement with the enhanced IntelliLinQ services and the IPRS, CLECs are not being compensated for the lost toll

□00449
revenue that they lose out on?
A. I think the distinction here once again is it's not exactly equivalent to the voice grade service, it's data only. One's federally tariffed, one's state tariffed, so there are some distinctions in how they work and what functionality they provide.
Q. But in the absence of those services those customers would be making toll calls?
A. I would agree unless there was some other provision made they'd have to get to the provider somehow.
Q. Do you know how many IPRS customers are located in Maryland?
A. No, but based on other states I'd say there are anywhere from 10 to 30 probably. I've seen some numbers in other states and they seem to range about that, but I don't think we had a data request and I didn't explore it with the provider we had internally.
Q. Do you know if any IPRS customers are collocated with Verizon at its switches?
A. I don't know with any certainty, no, I

□00450
can't answer that. I physically just don't know. I haven't asked that question. I think within Verizon I can find out.
Q. Do you know whether those IPRS customers have their physical locations that are close as we've defined it here, that are close to Verizon's switches?
A. Once again, I'm just in the dark on the answer because I haven't explored it with the people that do know a lot about it.
Q. But you don't have any, but it's certainly possible that a Verizon IPRS customer is within five miles or so of a Verizon switch?
A. It's certainly possible, yes.
Q. An enhanced IntelliLinQ customer could also be located within five miles or so --
A. Once again it's possible, yes.
Q. Just let me finish.
A. Sorry, excuse me.
Q. Just because of the way it comes out on the transcript, it looks a little -- your answer comes before the end of my question.
So it's possible that an enhanced

00451
IntelliLinQ customer is located within five miles or so of a Verizon switch?
A. Yes, it is possible.
Q. What is remote call forwarding?
A. Remote call forwarding is a feature that most enhanced switches, any switch that has any intelligence at all is able to provide by allowing a customer, I'll use myself as an example, if I was at my house and wanted to have my calls directed to a neighbor's house if I were visiting for the evening, for example, I could have remote call forwarding programmed to forward the call to my neighbor a few blocks away or across town.
Q. Could it be forwarded across state lines?
A. It could be forwarded anywhere you need to forward it to as far as remote call forwarding works.
Q. And in fact it allows people to reach you using a local number wherever you are, doesn't it?
A. It allows somebody dialing my number

00452
if I've programmed it to remote call to reach wherever I've directed the call to.
Q. So even if you were not physically located, say, in Dallas?
A. I'm in the Dallas area, correct.
Q. So even if you're in Houston, if somebody calls your Dallas number, they can reach you wherever you are?
A. If I have set it to a specific number in Houston in that example, yes, they can reach me.
Q. Assume with me for a minute that the person who's trying to reach you, just so that we're here in Maryland, let's assume with me that you live in Baltimore.
A. Okay.
Q. Do you happen to know where Hagerstown is?
A. I know I've seen it on the map, but I don't remember geographically where it is.
Q. It's west of Baltimore. Heading out that way. Assume with me for a minute that you have a Baltimore phone number and you decide

00453
you're going to go to Hagerstown for a weekend. And as I understand it in the remote call forwarding, you could program your phone to direct those calls to you in Hagerstown.
A. Yes, you could.
Q. And assume with me for a minute that for whatever reason a US LEC customer wants to reach you.
A. Yes.
Q. And they dial you at your home. Now, if you're at home, when that US LEC customer calls you, and the US LEC customer is in Baltimore, you have a US LEC customer in Baltimore calling you in Baltimore, it's your understanding that that is a local call?
A. That's what I understand.
Q. Is it your understanding that Verizon would be entitled to reciprocal compensation on that call?
A. On a local-to-local call, that's what I understand.
Q. Let's assume you've remote call forwarded your call out to Hagerstown, US LEC

00454
calls your number in Baltimore, is Verizon still entitled to bill you reciprocal compensation for that call?
A. I guess it gets back to my understanding. I would think since it appears to be a local-to-local call our system will treat it in that fashion as a local call and bill it accordingly.
Q. Would you agree with me that remote call forwarding is similar to an FX arrangement, not identical but similar to it?
A. Not really because of the significant network differences involved. I see them as very different services.
Q. Would you see it, though, as providing you with a presence in Baltimore when you are not in fact in Baltimore?
A. On an intermittent basis, yes, it could do that.
Q. But it does do that?
A. The difference I would see in the example you just used in the Baltimore-Hagerstown, if I were in Baltimore and I was, a

00455
US LEC customer is calling me, I would complete a call to that switch, the switch would in turn from my house location perspective create a toll call that would go out over somebody's network, it wouldn't necessarily go over Verizon's network, it would go over ours, it might go over an AT&T or WorldCom or somebody else's connection and be delivered to Hagerstown. So there would be compensation issues very different from that with FX service.

Q. Let's assume that for whatever reason that you decide to go to Virginia Beach and you wanted to remote call forward your calls to Virginia Beach. Could you do that?

A. Yes, I could.

Q. So if a US LEC customer in Baltimore wanted to reach you and dialed your Baltimore number, it would be remote call forwarded to Virginia Beach?

A. If it was set up that way, yes, it would.

Q. Under the current arrangement Verizon could bill US LEC reciprocal compensation for

00456
that call, couldn't it?

A. I believe that's how the system would handle that call, yes.

Q. Do you know how many remote call forward customers Verizon has in Maryland?

A. I really don't have any, even a broad gauge percentage. I don't have any idea, to be honest.

Q. What is virtual office solutions?

A. I don't know. Is that one I testified to that I don't remember testifying to? I don't recall that one.

MR. SHOR: I'd like to mark as US LEC Exhibit 11, a copy of two pages from a Verizon Maryland website.

(US LEC Exhibit No. 11 was marked for identification.)

BY MR. SHOR:

Q. Take a moment to look at that.

A. It's not a product I'm familiar with internally so it would be my reading of it to gain familiarization.

□00457

Q. Go right ahead.
(Pause.)
Q. Have you had a chance to look at that?
A. I've scanned it very quickly.
Q. If you look in the first paragraph of text under the photo, where it says virtual office solutions provides the flexibility today's businesses need to create alternate work environments. Do you see that?
A. Yes, I do.
Q. A comprehensive solution that blends voice services with managed Internet connectivity and a virtual private network?
A. Yes, I see that.
Q. If you look down where it says benefits of virtual office solutions?
A. Yes, I do.
Q. Would read the line that begins cost savings?
A. It says cost savings through advanced technology. Dial up from almost anywhere with a local call to get greater control over access-related costs.

□00458

Q. Now, do you have any understanding that a virtual office solution in part allows Verizon customers to set up the ability for their employees to reach them from pretty much anywhere with a local call?
MR. PANNER: Objection. Foundation.
A. I think I can answer that.
MR. PANNER: Objection pending. Okay. If he can answer.
HEARING EX. MOORE: Can you answer?
THE WITNESS: I can, but it's going to be a very honest answer. I have no familiarization at all with how the service is provisioned so I really can't provide a useful answer to you because I just don't know anything about the service. I'd have to go and explore it internally to find out what they described here as to how it works.
BY MR. SHOR:
Q. It does seem to suggest that it's possible for a customer, Verizon's customer's employees to reach that office through a local call regardless of where they are, doesn't it?

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A. What you're suggesting and what it actually entails is what I'd have to dig into to find out.

Q. Certainly that is a possibility, isn't it?

A. I think you could read that into it. Once again, I just don't know what they really envisioned when they make those statements.

Q. And in essence it's possible that through this product a Verizon customer could have what appears to be a local presence in an area where it has no physical location, is that right?

MR. PANNER: Objection. Foundation.

A. Once again, until I have a chance --

HEARING EX. MOORE: Mr. Haynes, an objection is interposed. Wait until I rule on it.

MR. SHOR: As much as I might like your answer he gets to decide.

THE WITNESS: I apologize.

HEARING EX. MOORE: Did you say objection, foundation again?

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MR. PANNER: Correct, Your Honor. He's testified that he's not familiar with the service and Mr. Shor is now purely asking him to speculate about what might be possible. That's not evidence.

MR. SHOR: But he has also, and frankly, Your Honor, I'm a little concerned because we asked for Verizon to identify FX-like services and I've discovered a couple that appear to be FX-like services that I didn't hear anything about until I went to look at it. Now he is here as Verizon's witness on FX arrangements and if he doesn't know the answer to my questions, he's smart enough to tell me.

HEARING EX. MOORE: I'm going to sustain the objection.

MR. SHOR: Would you just read back the question that I asked, so I don't do it again.

(The record was read by the reporter.)

BY MR. SHOR:

Q. I'm sure if I'm treading on thin ice Mr. Panner will pull it out from me. But I'm

□00461

going to try something here. Assume with me for a minute if you would, please, that the virtual office solutions product is similar to an FX-type arrangement.

A. Actually I can assume with you, but I was actually reading the wording carefully again and to me I could solve this with a 1-800 number and it doesn't tell me that it's not a 1-800 number.

Q. It does say you dial up from almost anywhere with a local call?

A. To me I can dial a 1-800 number, to me a local call as a consumer, local in the sense as an end user, I'm not paying toll so I'm not sure from a product marketing perspective how they promote it. I just don't know. If I were an end user I would construe that to be local if I could dial 1-800 and reach you.

Q. Mr. Haynes, you understand the concept of a local call, do you not?

A. I do.

Q. And what does that mean to you?

A. It means generally that I'm dialing a

□00462

number that will not cause me to incur a toll charge.

Q. And do you understand what a toll-free number is?

A. Yes, I do.

Q. And do you understand the distinction between a local number and a toll-free number?

A. Yes, I do.

Q. What is that distinction?

A. The toll-free number, the person that's bought the toll-free service like 1-800 for example, is paying for the transport costs involved and the person initiating the call is making the equivalent of a local call in the sense to them because they're not paying toll to reach that customer or reach that other point.

Q. So it's your testimony that a local call and a toll-free call are the same thing?

A. No, what I'm trying to describe is from an end user perspective, functionally speaking, and that's what I'm not sure if this depicts. If I were an end user making the call, as long as I don't have to pay for it, whether it

□00463

goes through a 1-800 number or a local number that's right here, it's not going to make a difference to me as an end user if I don't have to pay for it.

Q. But when somebody says you can dial a local call do you typically, if you don't have ten-digit dialing, do you typically dial an area code?

A. If it's a local call typically I dial either ten digits or seven digits depending on the numbering scheme in the area.

Q. If it's an area where there's no ten-digit dialing do you dial an area code?

A. If it's not ten-digit dialing then I dial a seven-digit call.

Q. When you dial a toll-free what would you dial?

A. You dial the full 1-800, 1-888 in front of the seven-digit you're trying to reach.

Q. And typically when you see a number advertised as toll-free, what does that mean to you?

A. It means to me as a consumer if I'm

□00464

dialing it I'm not going to have to pay anything to reach that number.

Q. What does it mean in terms of what you're going to have to dial?

A. It means I'll have to dial the ten digits that are there. The 1-888 and the seven digits following.

Q. And if something says you're going to dial a local call, what does that mean to you as dialer?

A. As I would dial I would normally think it's going to be ten or seven digits, except in some areas it may be 11 digits.

Q. In that context where the US LEC Exhibit 11 refers to dial up from almost anywhere with a local call, doesn't that mean to you that it typically involves dialing a seven or a ten-digit local number?

A. What I'm trying to characterize in my testimony is I'm not certain because I haven't seen the details to the product offering. And I'm saying that I could use the word local to define exactly what I think you've implied that

□00465

it means, but I could also, knowing how some people market things and even our internal marketing people, if they equate one thing with another, I don't know how precise the people writing this up were. That's the question I have. I don't know how precise the marketing agent was that wrote this out.

Q. Can you give me an example where Verizon has advertised a toll-free number as a local number?

A. No I can't, because I'm not familiar that well with our advertising.

Q. Can you give me an example where Verizon has advertised a local number as a toll-free number?

A. No.

Q. Wouldn't you generally, wouldn't you agree with me that the general public, you can disagree if you wish, the general public interprets the term local call to mean dialing a seven-digit local number?

A. I think it gets back to semantics. And this is my semantics I guess for me

□00466

personally. If I don't have to pay a toll charge to reach somebody, I could say most of the numbers around me are local numbers and I would certainly agree that that number is my neighbor close by, but in terms of the impact to me financially, I kind of put everything in the same basket for me personally.

Q. I'm asking your understanding of how the general public would interpret a local call versus a toll-free call.

A. Then I have trouble giving you an answer, to be honest.

Q. You believe that the general public typically confuses a local call with a toll-free call?

MR. PANNER: Objection. Mischaracterizes his testimony.

HEARING EX. MOORE: He's asking a different question.

A. Yeah. I think you were.

MR. PANNER: I believe, Your Honor, he characterizes, at least as he phrased the question I said you believe, so forth. So I

□00467

think he was characterizing, I thought that he was trying to characterize the prior thing. If he simply meant to ask it as an open-end question then I have no objection to it. Although it was asked.

HEARING EX. MOORE: Overruled.

A. And the question was do I believe the general public --

Q. Would confuse?

A. -- would confuse a toll call.

Q. A toll-free call with a local call?

A. In terms of the digits they see on the page, no, I don't think they get that confused. In terms of the impact to the bill, I'm thinking of relatives and family and memory, I know I think most of them package everything that they don't have to pay extra for together in their own minds. If I don't have to pay extra for it I treat them all alike myself. I don't make a big distinction.

Q. So looking at this virtual office solutions material, do you believe that the general public would look at the phrase dial up

□00468

from almost anywhere with a local call, do you believe that the general public would view that as a local call or as a toll-free call involving an 800 number?

A. I think we're back to speculating what the general public believes this says and I don't know.

Q. You don't, you have no understanding at all of what you think the general public --

HEARING EX. MOORE: Well, at this point, I know where you're trying to get him to go, but he's not going there.

MR. SHOR: Okay.

Q. Now, as I understand it, Verizon is not disputing the fact that a carrier can assign a telephone number to a customer who's physically located in a different calling area, is that right?

A. That is correct.

Q. But the dispute here is really about what the carrier's, how the carriers compensate each other --

A. That's -- sorry.

00469

Q. For example, changing those calls?
A. That is correct.
Q. And I think I'd like, would you agree with me that as a general proposition, when it comes to intercarrier compensation, a carrier should be able to charge only for the functions, facilities and services that it actually provides?
A. I don't believe I would agree with that.
Q. You would not.
A. No.
Q. What do you think a carrier should be able to charge for that?
A. I believe the carrier ought to work within the terms of the agreement and any applicable tariffs that might be appropriate to that agreement.
Q. Do you think a carrier should be able to charge for a service that it doesn't provide?
A. Can you give me an example so I could follow it through on what you're saying?
Q. Well, let's see. Do you think a

00470

carrier, if a carrier does not provide access service, should it be entitled to charge for access service?
A. How are you defining access service?
Q. How do you define it?
A. I define it in terms of a call that originates and terminates in two distinct local calling areas one from another.
Q. And if, how do you understand access service works?
A. My general understanding is back to our picture on the wall over there we've got X and Y that are two local calling areas disparate from one another. If I was making a typical toll call from X to Y, the customer at X that's initiating the call would go over somebody's network, and we could make it Verizon's, make it simple, and it would be terminated at Y, and in that case the originating customer that's making the call would be charged toll by Verizon for the creation of that call. And it would be terminated at Y on the other end, and there would be terminating access applied to that, and there

00471

would be a payment to the terminating agent on the other end.

Q. Does Verizon route a toll call differently from a local call?

A. I think it depends on the interconnection between us and whatever company we're interconnecting with.

Q. Right. Now let's assume we have X and Y in local calling areas A and B up there, and both are Verizon customers. How would Verizon route that call?

A. Generally I think in that example we'd need a tandem, in most cases between X and Y, not in all cases, but I think generally. If there were enough traffic between X and Y they could have a direct trunk, but in most cases they are distinct from one another. They'd probably go through a tandem in between so it would be originated at that end, go through a tandem, and terminate at the Y end.

Q. So it could conceivably go through two tandems?

A. Potentially I think.

00472

Q. And if Verizon is the intraLATA toll carrier, Verizon would carry that entire call across those tandems?

A. I would think so in that example, yes.

Q. If the customer has chosen another carrier as their intraLATA toll carrier, Verizon would hand it off to that carrier somewhere?

A. Yes. In that case, if they handed it off to MCI or AT&T or someone else, Verizon having initiated the call would refer the originating termination or access charge, not termination charge, they get paid for that and hand it off to the interconnecting carrier and then the terminating agent at the other end, whatever company that would be, would have a terminating access charge they receive.

Q. And if the -- thank you.

Now, should there be some relationship between the costs that a carrier incurs and the compensation the carrier receives for providing a service?

A. Ask that again?

Q. Should there be some relationship

00473

between the calls that a carrier receives and the compensation that it receives for a particular service?

A. I think the word relationship is probably a careful one I'd want to respond to carefully.

Q. Okay, respond carefully.

A. We have tariff provisions for certain types of services that are not cost-based necessarily. There are services that we provide that help offset the below cost income we receive for local service. So to say that everything we have available to somebody is cost-based and is going to be priced slightly over cost, I don't think would fairly depict how it's set up.

Q. So in fact there are some circumstances where you believe it's perfectly appropriate to charge substantially more than the cost that Verizon incurs?

A. I think that's a true statement because it's something that we've negotiated over the years with the Commission to help financially keep us viable as a company.

00474

Q. Now, I believe you've stated in your testimony that carriers look to the NPA-NXXs of the calling and called parties to determine how a call should be rated. Is that correct?

A. That is true from the standpoint of the person making the call. We look at their number and we look at the number they're calling to determine how it's going to be rated to that customer making the call.

Q. And doesn't it also determine how the call will be routed?

A. Yes, it does. It determines where it's going to be delivered to, that's correct.

Q. And I believe at page 5 of your direct testimony on lines 16 to 20, it says that local exchange carriers, paren, LECs, retail tariffs and billing system use the NXX codes of the calling and called parties to ascertain the originating and terminating rate centers' exchange areas of the call.

A. That's correct.

Q. And then if the rate center exchange area of the called parties as determined by the

00475

called number NXX code is included in the originating subscriber's local calling area, then the call is established as a local call. Is that right?

A. That's correct.

Q. And by the same token, 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. Is that right?

A. That is correct.

Q. So in the situation where one Verizon customer calls another Verizon customer, when the NPA-NXX of the called party is associated with the same local calling area as the NXX of the calling party, it's rated and billed as if it's a local call?

A. That is correct.

Q. Isn't it also true that at least up to this point Verizon has used the rate center assignment for intercarrier compensation purposes?

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MR. PANNER: Objection. Asked and answered.

HEARING EX. MOORE: Overruled.

A. I think as I explained a while ago the diagram we have in place for the billing process has been in place literally for decades and it was built on the premise that the called number and the originating number accurately represented the physical locations of the customer. So the actual bill charge associated is tied to the numbers only by virtue of the fact that we also thought it fairly represented the physical location of those customers.

Q. The answer I believe is yes. Would that be correct, that to this point in time, you have used the NPA-NXX of the calling and called parties to determine intercarrier compensation?

A. Yes. The system has been built so it works that way.

Q. Yes. Thank you.

Now, currently, when, in our example up here, we've identified A as the Essex calling area and B as the Columbia calling area. Is that

00477
right?
A. Yes. Columbia, Maryland?
Q. That's right. Where X is a Verizon customer and Y is a US LEC customer.
A. Yes.
Q. Under the current arrangement when X wants to call Y, X is physically located in Essex and Y is physically located in Essex. As I understand it, Verizon takes the call to US LEC's switch, is that right?
A. That is my understanding, yes.
Q. And hands it off to US LEC.
A. Yes.
Q. And US LEC brings the call back to its customer in Essex?
A. That's my understanding.
Q. And where, changing the example, US LEC's customer Y is physically located in Columbia, Maryland, but has an NXX code associated with Essex, Verizon still brings the call to US LEC's switch. Is that right?
A. Well, the similarity here I think is interesting because when, the situation you just

00478
described is exactly what we do if it's an intraLATA call. Between us and US LEC. It's identical.
Q. Verizon brings the call from its customer in Essex to US LEC's switch. Is that right?
A. That's correct. On an intraLATA call as well.
Q. I'm focusing right now, Mr. Haynes, on a local call. We can address intraLATA --
A. I'm sorry, excuse me.
HEARING EX. MOORE: Answer his questions.
THE WITNESS: Will do. Yes.
Q. So the call still goes to US LEC's switch?
A. Yes, that's correct.
Q. And US LEC is still responsible for getting the call from its switch to its customer?
A. That's correct.
Q. And when US LEC's customer has its physical location in Annapolis, and it has a local calling, a number associated with Essex,

□00479

Verizon still takes the call to US LEC's switch. Does it not?

A. Yes.

Q. And US LEC still delivers the call to Annapolis, is responsible for delivering the call to Annapolis; is that right?

A. That's my understanding, they're responsible for getting it there. I don't know how they make that arrangement, though.

Q. So whether US LEC's customer is located in Essex or Columbia, Maryland or Annapolis, each of those three arrangements, Verizon is only responsible for taking the call to US LEC's switch. Is that correct?

A. Based on the example given that's my understanding. What I don't know is how, from Y we get down to C, because that could be done with a remote call forwarding arrangement and it would still travel over our network based on what I understood of US LEC's provisions.

Q. I was positing the example US LEC's customer is physically located in Annapolis and US LEC is providing that service.

□00480

A. What I'm positing with you, though, is the possibility that the way that it gets from Y to C might still be over our network.

Q. So that US LEC might lease space on your network?

A. They might lease it or they may do it by using FX and transferring it as local, it could perhaps be local from Y to C.

Q. Do you have any reason to know whether US LEC provisions its services that way?

A. No, I'm trying to separate an assumption is they are somehow responsible for getting it to Y from C and paying for it, and I don't know whether they are or not.

Q. So you really don't know whether they're paying for it or not?

A. No, I don't. Rather than making the assumption they are fully responsible for maybe leasing it from us, I don't know how they're getting it from one place to another.

Q. For purposes of this proceeding here today, I'd like you to assume with me that US LEC is providing the service from its switch in

□00481
Columbia to its customer in Annapolis over its facilities.
A. Over its leased or built facilities?
Q. Over its facilities.
A. Okay.
Q. And in each of those arrangements, whether the US LEC customer is located in Essex or Columbia, Maryland or Annapolis, Verizon's responsibility is to take the call to US LEC's switch?
A. No disagreement on that. We have to get it there for the call to be completed.
Q. I believe it's the case that up until now, US LEC has billed Verizon reciprocal compensation for the call from the Verizon customer in Essex to the US LEC customer in Essex. Is that correct?
A. I believe that's my understanding. If it appears to originate and terminate locally, then I think they're treating it with reciprocal compensation.
Q. And US LEC has billed Verizon reciprocal compensation for the calls that go to

□00482
its FX customers whether it's physically located in Columbia because the number appears to be associated with your customer's local calling area?
A. That's my understanding.
Q. And in fact as we've established, if the situation was reversed, if X was a US LEC customer and Y was a Verizon foreign exchange customer, Verizon has been billing US LEC reciprocal compensation for that call?
A. And that's consistent with my testimony, yes.
Q. Now, as I understand Verizon's position here today, Verizon is asking the Commission to change that historical system.
A. Verizon is asking for the Commission to treat this in more the fashion I was describing a minute ago as an intraLATA call because that to us is what it is. It would be equivalent to the toll call because the work that is done is precisely the same as an intraLATA toll call, there's no distinction in terms of the work provided.

□00483

Q. You're asking the Commission to direct the parties to base their intercarrier compensation arrangements on the actual originating and end points of the call?

A. That is correct.

Q. But as I understand it, if the parties continue to use FX arrangements, you're not going to charge your customer X a toll charge for making what you contend is an intraLATA toll call, is that correct?

A. The reason for not charging them that is because it appears to be a local call to them and they're dialing a number that in their understanding is a local call.

Q. Is the answer to my question yes?

A. I better get you to reask the question then.

Q. Verizon is not going to charge its customer in Essex a toll call for calling US LEC's customer who is physically located in Columbia.

A. US LEC's FX customer?

Q. Correct.

□00484

A. No, they would not.

Q. So the only thing that would change is how US LEC and Verizon compensate each other?

A. That would be the change as I understand it, yes.

Q. So the originating caller will still be rated as a local call?

A. That's correct.

Q. And it will still be routed to US LEC's switch?

A. That's correct.

Q. Do you know when Verizon decided to start treating calls to FX customers as toll calls which should not be obligated to pay reciprocal compensation?

A. I don't know the specific date, but I know it's been being discussed internally as to how to approach it for more than a year. As far as thinking it through. The challenge is that we've got a very expensive system that's been built and created that handles it one way and it's not a simple matter, the analogy is it's like turning the Titanic. Our billing system is

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very complex, is very large, so it's not a simple matter overnight to make it work tomorrow.

MR. SHOR: Off the record.

(Discussion off the record.)

Q. But you think that the subject has been in discussion for over a year?

A. That's my understanding, because I remember a discussion I was involved in approximately a year ago where this was talked about.

Q. Was it talked about in the context of affirmatively changing Verizon policy?

A. Yes, it was discussed in those terms, saying that we have an issue that we have not addressed previously and we need to address it.

Q. Who participated in that meeting?

A. It was a very limited phone conversation as I recall, and I don't remember everybody that was on it. I remember there were probably four, five, six people present. It was like a conference bridge that I participated in.

MR. PANNER: Your Honor, can I go off the record for one moment?

□00486

HEARING EX. MOORE: Yes.

(Discussion off the record.)

HEARING EX. MOORE: Why don't we go back on the record and raise it as an objection and let me deal with it.

MR. SHOR: I just asked who was on the call. I haven't gotten any further. He's told me about a call and he's told me the subject of the call.

HEARING EX. MOORE: You asked about a call, were told the subject, object.

MR. PANNER: There's no question on the table. So far what's happened, we can go ahead, if he asks a further question that's objectionable I'll interpose the objection, Your Honor.

HEARING EX. MOORE: Okay.

BY MR. SHOR:

Q. Do you have any idea what made anyone within Verizon raise recip comp for FX calls as an issue?

A. I think we were looking at the fact that we had not previously considered the fact

00487
that traffic coming to our own FX numbers was truly originating and terminating in two distinct local calling areas. We said previously we had not had an issue with that because most of that traffic was exchanged between us and other ILECs and it was more or less in balance so there wasn't an issue with a lot of traffic going one way and a lot going the other, it was pretty much balanced so there wasn't a concern between, say, us and Bell South in Florida is an example I'm familiar with.

So since we weren't unfairly treating them and they weren't unfairly treating us, it was pretty much even. I'm acquainted now with situations where we have FX traffic going to virtual FX numbers, as an example in New York I'm aware of a CLEC that has 1620 minutes in our direction, one minute coming back our way. So that type of imbalance causes me, we've got to pay attention. Is it fair the way it's being played out.

Q. Is it your testimony that if the traffic between a CLEC and Verizon is relatively

00488
balanced that that concern doesn't exist?

A. In my definition of balance, plus or minus a few percentage points. I've had other people use, in recent testimony said imbalance was one minute our way or, I'm sorry, one minute our way, three minutes the other way. I don't consider that imbalance, but somebody else did. So it's a relative definition of what's in balance.

Q. Assuming for those purposes that traffic is relatively in balance, 50-50, 60-40, 55-45, you're saying. If that's the case are you saying it's not a concern?

A. If it's relatively even back and forth both directions, then the financial implications for either party would be very similar.

Q. So what you're in essence saying is your concern arose because you felt that Verizon was paying more money out in recip comp for FX traffic than it was getting in?

A. What I'm saying is we actually had identified what I considered a gaming of the system.

00489

Q. Is it a gaming of the system if you have to pay more money to somebody than they pay to you?

MR. PANNER: Objection. Argumentative.

HEARING EX. MOORE: Sustained.

Q. What do you mean by gaming of the system?

A. From my perspective, what I've seen is an opportunity that some providers, CLECs primarily, have looked at and they said, if I assign a number that, using the example here, the X and Y example, the X and Y example, if you've got a customer located in Y location, they get a local number assigned to them, Verizon completes the call over the same facilities as we discussed a minute ago, but by only making one change, and that's the number that's associated with that customer, it goes from being something that we receive payment for to something suddenly that we're fully responsible for, plus paying for that on top of that.

Q. Doesn't that sound like your enhanced

00490

IntelliLinQ product?

A. No.

Q. Why is that?

A. To me what we're providing with IntelliLinQ, we're providing the capability for a customer at a remote location to dial through their switch with a dial-up connection. Verizon's receiving payment for the transport that goes from that remote location to the hub. And then the provider at the hub is also paying for the transport through us or somebody else to wherever their ISP connection is.

Q. Aren't you also billing CLECs reciprocal compensation when their customers call them?

A. That's what I think you discovered a minute ago, our billing system is set up if it's completed as a local call to that switch, the billing system is going to treat it as a reciprocal compensation call.

Q. Do you consider Verizon to be gaming the situation if it takes advantages of the local numbers assigned to its enhanced IntelliLinQ

00491
customers and billing CLECs recip comp?
A. I'm using the word gaming for somebody taking advantage of an opportunity. I don't see us taking advantage of an opportunity in that sense.
Q. So even though a CLEC offers local numbers to ISPs through virtual FX arrangements and Verizon offers local numbers to ISPs through enhanced IntelliLinQ, you don't view those as the same thing?
A. I distinguished them in terms of the compensation Verizon receives from the transport.
Q. So it all depends on how much Verizon receives, is that it?
A. I think it's whether or not Verizon is fairly compensated for the transport provided.
Q. What if the CLEC is not fairly compensated for the transport provided. Is the CLEC entitled to be compensated as well?
A. I think that could be discussed in an interconnection agreement as to what's fair.
Q. So in essence it's an economic arrangement. Verizon felt that it was paying

00492
more in reciprocal compensation than it was getting.
A. If you're saying it's that simple, I do not believe that it is.
Q. Well, Verizon was paying recip comp and it wasn't getting transport, is that right?
A. What Verizon was doing with the virtual FX delivery, as I've defined, is they are actually being asked to deliver the call and pay for the privilege of delivering the call, and then the user on the other end is paying a substantial amount of money to US LEC for that service as well. Verizon does not have an equivalent product offering that matches that as I understand it.
Q. So you don't know what Verizon charges for its foreign exchange, do you?
A. I don't know the precise numbers, but I know it's distance-sensitive, as I said. It varies based on how far away the customer is from the location they're trying to receive traffic from.
Q. And you don't know whether the charges

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that Verizon assesses to its foreign exchange customers ultimately equals or perhaps exceeds the charges that US LEC imposes on it, do you?
A. Well, to my understanding I've not got a clear detailed description of what is provided based on what I've seen in the tariff for US LEC so I don't have a basis upon which to compare the two.
Q. Now when did you, Verizon decided at some point that it didn't want to pay recip comp for CLECs foreign exchange traffic anymore. Is that right?
A. I think what I said is Verizon became aware of the situation, decided it needed to be addressed.
Q. How do you propose to address it?
A. We have a two-prong option that we've described I think in my rebuttal testimony that gives two options. There could be others. Two options that we've come up with. One option is to have a study performed similar to what Verizon has performed, we did a study recently in Florida because we were discussing this with another CLEC

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in Florida and we discovered in Florida that we analyzed all the data for a period of a month that was traffic being delivered to our FX numbers, and that's how we came up with the one-half of one percent. We got the number that way, we discovered it through the analysis that was done.
And then we equated that to how much money was on the table and we found out it was about $70 for all CLECs combined for that month and we offered at that point to pay them. We said here's $70, we'll split it up among all of you, and there were a bunch of them involved, we said we'd be glad to work out something where we would pay that to you, but we said by the same token, whenever the traffic is going the other way, we want to work out a similar process. Either you guys do what we did, which is do a simple study, or you can give us a list of the FX numbers, we don't care about the customer names or anything about them, and we'll do the study for you.
Q. Aren't you still relying on the NPA

00495
and NXX of the call number?
A. No, we're identifying based on the provision of the records to us, not the record with the name but the number. If you tell us that it's an FX number, we know it's going to be delivered outside the local calling area.
Q. But you're not basing it on the end point of the call, you're basing on the number?
A. No, we're basing it on where the customer is located that the call is going to.
Q. You're using the NPA-NXX, aren't you?
A. For the billing system, but the billing system has to be told separately that it's outside the local calling area because it doesn't know that.
Q. But it's still based on the NPA-NXX of the number?
MR. PANNER: Object --
A. Let me respond. I think we're getting around what the billing system does to do the analysis. The billing system in every instance compares numbers because that's how it's designed. I have to tell the billing system the
00496
number that appears to be local is not. I have to give that information, otherwise it doesn't know how to deal with it.
Q. I don't mean to belabor the point, but the billing system for separating the traffic is the same as the billing system for paying it and it's based on the number of the party, not the physical location.
A. We're back to the discussion we had earlier. I made the statement, I don't back up from it at all. The billing system was built many, many years ago, and for decades the physical customer location and the number were good equivalents. And it was a safe bet for the people building the systems to design it that way. If we had known 20 years ago that we'd always have the customer location somehow factored in, we would have built it differently, I presume.
Q. Do you have Verizon Exhibit 1 there, the interconnection agreement?
A. No, I do not.
(Handing.)

□00497

HEARING EX. MOORE: How much longer do you have?
MR. SHOR: Maybe ten minutes.
MR. PANNER: Your Honor, the record will reflect that was actually Ms. Finn.
MR. SHOR: But I was the one that gave the estimate.
HEARING EX. MOORE: I'll tell you what. Before we go on to that, why don't we give ourselves a brief five-minute break.
(Recess taken -- 3:37 p.m.)
(After recess -- 3:44 p.m.)
HEARING EX. MOORE: Back on the record.
BY MR. SHOR:
Q. Would you look, please, at page 64.
A. I see it.
Q. And the paragraph 7.2.
A. Yes, I see it.
Q. And if I'm, correct me if I'm reading this incorrectly, Verizon's proposal is that the designation of traffic as reciprocal compensation traffic for purposes of reciprocal compensation

□00498

shall be based on the actual originating and terminating points of the complete end-to-end communication. Is that correct?
A. Yes.
Q. So that is predicated on the physical origination point and the physical termination point. Is that right?
A. It's physical locations in both cases, yes.
Q. And your proposal, however, is dependent upon or is based on programming your switches with the NPA-NXXs of the numbers, of FX numbers, is that right?
A. I think it's a little different in probably I could explain it a little better to maybe make more sense. The explanation being that today, if the switch perceives the call to be local, the billing system does not create a record. So to have us track this type of traffic that it described from a billing system perspective we would have to say whenever these FX numbers that a CLEC has provided us with are dialed, all the records around those numbers, so

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for example, the NPA-NXX 1, 2, 3, 4, 5, 6, 7, they would be collected on all calls to those numbers, and then we have the database of just the FX numbers and extract that out and say that's the traffic that went to the FX numbers.
Q. So am I correct that it's based on the NPA-NXX of the FX customer?
A. It's based on the physical location and the actual way that we would do the manipulation of the number would be using those numbers to get the data.
Q. But you don't look at the physical location, you tell the switch to look at the NPA-NXX, don't you?
MR. PANNER: Your Honor, I object because he's been through this three or four times with the witness. He's asked these questions two or three times. I don't have any problem with Mr. Haynes continuing to say it, but time is short and he's asked these questions numerous times.
HEARING EX. MOORE: Overruled. You are getting close to the point of beating the
□00500
horse that if not is dead is dying slowly.
MR. SHOR: I think that was actually the last whip.
HEARING EX. MOORE: I think I understand the point that you're trying to make.
MR. SHOR: I'll move on.
BY MR. SHOR:
Q. Now, I assume that under your system you would provide CLECs information pertaining to your FX customers?
A. We'd be happy to or we could do the study I proposed and provide the data. We could do it either way.
Q. Would that include providing CLECs with numbers of your enhanced IntelliLinQ customers?
A. We'd have to discuss it, but I don't see why that would be different. That would be a matter for discussion in the interconnection agreement I would think.
Q. Your IPRS customers?
A. That's what I meant. I don't know if we have to know if there are confidential issues

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associated with those, to the best of my knowledge, but I'd have to go back and confer with someone about those products to find out if there's anything unique about them.

Q. What about your remote call forwarding customers?

A. What about them?

Q. Would you provide those numbers as well?

A. Well, to my degree of guessing I'd say it's a rather large quantity of customers.

Q. But we've agreed that you've billed reciprocal compensation on calls that have been remote call forwarded to distant locations and in order for your system to work to everyone's fair advantage, you would need to provide those numbers, wouldn't you?

A. I think what we've agreed to is that the remote call forwarding feature has the capability, exercise to do this. Now, the question is do a lot of people use the feature that way. I have the feature available to me but I've never used it to send it long distance

00502

because that means every single call I receive, whether it's one of my teenagers at home that wants to call, it goes to that number wherever it is. And I wouldn't elect arbitrarily to run up a long distance bill on my own home number arbitrarily. It would have to be a very unique situation for me to do that.

Q. So you really have no way of knowing in how many instances remote call forwarding customers utilize that aspect of that service?

A. No, I would just speculate it's very small because of the unknown toll charges you would incur as a result.

Q. But you don't know either way?

A. No. I do not.

Q. So in the absence of providing those numbers you would still then essentially be billing CLECs recip comp for calls that were remote call forwarded to distant locations?

A. In the absence of any other treatment, I would think yes. Of any other provisions made for it.

Q. Now, are you familiar with the order

□00503

that the FCC issued in the recent arbitration arrangement?

A. I skimmed it a couple, three weeks back, yes. Just to the degree I went through certain sections of it rather quickly.

MR. SHOR: Could you provide the witness, please, with US LEC Exhibit 8.

(Handing.)

THE WITNESS: Thank you.

Q. Just take a look and make sure that's the portion of the order that you remember looking at.

A. This looks familiar.

Q. In fact you testified about that order in your rebuttal testimony, did you not?

A. Yes, that's correct. That's what I said. I scanned it and included comments from it or based on it.

Q. Would it be fair to say that Verizon made the same, strike that. Were you the witness who provided testimony to the FCC?

A. No, I was not.

Q. Do you know who was?

□00504

A. I believe I understand who it was, I'm not certain of the name, but I believe I know who it was.

Q. Does the name Steve Pitterly ring a bell?

A. That's the name I would speculate. I'm not sure.

Q. Do you know Mr. Pitterly?

A. He works in the same building. I don't know him well, but I know him.

Q. Do you know if he participated in that call you were discussing a few moments ago regarding FX traffic and the need to examine the issue?

A. To the best of my recollection, no.

Q. Is it your understanding that Verizon made the same arguments against paying recip comp for CLEC to FX customers at the FCC that it is making to this Commission in that proceeding?

MR. PANNER: Your Honor, I'm going to object to that because I'd like him to lay a foundation.

HEARING EX. MOORE: What was the

□00505
question again? Do you know if?
MR. SHOR: I said would it be fair to say that Verizon has made the same arguments to the FCC that it's making here. He said he's read the order, he relied on it in his rebuttal testimony, and I'm just asking if he has any reason, if he believes it's fair to say that the arguments are the same.
HEARING EX. MOORE: Can you answer that question?
THE WITNESS: I can answer it I think in part. It will be an answer, it will be an honest answer, at least I can tell you what I know.
HEARING EX. MOORE: The objection is overruled.
A. What I'm not aware of is all the details and our position that we took when that order was considered, I think it was quite some time back, probably a year ago when we were in there providing our information. So the degree of detail that was included in that, for example, I don't think any of the provisions we've made

□00506
recently of how we could evaluate the compensation aspect were considered there to the best of my understanding. I don't think we said we had an option that we could go and do what I said a few minutes ago, which is put together some information based on the FX numbers. I'm sure we didn't do that study until actually February of this year in Florida, so I think it was past when any of that took place.
Q. Take a look at paragraph 286, I'm focusing on arguments you made against it. See in the fifth line down where it says, Verizon objects to the petitioners' call rating regime because it allows them to provide a virtual foreign exchange, paren, virtual FX, service that obligates Verizon to pay reciprocal compensation while denying it access revenues for calls that go between Verizon's legacy rate centers.
Do you see that?
A. Yes.
Q. Does that sort of sum up the position you're arguing to this Commission?
A. I think it certainly contains part of

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the argument that we're presenting.
Q. You have to pay reciprocal compensation and you don't get compensation?
A. Yes, I think that's what we've covered earlier. I've stated that, yes.
Q. Would it be fair to say that the FCC did not accept those arguments?
A. I think it's more accurate to say that they said there were issues as they perceived them with the billing process because there were none presented. We didn't have a reasonable presentation, as I understand it at the time, we didn't say that we a have a tool that we've developed to make an estimate of the traffic.
Q. If you look at paragraph 302 on page 144, Verizon did in fact propose that the petitioners conduct a traffic study to develop a factor to account for the virtual FX traffic that appears to be local. Correct?
A. Well, what I'm reading in 302 it says, however, Verizon --
Q. First please focus on the portion that I've read to you.

□00508

MR. PANNER: Is he going to allow the witness to answer the question?
MR. SHOR: The witness isn't answering the question.
HEARING EX. MOORE: Just a minute. Complete what you were getting ready to say.
A. Well, I was reading 302, the sentence there, and I noted that, however, Verizon's contract fails to lay out such a mechanism in any detail.
Q. First, does in fact the paragraph say that you propose, proposed that the petitioners should conduct a traffic study to develop a factor to account for the virtual FX traffic?
A. This summary says that, yes.
Q. And that is in fact what you're suggesting be done here, one of the options that are available.
A. Actually, what I've proposed here is a little more detailed than a traffic study. I equate the traffic study, I believe that was proposed here similar to the study that's proposed for ISP-bound traffic where you look for

00509
ratios, three-to-one ratios, and I think what was proposed here as I understand, and I haven't got a lot of detail on this, I never saw it written out, but I roughly understood they said let's look at kind of a general slack for a short period of time and use that as basis to anything, just everything going forward.
Q. To figure out a factor to account for it, is that right?
A. Right, and that's not necessarily what I've proposed as the solution. It's one of the solutions.
Q. It is one of solutions you've proposed?
A. Right.
Q. And you're correct, the next sentence says that Verizon's contract fails to lay out such a mechanism in any detail?
A. Correct.
Q. Would you direct me to the provision of this contract that lays out the mechanism you've discussed in your testimony?
A. As I understand it, it was not in here

00510
at the time it was formulated so I don't believe it's present.
Q. There is no such mechanism, is there?
A. I'm sorry?
Q. There is no such mechanism in the proposed contract, is there?
A. To the best of my understanding, no, but I wasn't a party to creating the contract language.
Q. Would you agree with the statement in paragraph 302 that Verizon concedes that currently there is no way to determine the physical end points of the communication and offers no specific contract proposal to make that determination?
A. Let me be careful about that response. I think the proposal I proposed doesn't give us a mechanical way to determine it, we'd actually have to have help, somebody telling us what those end points are. But I would agree if this implies by looking at the number can I tell, no, I cannot.
Q. And in fact your arrangement for

00511
dealing with FX numbers does not rely on the end points, it relies on the number of the FX customer?
A. Once again I think we're back to semantics. My position is that the numbers associated physically with the location can be used to drive the billing system effort but our position is that it should be based on the originating and terminating physical points. Not on the numbers themselves.
Q. And it would be fair to say that in the FCC arbitration, the Virginia arbitration, that the FCC Wireline Competition Bureau rejected Verizon's proposal?
A. They rejected it based on their lack of seeing a mechanism that would allow for effective billing.
Q. And there's no mechanism in this agreement either?
A. Not at this point, no, there's not.
Q. Now, are you aware that in its 271 application for interLATA authority in Virginia that Verizon has stated affirmatively that it

00512
would comply with the arrangements set forth in the interconnection, in the arbitration order and make them available to CLECs?
MR. PANNER: Objection. Foundation.
A. I'm not at all familiar -- excuse me, I realize I spoke too soon. I apologize.
HEARING EX. MOORE: I know you're speaking at a rate to help you get out of here, but if you hear an objection, you need to give me a chance to do my job. Otherwise I'm sitting up here and I'm not needed.
What's the basis of your objection?
MR. PANNER: You know what, Your Honor, let's save some time. I'll allow Mr. Shor to go ahead.
HEARING EX. MOORE: Okay.
MR. SHOR: Would you please pass the witness US LEC Exhibit 6.
(Handing.)
BY MR. SHOR:
Q. Let me show you what's been marked as US LEC Exhibit 6. Just take a moment to glance at that.

□00513

Would you look at page 13, please. Do you see the paragraph that begins, the only full paragraph that begins in the interim?

A. Yes.

Q. Would you read that, please?

A. It says --

Q. Just read it to yourself.

A. Okay. Excuse me.

I've read it.

Q. Am I correct that it says in part that CLECs in Verizon's former Bell Atlantic service territory may also request in interconnection negotiations those service offerings and arrangements that the Commission found in the Virginia arbitration order to be required by applicable law?

A. That is what it says, yes.

Q. Were you here yesterday when Mr. D'Amico was on the stand?

A. I was here for most of it. I stepped out a couple of times. I didn't hear everything but I heard most of it.

Q. Do you recall the questions and the

□00514

examination that was directed at the Verizon's 271 application?

A. I think I heard part of it. I did step out at one point so I don't think I heard all of it.

Q. Do you recall him stating that Verizon in Virginia was complying with the arbitration order in Virginia?

A. I heard that part, yes.

Q. Did you hear him say that Verizon had sent an industry letter advising CLECs in Virginia that Verizon will accept such requests from CLECs?

A. I recall him saying that, yes.

Q. Is Verizon making that arrangement, recip comp for FX traffic which the FCC directed to be applied in Virginia, is Verizon making that available to US LEC in Maryland?

A. I don't know.

Q. Are you prepared to make it available to US LEC in Maryland?

A. I think we're getting into the details of contract negotiations. I'm here to talk about

00515
issue 6, but I don't know the details of the contract negotiations.
MR. SHOR: I have nothing further, Your Honor.
HEARING EX. MOORE: To sort of ask what was the basis of the last question, in perhaps a different way, based on what you know, what you do know, and I'm impressed by the expertise that you have and that you've displayed in your testimony, would you have a view as to why what's being involved in Virginia with respect to this shouldn't be offered in Maryland?
THE WITNESS: Based on my readings that I just saw it seems to suggest that it should be. Based on my understanding. I'm fairly good on the technical part, I'm not very good on legal. So --
HEARING EX. MOORE: Even from a technical point of view, is there anything in your reservoir of knowledge at this point that would suggest to you that what is being offered in Virginia should not be similarly offered here in Maryland?

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A. Well, the distinction I would make based on my reading of the Virginia order, and as I said, I read it rather quickly a couple weeks back, the Commission did make the statement that since Verizon had not come forward with a proposal that was workable, that was my literal interpretation of it, that they said let's go with the position that the CLECs imposed but they left the door open that Verizon could come back in, as my read of it, to pursue that. So I saw the door being opened, and since we've moved ahead and said we have a workable solution going forward, I think we want to put the workable solution in any future contract negotiations that we have.
HEARING EX. MOORE: I understand. All right, thank you.
Do you want a piece of this, too?
MS. FLYNN: Just one question. And it's along the same lines of the question that you just asked.
HEARING EX. MOORE: Go ahead.
CROSS-EXAMINATION

00517

BY MS. FLYNN:

Q. If Verizon does offer these arrangements in, to CLECs in Virginia, wouldn't CLECs in Maryland also be able to opt in under the cross-border opting provisions?

A. I believe so, but once again I'm not an expert.

MR. PANNER: Your Honor, objection. There's no foundation. He has no, knows nothing about cross-border.

THE WITNESS: You're right, I don't.

HEARING EX. MOORE: I'll sustain that objection.

MS. FLYNN: We'll do it some other way, then. Thank you.

HEARING EX. MOORE: Is that all?

MS. FLYNN: Yes.

HEARING EX. MOORE: May Mr. Haynes step down?

MR. PANNER: I just have a couple of things, real quick.

HEARING EX. MOORE: I was trying to get you off.

00518

THE WITNESS: Well, I'm shooting for a 7:30 flight.

REDIRECT EXAMINATION

BY MR. PANNER:

Q. I just want to clarify, Mr. Shor asked you a number of questions about Verizon's FX service.

A. Yes.

Q. When Verizon provisions an FX service, the FX customer draws dial tone out of a distant end office; isn't that correct?

A. That is because there's a dedicated facility that connects their physical location to a distant end office where they draw dial tone. That's correct.

Q. So in fact the foreign exchange customer is always located at a significant distance from the end office where the service is provided; is that correct?

A. Generally, yes.

Q. That's what makes it a foreign exchange service?

A. Yes.

00519

Q. Now, Mr. Shor also referred to whether if traffic were balanced, if that would eliminate Verizon's concern with respect to reciprocal compensation for FX and NXX type traffic. Do you remember those questions?

A. Yes, I do.

Q. To clarify, what would have to be in balance for Verizon's concerns to go away?

A. Well, what I would premise is that they'd have to be in balance based on the FX portion of the service, and if we were comparing local to local, I'd also expect the local to local to be in balance, relatively speaking.

Q. But the key is if overall traffic is in balance that's irrelevant, is that correct?

A. That's correct. They'd have to be separately looked at.

Q. It's whether the FX portion of the traffic is in balance?

A. Yes.

Q. Okay. Now, Mr. Shor discussed a number of different types of services that Verizon offers that provide an FX functionality

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or an FX-like functionality, is that correct?

A. That's correct.

Q. Is it Verizon's position that that traffic should be treated any differently from the, from US LEC's virtual exchange traffic, virtual foreign exchange traffic?

A. No, we propose that the treatment be equal in both directions.

Q. So if a US LEC customer made a call to a Verizon FX customer, is Verizon is offering to pay access charges?

A. That's correct.

Q. Because you think that's fair?

A. Because it's originating and terminating two distinct local calling areas and it's equal either direction as far as the approach.

Q. So under Verizon's proposal, the parties would be, the treatment would be absolutely symmetrical, is that correct?

A. That is correct.

Q. In the case of Verizon FX services and FX-like services, who would originate the vast

00521
majority of the calls to such numbers?
MR. SHOR: Objection. Foundation.
HEARING EX. MOORE: I'm sorry, ask the question again?
Q. In the case of Verizon FX and FX-like services, who would originate the vast majority of the calls to those numbers?
MR. SHOR: And the objection is foundation.
HEARING EX. MOORE: Can you answer the question?
THE WITNESS: I believe I can.
HEARING EX. MOORE: Overruled.
A. Generally since we have the preponderance of the physical customers, our customers can originate calls for the most part to our FX customers and to their FX customers. It's going to be Verizon customers that will make most of the calls because they have the lion's share of the customer base.
Q. And Mr. Shor asked you about the traffic study that you did in Florida? Is that right?

00522
A. Yes.
Q. And you found that the reciprocal compensation that Verizon had charged incorrectly to FX numbers amounted to, you said $70?
A. It's my understanding, from the report I read it was about $70 for the month they looked at the total for all CLECs combined.
Q. For the entire month all CLECs combined, $70?
A. Correct.
Q. How many customers does Verizon have in Florida?
A. Verizon has about, if I remember correctly, about 2.5 million customers. And I don't know how many CLEC customers. I don't have records of that. But that would be CLEC customers dialing Verizon FX numbers that were being looked at.
Q. And Verizon offered to make good on those amounts? Is that correct? Is that right?
A. We analyzed the information and shared it with the CLECs and said here's what our research has shown, and I think at that point we

□00523

said we'd be willing to work with them to arrange a compensation mechanism.

MR. PANNER: I have nothing further, Your Honor.

MR. SHOR: Just a couple of follow-up on recross, Your Honor.

RECROSS-EXAMINATION

BY MR. SHOR:

Q. On the traffic study that you conducted and the proposal you've made, you've referred to that as workable. Has that been subjected to any scrutiny by any Commission?

A. To the best of my knowledge, no. It's been shared recently in this type of forum with a couple of commissions, but it wasn't going through any type of rigorous evaluation.

Q. So at this point the only assessment as to whether it's workable or not is Verizon's?

A. That's correct.

Q. And with respect to -- nothing further.

HEARING EX. MOORE: Are we done with Mr. Haynes?

□00524

MR. PANNER: Your Honor, we may be done.

HEARING EX. MOORE: Okay. Mr. Haynes, you can step down, sir.

THE WITNESS: Thank you, sir.

(Witness excused.)

MR. SHOR: Your Honor, US LEC would like to move the admission of exhibits, whatever ones we introduced. The ones we introduced.

HEARING EX. MOORE: I think it would be 10 and 11.

MR. SHOR: Yes.

HEARING EX. MOORE: Any objection?

(No response.)

HEARING EX. MOORE: Without objection US LEC Exhibits 10 and 11 are admitted into the record.

(US LEC Exhibit Nos. 10 and 11 were received in evidence.)

HEARING EX. MOORE: Okay. Anything else?

MR. SHOR: No, Your Honor.

□00525

HEARING EX. MOORE: So we are concluded?

MR. SHOR: We are concluded with the evidence. I hesitate to bring it up, but you did say when we began this that you might want a closing statement and I'm hoping that you won't need one.

HEARING EX. MOORE: I'm going to indicate that I don't need one.

All right. This has been a very interesting and spirited presentation. I want to compliment all of you, counsel have done a very good job of making this presentation to me. It's always a pleasure to be on this side of the bench when you've got good counsel in front of you giving good presentations, making good arguments. I appreciate everything that you've done. I can assure you I look forward to completion of the rest of the procedural schedule with the filing of the briefs, and once I get that, I will sit down with this mountain of paper and attempt to do justice to all. Thank you all very much. Appreciate it.

□00526

MR. PANNER: Thank you, Your Honor.

MR. SHOR: Thank you.

(Discussion off the record.)

MR. SHOR: Your Honor, maybe we ought to go back on the record a minute. When we had our first conference here I think in May we had presented to you the question of whether one round of briefs or two would be required. US LEC still believes that we can say everything we need to say in one brief and that we don't need a reply brief. Verizon had asked for the opportunity to file a reply brief and you had indicated in May that you would reserve judgment on that. We can either resolve that now or you can wait until after you get the first round.

HEARING EX. MOORE: I don't have the schedule in front of me. Are you all filing simultaneous briefs?

MR. SHOR: The transcript under our schedule is due the 28th, the first briefs are due the 11th, reply briefs are due the 18th.

MR. ANGSTREICH: It's simultaneous briefing, Your Honor.

□00527

HEARING EX. MOORE: Yeah. I think that's sufficient. I'm not going to have a need for reply briefs.

MR. SHOR: So just one round of briefs on the 11th.

HEARING EX. MOORE: Right. Give me your best shot in that round and we'll go forward from there.

MR. SHOR: Thank you.

(Whereupon, the hearing on Case No. 8922 was concluded at 4:12 p.m.)

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REPORTER'S CERTIFICATE

IN THE MATTER OF THE ARBITRATION OF US LEC OF MARYLAND, INC., VERSUS VERIZON MARYLAND, INC.	:	CASE NO. 8922

LOCATION OF HEARING: Baltimore, Maryland

DATE OF HEARING: Wednesday, August 21, 2002

I hereby certify that the foregoing proceeding was reported by me, and that the transcript is true, accurate and complete, to the best of my knowledge and belief.

_____

Court Reporter

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VOLUME III

PUBLIC SERVICE COMMISSION OF MARYLAND

- - - - - - - - - - - - - :
IN THE MATTER OF THE :
ARBITRATION OF US LEC : CASE NO. 8922
OF MARYLAND, INC., VERSUS :
VERIZON MARYLAND, INC. :
- - - - - - - - - - - - - :

Public Service Commission
William Donald Schaefer Tower
6 St. Paul Street
19th Floor Hearing Room
Baltimore, Maryland 21202
Wednesday, August 21, 2002 - 9:30 a.m.

BEFORE: DAVID L. MOORE
Hearing Examiner

Reported by:
Diane K. D'Argenio, RPR-RMR

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Q. Do you know any specific dollar amounts in any states at all?

A. No, I really haven't researched that, and I know it's distance-sensitive, but beyond that, and it goes up, and I didn't know it was by bands like Ms. Montano covered earlier, I wasn't aware of the 25 and 50 miles, but I did know it was distance-sensitive. As you stretch it out further you pay more.

Q. Now, does Verizon offer a service known as enhanced IntelliLinQ PRI hub service in Maryland?

A. Yes, they do. Well, I believe they do in Maryland. It's my understanding in most of the former NYNEX and Bell Atlantic states it's offered. I'd have to confirm it's in Maryland but I believe it is.

Q. Just for ease of reference we'll call that enhanced IntelliLinQ. How does that service work?

A. The service is a data-only service that's offered primarily to ISP providers or people that would have ISP type services. And

the way that it functions, a local caller, I guess we could go back to the examples we have here, if you were in Essex and you were an IP or an ISP that wanted to have that service you would have a hub, a box where the calls are concentrated somewhere within the LATA. And that box would allow the traffic from Essex to flow into the local switch in Essex, and then from that local switch it may or may not pass through the tandem. It would be delivered to a concentration point that Verizon builds extra. They actually buy a box that pulls this traffic together and once it reaches that box, it's then handed off to the Internet service provider over a dedicated link that the Internet service provider buys separately. It's not a part of the service.

Q. So that allows ISPs to have local numbers in a variety of local calling areas?

A. Yes. They normally locate one of these concentration boxes, I'd have to check the Maryland architecture, see how it's set up here, but I know in some states they have as many as 20

or 30 of these concentration boxes, so generally you have traffic routed from these disparate points across the LATA into, in most cases a local presence that would come to a physical box that's very close to the end user customer. And -- I'm sorry --

Q. Go ahead.

A. I was just going to add to that, the service is a one-way service, it is one way meaning that the outgoing, there's no way to outgo to that customer, that customer has to initiate the contact by dialing a phone number. They reach that ISP through a dial-up process.

Q. So it is possible for an ISP served by Verizon to have a number, a local number in every local calling area within the Baltimore LATA?

A. That is possible, yes.

Q. As I understand it that ISP would not have a physical presence in every calling area, it's simply a virtual presence?

A. They would have a virtual presence in the sense that all this traffic in that local presence across the LATA would be concentrated

together and delivered to this box that Verizon has deployed somewhere within the LATA.

Q. And again as we say that gives that ISP a virtual presence in all those calling areas?

A. That is correct.

Q. And that permits the ISP's customers to reach the ISP by dialing a local call?

A. That's correct. They dial a local office number that would be available to them to reach that ISP.

Q. And otherwise, if the ISP only had a physical presence somewhere, in order to reach that ISP from a distant calling area it would involve a toll call?

A. Some sort of toll call, either that or a 1-800 number, one of the two.

Q. And if the individuals calling the ISP are CLEC customers, do you know whether Verizon has been billing recip comp?

A. Actually, I don't know. I mean, I would, well, I'd be speculating. I don't know for sure.

MR. SHOR: I'd like to mark as US LEC Exhibit 10 a copy of Verizon Maryland's responses to US LEC of Maryland's first set of discovery requests.

(US LEC Exhibit No. 10 was marked for identification.)

BY MR. SHOR:

Q. Let me direct your attention first, please, to page 10. Interrogatory No. 60. The question reads, have you, Verizon, ever billed or received reciprocal compensation for calls received from customers of CLECs or other LECs for termination to your FX customers located in Maryland. Please explain your answer.

Do you see the answer?

A. Yes, I do.

Q. Let me try to see if I can read this. If a CLEC customer originates a call to a Verizon FX customer with an assigned NXX code associated with the same local calling area as the NXX code of the originating CLEC customer, Verizon would ordinarily bill, paren, and therefore also

receive, close paren, reciprocal compensation on such a call. Do you see that?

A. Yes, I do.

Q. Does that fairly state your understanding of what has transpired today?

A. Yes. I think it amplifies what I said a minute ago.

Q. And if you look on page 62, question, page 11, question No., interrogatory No. 62. It says, please state whether you offer any FX-like service. Do you currently offer any services or products to your customers other than your FX service under which a customer can obtain a telephone number with an NXX associated with a local calling area that is different from the local calling area in which the customer has a physical presence.

Do you see that?

A. Yes.

Q. And you see the answer?

A. Yes.

Q. It says, Verizon offers enhanced IntelliLinQ PRI hub service and Internet protocol

routing service in Maryland.
A. Yes, I see that.
Q. And then if you direct your attention to page 13, interrogatory No. 75, have you ever billed or received reciprocal compensation for calls received from customers of CLECs or other LECs with termination to your customers who have purchased or subscribed to FX-like services. Do you see that?
A. Yes, I do.
Q. And you see it directs US LEC to the response to interrogatory No. 60. Do you see that?
A. Yes, I do.
Q. And interrogatory No. 60 as we pointed out states that if a CLEC customer originated a call to a Verizon customer then Verizon would bill and receive it?
A. Yes, I see that.
Q. Would bill and receive reciprocal compensation. Would it be fair to say if a CLEC customer calls a Verizon-enhanced IntelliLinQ customer where the number is associated with the

CLEC's number, that Verizon has billed and received reciprocal compensation for that?

A. That's why I say it's possible. I wasn't certain it was possible, this suggests to me it was possible, but I was just not positive.

Q. Do you know how many enhanced IntelliLinQ customers Verizon has in Maryland?

A. Unless we provide it in here, I don't. I've checked it in other states and I know it's varied, but --

Q. Let me ask you this: In a situation where Verizon has received authority to provide interLATA services, is it possible for an enhanced IntelliLinQ service customer to have the physical location outside of the LATA in which its numbers are assigned?

MR. PANNER: Objection. Foundation.

HEARING EX. MOORE: Can you answer the question?

THE WITNESS: Yes, I can.

HEARING EX. MOORE: Overruled.

A. Because the word possible was in your question, correct?

Q. Yes.

A. In answering the question, it goes back to the kind of broad description I gave a moment ago. Whenever we concentrate the traffic together to this hub device that's part of the service that Verizon deploys extra, it's not part of the normal switch infrastructure. I know for example it's not unusual to spend tens of millions of dollars to deploy that extra infrastructure for this service. When they deploy that, the hand-off to the ISP customer is leased separately and that connection could go wherever they paid for it.

So in answer to your question, it could, it could not. I wouldn't know with certainty. It depends on where it starts and where it stops. It's going to start at the hub, but however much transport they're willing to pay to get it to some other point where their data switch is located, that would be determined by whether it's inside the LATA or outside the LATA as I understand it.

Q. So assume for me just for a minute

that Verizon has received authority in Maryland for interLATA services, just make that assumption with me.

A. Okay.

Q. Would it be possible then for an enhanced IntelliLinQ customer to have its physical location in Richmond, Virginia?

A. Once again, based on where they buy the beginning of that hub connection and where it terminates, if they bought a link from the hub and let's say it's right in the middle of one of the LATAs in Maryland to Richmond, Virginia, if they're willing to pay for the transport as a separated dedicated link then, yes, it could.

Q. And you said that if a CLEC customer calls a Verizon customer, Verizon-enhanced IntelliLinQ customer with the number associated with that CLEC customer's local calling area, that Verizon would be billing and receive reciprocal compensation for that call, is that right?

A. Would be, well, I need to be careful. I want to be sure I understand the example.

We're saying that a Verizon end user, for example, dials the number that's associated with the ISP provider that's purchased service from us.

Q. No, we're saying a CLEC customer in Maryland calls Verizon's enhanced IntelliLinQ customer in Maryland who has purchased possibly a transport to its physical location in Richmond, Virginia.

A. Right.

Q. So it is possible that Verizon has billed the CLEC reciprocal compensation for that call?

A. I would say under the current understanding I have it would be possible, yes.

Q. And now let me just go back to the FX arrangement for a minute, the foreign exchange. Again assume with me that Verizon has been granted interLATA authority in a particular state, possibly Maryland or elsewhere. Would it be possible for Verizon's foreign exchange customer to be physically located outside of the LATA?

A. To my understanding of the service, no.

Q. But with enhanced IntelliLinQ that is possible?

A. Once again, the IntelliLinQ service is a data service, it's not a voice service. It's strictly aimed at transmission of a data connection to that hub. So it's not equivalent to our FX service in my understanding of it.

Q. In your understanding, assuming that we've got an enhanced IntelliLinQ customer who is in Maryland and it has local calling numbers throughout Maryland, that the charges that Verizon imposes on the customer in part recovers the lost toll revenue from the calls from the local customer to the ISP?

A. I'll try to respond to that, be sure I capture what you said, see if I get it right back. My understanding is the product has been priced in such a way that it allows a charge to be built into the cost of the service that compensates Verizon's network portion for the network transport provided. So we're financially

made whole from a network provision perspective by that charge being built into the service itself.

Q. And is that in part, please forgive my ignorance here, in part is that replacing the lost toll revenue?

A. Yes, it would.

Q. Now, does Verizon, I believe we noted that Verizon does offer a service called Internet protocol routing?

A. Yes, IPR, yes.

Q. How does that work?

A. It is actually almost identical to the other service in terms of the functionality. It's the same concept, it provides a way to bring the traffic together, concentrate it, pass it along. The telling difference as I understand it between the two products from talking to the product managers, because I'm not an expert in either one but I know a little bit about each, the main difference is one has with it a network management feature. So in one product you have the functionality provided that's basically

identical in the other product, the difference being that if you buy the IPRS you get a center that manages the network that watches it, makes sure it's always up and running. With the other service you have no guarantee built in, somebody kind of watching over your shoulder making sure everything is running properly. So one has a little risk if you want to provide a very high level of service where there's no outage, the other doesn't have that guaranteed built-in protection.

Q. But with your IPRS service, I understand that's basically offered to ISPs?

A. That's correct.

Q. And in that situation the ISP could have a local number in all of the Baltimore LATAs' local calling areas?

A. Yes, that's correct.

Q. And like with your enhanced IntelliLinQ service, the ISP has a physical location some place else and all the calls are routed to that?

A. That is correct.

Q. And like with the enhanced IntelliLinQ, in that arrangement if there's proper authority the IPRS customer could be outside of the LATA?

A. Yes. As I understand it, once again, that link that they provide for themselves they buy from us or a long distance provider or somebody, whoever they hire or purchase that link from, they can go physically anywhere.

Q. And like with the other FX and FX-like services, to the extent that a CLEC customer dials in to one of Verizon's IPRS customers, and it's using a local number associated with the CLEC's local calling, customer's local calling area, Verizon potentially has been billing and receiving recip comp for that call?

A. I think that's what is happening. I believe that would be the case just based on how the system is built to work, designed to work.

Q. Again with the IPRS service the charges that Verizon imposes or applies to the service in part are designed to compensate it for lost toll revenue?

A. Yes, it's designed so that that transport piece that's part of the service has a compensation element designed into the service. So we're made whole financially as a result of the transport provided.

Q. Would you agree with me that if the CLEC customer in I think Essex, calls, in the absence of IPRS would call the ISP in Columbia, let's say, that that would be a toll call?

A. If they dialed it directly unless they use something like the 1-800 number, if they dialed it directly to the other number it would be a toll call.

Q. And in that arrangement the CLEC would be entitled to access charges for giving its customer access to the Verizon customer in Columbia?

A. In that case as I understand it it would be a basic voice call that would be used for data purposes, so I think, yes, it would.

Q. And under the current arrangement with the enhanced IntelliLinQ services and the IPRS, CLECs are not being compensated for the lost toll

revenue that they lose out on?
A. I think the distinction here once again is it's not exactly equivalent to the voice grade service, it's data only. One's federally tariffed, one's state tariffed, so there are some distinctions in how they work and what functionality they provide.
Q. But in the absence of those services those customers would be making toll calls?
A. I would agree unless there was some other provision made they'd have to get to the provider somehow.
Q. Do you know how many IPRS customers are located in Maryland?
A. No, but based on other states I'd say there are anywhere from 10 to 30 probably. I've seen some numbers in other states and they seem to range about that, but I don't think we had a data request and I didn't explore it with the provider we had internally.
Q. Do you know if any IPRS customers are collocated with Verizon at its switches?
A. I don't know with any certainty, no, I

can't answer that. I physically just don't know. I haven't asked that question. I think within Verizon I can find out.

Q. Do you know whether those IPRS customers have their physical locations that are close as we've defined it here, that are close to Verizon's switches?

A. Once again, I'm just in the dark on the answer because I haven't explored it with the people that do know a lot about it.

Q. But you don't have any, but it's certainly possible that a Verizon IPRS customer is within five miles or so of a Verizon switch?

A. It's certainly possible, yes.

Q. An enhanced IntelliLinQ customer could also be located within five miles or so --

A. Once again it's possible, yes.

Q. Just let me finish.

A. Sorry, excuse me.

Q. Just because of the way it comes out on the transcript, it looks a little -- your answer comes before the end of my question.

So it's possible that an enhanced

BEFORE THE
MARYLAND PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE ARBITRATION OF US LEC OF MARYLAND INC. VS. VERIZON MARYLAND INC. PURSUANT TO 47 U.S.C. § 252(b)	)))))	Case No. 8922

DIRECT TESTIMONY OF FRANK R. HOFFMANN, JR. ON BEHALF OF US LEC OF MARYLAND INC.

DATE: JUNE 10, 2002

USlec #1

Q: PLEASE STATE YOUR NAME, TITLE, AND ADDRESS FOR THE RECORD.

A: My name is Frank R. Hoffmann, Jr. I am Senior Interconnection Manager for US LEC Corp., the parent company of US LEC of Maryland Inc. ("US LEC"), and its operating subsidiaries, including the Petitioner in this proceeding. My business address is 6801 Morrison Blvd., Charlotte, NC 28211.

Q: PLEASE DESCRIBE YOUR RESPONSIBILITIES FOR US LEC.

A: My responsibilities include directing and coordinating all activities related to US LEC's Local Interconnection and Termination Agreements and the management of these agreements and relationships with local carriers, and industry organizations. I am charged with ensuring that these agreements address and support the financial and technological goals of the company for local service. My specific duties include actual contract negotiations, staff support for these finalized agreements, day-to-day coordination and point of escalation of service/billing affecting issues surrounding these agreements.

Q: PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND AND PROFESSIONAL EXPERIENCE.

A: I received a Bachelor of Science degree and a Masters of Business Administration degree from the University of Maryland, College Park, Maryland in 1986 and 1988, respectively. I was employed by Bell Atlantic, Inc., in Arlington, Virginia, from 1988 through 1996. During that period I held various positions within Service Costs, External Affairs, Carrier Relations, Marketing and Finance. My responsibilities during this period included cost of service studies, rate development and tariff administration, performance

metrics, sales compensation, product management and interconnection agreement negotiations. From 1996 through 1998, I worked for Teleport Communications Group, in Baltimore, Maryland, and negotiated interconnection agreements and managed its relationship with BellSouth. In 1998, Teleport was acquired by AT&T, where I was responsible for establishing collocation, interconnection trunking and E911 networks. In 1999, I went to work for TriVergent Communications, in Greenville, South Carolina, where I was responsible for all outside plant infrastructure build-out within ILEC central offices. In 2001, I joined a voice-over-IP telecommunications company, Cbeyond, Inc. My responsibilities included equipment engineering, vendor selection, procurement and inventory. In 2002, I came to US LEC, in Charlotte, North Carolina, to work in Industry Affairs, where I am currently employed.

Q: HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE MARYLAND PUBLIC SERVICE COMMISSION?

A: No. However, I have previously testified before the North Carolina Utility Commission, the Massachusetts Department of Telecommunications and Energy, and the Florida Public Service Commission.

Q: HAVE YOU PARTICIPATED IN US LEC's INTERCONNECTION NEGOTIATIONS WITH VERIZON?

A: Yes, I participated in the negotiating sessions. In addition, I have reviewed the points of contention raised during the negotiations to ensure their consistency with US LEC's network planning and design priorities.

Q: PLEASE PROVIDE AN OVERVIEW OF YOUR TESTIMONY.

A: My testimony will address the technical, or network, perspective on Issues 1 and 2 in US LEC's arbitration petition. I will explain how US LEC's single US LEC Interconnection Point ("IP") per Local Access and Transport Area ("LATA") proposal appropriately balances the financial responsibility of each party and is technically feasible, already in use in the parties' current network interconnection architecture, and consistent with sound engineering practices.

Q: BEFORE ADDRESSING EACH ISSUE, PLEASE PROVIDE BACKGROUND ON US LEC'S NETWORK ARCHITECTURE.

A: The US LEC network is composed of advanced digital switches from Lucent Technologies Inc. US LEC has a network of Lucent 5ESS AnyMedia digital switches deploying advanced switching technology. US LEC uses the "Smart Build" strategy of owning and operating its own digital switching centers while leasing the necessary fiber transport from various network providers across its footprint. US LEC invests time, money and resources into owning and operating our own network because we believe that the quality and reliability of our network translates into improved operations, products and services that we deliver to our customers.

US LEC typically serves a market by deploying a single switch and leasing transport. This transport takes the form of point-to-point circuits and fiber ring facilities. Because US LEC's switch supports both line and trunk connections, the transport is used to provide both interconnection with the ILEC and US LEC customer's local loops. With this network architecture, US LEC takes advantage of decreased transport costs to

provide service over a large area with a single switch. For example US LEC has one switch in Maryland, located in Columbia. This switch serves the Baltimore LATA and numerous local calling areas within that LATA. In addition, US LEC's switch in McLean, Virginia, serves the District of Columbia LATA, including a portion of Maryland.

Q: PLEASE CONTRAST US LEC'S NETWORK ARCHITECTURE WITH VERIZON'S.

A: In contrast to US LEC's architecture, Verizon's network uses a large number of switches, each serving a relatively small area. Rather than interconnect at every Verizon end office, US LEC interconnects with Verizon's access network that is designed as a hub and spoke network architecture in which traffic from a group of end offices is aggregated and collected at a tandem. Thus, a call from a US LEC customer to a Verizon customer must travel through a tandem switch to reach a Verizon customer or be directly routed to the Verizon end office switch serving that customer. US LEC cannot deliver a call for any Verizon customer to a particular end office except the small number of customers for whom Verizon has established service from that switch. Verizon's local network is comprised of multiple end office connections between each and every end office and may also include one or more local tandems used to control traffic congestion. This local network is typically referred to as a spider web network architecture in which traffic can be routed directly from an end office to any other end office without the use of a tandem. In addition to its access tandem interconnections, at Verizon's direction, US LEC also established interconnection with a Verizon local tandem in each LATA in which it provides service in Maryland.

ISSUES 1 AND 2 (Glossary, Section 2.45; Interconnection Attachment, Sections 7.1.1.1, 7.1.1.1.1, 7.1.1.2, 7.1.1.3)

Q: PLEASE SUMMARIZE THE DISPUTE BETWEEN US LEC AND VERIZON CONCERNING INTERCONNECTION POINTS.

A: In order for US LEC and Verizon to exchange traffic between their respective customers, they must interconnect their networks. The physical points at which they perform the connection are called Points of Interconnection or "POIs" under Verizon's defined terms. The billing points that distinguish the financial responsibility of each Party are called Interconnection Points or "IPs" under Verizon's defined terms. Issues 1 and 2 relate to the number of IPs that US LEC must establish and how and where US LEC must establish them.

US LEC has agreed, in its negotiations with Verizon, to establish multiple POIs in every LATA in which it interconnects with Verizon. US LEC has agreed to establish POIs at every Verizon access tandem within each LATA, and, additionally, US LEC has agreed to establish direct end office trunking to each Verizon end office where US LEC delivers at least 200,000 minutes of use ("MOU") per month. US LEC has also agreed that Verizon may designate multiple Verizon-IPs, one at each tandem in a LATA. However, the parties have been unable to agree on the location and number of US LEC-IPs.

The location and number of IPs has competitive and operational/service implications, and is governed by the legal framework established in the Telecommunications Act of 1996 ("1996 Act"). My testimony addresses the financial and operational/service implications of multiple IPs while Wanda Montano will provide

testimony concerning the legal and competitive policy framework that makes Verizon's position untenable. The Commission must consider all of these factors in making its determination on this issue. The Commission must also take into consideration the fact that Verizon, or at least Verizon's customers, benefit from interconnection that is reasonable and fair because it permits their customers to reach ours.

Q: IS IT TECHNICALLY FEASIBLE FOR VERIZON TO INTERCONNECT WITH US LEC VIA A SINGLE US LEC-IP IN THE MANNER THAT US LEC IS PROPOSING?

A: Yes, as is evidenced by the fact that the parties operate using this architecture today.

Q: SO US LEC IS ALREADY INTERCONNECTED WITH VERIZON IN MARYLAND?

A: Yes. After investing a substantial amount of personnel and financial resources in planning and engineering the interconnection architecture, the parties executed an interconnection agreement and interconnected in the Baltimore LATA in 2000 and in the District of Columbia LATA (which includes a portion of Maryland) in 2000.

Q: DOES US LEC MAINTAIN A SINGLE US LEC-IP IN THE LATAS IN WHICH US LEC PROVIDES SERVICE?

A: Yes, US LEC offers service in the Baltimore LATA and maintains a single US LEC-IP at its switch in Columbia. US LEC also offers service in the District of Columbia LATA, which includes a portion of Maryland, and maintains a single US LEC-IP at its switch in McLean, Virginia. Similarly, Verizon maintains its IP(s) at Verizon's tandem switch(es)

in each LATA. US LEC delivers its originating traffic to the Verizon-IP(s) via its point-to-point circuits and fiber ring facilities that connect US LEC's switch to Verizon's tandem(s). Additionally, US LEC has agreed that where it delivers at least 200,000 minutes of use per month to a Verizon end office, it will deliver such traffic to that end office via direct end office trunks it purchases from Verizon. Verizon delivers its originating traffic to the US LEC-IP, located at US LEC's switch.

Q: PLEASE SUMMARIZE YOUR UNDERSTANDING OF VERIZON'S IP PROPOSALS.

A: Verizon calls its IP proposal "Virtual Geographically Relevant Interconnection Points" or "VGRIPs." Through VGRIPs, Verizon is trying to dictate the physical manner in which US LEC establishes its chosen IP. Verizon attempts to dictate US LEC's physical network architecture by giving US LEC the "option," under Verizon-proposed Section 7.1.1.1, of establishing a US LEC-IP through collocation at each Verizon tandem and other wire center designated by Verizon (so-called "option one"). Similarly, Verizon attempts to dictate US LEC's physical network architecture by giving US LEC the "option," under Verizon-proposed Section 7.1.1.2, of designating a US LEC end office collocation arrangement as a US LEC-IP (so-called "option two"). Even though the parties have operated under our existing network architecture for more than two years, VGRIPs would give Verizon the right to request that US LEC alter the existing architecture and would require that US LEC complete the transition to the new architecture within thirty days (Section 7.1.1.3).

Verizon calls these "options" because VGRIPs gives US LEC the right to decline Verizon's requests to establish these new collocated IPs. However, if US LEC exercises this right and retains its preferred physical network architecture, the so-called "option three" of VGRIPs shifts the financial responsibility for transporting all of Verizon's originating traffic, beginning at the Verizon *end office*, from Verizon to US LEC. Thus in one way or another, adoption of VGIPs would force US LEC to change either the physical or financial aspect of its preferred, and existing, interconnection architecture with Verizon.

Q: WHY DOES US LEC OBJECT TO CHANGING THE PARTIES' EXISTING ARCHITECTURE?

A: First, the parties have invested a lot of time and resources to plan and implement the existing architecture and US LEC does not believe that Verizon should have the power to change that architecture at its sole discretion. Rather, the parties should mutually agree to any changes in existing network architecture and such changes should be implemented under a mutually agreeable timeframe, not the arbitrary and unreasonable thirty (30) days proposed by Verizon. Second, in order to prevent any disruptions to existing customers, it is important that existing network facilities not be disturbed as the successor agreements are implemented. Third, because US LEC does not currently collocate with Verizon, and because Verizon cannot provision collocation within thirty (30) days, it is technically impossible to comply with Verizon's proposed transition period.

Q: WHY DOES US LEC PREFER TO MAINTAIN THE EXISTING ARCHITECTURE RATHER THAN ADOPT THE NEW ARCHITECTURE PROPOSED BY VERIZON IN CONTRACT NEGOTIATIONS?

A: As I mentioned, US LEC currently maintains a single US LEC-IP within each LATA where US LEC provides local service. However, US LEC has not chosen collocation as its method of interconnection. In fact, US LEC is not collocated with Verizon anywhere in Verizon's territory because collocation is not currently part of US LEC's network architecture. If Verizon were to exercise its right, under Verizon-proposed Section 7.1.1.3, to require US LEC to establish an IP via collocation at the Verizon tandem, US LEC would have to order a collocation arrangement from Verizon at its tandem. In other words, transitioning to Verizon's proposed interconnection architecture would impose additional, unnecessary collocation costs on US LEC, as well as the burden of changing the current network design to an architecture not currently supported by US LEC. US LEC believes this is unreasonable and anticompetitive.

In addition to imposing an undue collocation cost burden on US LEC, Verizon's transition timeframe is also impossible to meet. Under agreed-to language in the contract (Collocation Attachment, Section 1.3.1), if US LEC has properly forecasted a need for collocation six months prior to its application date, and if conditioned space is readily available, Verizon does not have to turn over a collocation arrangement until 76 days after US LEC submits its application and application fee. This 76-day deadline is well beyond the 30-day transition period Verizon's proposes for moving US LEC's IP from its switch to a collocation arrangement, making Verizon's proposed transition not only unreasonable, but impossible to meet. To date, however, US LEC has not used

collocation arrangements as part of its network architecture and therefore has never submitted a collocation forecast to Verizon. Therefore, Verizon would not be bound by the 76-day deadline. US LEC believes this discrepancy, between collocation provisioning intervals and Verizon's proposed transition period, exposes the truth about Verizon's IP proposal. It is designed solely to disadvantage Verizon's competitor, US LEC.

Although the contract is not explicit on this point, the parties have recently agreed that US LEC could utilize a third-party collocation arrangement to satisfy the collocated IP requirement under "option one" of Verizon's proposal. However, US LEC is not currently utilizing a third-party collocation arrangement as its IP. Thus transitioning to this method of interconnection would also take longer than Verizon's 30-day transition deadline and impose additional, unnecessary costs on US LEC. Of course, as I've already testified, US LEC objects to Verizon's proposal and urges the Commission to adopt US LEC's proposal, which would clearly allow the parties to maintain our current network architecture.

Q: DO YOU AGREE WITH VERIZON'S ALLEGATION THAT ITS PROPOSALS DO NOT AFFECT US LEC'S RIGHT TO ESTABLISH A SINGLE PHYSICAL CONNECTION TO VERIZON'S NETWORK IN A LATA? (RESPONSE AT 14)

A: No. A close reading of the contract reveals that most of the IPs Verizon seeks to have US LEC establish are more than just points of financial demarcation. Under "option one," US LEC ***must*** establish its IP through collocation at the Verizon tandem. Similarly, under so-called "option two," US LEC "may" designate an end office collocation arrangement as its IP. Thus under either "option" one or two, the IP is more

than just a point of financial demarcation, it is an additional, physical connection between US LEC's network and Verizon's network if US LEC wishes to avoid Verizon's transport penalty (defined in 7.1.1.1.1).

Q: VERIZON SAYS THAT SECTION 7.1.1.1.1 IS APPROPRIATE COST SHARING. (RESPONSE AT 14) PLEASE RESPOND.

A: Despite Verizon's arguments to the contrary, the text of the Verizon contract language shows that its proposal ***requires*** US LEC to establish multiple, physical connections to Verizon's network (under so-called "option one" and "option two") or, if US LEC refuses to establish such physical connections, to pay for Verizon's transport costs *within* the access tandem serving area (so-called "option three").

Verizon's proposed contract language reveals that its "option three," also called a "virtual IP," requires US LEC to pay for Verizon's originating tandem switching costs and *all* of Verizon's originating transport costs, beginning at the *end office* serving the customer that originates the call. The financial obligation Verizon shifts to US LEC under "option three" is defined in Section 7.1.1.1.1 of the Interconnection Attachment:

> Verizon's transport rate (calculated by taking the dedicated transport per mile rate multiplied by the average mileage between the originating end offices and the CLEC POI plus the fixed dedicated transport rate and dividing the total by the average minutes of use of a DS1), tandem switching rate (to the extent that traffic is tandem switched), and other costs (to the extent Verizon purchases such transport from US LEC or a third party) *from Verizon's originating End Office* to US LEC's IP. (Emphasis added.)

While the mechanics of calculating the transport rate are less than clear, what is clear is that US LEC must pay for Verizon's transport beginning at the originating end office.

Thus, if US LEC does not establish a *collocated IP* at a Verizon tandem, Verizon charges US LEC for transport beginning at the Verizon *end office*. This results in US LEC paying for *all* of Verizon's transport costs *within the access tandem serving area*. If US LEC establishes a collocation arrangement at a Verizon end office but declines Verizon's request to designate that collocation arrangement as a US LEC-IP, then US LEC again must pay for *all* of Verizon's transport costs, beginning at that end office. No matter which option one assesses, the result is the same: under Verizon's proposed language, US LEC becomes obligated to pay all of Verizon's transport costs and, as I understand it, that simply does not comply with the requirements of the Act as interpreted by the FCC. In short, VGRIPs would shift to US LEC financial responsibility for all transport of Verizon's originating traffic.

Q: WHY DO YOU STATE THAT THE FINANCIAL RESPONSIBILITY FOR ALL TRANSPORT WOULD BE "SHIFTED" TO US LEC?

A: Because today Verizon bears financial responsibility for delivering its originating traffic to US LEC's chosen IP, US LEC's switch. Moreover, even though Verizon may today be carrying its originating traffic largely over common network facilities, it appears from testimony Verizon has filed in another state arbitration with US LEC on this same contract that Verizon wants to charge US LEC for dedicated transport facilities, regardless of the amount of traffic it originates from the end office Verizon would designate as a virtual IP.

As Verizon recognizes elsewhere in the contract, dedicated trunks should be efficiently utilized. That is why the parties have agreed, in Section 2.3.1.3.1 of the

Interconnection Attachment, that each tandem trunk group should maintain a minimum utilization rate of 60% and, in Section 2.2.4 of the Interconnection Attachment, that direct end office trunks should be established only when the traffic threshold meets or exceeds 200,000 minutes of use. However, if Verizon uses a dedicated facility to carry its originating traffic under "option three," it would be ignoring these principles and tying up valuable public switched telephone network ("PSTN") resources by dedicating facilities to its exchange of traffic with US LEC regardless of utilization levels or volume of minutes. Thus, adopting Verizon's "option three" could result in Verizon provisioning unnecessary, excess transport capacity, encouraging inefficient network behavior by Verizon, all in an effort to impose a costly and inefficient method of interconnection on US LEC.

Q: PLEASE RESPOND TO VERIZON's ALLEGATION THAT ITS PROPOSAL IS A REASONABLE ALLOCATION OF TRANSPORT COSTS BETWEEN THE PARTIES. (RESPONSE AT 14)

A: Verizon's proposal is not reasonable because it forces US LEC to either establish multiple physical connections to Verizon's network or bear all costs of transport, for both Verizon's originating traffic and US LEC's originating traffic. Under the virtual IP "option three," when US LEC delivers traffic to Verizon, it is financially responsible for the transport to bring its calls to the Verizon-IP and must pay Verizon reciprocal compensation for transporting the call to the end user. Yet when a Verizon customer originates a call, Verizon would have US LEC pay for all of the transport. In short, Verizon's proposal is only "reasonable" if the Commission wants to relieve Verizon of

any financial obligation to transport the traffic it exchanges with competitive local exchange carriers ("CLECs").

Q: VERIZON ALLEGES THAT US LEC SHOULD BEAR THE COSTS OF ITS CHOSEN NETWORK DESIGN. (RESPONSE AT 5) PLEASE RESPOND.

A: US LEC does bear the costs of its chosen network design. Contrary to Verizon's unsupported allegations (Response at 8), US LEC serves a diverse base of customers that are physically located in the local calling areas it serves. As such, when US LEC's switch is located in one local calling area and its customer is located in another, US LEC must haul its customer's traffic to US LEC's switch and deliver that traffic to Verizon at Verizon's IP (located at the Verizon tandem). In addition, US LEC must pay Verizon reciprocal compensation for delivering US LEC's traffic from the Verizon IP to the Verizon end user, whether or not the IP and the end user are located in the same local calling area. Similarly, when a Verizon customer calls a US LEC customer, US LEC must accept the traffic at its designated IP and deliver that traffic to its end user customer, even if that customer is located in another local calling area, such as Sparks Glencoe, the example Verizon uses in its Response (pp. 7-8). Thus US LEC bears the cost of its network design choices.

Q: VERIZON ARGUES THAT ITS COST-SHIFTING PROPOSALS ARE JUSTIFIED BECAUSE A SINGLE POI PER LATA IS EXPENSIVE. (RESPONSE AT 13) DO YOU AGREE?

A: No. Verizon argues that because a single POI per LATA is "expensive," it is permitted to "recover" its costs by moving the point of financial demarcation to shift transport responsibility from Verizon to US LEC.

To support its "expensive interconnection" theory, Verizon relies on paragraph 199 of the *Local Competition Order*, which states:

> The deliberate and explained substantive omission of explicit economic requirements in sections 251(c)(2) and 251(c)(3) cannot be undone through an interpretation that such considerations are implicit in the term "technically feasible." Of course, a requesting carrier that wishes a "technically feasible" but expensive interconnection would, pursuant to section 252(d)(1), be required to bear the cost of that interconnection, including a reasonable profit.[1]

I understand that the FCC is currently considering rules that would clarify whether a particular request for interconnection is "expensive."[2] But Verizon selectively quotes only one of the questions the FCC is considering relative to so-called "expensive" interconnection. (Response at 13) The remainder of the paragraph Verizon quoted from shows that the FCC is considering US LEC's position as well:

> Or, by requiring carriers to pay ILECs for transport outside a local calling area, are we forcing the competitive carrier into an inefficient replication of the ILEC network? Assuming that the ILEC receives reciprocal compensation for transporting terminating traffic, how precisely does a distant POI unfairly burden the LEC? Is the efficiency concern limited to those instances in which traffic between two networks is unbalanced and/or where transport is required beyond a certain distance?[3]

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[1] *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499, ¶ 199 (1996) ("*Local Competition Order*") (subsequent history omitted).

[2] *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Notice of Proposed Rulemaking, FCC 01-132, ¶¶ 112-114 (rel. April 27, 2001) ("*Intercarrier Compensation NPRM*").

[3] *Id.* at ¶ 114.

These questions posed by the FCC make it clear that a single IP per LATA is not automatically "expensive," as Verizon would have the Commission believe. Verizon would not be permitted to recover supposed expenses of loop provisioning or collocation without demonstrating that it in fact incurred the costs it was seeking to recover, and the same principle should govern here.

Q: WHAT EVIDENCE DO YOU SUGGEST THE COMMISSION REQUIRE OF VERIZON TO PROVE ITS "EXPENSIVE INTERCONNECTION" THEORY?

A: In order to have its cost-shifting proposal adopted, Verizon should be required to show that a single US LEC-IP per LATA causes Verizon to incur specific costs for which it is not already compensated by the services it provides its customers that originate its traffic.

The cost of a single CLEC-IP per LATA could vary substantially depending on the facilities being used to transport traffic to the IP, the traffic volumes, and mileage. For example, depending on the local calling area and LATA, Verizon's costs may be minimal -- it may have facilities already available to carry Verizon's originating traffic from the local calling area to the CLEC-IP, there may be only a *de minimis* traffic volume exchanged for that local calling area, and the distance between the local calling area and the CLEC-IP may be minimal. In short, Verizon's vague allegations of uncompensated costs do not prove that US LEC's requested interconnection arrangement is "expensive."

Q: ARE THERE OTHER FINANCIAL CONSIDERATIONS THE COMMISSION SHOULD TAKE INTO ACCOUNT IN EVALUATING THE PARTIES' POSITIONS?

A: Yes. The Commission must consider the financial impact of Verizon's VGRIPs proposal on competition. As the U.S. Court of Appeals for the Third Circuit recently held:

> To the degree that a state commission may have discretion in determining whether there will be one or more interconnection points within a LATA, the commission, in exercising that discretion, must keep in mind whether the cost of interconnecting at multiple points will be prohibitive, creating a bar to competition in the local service area.[4]

Adopting Verizon's proposal would fundamentally alter the economics of a CLEC's decision to provide service to each and every local calling area in Maryland beyond the area where it establishes its initial point of presence. Verizon's multiple IP (whether physical or virtual) requirement could deter a CLEC from competing with Verizon until the CLEC has enough customers to justify efficiently utilizing the dedicated facility it is forced to build or lease from Verizon. Adopting Verizon's multiple IP proposal also expresses a policy preference for the incumbent's historical network architecture, effectively penalizing new entrants for any deviation from that architecture. The Commission should therefore also reject Verizon's proposal as inconsistent with the public policy of opening Maryland's telecommunications markets to competition.

Q: LET'S RETURN TO THE PHYSICAL NETWORK ARCHITECTURE IMPACTS OF VERIZON'S PROPOSAL. WHY DOES US LEC OBJECT TO DESIGNATING A COLLOCATION ARRANGEMENT THAT US LEC HAS ESTABLISHED AT A VERIZON END OFFICE AS A US LEC-IP?

A: Verizon's proposal would require US LEC to plan and pay for additional, and potentially inefficient and unnecessary, capacity for each collocation arrangement. For example,

although US LEC does not currently collocate in Verizon end offices, if US LEC decided to order collocation in the future, it is possible that US LEC would not know if Verizon wished to designate the new arrangement as a US LEC-IP until ***after*** that arrangement was provisioned. CLECs typically design and use end office collocation arrangements to access the incumbent's unbundled local loops. The traffic from those loops is aggregated and, where necessary, multiplexed, at the CLEC's collocation site and transported back to the CLEC's switch via transport the CLEC leases from the incumbent or another carrier. Moving the CLEC-IP to an established end office collocation arrangement would require that the CLEC add equipment in its collocation space and extra transport to carry the Verizon-originated traffic from the collocation site back to the CLEC switch. Thus, under Verizon's proposal, the CLEC's space requirements, equipment costs, and transport costs would all increase. Furthermore, because the volume of traffic originating from that end office may not fill a DS-1, US LEC may be forced to provide, and inefficiently strand, a facility that will be underutilized. This is inconsistent with Section 2.2.4 of the contract. In that section, the parties have agreed that a DS-1 is the volume of traffic that will justify direct end office trunking for the delivery of one party's traffic to the other. However, notwithstanding the lack of sufficient traffic volume, Verizon's proposed language in Section 7.1.1.2 would require that US LEC designate a collocation site US LEC had established at a Verizon end office as a US LEC-IP in order to avoid Verizon's transport penalty (defined in Section 7.1.1.1.1). This would effectively force US LEC to provide an underutilized direct end office facility to carry Verizon's originating traffic back to US LEC's switch even though Verizon itself would not

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[4] *MCI Telecommunication Corp. et al. v. Bell Atlantic-Pennsylvania et al.*, 271 F.3d 491, 517 (3d Cir. 2001).

establish a direct end office connection to US LEC if the collocation arrangement did not exist.

Q: DOES US LEC ANTICIPATE DEPLOYING END OFFICE COLLOCATION ARRANGEMENTS DURING THE TERM OF THIS AGREEMENT?

A: Collocation is not currently part of US LEC's business plan, however, it is possible that US LEC will deploy end office collocation arrangements during the term of this agreement. I do not agree with Verizon that by merely establishing a presence at Verizon's end office we are therefore obligated to pick up (either financially or physically) Verizon's originating traffic from that end office. The parties have agreed that direct end office trunks are only necessary when certain traffic volume thresholds are reached. Requiring US LEC to designate its end office collocation as an IP, or requiring a virtual IP at that end office, regardless of the traffic volume originated from that end office is just another Verizon attempt to impose additional and unnecessary costs on its competitors.

Q: COULD THE TRANSITION TO NEW PHYSICAL IPs ADVERSELY AFFECT US LEC'S OPERATIONS?

A: Yes, it would. Moving from existing to new physical IPs would interfere with US LEC's growth and ability to add new customers during the transition and impose unnecessary economic costs on US LEC.

Interconnecting two networks requires not only facilities, but also careful planning and other necessary support systems. For example, moving from an existing IP

to a new physical IP could involve a facilities build or facilities augmentation, submitting new trunk orders, and switch translations. All of this consumes scarce personnel and network resources that could otherwise be used to grow US LEC's business and expand its customer base. Furthermore, I understand that Verizon imposes a turn-up limit of 10 T-1s per day. This means that after all the planning and network engineering is completed, it could still take an inordinate amount of time to make the transition to a new US LEC-IP. Thus during the transition period, Verizon could effectively stop US LEC's ability to win new customers and jeopardize the growth of US LEC's existing customers' business. Requiring US LEC to transition to a new physical US LEC-IP would therefore give Verizon a competitive advantage in either retaining its existing customers or winning customers new to the market during the transition period.

Q: HOW DOES TRAFFIC VOLUME AFFECT THE ENGINEERING AND FINANCIAL ASPECTS OF IPs?

A: If the volume of traffic originating from and/or terminating to an additional Verizon tandem or end office is low, it is more efficient for such traffic to be carried on Verizon's common network capacity. Establishing dedicated capacity that would be used solely to carry low traffic volumes would be inefficient.

Each carrier needs to install or lease transmission facilities and equipment to deliver its originating traffic to the other party's IP. Of course Verizon has been in this business for over 100 years and has built ubiquitous facilities to transport traffic throughout its serving area. Since Verizon already has facilities in place that can carry the traffic the parties exchange, and therefore benefits from economies of scale and the

technological advances in transport capacity, its costs to switch and transport the incremental traffic it exchanges with US LEC are relatively low. Both parties benefit from these economies of scale -- Verizon for its originating traffic and US LEC for its terminating traffic. Furthermore, the amount of Verizon traffic that is destined for US LEC likely makes up only a very small percentage of the total traffic Verizon transports over its common network capacity.

In contrast, US LEC as a new entrant has not deployed transport facilities throughout Verizon's serving area. Thus, in order for US LEC to reach additional Verizon wire centers, US LEC must either construct new facilities, which requires local permits, digging up streets, etc., or lease existing facilities from Verizon or another carrier. In short, where traffic volumes from additional wire centers are low, if Verizon requires US LEC to establish a US LEC-IP at the additional wire center, Verizon's avoided costs are negligible but US LEC's costs are high. Furthermore, if US LEC purchases dedicated transport from Verizon to haul Verizon's traffic from the new/additional US LEC-IP back to US LEC's switch, then Verizon has succeeded, through its designation of new/additional US LEC-IPs, in generating a significant amount of revenue for itself from selling dedicated transport to US LEC. Finally, through their proposal, Verizon may also strand PSTN resources since capacity dedicated to calls between Verizon and US LEC customers may be grossly underutilized.

Q: PLEASE SUMMARIZE YOUR PROPOSED RESOLUTION OF THESE ISSUES.

A: The Commission should adopt US LEC's proposal on Issues 1 and 2 because it preserves the parties' existing interconnection architecture, appropriately allocates the financial

burden of traffic exchange, is consistent with sound network engineering practices, and promotes efficient network deployment.

Q: DOES THIS CONCLUDE YOUR TESTIMONY AT THIS TIME?

A: Yes.

BEFORE THE
MARYLAND PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE ARBITRATION OF US LEC OF MARYLAND INC. VS. VERIZON MARYLAND INC. PURSUANT TO 47 U.S.C. § 252(b)	)))))	Case No. 8922

REBUTTAL TESTIMONY OF FRANK R. HOFFMANN, JR. ON BEHALF OF US LEC OF MARYLAND INC.

DATE: AUGUST 9, 2002

USLEC #2

Q: PLEASE STATE YOUR NAME FOR THE RECORD.

A: My name is Frank R. Hoffmann, Jr.

Q: ARE YOU THE SAME FRANK R. HOFFMANN, JR. WHO FILED DIRECT TESTIMONY IN THIS DOCKET ON JUNE 10, 2002?

A: Yes.

Q: WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A: The purpose of my testimony is to address the arguments raised by Verizon's witness Peter J. D'Amico concerning Issues 1 and 2 in US LEC's arbitration petition.

Q: DO YOU AGREE WITH MR. D'AMICO THAT THE DISPUTE BETWEEN THE PARTIES REGARDING THE POI AND IP CONCERNS HOW TO ALLOCATE FAIRLY THE COSTS OF TRANSPORTING TRAFFIC? (D'AMICO AT 3:18-22)

A: While allocating transport costs between Verizon and US LEC is one of the aspects of the dispute in Issues 1 and 2, it is not the only one. These issues also concern US LEC's ability to maintain its established point of interconnection, as well as its preferred method of interconnection, with Verizon throughout the term of this agreement without incurring Verizon's transport penalty.

Q. US LEC ASKED VERIZON TO CALCULATE THE TRANSPORT PENALTY THAT WOULD APPLY UNDER VGRIPS IF US LEC DID NOT ESTABLISH THE PHYSICAL IPS REQUIRED UNDER VGRIPS. DO YOU AGREE WITH THE ASSUMPTIONS THAT VERIZON USES AS THE BASIS FOR ITS CALCULATION?

A: No. In response to Interrogatory No. 24 Verizon assumes "that no tandem switching or other costs are incurred". This is highly improbable, as Verizon would only impose their transport penalty if US LEC did not establish *collocated* IPs at Verizon's tandems (or refused to identify an established US LEC end office collocation arrangement as an IP). Since US LEC does not collocate at Verizon's end offices, Verizon's implementation of their transport penalty would only occur if US LEC established either non-collocated POIs at Verizon's tandem(s) (as US LEC does today), or chose a technically feasible POI at a location other than Verizon's tandem(s). Therefore, Verizon's originated traffic will always be tandem switched. The only possible exception to Verizon tandem switching all traffic bound for US LEC's network is in the extreme case of when Verizon originates in excess of 200,000 minutes-of-use per month from a specific Verizon end office to US LEC; a situation that does not exist today. Therefore, if the cost of tandem switching is included in Verizon's transport penalty that US LEC would incur under VGRIPs (if US LEC retains its current network architecture), the revised calculation demonstrates that Verizon would deprive US LEC of approximately 36% of the negotiated reciprocal compensation rate.

Q: DO YOU AGREE WITH VERIZON'S CHARACTERIZATION OF ITS VIRTUAL IP PROPOSAL AS REQUIRING US LEC TO COMPENSATE VERIZON FOR TRANSPORT WHEN THE CALL LEAVES THE LOCAL CALLING AREA IN WHICH IT ORIGINATED? (D'AMICO AT 2:11-14)

A: No. As Verizon's calculation and the text of the Verizon contract language shows, its proposals *require* US LEC to pay for Verizon's transport costs *within* the local calling area, beginning at Verizon's originating end office switch, if US LEC refuses to establish

the *collocated* physical IPs "requested" by Verizon. As I understand it, that simply does not comply with the requirements of the Act as interpreted by the FCC or this Commission's orders. In short, Verizon would force US LEC to either establish multiple physical *collocated* IPs or assume financial responsibility for all of Verizon's transport obligations.

Q: VERIZON CLAIMS THAT US LEC WILL NOT ACCEPT VERIZON-ORIGINATED TRAFFIC AT THE POIs US LEC HAS ESTABLISHED IN MARYLAND. (VERIZON RESPONSE TO STAFF DATA REQUEST NO. 19) PLEASE RESPOND.

A: Verizon is correct with respect to the POIs US LEC has agreed to establish at a Verizon end office. However, US LEC is willing to accept Verizon-originated traffic at the POIs US LEC has already established at Verizon's tandems so long as Verizon continues to compensate US LEC, via a non-distance sensitive entrance facility charge, for providing the transport between the POI and US LEC's switch. It is my understanding that the FCC Wireline Competition Bureau ("Wireline Bureau") recently confirmed that it is entirely appropriate for a CLEC to charge an ILEC for the use of this facility because it is being used to deliver the ILEC's traffic to the CLEC's network.[1]

Q: MR. D'AMICO STATES THAT VERIZON WANTS TO DELIVER ITS TRAFFIC TO US LEC AT A MORE CENTRAL LOCATION. (D'AMICO AT 9:23-10:1) PLEASE RESPOND.

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[1] *Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration*, CC Docket Nos. 00-218 *et al.*, Memorandum Opinion and Order, DA 02-1731, ¶¶ 66, 68 (Wireline Competition Bureau, rel. July 17, 2002) ("*FCC Arbitration Order*").

A: Verizon is aggregating and delivering its traffic to US LEC at a central location today – US LEC's switch. As I understand Mr. D'Amico's testimony, however, he does not equate "central location" with "single location." Rather, by "central location," what he really means is at Verizon's tandem switches; via collocation no less! As I stated earlier, US LEC is willing to allow Verizon to deliver its traffic to US LEC at POIs US LEC has established at Verizon tandems, provided that (1) US LEC does not have to change its established method of interconnection at Verizon's tandems and (2) Verizon continues to compensate US LEC for a non-distance sensitive entrance facility, at the rate contained in Verizon's own Maryland state access tariff, to transport Verizon's traffic to US LEC's switch.

Q: DO YOU KNOW WHY VERIZON'S VGRIPs PROPOSAL REQUIRES US LEC TO USE A COLLOCATION ARRANGEMENT TO ESTABLISH AN IP AT VERIZON'S TANDEMS?

A: No. Verizon offers no explanation of why VGRIPs requires a collocated IP. In fact, at an earlier stage in negotiations, Verizon offered US LEC a slightly different, and more onerous, Geographically Relevant Interconnection Points ("GRIPs") proposal. Under GRIPs US LEC would be permitted to choose the type of physical IP (Interconnection Attachment, Section 2.1.3), but would be forced to establish a physical IP in every Verizon local calling area. This further indicates the anticompetitive nature of Verizon's proposals, both GRIPs and VGRIPs, which are designed to foist unnecessary costs on US LEC and to improve Verizon's bottom line through increased collocation revenues.

Q: MR. D'AMICO CLAIMS THAT US LEC MAY NOT HAVE TO TRANSPORT VERIZON'S TRAFFIC FROM US LEC'S SWITCH BACK TO US LEC'S

CUSTOMER IN ANOTHER LOCAL CALLING AREA BECAUSE OF THE "MAGIC TRICK" UNDER WHICH US LEC WOULD INSTEAD DROP OFF THE CALL TO A CUSTOMER COLLOCATED AT US LEC'S SWITCH IN COLUMBIA. (D'AMICO AT 8:13-9:2) PLEASE RESPOND.

A: First, Ms. Montano's testimony addresses Verizon's mischaracterization of this practice, referred to in US LEC's tariff as foreign exchange service, as a "magic trick." Second, US LEC does not have any customers that are collocated at its switch in Columbia, Maryland. *See* US LEC Response to Verizon Interrogatory No. 4. Third, while US LEC does provide foreign exchange service to some non-ISP customers in Maryland, US LEC has never requested an NXX code for the sole purpose of providing foreign exchange service. US LEC does not request an NXX code unless US LEC has a customer that is physically located within the rate center for which US LEC has requested an NXX code.

Q: **MR. D'AMICO MENTIONS A COUPLE OF TIMES THAT US LEC HAS "MISREAD" VERIZON'S PROPOSED CONTRACT LANGUAGE. (D'AMICO AT 11:14, 12:6-7) PLEASE RESPOND.**

A: US LEC has not misread Verizon's proposed contract language. Mr. D'Amico may not agree with US LEC's position, or with the words I use to describe their proposed contract language. Verizon prefers words like "choice" and "may refuse" and "significant compromise." But the bottom line is that through VGRIPs, Verizon would force US LEC to "choose" between one of two equally unacceptable options. US LEC would either have to establish multiple physical connections to Verizon's network, at locations dictated by Verizon and using methods dictated by Verizon, or relieve Verizon of its current financial responsibility for transporting Verizon's customers' traffic. In other

words, US LEC must either establish the physical network architecture Verizon prefers today, or pay to transport all of Verizon's originating traffic, including transport within the local calling area beginning at Verizon's end office switch where the call originated.

Q: VERIZON ARGUES THAT ITS COST-SHIFTING PROPOSALS ARE JUSTIFIED BECAUSE A SINGLE POI PER LATA IS EXPENSIVE. (D'AMICO AT 14) DO YOU AGREE?

A: No. As I mentioned in my direct testimony, there are a number of factors that contribute to the cost of interconnecting two networks, including available facilities, traffic volume, and distance. Verizon has not presented any evidence on any of those facts to support its allegations that it is "expensive" to interconnect with US LEC under the parties' current architecture.

Q: DOES THIS CONCLUDE YOUR TESTIMONY?

A: Yes.

BEFORE THE
MARYLAND PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE ARBITRATION OF US LEC OF MARYLAND INC. VS. VERIZON MARYLAND INC. PURSUANT TO 47 U.S.C. § 252(b)	)))))	Case No. 8922

DIRECT TESTIMONY OF WANDA G. MONTANO ON BEHALF OF US LEC OF MARYLAND INC.

DATED: JUNE 10, 2002

USLec #3

Q: PLEASE STATE YOUR NAME, TITLE, AND ADDRESS FOR THE RECORD.

A: My name is Wanda G. Montano. I am currently Vice President, Regulatory and Industry Affairs for US LEC Corp., the parent company of US LEC of Maryland Inc. ("US LEC"), and its operating subsidiaries, including the Petitioner in this proceeding. My business address is 6801 Morrison Blvd., Charlotte, NC 28211.

Q: PLEASE DESCRIBE YOUR RESPONSIBILITIES FOR US LEC.

A: I am responsible for the management of US LEC's relationships with state and federal agencies who oversee our business, as well as for US LEC's relationships with Incumbent Local Exchange Carriers ("ILECs"), Competitive Local Exchange Carriers ("CLECs"), Independent Telephone Companies ("ICOs") and wireless companies.

Q: PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND AND PROFESSIONAL EXPERIENCE.

A: I joined US LEC in January 2000. Prior to that, I was employed in various positions by Teleport Communications Group ("TCG") and then by AT&T following AT&T's acquisition of TCG. In 1998-1999, I served as General Manager for North and South Carolina (Sales Executive) for AT&T (Charlotte, N.C.) During 1997-1998 I was Vice President & Managing Executive for North & South Carolina (Sales and Operations Executive) for TCG (Charlotte, N.C.) During 1995-1997, I served as Vice President, CLEC Services for TCG (Staten Island, N.Y.) During 1994-1995, I was Director of Process Reengineering for TCG (Staten Island, N.Y.) During 1992-1994, I was Director of Marketing for TCG (Staten Island, NY). During 1990-1992 I was Senior Product

Manager for Graphnet (Teaneck, N.J.). From 1982-1990, I was Regulatory Manager for Sprint Communications Corp. in Reston, Virginia and, from 1979-1982 I was a paralegal for GTE Service Corporation in Washington, D.C. I have a B.S. from East Carolina University in Greenville, N.C. (1974). I received my Paralegal Certificate from the University of Maryland in 1980 and I received my M.B.A. in Marketing & Government Affairs from Marymount University of Virginia in 1988.

Q: HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE MARYLAND COMMISSION?

A: No, I have not; however, I have testified before the North Carolina Utilities Commission, the New York Public Service Commission, the Florida Public Service Commission and the Georgia Public Service Commission.

Q: HAVE YOU PARTICIPATED IN US LEC's INTERCONNECTION NEGOTIATIONS WITH VERIZON?

A: Yes, I have participated in the negotiating sessions. In addition, I have reviewed the points of contention raised during the negotiations to ensure their consistency with state and federal requirements and policy.

Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A: The purpose of my testimony is to explain what I understand to be the legal and competitive policy arguments in support of US LEC's position on Interconnection Points ("IPs") (Issues 1 and 2), reciprocal compensation for Voice Information Services Traffic (Issues 3 and 4), the use of "terminating party" or "receiving party" (Issue 5), reciprocal

compensation for virtual NXX" traffic (Issue 6), compensation for ISP traffic (Issue 7), and applicability of changes to Verizon's tariffed and non-tariffed rates (Issue 8).

ISSUES 1 AND 2 (INTERCONNECTION ATTACHMENT, SECTIONS 7.1.1.1, 7.1.1.1.1, 7.1.1.2, 7.1.1.3; GLOSSARY, SECTION 2.45)

Q: PLEASE EXPLAIN THE POI AND THE IP TERMS VERIZON USES IN ITS CONTRACT.

A: In order for US LEC and Verizon to exchange traffic between their respective customers, they must interconnect their networks as required by Section 251(c)(2) of the Act. The physical points at which they perform the connection are called Points of Interconnection or POIs under Verizon's defined terms. The billing points that distinguish the financial responsibility of each Party for transporting traffic are called Interconnection Points or IPs under Verizon's defined terms. US LEC is familiar with Verizon's terms, and is willing to use them, so long as the resulting obligations remain consistent with FCC "rules of the road" that govern interconnection between CLECs and ILECs.

Q: PLEASE EXPLAIN THE FCC'S RULES OF THE ROAD.

A: The first "rule of the road" is that US LEC is entitled to select a single, technically feasible POI in a Local Access and Transport Area ("LATA") for the exchange of traffic with Verizon. The second "rule" is that each LEC bears the burden of delivering local traffic originated by its customers to the POI and recovers such costs in the rates charged to its end users. Unlike Verizon's proposed contract terms, under FCC decisions, the default rule is that the physical connection of the Parties' networks and the demarcation of financial responsibility are at the same point. Therefore, together, these rules require that US LEC select the IP and bear the financial responsibility for carrying traffic

originated by its customers to the IP and, conversely, Verizon must bear the financial responsibility for carrying traffic originated by its customers to the IP.

Q: HOW DO THESE RULES APPLY TO THE PARTIES' INTERCONNECTION ARRANGEMENTS IN MARYLAND?

A: US LEC has one switch in Maryland, located in Columbia, that serves the Baltimore LATA. In addition, US LEC's switch in McLean, Virginia, serves the District of Columbia LATA, which includes a portion of Maryland. In each of these LATAs, US LEC's IP is located at its switch. US LEC has established POIs at each Verizon Access Tandem where US LEC has been assigned NXX codes and provides local exchange services to its end users.

Q: HAS THE MARYLAND COMMISSION APPLIED THE FCC'S "RULES OF THE ROAD" BEFORE?

A: It is not clear to me that the Maryland Commission has had that opportunity. It appears that the first time the Commission addressed this issue was in the MFS case, which predated the 1996 Act. In the MFS case, the Commission determined that a CLEC should establish a single POI, which would also be a single IP under Verizon's contract terms, in each ILEC access tandem serving area. Subsequently, when this issue arose in the Sprint arbitration with Verizon, the Commission compared a Verizon proposal and a Sprint compromise proposal to its prior MFS decision and adopted the Sprint compromise. The *Sprint Arbitration Order* does not directly address the conflict between the pre-1996 Act MFS requirement that the CLEC establish a single POI per access tandem serving area and the FCC's 1996 Act requirement that a CLEC establish a single POI per LATA.

Q: WHAT IS THE CRUX OF THE DISPUTE IN ISSUES 1 AND 2?

A: From a policy perspective, US LEC has three major problems with Verizon's Virtual Geographically Relevant Interconnection Points ("VGRIPs") proposal. First, Verizon wants the right to designate the IP (whether physical or virtual) or, given that US LEC has already designated one IP in each LATA in which it provides service in Maryland, to require US LEC to transition to additional IPs (whether physical or virtual) unilaterally designated by Verizon. Second, Verizon wants to designate the method US LEC must use to interconnect with Verizon. Third, if US LEC fails to comply with Verizon's demands, Verizon wants to penalize US LEC by imposing transport charges for Verizon's originating traffic, from the Verizon end office to US LEC's IPs, regardless of whether or not US LEC's IP is located within the access tandem serving area where the call originated. In short, US LEC agrees with the Commission's prior determination that Verizon's VGRIPS proposal would "effectively penalize CLECs for their right to choose the point of interconnection."[1] The additional network reasons for rejecting Verizon's proposed interconnection structure are addressed in more detail in Frank Hoffmann's testimony concerning Issues 1 and 2.

Q: WHAT IS THE POLICY BASIS FOR US LEC'S POSITION THAT VERIZON DOES NOT HAVE THE RIGHT TO DESIGNATE THE IP?

A: The Act and the FCC recognize that new entrants, such as US LEC, must be able to determine the most efficient location for the exchange of traffic. The Act grants CLECs, not Verizon, the right to select the IP. Under 47 U.S.C. § 251(c)(2)(B), Verizon must

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[1] *Arbitration of Sprint Communications Company, L.P. vs. Verizon Maryland Inc., Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Case No. 8887, Order No. 77320, 28 (Oct. 24, 2001) ("*Sprint Arbitration Order*").

provide interconnection at any technically feasible point selected by US LEC. As the Third Circuit recently held:

> The decision where to interconnect and where not to interconnect must be left to WorldCom, subject only to concerns of technical feasibility. Verizon has not presented evidence that it is not technically feasible for WorldCom to interconnect at only one point within a LATA. Nor has Verizon shown that it is technically necessary for WorldCom to interconnect at each access tandem serving area. *The PUC's requirement that WorldCom interconnect at these additional points is not consistent with the Act.*[2]

Under binding FCC rules, unless Verizon can meet its burden of showing that US LEC's single IP in each LATA is not technically feasible, it must offer such interconnection to US LEC.[3] Furthermore, the fact that the parties have already interconnected at a single US LEC-IP in each LATA (as Frank Hoffmann testifies), is evidence that US LEC's requested form of interconnection is technically feasible.[4]

Q: WHY DOES US LEC OBJECT TO VERIZON'S REQUIREMENT THAT US LEC ESTABLISH AN IP VIA COLLOCATION?

A: As Frank Hoffmann explains, US LEC does not use collocation as its method of interconnection with Verizon and, as such, is not collocated at any Verizon office in any LATA in Maryland. Nor does US LEC wish to change its method of interconnecting with Verizon. Rather, US LEC prefers to exercise its right under the Act as well as other agreed-to sections of the contract to choose one of the three methods the parties have

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[2] *MCI Telecommunications Corp. et al. v. Bell Atlantic-Pennsylvania et al.*, 271 F.3d 491, 518 (3d Cir. 2001) (emphasis added).

[3] *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499, ¶¶ 198, 205 (1996) (subsequent history omitted) ("*Local Competition Order*").

[4] *Id.* at ¶ 204.

identified as acceptable interconnection methods. US LEC's right to select an entrance facility or other method of interconnection is also granted by Section 251(c)(2), which permits US LEC to select any technically feasible method of interconnection that will be used to establish the IP.[5]

Under Verizon's proposed contract language, however, Verizon wants US LEC to interconnect through collocation at Verizon's tandems, and to establish an IP at any other collocation arrangement US LEC may establish at a Verizon end office, or pay for Verizon's originating tandem switching costs and all of Verizon's transport costs, beginning at the Verizon end office where the call originates. These so-called "options" require US LEC to mirror Verizon's legacy network architecture (either physically or financially), which may not be the most efficient forward-looking architecture for an entrant deploying a new network, and therefore constitutes a barrier to entry.

Q: PLEASE EXPLAIN THE THIRD PROBLEM CONCERNING VERIZON'S TRANSPORT PENALTY.

A: Verizon's transport penalty, the so-called "third option," is included in Sections 7.1.1.1.1, 7.1.1.2, and 7.1.1.3(b) of its proposed contract language. It provides that US LEC must reduce its reciprocal compensation charges to Verizon if US LEC fails to establish (1) a collocated IP at each Verizon tandem, (2) an IP at US LEC's collocation site at a Verizon end office, or (3) a collocated IP at a Verizon tandem or end office within thirty (30) days of Verizon's request to transition the parties' existing architecture to the IPs mandated by

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[5] *Id.* at 64; *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499, ¶¶549-54 (1996) ("*Local Competition Order*") (subsequent history omitted).

Verizon. By reducing the termination rate Verizon pays to US LEC, Verizon effectively is charging US LEC for transporting Verizon-originated traffic from Verizon's end office over Verizon's network to the established IP. Under Verizon's position, US LEC could be "charged" for transport from a Verizon end office to US LEC's IP, even if US LEC's IP was located in the same access tandem serving area. As the Commission previously found, "the shifting of costs to CLECs envisioned by the Verizon proposals would be a disincentive to many carriers and to competition in the provision of local telecommunications service."[6]

Q: HAS THE FCC EVER CLARIFIED AN INTERCONNECTING LEC's OBLIGATION TO CARRY TRAFFIC THEIR CUSTOMER ORIGINATES TO THE IP?

A: Yes. As the FCC has noted, "[u]nder our current rules, the originating telecommunications carrier bears the costs of transporting traffic to its point of interconnection with the terminating carrier."[7] The FCC has explained the basis of requiring each LEC to bear this cost:

> In essence, the originating carrier holds itself out as being capable of transmitting a telephone call to any end user, and *is responsible for paying the cost of delivering the call to the network of the co-carrier* who will then terminate the call. Under the Commission's regulations, *the cost of the facilities used to deliver this traffic is the originating carrier's responsibility*, because these facilities are part of the originating carrier's network. *The originating carrier recovers the costs of these facilities through the rates it charges its own customers for making calls.* This regime represents "rules of the road" under which all carriers operate,

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[6] *Sprint Arbitration Order* at 28.

[7] *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Notice of Proposed Rulemaking, FCC 01-132, ¶ 70 (rel. April 27, 2001) ("*Intercarrier Compensation NPRM*").

> and which make it possible for one company's customer to call any other customer even if that customer is served by another telephone company.[8]

This view is endorsed by this Commission, which found that "carriers are responsible for their own traffic up to the point of interconnection."[9]

Verizon's obligation to deliver its originating traffic to US LEC's IP is not conditioned on US LEC establishing the collocated IPs Verizon is trying to require through its contract proposals. As such, we believe Verizon's transport penalty proposal is inconsistent with both FCC rules and Commission precedent.

Q: VERIZON ARGUES THAT IT MAY CHARGE US LEC FOR ITS ORIGINATING TRANSPORT BECAUSE VERIZON IS ACTING AS A TRANSPORT PROVIDER CONSISTENT WITH RULE 51.703(b). (RESPONSE AT 13) PLEASE RESPOND.

A: I disagree. Verizon cannot simply reclassify charges for delivering traffic Verizon originates to US LEC as transport vendor charges. Rule 51.703(b) provides that "A LEC may not assess charges on any other telecommunications carrier for telecommunications traffic that originates on the LEC's network." The FCC has interpreted this rule to prohibit charges to recover a LEC's costs of originating traffic "regardless of how the LEC chooses to characterize those costs."[10] In addition, where Verizon provides a facility that is dedicated to the exchange of traffic between US LEC (*e.g.*, as a "transport

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[8] *TSR Wireless, LLC. v. U S West Communications, Inc.,.*, File Nos. E-98-13, E-98-15, E-98-16, E-98-17, E-98-18, Memorandum Opinion and Order, FCC 00-194, ¶ 34 (rel. June 21, 2000) ("*TSR Wireless*") (emphasis added), *aff'd, Qwest Corp. et al. v. FCC et al,* 252 F.3d 462 (D.C. Cir. 2001).

[9] *Sprint Arbitration Order* at 29.

[10] *TSR Wireless* at ¶ 26.

provider"), Section 51.709(b) also limits the amount Verizon may charge US LEC. Specifically, Section 51.709(b) provides that:

> (b) The rate of a carrier providing transmission facilities dedicated to the transmission of traffic between two carriers' networks shall recover only the costs of the proportion of that trunk capacity used by an interconnecting carrier to send traffic that will terminate on the providing carrier's network. Such proportions may be measured during peak periods.

In other words, Rule 51.709(b) prohibits Verizon, as a transport provider, from imposing charges on US LEC for the portion of the transport capacity that is used to deliver Verizon's originating traffic to US LEC.

Q: DOES THIS SAME REASONING ALSO SUPPORT US LEC'S POSITION THAT VERIZON SHOULD NOT BE ABLE TO REQUIRE US LEC TO ESTABLISH AN IP TO PICK UP VERIZON'S TRAFFIC AT EACH US LEC COLLOCATION ARRANGEMENT AT A VERIZON END OFFICE?

A: Yes. If Verizon were allowed to identify US LEC-IPs for delivery of Verizon's originating traffic to US LEC and require US LEC to build or buy facilities to reach those IPs, it would be able to disadvantage US LEC and impose additional and unwarranted costs on new entrants. In effect, by requiring US LEC to move its IP to Verizon's end office, Verizon is again abdicating its responsibility to transport its own customers' traffic to the IP selected by US LEC. Indeed, if Verizon were allowed such discretion, it could force CLECs essentially to duplicate the incumbent's network. Such a result is not in the public interest and would impede the development of competition. The right of CLECs to choose interconnection points "is necessary to enhance the

competitive environment and establishment of new companies"[11] and the Commission should uphold that right by rejecting Verizon's proposal.

Q: WHAT ACTION DO YOU RECOMMEND THE COMMISSION TAKE?

A: The Commission should find that US LEC has the right to maintain its single US LEC-IP in each LATA, and, at US LEC's option, its current interconnection method. The Commission should reject Verizon's attempts to mandate the location of IPs and the method of interconnection and Verizon's transport penalty proposal.

ISSUES 3 AND 4 (GLOSSARY, SECTION 2.75; ADDITIONAL SERVICES ATTACHMENT, SECTIONS 5.1 AND 5.3; INTERCONNECTION ATTACHMENT, SECTION 7.3.7)

Q: PLEASE DESCRIBE THE ISSUES IN DISPUTE.

A: First, in Issue No. 3, Verizon seeks to define an entire category of traffic as a class of service that it wants the Commission to exclude from the parties' reciprocal compensation obligations. Verizon first defines "Voice Information Services Traffic" as a class of traffic that "provides [i] recorded voice announcement information or [ii] a vocal discussion program open to the public." Further, Verizon attempts to utilize this definition—which lacks a sound basis in law or fact—in Section 7.37 of the Interconnection Attachment, to exclude the defined class of traffic from its reciprocal compensation obligations.

[11] *Sprint Arbitration Order* at 29.

Second, with respect to Issue No. 4, if US LEC's customers want to call Voice Information Services connected to Verizon's network, then Verizon seeks to require US LEC to provide, at its own expense, a separate, dedicated, trunk to carry that traffic.

Q: WHAT IS US LEC'S POSITION ON ISSUE NO. 3?

A: As with its efforts to eliminate reciprocal compensation for calls to ISPs, it appears that Verizon's real thrust here is to deprive US LEC of compensation for providing a valuable service to Verizon customers. In US LEC's view, the categories of traffic that Verizon now wants to define as Voice Information Services Traffic fit completely the definition of "Reciprocal Compensation Traffic" that is the basis for the parties' reciprocal compensation obligations.

Q: PLEASE EXPLAIN.

A: "Reciprocal Compensation Traffic" is defined in the proposed agreement as "Telecommunications traffic originated by a Customer of one Party on that Party's network and terminated to a Customer of the other Party on that other Party's network, except for Telecommunications traffic that is interstate or intrastate Exchange Access, Information Access, or exchange services for Exchange Access or Information Access."

The categories of traffic included in the definition of "Voice Information Services Traffic" fit this definition: Whether the call is a "recorded voice announcement information" or "a vocal discussion program open to the public," it is originated by a customer of one party on that party's network and is terminated by a customer of the other party on that party's network.

At the same time, the traffic at issue can not be characterized as interstate or intrastate Exchange Access, Information Access, or exchange services for Exchange

Access or Information Access. In short, there does not appear to be any basis to exclude what Verizon has defined as "Voice Information Services Traffic" and, as such, the parties should be required to compensate each other for exchanging and terminating such traffic.

Q: ARE THERE ANY TECHNICAL PROBLEMS THAT WOULD ARISE IF THE COMMISSION ADOPTS VERIZON'S POSITION?

A: Yes, there are. As far as I know, there is no technically feasible, cost-effective way to segregate so-called "Voice Information Services Traffic" from other traffic that is eligible for reciprocal compensation, and Verizon has never offered US LEC any proposals for how it believes this can be accomplished. In addition, this same problem plagues Verizon in its drive to eliminate reciprocal compensation for calls to ISPs: the traffic is indistinguishable from all other locally dialed traffic sent over local trunk groups. Unlike intra- or interLATA toll traffic, which clearly is distinguishable, calls to "Voice Information Service Providers" are indistinguishable from all other local traffic.

The only apparent way to segregate the traffic is to program switches to "flag" calls to an identified database of providers. This is expensive and often inaccurate, because it is not always possible to identify every single number that might be assigned to a Voice Information Service Provider.

It also is intrusive. It would force US LEC, and every other CLEC, to inquire into the proposed business plans of all customers so as to identify those who intend to offer "Voice Information Services". It also would slow the operation of US LEC's switches significantly because it would force the switch to add additional steps in the process of handling every call.

Finally, even assuming the technical issues regarding the call processing can be overcome, Verizon's proposal ignores privacy concerns that customers may raise about sharing information about their business with other companies.

Q: HOW SHOULD THE COMMISSION RESOLVE ISSUE NO. 3?

A: First, US LEC believes that the Commission should reject entirely Verizon's request to separately identify and define "Voice Information Services Traffic" as a separate category of traffic. In that regard, Section 2.75 of the Glossary should be eliminated from the Agreement. Second, those sections which purport to exclude "Voice Information Services Traffic" from the parties' reciprocal compensation obligations should be eliminated as well.

Q: WHAT IS US LEC'S POSITION ON ISSUE NO. 4?

A: Verizon's proposal—to force US LEC to construct a dedicated facility for the delivery of calls from its customers to Voice Information Service Providers served by Verizon—would impose significant costs on US LEC without any showing, first, that such a dedicated facility even is necessary or, second, that the amount of traffic generated by US LEC's customers and destined for Voice Information Services connected to Verizon's network is sufficiently large as to warrant a separate trunk.

Moreover, as I discussed above in connection with Issue No. 3, even if Verizon could demonstrate a need for a separate trunk—which it cannot do—it still would put US LEC in the position of trying to segregate traffic which it simply cannot identify through any technically feasible, cost effective means. Also as before, this would slow the operation of US LEC's switch as it would have to identify calls destined for a Verizon-served Voice Information Services Provider, separate those calls from all other

traffic destined for Verizon's customers, and then send that traffic down a dedicated trunk.

Q: WHAT IS VERIZON'S POSITION?

A: As I understand it, Verizon contends that it needs a separate trunk for billing purposes. That may or may not be so, but Verizon should address its billing concerns on its own network, not by imposing the requirement for separate trunking on US LEC. If Verizon wants to measure the traffic, it can probably find a way to do so which does not involve imposing any costs on US LEC. That would accomplish Verizon's goal without requiring US LEC to go to the expense of putting in a separate, dedicated trunk.

Q: HOW SHOULD THE COMMISSION RESOLVE THIS ISSUE?

A. The Commission should adopt US LEC's position and direct that Section 5.3 of the Additional Services Attachment to the Agreement should be deleted.

ISSUE 5: (GLOSSARY, SECTION 2.56; INTERCONNECTION ATTACHMENT, SECTIONS 2.1.2, 8.5.2, AND 8.5.3)

Q: PLEASE DESCRIBE THE DISPUTE AT ISSUE HERE.

A: Historically, as well as currently, when it comes to billing, measuring and engineering purposes, traffic is referred to as either originating or terminating. Thus, in any call, there is an originating party served by an originating carrier and a terminating party served by a terminating carrier. Against this long-standing, historical backdrop, Verizon seeks to interject the entirely new concept of a "receiving party". Verizon does not define the term "receiving party" and US LEC is concerned that Verizon will use the

concept of a "receiving party" to escape some of its compensation obligations, which are grounded in the traditional 'originating party—terminating party' designations.

Q: WHAT IS US LEC'S POSITION ON THIS ISSUE?

A: Verizon has not provided any reasonable explanation for its sudden desire to shift from the traditional "terminating party" designation to the as yet undefined "receiving party." US LEC sees no need to disrupt the historic framework that has governed the transport, exchange and billing of traffic for decades.

Q: DOES THE AGREEMENT USE EITHER "TERMINATING PARTY" OR "RECEVING PARTY" CONSISTENTLY THROUGHOUT?

A: No, it does not. For example, in section 7.2, the parties agree that they will compensate each other for the "transport and termination" of Reciprocal Compensation Traffic. In turn, "Reciprocal Compensation" is defined with respect to the "transport and termination" of "Reciprocal Compensation Traffic", which, itself, is defined with reference to traffic that is "terminated on the other Party's Network."

In contrast, in Sections 2.16 of the Glossary and 8.5.2 and 8.5.3 of the Interconnection Attachment dealing with the definition of an "IP" (Interconnection Point), Verizon abandons the "terminating party" designation and, instead, refers to traffic delivered to the "receiving party" and provides no valid reason why, in these limited sections, the term "receiving party" should replace the more standard "terminating party". Similarly, Section 2.56 of the Glossary refers to the "receiving party", not the "terminating party" when defining Measured Internet Traffic.

Q: WHY DOES THIS INCONSISTENCY CONCERN US LEC?

A: In the first place, Verizon has offered no satisfactory explanation for the distinction between "receiving" and "terminating". In the absence of such an explanation, US LEC is not willing to abandon decades of precedence in engineering, measuring and billing for traffic.

Second, the Commission will recall that in several enforcement actions and arbitration proceedings, Verizon, among other incumbents, argued that it had no obligation to compensate CLECs for calls to ISPs because the traffic did not "terminate" there. US LEC and other CLECs argued differently and the Commission decided on several occasions that, for purposes of reciprocal compensation, calls to ISPs would be treated as local and viewed as terminating at the ISP.

Third, the FCC assumed exclusive jurisdiction over ISP-bound traffic in its April 2001 Internet Order and that Order sets forth the terms and conditions under which the parties will compensate each other for ISP-bound traffic. However, the United States Court of Appeals for the District of Columbia recently remanded that Order to the FCC, while leaving in place the interim compensation framework that it established. In the event that compensation framework is later overturned or vacated by the Court of Appeals, then jurisdiction over ISP-bound traffic could, at least for some period of time, revert to the Commission. In that instance, US LEC believes Verizon would seize on the "receiving party" designation in the Agreement and contend that US LEC is not entitled to any compensation for ISP-bound traffic because US LEC has conceded that the traffic does not terminate at the ISP; rather, it is simply "received" there. In order to avoid that result, US LEC believes that the agreement should refer consistently to the "terminating

party" for all purposes—establishing an IP, measuring traffic, billing for traffic and paying for traffic.

Q: HOW SHOULD THE COMMISSION RESOLVE THIS ISSUE?

A: The Commission should accept US LEC's position and direct that all references in the Agreement to a party that is terminating traffic should refer to that party as the "terminating party". Further, all references to the party "receiving" traffic or to the "receiving party" should refer instead to the party "terminating" traffic and to the "terminating party".

ISSUE 6 (GLOSSARY, SECTION 2.56; INTERCONNECTION ATTACHMENT, SECTION 7.2)

Q: PLEASE BRIEFLY DESCRIBE THE DISPUTE ON THIS POINT.

A: There are really two issues in dispute under this single heading. First, Verizon is obligated to pay intercarrier compensation for all calls originated by Verizon customers to US LEC line numbers with "NXX" codes associated with the calling party's local calling area. Calls are conventionally rated and routed throughout the U.S. telephone industry based upon the NXX codes of the originating and terminating numbers. There is no reason to deviate from this convention now. These local calls are routed to the interconnection point or POI for local traffic and handed off just as any other local call would be. This practice should be continued such that calls between an originating and terminating NXX associated with the same local calling area are rated and routed as local.

The second issue in dispute is whether Verizon should be allowed to impose per-minute originating switched access charges for carrying such calls to the parties' POI. As

outside the local calling area. Verizon provides no evidence that such calls increase its costs as compared to other local calls in any way such that additional or different cost recovery is justified. Verizon also fails to show that changing this historical system as it suggests would provide any benefits to the public interest. In contrast, maintaining the existing system will provide significant benefits to consumers and would be consistent with the goal of increasing competitive offerings for consumers in Maryland.

Q: BEFORE TURNING TO THE SUBSTANCE OF THE DISPUTE, WHAT ARE NXX CODES?

A: NXX codes are the fourth through sixth digits of a ten-digit telephone number. For example, in the main telephone number for the Commission, 410-767-8000, the NXX code is "767".

Q: HOW ARE CUSTOMERS ASSIGNED AN NXX CODE?

A: Carriers, like US LEC and Verizon, request and are assigned blocks of telephone numbers by the numbering administrator. The carriers then assign numbers to their customers as requested.

Q: HOW IS THE RATING OF CALLS IMPACTED BY THE NUMBERS ASSIGNED TO CUSTOMERS?

A: Standard industry procedure provides that each NXX code is associated with a particular rate center within a local calling area.[12] (A single rate center may have more than one NXX code, but each code is assigned to one and only one rate center.) This uniquely identifies the end office switch serving the NXX code, so that each carrier that is routing a call knows which end office switch to send the call to. However, it is not uncommon

[12] A rate center is a geographic location with specific vertical and horizontal coordinates used for determining mileage, for rating local or toll calls.

for NXX codes to be assigned to customers who are not physically located in the local calling area where the NXX is "homed". When an ILEC provides this arrangement, it typically is called foreign exchange or FX service. This type of arrangement also may be referred to as "Virtual NXX" because the customer assigned the telephone number has a "virtual" presence in the calling area associated with that NXX. Calls to these customers are still routed to the end office switch associated with the NXX code, but then are routed within the terminating carrier's network to the called party's actual physical location.

Q: WHY WOULD CARRIERS OR THEIR CUSTOMERS WANT A VIRTUAL NXX CODE?

A: Customers want to use virtual NXX codes because it allows them to take advantage of state-of-the-art, currently available technologies to allow consumers to reach their businesses without having the disincentive of a toll call. It also allows businesses and organizations to provide service in other areas before they actually have facilities or offices in those areas. Absent such calling plans, consumers would have to wait for carriers to build out their networks – which could take years and millions of dollars. For instance, so-called virtual NXX arrangements enable ISPs, among other customers, to offer local dial-up numbers throughout Maryland, including in more isolated, rural, areas of the State. Access to the Internet is affordable and readily available in all areas of the state because these NXX arrangements allow ISPs to establish a small number of points of presence ("POPs") that can be reached by dialing a local number regardless of the physical location of the Internet subscriber. Rural small businesses especially benefit from low-cost Internet access and increasingly depend on such access to remain competitive. Thus, taking advantage of state-of-the-art technologies through virtual NXX

arrangements allows affordable Internet access, particularly in isolated and rural areas, and this not only benefits Maryland's consumers but also promotes economic development.

Other organizations, such as the Maryland State government, may also want to make use of virtual NXX arrangements to allow residents to contact state agencies – which may actually reside in Baltimore or Annapolis – without incurring the cost of a toll call. Such an arrangement would allow the state to provide services in rural areas without building or renting space in those localities and without relocating employees.

Carriers use virtual NXX codes because they allow them to respond to customer demand through the use of new and innovative services. In 1997 and 1998, there was considerable discussion about the benefits to be expected from competition in the local exchange market. Some of the more important expected benefits were that competition would drive competitors to develop and utilize networks efficiently in order to gain competitive advantages, by allowing them to serve customers at lower cost. Verizon's proposal would constitute an artificial impediment to this natural progression of a developing competitive market, and would deny Maryland residents the associated benefits.

Q: IS THIS NXX CODE ISSUE SIMPLY AN ASPECT OF THE ISP COMPENSATION ISSUE?

A: No. Although many ISPs do use virtual NXX arrangements, these services are also used by other businesses and organizations that want to maintain a local telephone number in some community where they do not have a physical presence. This issue therefore affects ordinary local voice telephone calls as well as ISP traffic.

Q: IS IT UNLAWFUL OR AGAINST ANY RULES FOR CLECS TO PROVIDE VIRTUAL NXX'S TO THEIR CUSTOMERS?

A: No. The use of virtual NXX codes is not unlawful or in any other way improper. Verizon, itself, provides several virtual NXX services, such as FX service, to its customers, including ISPs. Indeed, nobody complained about such uses of NXX codes until CLECs had some success in attracting ISP customers and the ILECs began looking for ways to avoid compensating them for serving and terminating calls to ISPs.

Q: PLEASE DESCRIBE THE IMPACT OF VERIZON'S PROPOSED LANGUAGE WITH RESPECT TO THE CUSTOMER'S PHYSICAL LOCATION IN MORE DETAIL.

A: The language proposed by Verizon—determining the rating of a call by reference to the actual end points, not by reference to the NXX's of the calling and called parties—would have at least three significant negative impacts in Maryland. First, if the Commission adopted Verizon's proposed language, Verizon would be able to evade its intercarrier compensation arrangement a particular class of traffic. Second, and contrary to one of the fundamental goals of the 1996 Act, Verizon's proposed language would have a negative impact on the competitive deployment of affordable dial-up Internet services in Maryland, and on businesses that simply want an affordable way for their distant customers to reach them. This negative impact would result from the increase in costs to both consumers and providers under Verizon's proposal. Finally, Verizon's proposed language would give Verizon a competitive advantage over US LEC in the ISP market.

Q: HOW WOULD VERIZON EVADE ITS INTERCARRIER COMPENSATION OBLIGATIONS TO US LEC BY LIMITING COMPENSATION TO CALLS

TERMINATING TO A CUSTOMER WITH A PHYSICAL PRESENCE IN THE SAME LOCAL CALLING AREA AS THE ORIGINATING CALLER?

A: Deviating from the historical practice of rating a call based upon the NXX codes of the originating and terminating number would give Verizon the ability to arbitrarily re-classify local calls as toll calls. This is because under Verizon's proposed language, it would be nearly impossible and much more economically burdensome for US LEC (or any other CLEC in a similar situation) to utilize virtual NXXs in the provision of service to its customers.

As discussed above, Virtual NXXs are used by carriers to provide a local number to customers in calling areas in which the customer is not physically located. If the Commission adopts Verizon's language and allows Verizon to avoid rating calls based on the NXX of the originating and terminating numbers, calls to "virtual NXX" customers would effectively be reclassified as toll calls (at least in the intercarrier environment, if not in the retail environment), and Verizon would no longer be obligated to compensate US LEC for terminating what for decades have been rated as simple local calls.

Q: **IN ADDITION TO COMPENSATION CONCERNS, YOU HAD MENTIONED THAT VERIZON WOULD CHARGE ORIGINATING ACCESS ON EVERY "VIRTUAL NXX" CALL. DO THE COSTS INCURRED BY VERIZON IN ORIGINATING SUCH A CALL JUSTIFY THIS ADDITIONAL CHARGE?**

A: No. First, as mentioned elsewhere in my testimony, LECs are not allowed to impose access charges upon local traffic. Nevertheless, and despite this specific prohibition, there is no additional cost incurred by Verizon when a virtual NXX is provided to a CLEC customer, because Verizon carries the call the same distance (to the IP) and incurs

the same costs (in terms of local interconnection facilities used) regardless of the physical location of the "virtual NXX" customer. Verizon's obligations and costs are therefore the same in delivering a call originated by one of its customers, regardless of whether the call terminates at a so-called "virtual" or "physical" NXX behind the CLEC switch.

Q: DOES THE USE OF VIRTUAL NXX CODES IMPACT THE HANDLING OR PROCESSING OF A CALL TO A US LEC CUSTOMER?

A: No. Verizon would always be responsible for carrying the call to the IP on its own network and then paying US LEC to transport and terminate the call from that point. The use of a virtual NXX does not impact Verizon's financial and/or operational responsibilities such that it should be able to avoid compensating US LEC or collect additional compensation. Indeed, US LEC's customer has a presence in the local calling area of the originating caller; it is a virtual presence, not a physical one, but the way the call is handled is the same from Verizon's perspective.

Q: EVEN IF ONE WERE TO OVERLOOK THE FACT THAT VERIZON INCURS NO ADDITIONAL COST IN ORIGINATING VIRTUAL NXX CALLS, DO YOU THINK ACCESS CHARGES WOULD PROVIDE AN APPROPRIATE MEANS OF COST RECOVERY FOR THIS TRAFFIC?

A: Not at all. Setting aside the fact that intercarrier compensation for local traffic is governed by the reciprocal compensation rules of the FCC,[13] and that access charges are imposed on traffic other than local traffic, access charges are not cost-based, and it has been federal and state policy in recent years to drive access charges down to forward-looking economic cost. It makes no sense to impose an out-dated compensation regime

[13] FCC Rule 51.703(b) states, "A LEC may not assess charges on any other telecommunications carrier for local telecommunications traffic that originates on the LEC's network."

on an artificial category of traffic. At a time when regulators and the industry are looking to move to more competitive market models by eliminating implicit subsidies in telecommunications rates and intercarrier payments, it would seem contrary to that movement to suddenly foist originating switched access charges on a certain type of local traffic. The costs of originating this traffic do not differ from any other local call, and thus there is absolutely no economic or policy justification for imposing switched access charges on US LEC for traffic originated by Verizon customers.

Q: IS VERIZON COMPENSATED FOR CARRYING THE TRAFFIC ORIGINATED BY ITS CUSTOMERS TO THE US LEC IP?

A: Yes, it is. The FCC's *TSR Order* is directly on point. The pertinent language with respect to Verizon's compensation is as follows:

> According to Defendants, the *Local Competition Order*'s regulatory regime, which requires carriers to pay for facilities used to deliver their originating traffic to their co-carriers, represents a physical occupation of Defendants property without just compensation, in violation of the Takings Clause of the Constitution. We disagree. *The Local Competition Order requires a carrier to pay the cost of facilities used to deliver traffic originated by that carrier to the network of its co-carrier, who then terminates that traffic and bills the originating carrier for termination compensation.* In essence, the originating carrier holds itself out as being capable of transmitting a telephone call to any end user, and is responsible for paying the cost of delivering the call to the network of the co-carrier who will then terminate the call. *Under the Commission's regulations, the cost of the facilities used to deliver this traffic is the originating carrier's responsibility, because these facilities are part of the originating carrier's network. The originating carrier recovers the costs of these facilities through the rates it charges its own customers for making calls.* This regime represents "rules of the road" under which all carriers operate, and which make it possible for one company's customer to

> call any other customer even if that customer is served by another telephone company.[14]

By this reasoning, US LEC should not have to pay Verizon for Verizon-originated traffic from the local calling area to US LEC's IP.

Q: THIS QUOTE SAYS THAT VERIZON WOULD RECOVER ITS COSTS THROUGH THE RATES IT CHARGES ITS OWN CUSTOMERS. DO LOCAL RATES COVER THE COST OF CARRYING THIS TRAFFIC TO THE IP?

A: The FCC has clearly stated that Verizon's rates cover these costs. This does not just refer to Verizon's basic local rates. Local revenues include not only the basic local rate, but other revenues from subscriber line charges, vertical services (i.e., call waiting, call forwarding, anonymous call rejection and other star code features), universal service surcharges, extended area service charges and contribution from access charges for intraLATA and interLATA toll.

Q: IT APPEARS THAT YOU HAVE PLACED SPECIAL EMPHASIS ON THE NEGATIVE IMPACTS ON RURAL AREAS OF THE STATE ASSOCIATED WITH THE ADOPTION OF VERIZON'S POSITION. WHY WOULD RURAL AREAS BE PARTICULARLY IMPACTED?

A: One of the most significant advantages of incumbency is the ubiquitous network of the ILEC. For the most part, this network was bought and paid for by Verizon customers over time, and Verizon had rates approved by the Commission that would allow it to recover its costs of network deployment. Providers such as US LEC are in some cases constrained from offering services on a widespread basis because they do not have the advantage of having the ratepayer financed ubiquitous network that Verizon does.

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[14] *TSR Wireless* at ¶34. (emphasis added) (footnotes omitted).

Therefore, market entry is often confined to the more densely populated areas. The intercarrier compensation for virtual NXX service as proposed by US LEC in this arbitration would help to equalize these inherent inequities, at least for some customers, by allowing US LEC to offer service state-wide, even to the more lightly populated areas of Maryland. Without this competitive equalization, US LEC would only be able to reach such areas at some point in the future, if at all, thereby denying rural residents and businesses the benefits of competition.

These comments should not be construed as US LEC asking for special treatment because they are new competitors. Indeed, US LEC's position, supported by the economic and technical arguments I have put forth above, would be just as compelling if US LEC were an ILEC. I only raise the competitive ramification issue here to illustrate the negative impact of adopting Verizon's proposed language.

Q: HOW SHOULD THE COMMISSION RESOLVE THIS ISSUE?

A: US LEC asks the Commission to conclude here that calls within a LATA originated by Verizon customers and delivered to US LEC's virtual NXX customers are to be considered local and subject to reciprocal compensation.

ISSUE 7 (INTERCONNECTION ATTACHMENT, SECTIONS 8.1 AND 8.1.1; GENERAL TERMS AND CONDITIONS, SECTION 50.2)

Q: PLEASE EXPLAIN THE NATURE OF THE PARTIES' DISAGREEMENT ABOUT COMPENSATION FOR TERMINATING ISP-BOUND TRAFFIC.

A: It addresses the compensation framework that the parties should utilize in the event the interim compensation framework in the FCC's Internet Order is vacated or reversed on appeal.

Q: WHAT IS US LEC'S POSITION WITH RESPECT TO COMPENSATION FOR ISP-BOUND TRAFFIC IN THE EVENT THE INTERIM COMPENSATION FRAMEWORK IN THE FCC'S INTERNET ORDER IS VACATED OR SET ASIDE?

A: In the interests of certainty and stability, and in order to avoid expensive and time-consuming negotiations and litigation, US LEC advised Verizon that in the event the interim compensation framework of the FCC's Internet Order is set aside, reversed, or remanded, it is willing to forego the opportunity to be compensated at state rates and, instead, has proposed that the parties accept the rate structure—but not the limitations on growth and new markets—set forth in the Internet Order for the balance of the term of the Agreement, or until the FCC imposes a permanent rate structure governing that traffic.

Q: HOW DID VERIZON RESPOND TO US LEC'S OFFER?

A: Verizon declined US LEC's offer of compromise and will not address the issue in the Agreement at all. Evidently, Verizon prefers instead to engage in lengthy negotiations and, possibly extensive litigation, with US LEC in order to fix obligations that can, and should be addressed at this stage of the proceeding.

Q: HOW DOES US LEC PROPOSE TO MODIFY THE AGREEMENT?

A: US LEC proposes to modify Section 8.1 of the Interconnection Attachment to provide that the parties will be governed by the FCC's Internet Order and the rate framework set

forth therein. Similarly, US LEC added Section 8.1.1 to provide that if that Internet Order is reversed, set aside or vacated on appeal, the parties will continue to compensate each other for exchanging Internet Traffic using the rate structure in that Order, but without applying the growth caps or new market limitations that no longer would be applicable in the event of a reversal.

Finally, US LEC proposed a modification to Section 50.2 of the General Terms and Conditions to preclude Verizon from terminating payments to US LEC for ISP-bound traffic if the Internet Order is reversed. As Section 50.2 was written by Verizon, it would have allowed Verizon to terminate any provision of the Agreement that provides for the payment by Verizon to US LEC of compensation related to traffic, including, but not limited to, Reciprocal Compensation and other types of compensation for termination of traffic delivered by Verizon to US LEC. Then, if Verizon chose to exercise that right of termination, it would have forced the Parties to negotiate appropriate substitute provisions for compensation related to traffic. Section 50.2 further provided that if, within sixty (60) days after Verizon's notice of termination, the Parties are unable to agree in writing upon mutually acceptable substitute provisions for compensation related to traffic, either Party may submit their disagreement to dispute resolution in accordance with Section 14 of this Agreement.

Q: WHY IS VERIZON'S PROPOSED LANGUAGE PROBLEMATIC?

A: Given the long battles between CLECs and ILECs over compensation for ISP-bound traffic that have been waged for years in Maryland and elsewhere—indeed, the Commission is currently involved with extensive litigation between Verizon and CLECs over the implementation of the FCC's Internet Order—US LEC sees Verizon's position

as ensuring months of fruitless negotiations and possibly additional years of endless litigation over US LEC's entitlement to a payment stream that this Commission previously held was proper.

Q: HOW SHOULD THE COMMISSION RESOLVE THIS ISSUE?

A: US LEC submits that the proposed compromise—a certain rate structure guaranteed for the life of the contract—is a vastly superior alternative and should be adopted by the Commission. As such, the Commission should adopt US LEC's modifications to Sections 50.2 and 8.1 and accept US LEC's addition of section 8.1.1.

ISSUE 8: (PRICING ATTACHMENT, SECTION 1.5)

Q: PLEASE EXPLAIN THE PARTIES' DISAGREEMENT ABOUT THE APPLICABILITY OF CHANGES TO VERIZON'S TARIFFED AND NON-TARIFFED RATES.

A: US LEC and Verizon disagree about whether changes to Verizon's tariffed and non-tariffed rates should affect the parties' agreement. This issue arises out of three separate sections in the proposed template agreement. Section 1.5 of the Pricing Attachment permits Verizon to supercede *any* rates (i.e., both tariffed rates and non-tariffed rates) that the parties have agreed to through tariff filings that supercede the rates in the parties' agreement whenever Verizon alters its existing rates or adds new tariffed rate elements or services.

US LEC disagrees with the language proposed by Verizon in Section 1.5 of the pricing attachment. Although US LEC agrees to be bound by tariffed rates that change during the term of the parties' agreement in those cases where the parties have specified that tariffed rates are to govern (and likewise recognizes that rates may justifiably be

altered due to changes in Applicable Law), it disputes Verizon's attempt to retain the discretion to modify its non-tariffed rates at will.

Q: WHY DOES US LEC OPPOSE VERIZON'S DESIRE TO UNILATERALLY MODIFY ITS NON-TARIFFED RATES?

A: As I have already explained, US LEC seeks certainty in the pricing of the services it obtains from Verizon and does not believe that Verizon should be permitted to modify its non-tariffed rates at will. With regard to any rates that the parties have negotiated and incorporated into the parties' interconnection agreement, the rates should remain fixed for the term of the agreement. It would be anticompetitive and detrimental to US LEC if Verizon had the unfettered ability and sole discretion to modify its non-tariffed rates. No justification exists for a pricing approach that puts US LEC at Verizon's mercy and potentially subjects US LEC to an endless array of rate changes which are likely to increase US LEC's costs of doing business with Verizon.

Q: DOES US LEC TAKE THE POSITION THAT NONE OF THE RATES MAY BE MODIFIED DURING THE LIFE OF THE PARTIES' AGREEMENT?

A: No. US LEC acknowledges that tariffed rates may be altered during the term of the agreement due to changes in applicable tariffs where the parties have agreed that tariffed rates will apply to the particular rate element or service in question, and that changes in Applicable Law may result in rate modifications. However, US LEC objects to Verizon's effort to maintain the unilateral authority to change its non-tariffed rates at will, and these rates should remain fixed unless the Applicable Law provisions of the parties' agreement

apply. Verizon should not be permitted to exercise the unlimited ability to make subsequent modifications to rates that the parties have already agreed to.

Q: DOES THIS CONCLUDE YOUR TESTIMONY AT THIS TIME?

A: Yes.

BEFORE THE
MARYLAND PUBLIC SERVICE COMMISSION

IN THE MATTER OF THE ARBITRATION OF US LEC OF MARYLAND INC. VS. VERIZON MARYLAND INC. PURSUANT TO 47 U.S.C. § 252(b)	)))))	**Case No. 8922**

REBUTTAL TESTIMONY OF WANDA G. MONTANO ON BEHALF OF US LEC OF MARYLAND INC.

DATE: AUGUST 9, 2002

USLEC #4

Q: PLEASE STATE YOUR NAME FOR THE RECORD.

A: My name is Wanda G. Montano.

Q: ARE YOU THE SAME WANDA G. MONTANO WHO FILED DIRECT TESTIMONY IN THIS DOCKET ON JUNE 10, 2002?

A: Yes.

Q: WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

A: The purpose of my testimony is to address the arguments raised by Verizon's witness Peter J. D'Amico concerning Issues 1 and 2 in US LEC's arbitration petition and the testimony of Terry Haynes concerning Issue 6 in US LEC's arbitration petition.

ISSUES 1 AND 2 – INTERCONNECTION

Q: PLEASE RESPOND TO VERIZON'S ARGUMENT THAT IT MAY REQUIRE A SEPARATE IP WHERE THE CLEC REQUESTS AN "EXPENSIVE" FORM OF INTERCONNECTION. (D'AMICO AT 16:8-17:2).

A: My understanding is that this is a very narrow exception and that Verizon must submit cost studies to support its position that US LEC's single IP per LATA is "expensive." In order to charge US LEC for "expensive interconnection," Verizon must comply with the FCC's pricing rules and show what costs it incurs to deliver its originating traffic to the POI/default IP selected by US LEC.[1] Furthermore, Verizon must show that it is not

[1] *See* 47 C.F.R. §§ 51.501(b), 51.505(e).

already compensated for the costs of delivering traffic originated by its customers through the revenues it receives for providing service to those customers.[2]

Q: WHY SHOULD VERIZON BE REQUIRED TO MAKE SUCH A COST SHOWING?

A: As I understand it, regulated utilities like Verizon routinely are required to prove that they are entitled to a certain rate structure by proving the costs that they allegedly incur. This situation is no different. Verizon is asking the Commission to impose a cost onto US LEC and Verizon claims that it is entitled to impose those costs because, allegedly, US LEC's chosen network design is "expensive." Verizon should be required to prove that allegation.

The costs of interconnecting two networks arise in part from the differences between the two networks and in part from the factors noted in Mr. Hoffmann's testimony (available facilities, traffic volume, and distance). If the Commission were to adopt Verizon's proposal without proof, it would have to ignore the fact that Verizon, through its own chosen network design, contributes to the cost of interconnecting two different networks. It would also have to ignore the fact that Verizon is already receiving compensation from its customers for providing them access to the PSTN and therefore could be compensated twice for performing one function. Adopting Verizon's proposal would favor Verizon's network design by imposing all the costs of interconnecting US LEC's and Verizon's networks on US LEC. Such a result is not in the public interest and would impede the development of competition.

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[2] *TSR Wireless, LLC. v. U S West Communications, Inc.,.,* File Nos. E-98-13, E-98-15, E-98-16, E-

Q: HAS VERIZON SUBMITTED ANY COST STUDIES IN THIS PROCEEDING?

A: No. In fact, Verizon has admitted in response to US LEC's interrogatories that it does not have any such studies:

> **Interrogatories No. 7 and 9**
>
> 7. Please provide all cost studies and other documents in your possession, custody or control relating to an analysis of Verizon's purported costs based upon a single Interconnection Point or Point of Interconnection per LATA with a CLEC.
>
> 9. Please provide all traffic studies, cost studies, network planning, and other documents in your possession, custody or control relating to an analysis of Verizon's purported costs of delivering Verizon's originating local traffic to US LEC's IP at its switch in (a) the DC (236) LATA and (b) the Baltimore (238) LATA:
>
> **Response to Interrogatories No. 7 and 9**
>
> Verizon does not possess any traffic studies, costs studies, or other documents referenced in these interrogatories.[3]

Q: MR. D'AMICO ALLEGED THAT STATEMENTS IN THE FCC'S *1996 LOCAL COMPETITION* ORDER AND *PENNSYLVANIA 271 ORDER* SUPPORT VERIZON'S POSITION THAT THE POI AND IP CAN BE AT SEPARATE LOCATIONS. (D'AMICO AT 16:10-22) DID A MORE RECENT DECISION BY THE FCC'S WIRELINE COMPETITION BUREAU ADDRESS THE SEPARATION OF THE POI AND IP?

A: Yes. In that decision, the FCC's Wireline Competition Bureau ("Wireline Bureau") stepped into the shoes of the Virginia State Corporation Commission to arbitrate

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98-17, E-98-18, Memorandum Opinion and Order, FCC 00-194, ¶ 34 (rel. June 21, 2000) ("*TSR Wireless*") (emphasis added), *aff'd, Qwest Corp. et al. v. FCC et al,* 252 F.3d 462 (D.C. Cir. 2001).

[3] Verizon Response to US LEC Interrogatory No. 7 & 9.

interconnection disputes between Verizon and three CLECs: AT&T, Cox Communications and MCI WorldCom. The Wireline Bureau's Order appears to reject Verizon's proposal to establish an IP that is on Verizon's network prior to the point of physical interconnection where the CLEC has agreed to accept Verizon's traffic.[4] In other words, the Wireline Bureau rejected Verizon's proposal to make the CLEC financially responsible for Verizon's originating transport to deliver its traffic to the POI. As I have previously stated, US LEC is willing to use the terms POI and IP, but only if they are applied consistent with FCC rules.

Q: DO YOU BELIEVE THAT *FCC ARBITRATION ORDER* IS RELEVANT TO THIS ARBITRATION?

A: Yes. Acting as the arbitrator, the Wireline Bureau had to interpret and apply Sections 251 and 252 of the Act and the FCC's implementing regulations to the positions of the parties, just as this Commission must do.

Q: DID THE WIRELINE BUREAU ADDRESS INTERCONNECTION ISSUES SIMILAR TO THOSE THAT THE PARTIES ARE ARBITRATING IN THIS PROCEEDING?

A: Yes, it did. The Wireline Bureau reviewed Verizon's VGRIPs proposal—which is substantially similar to the proposal at issue here—and proposals by the three CLECs involved in the arbitration. The Wireline Bureau described those proposals, and

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[4] *Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia, Inc., and for Expedited Arbitration*, CC Docket No. 00-218, Memorandum Opinion and Order, ¶ 53 (Wireline Comp. Bureau, rel. July 17, 2002) ("*FCC Arbitration Order*").

ultimately rejected Verizon's VGRIPs proposal. The Wireline Bureau stated its rationale for rejecting Verizon's proposal as follows:

> Under Verizon's proposed language, the competitive LEC's financial responsibility for the further transport of Verizon's traffic to the competitive LEC's point of interconnection and onto the competitive LEC's network would begin at the Verizon-designated competitive LEC IP, rather than the point of interconnection. By contrast, under the petitioners' proposals, each party would bear the cost of delivering its originating traffic to the point of inter-connection designated by the competitive LEC. The petitioners' proposals, therefore, are more consistent with the Commission's rules for Section 251(b)(5) traffic, which prohibit any LEC from charging any other carrier for traffic originating on that LEC's network; they are also more consistent with the right of competitive LECs to interconnect at any technically feasible point.[5]

Based on this description, I believe that the Wireline Bureau considered a CLEC proposal similar to the one that US LEC has offered in this proceeding.

Q: DID THE WIRELINE BUREAU ADDRESS A CLAIM LIKE US LEC'S THAT VERIZON IS FINANCIALLY RESPONSIBLE FOR DELIVERING ITS TRAFFIC TO US LEC'S NETWORK?

A: Yes. The Order states that under current FCC rules, "all LECs are obligated to bear the cost of delivering traffic originating on their networks to interconnecting LECs' networks for termination."[6] The Order goes on to explain that this means "Verizon must pay petitioners for transporting Verizon-originated traffic from the place where petitioners interconnect with Verizon's network to the petitioner's network" in cases where the petitioner provides that facility.[7] I believe this supports US LEC's position.

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5 *FCC Arbitration Order* at ¶ 53.

6 *FCC Arbitration Order* at ¶ 67.

7 *FCC Arbitration Order* at ¶ 68.

Q: MR. D'AMICO ALLEGES THAT IN THE *SPRINT ARBITRATION ORDER*, THIS COMMISSION ADOPTED A VERSION OF VERIZON'S VGRIP PROPOSAL. (D'AMICO AT 6:10-11) DO YOU AGREE WITH THIS STATEMENT?

A: No. As I stated in my initial testimony, in the *Sprint Arbitration Order*, this Commission rejected Verizon's proposal, which I understand is the same VGRIPs proposal that Verizon offers in this proceeding.[8]

Q: DO YOU AGREE WITH MR. D'AMICO THAT THE SPRINT PROPOSAL ADOPTED BY THE COMMISSION IS "ESSENTIALLY THE SAME" AS VGRIPS? (D'AMICO AT 6:11-14)

A: No. Mr. D'Amico himself points out one significant difference, Sprint is not required to establish an additional POI or virtual IP until the parties are exchanging 8.9 million minutes of use ("MOU") at the location requested by Verizon. He also notes other differences on page five of his testimony. For example, he implies that there is a distance component, as well as the 8.9 million MOU component, before Sprint can be required to establish additional POIs/virtual IPs. Furthermore, he also testifies that the additional POIs/virtual IPs do not have to be at Verizon's switching centers (as required by VGRIPs) but only "within a reasonable proximity" of them. In addition, I am not aware of any restrictions on the methods of interconnection placed on the additional Sprint POI – in other words, unlike VGRIPs, Sprint could establish a POI using a method other than collocation. Nor am I aware of any requirement that Sprint either designate an end office collocation arrangement as a physical POI or establish a virtual IP at that end office, as

VGRIPs option three would require US LEC to do. Finally, Mr. D'Amico testified on page 6 that Sprint must compensate Verizon for transporting traffic from the virtual IP to the physical POI at UNE rates. As I understand VGRIPs, Verizon could impose not only UNE rates on US LEC, but "other costs" as well. *See* Interconnection Attachment, Verizon Proposed Section 7.1.1.1.1. Therefore, I believe Verizon's contract language is significantly different, and more onerous, than the compromise proposal this Commission adopted in the *Sprint Arbitration Order*.

Q: VERIZON CLAIMS THAT IT IS NOT SEEKING TO CHANGE COMMISSION POLICY THAT REQUIRES LECS TO INTERCONNECT AT ONE POINT IN EACH VERIZON ACCESS TANDEM SERVING AREA: (VERIZON RESPONSE TO STAFF DATA REQUEST NO. 3) PLEASE RESPOND.

A: I disagree. Mr. D'Amico implies that VGRIPs complies with this Commission's policy. However, as US LEC stated in its response to Staff Data Request No. 3, US LEC does not believe that VGRIPs complies with this Commission policy:

> US LEC submits that Verizon's proposal does not comport with the Commission's policy for the following three reasons: (1) Verizon requires that US LEC establish an IP at a collocation site at each Verizon Tandem in a LATA (or at such other wire centers in the LATA designated by Verizon, which could result in more than one point of interconnection per access tandem serving area). Verizon should not be allowed to require collocation (US LEC does not typically use collocation as its preferred method of inter-connection), to require US LEC to establish IPs at locations other than access tandems (i.e., local tandems or end offices), or to designate unilaterally other wire centers at its sole discretion. US LEC believes that all of these requirements go beyond what the Commission has specified in its interconnection policy. (2)

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[8] *Arbitration of Sprint Communications Company, L.P. vs. Verizon Maryland Inc., Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Case No. 8887, Order No. 77320, 25 (Oct. 24, 2001) ("*Sprint Arbitration Order*").

Verizon wants the ability to designate a US LEC established end office collocation arrangement (which is not used for interconnection, but to deliver traffic to its customers) as a US LEC IP. Verizon should not be allowed to designate additional IPs in an access tandem serving area under the Commission's policy. (3) Verizon wishes to charge US LEC for the transport of Verizon's originated traffic from the Verizon end office to the US LEC IP if US LEC does not establish its POIs via collocation or refuses to allow Verizon to declare a US LEC end office collocation arrangement an IP. Verizon wishes to reduce the negotiated reciprocal compensation rate it pays to US LEC by an amount equal to Verizon's transport rate, tandem switching rate, and other costs, from Verizon's originating end office to the US LEC IP. Nothing in the Commission's policy permits Verizon to shift to US LEC the costs of transporting Verizon's originating traffic within the access tandem serving areA: Verizon should not be allowed to manipulate the reciprocal compensation rate to escape the responsibility of transporting its originated traffic to US LEC's IP.

Further, I understand that this Commission has already determined that Verizon's GRIP and VGRIP proposals would subvert the interconnection policies established in the Commission's *MFS* order.[9]

Q: MR. D'AMICO REFERS TO STATE COMMISSION DECISIONS THAT HE CLAIMS SUPPORT VERIZON'S POSITION. (D'AMICO AT 15) ARE YOU AWARE OF OTHER STATE COMMISSION DECISIONS THAT SUPPORT US LEC'S POSITION?

A: Yes, I am aware that some state commissions have adopted US LEC's position on the POI/default IP issue. US LEC will include information about these decisions in its briefs following the hearing.

[9] *Sprint Arbitration Order* at 28.

Q: PLEASE SUMMARIZE YOUR RECOMMENDATION FOR ISSUES ONE AND TWO.

A: The recent Arbitration Order by the Wireline Bureau appears to confirm that US LEC's proposal is more consistent with current FCC rules than Verizon's. The Commission should adopt US LEC's proposal.

ISSUE 6 – Compensation for Virtual NXX Traffic

Q. DO YOU AGREE WITH MR. HAYNES' STATEMENT THAT THE COMMISSION "NEED NOT ADDRESS THE APPLICATION OF INTRASTATE ACCESS CHARGES TO VIRTUAL FX TRAFFIC" BECAUSE THEY ARE COVERED IN THE PARTIES' TARIFFS? (Haynes at 2, 14).

A: Not at all. It may be true that access charges are governed by the parties' tariffs, but the Commission must decide, in the first instance, whether virtual FX, or virtual NXX arrangements are subject to the parties' reciprocal compensation obligations. Under Verizon's proposed language, so-called virtual NXX traffic would be viewed as intra-LATA toll calls and subject to the parties' tariffs for the purposes of compensation, even though those same calls would still be rated, routed and treated as local for the calling party. Under US LEC's proposal, virtual NXX traffic would continue to be treated as local and subject to the parties' reciprocal compensation obligations, which is consistent with that traffic being treated as local for the calling party.

Q: PLEASE RESPOND TO VERIZON'S STATEMENT THAT NXX CODES HAVE TRADITIONALLY BEEN USED TO BILL END USERS FOR CALLS, BUT NOT FOR INTERCARRIER COMPENSATION. (Haynes at 7).

A: By separating the rating and routing of a call, Mr. Haynes is confusing the issue. As he concedes in his testimony, NXX codes typically have been used for determining how a call is rated to the end-user. US LEC agrees with Mr. Haynes on that point. A call from an end user in a given calling area to another end user with an NXX code associated with the same calling center should be rated as a local call for the end-user. At the same time, however, Mr. Haynes is incorrect in stating that rating codes have not been used to establish intercarrier compensation. As I understand it, since calls to "virtual NXX's" are indistinguishable from calls to a "physical NXX", rating codes have been used for inter-carrier compensation purposes as well. Indeed, Verizon has admitted in its responses to US LEC's discovery that it has billed US LEC for reciprocal compensation for calls made by US LEC customers to Verizon customers who are utilizing Verizon's own FX arrangements.

Q: DO YOU AGREE WITH MR. HAYNES'S VIEW OF HOW NXX CODES ARE USED TO RATE A CALL TO AN END USER?

A: Absolutely. An end user can only rely on the NXX codes as an indication as to whether a call will be billed to them as a local or non-local call. In fact, as Mr. Haynes notes in his testimony, comparing the rate centers of NXX's is how Verizon in fact rates calls, not by comparing physical location of end users.

Q: IS VIRTUAL NXX TRAFFIC LOCAL TRAFFIC?

A. Yes. For rating and compensation purposes, virtual NXX traffic has been treated as local. As noted above, Verizon rates and bills its customers based on the NXX codes of the calling and called party. If the call is rated as local, Verizon bills its customer for a local call; conversely, if the call is rated as toll, Verizon bills the customer for a toll call.

Q. VERIZON CLAIMS THAT ACCESS CHARGES TYPICALLY HAVE BEEN ASSESSED ON VIRTUAL NXX CALLS, IS THAT CORRECT?

A: No. Verizon is comparing two completely different situations. In the traditional context of interexchange calls, a carrier will compare the originating and terminating point of the call in assessing interstate (as opposed to intrastate) access charges on a third party. But a carrier initially compares the originating and terminating NXXs to determine whether the call is a local call subject to reciprocal compensation or a toll call subject to access charges. As noted above, virtual NXX calls are in fact rated as local calls, are routed as local calls, are billed to the end user as such, and have been billed as local for intercarrier compensation purposes, as well. Moreover, Mr. Haynes confuses the issue by addressing conditions that existed prior to the Telecommunications Act of 1996. In the pre-Act era, there was no local competition in Maryland and, therefore, no reciprocal compensation. It is axiomatic that with competition only in interexchange services, all intercarrier compensation would be between interexchange carriers and the incumbent local exchange carriers in the form of access charges that were dependent on the originating and terminating points of the end-to-end call. That just is not the case anymore.

Q. DOES US LEC HAVE ANY FX CUSTOMERS IN MARYLAND?

A: Yes, it appears that within Verizon's serving area, three (3) US LEC customers in the Maryland portion of the Washington, D.C. LATA, and eight (8) US LEC customers in the Baltimore LATA utilize virtual NXX arrangements; that is, they have been assigned NXX codes in several local calling areas and, while they have physical locations in at least one of those areas, they also have been assigned NXX codes in areas where they have no physical locations.

Q. DOES US LEC OFFER ANY OTHER SERVICE THAT APPEARS TO PROVIDE CUSTOMERS WITH A "VIRTUAL" NXX?

A: Yes, US LEC offers a tariffed long-distance service known as "Local Toll Free." Essentially, it allows a customer physically located in another LATA or another state to obtain a local number in a Maryland exchange. The difference between Local Toll Free and FX service is that a call to a US LEC "Local Toll Free" number terminates in the exchange associated with that NXX. US LEC then re-originates the call and routes it over long-distance lines to the customer's physical location. US LEC's customer pays the long-distance charges associated with the call.

Q. VERIZON CLAIMS THAT US LEC WANTS A "FREE RIDE" FOR VERIZON'S "VALUABLE SERVICE" IN CARRYING US LEC'S TRAFFIC (Haynes at 11). PLEASE RESPOND.

A: There is no "free ride" at issue here. Regardless of where US LEC's customer is located, Verizon routes the call precisely the same way: it is delivered to US LEC at the IP and, from that point on, US LEC incurs all the costs of transporting the call to its customer's location. As noted in issues one (1) and two (2) of this proceeding, it is Verizon's

responsibility to carry traffic to the IP that US LEC has selected. That responsibility does not change if the called party has a virtual NXX. It is at the IP that US LEC receives the financial responsibility for the traffic, regardless of the physical location of the customer. These architecture issues are discussed in greater detail by Mr. Hoffmann.

Q: DO YOU AGREE WITH MR. HAYNES' ASSERTION THAT US LEC IS NOT ENTITLED TO COMPENSATION FOR TERMINATING CALLS TO VIRTUAL NXX CUSTOMERS BECAUSE THOSE CUSTOMERS ALREADY PAY FOR THE SERVICE? (Haynes at 11).

A: No, I do not. Again, Mr. Haynes is confusing the issue. All end users pay their carriers for the privilege of being able to originate and terminate calls. Intercarrier compensation, on the other hand, addresses an entirely different situation—the costs incurred by carriers to terminate calls. The FCC has acknowledged that carriers incur costs in originating and terminating calls and also has acknowledged that in a competitive environment, the carrier originating a call avoids the termination costs associated with that call when it hands the call off to a competing local provider.

Under our traditional 'calling-party-pays' system, the carrier serving the originating party pays the carrier serving the terminating party to compensate that carrier for the costs it incurs in providing the terminating services. Thus, in this situation, US LEC most assuredly provides a valuable service to Verizon customers—it enables those Verizon customers to call entities or individuals served by US LEC. US LEC incurs costs in providing those services—costs that, for these purposes, are assumed to equal those incurred by Verizon—and is entitled to be compensated by Verizon for providing those services.

Q: VERIZON CLAIMS THAT TREATING VIRTUAL NXX CALLS AS LOCAL IS CONTRARY TO INDUSTRY PRACTICE. DO YOU AGREE?

A: Absolutely not. Verizon claims that Virtual NXX is similar to their Foreign Exchange ("FX") products, in that both products provide local numbers outside of the local calling area of an end user. Verizon claims that the end user subscribing to the FX service bears the cost of transporting the calls from the local calling area associated with the NXX to the exchange in which the FX customer is physically located. US LEC's customers also are charged for their virtual NXX arrangements, but that misses the point. Verizon fails to mention how these calls are treated for purposes of intercarrier compensation. Based on Verizon's responses to our discovery requests, it is clear that Verizon has treated its FX calls as local and has billed CLECs, including US LEC, for reciprocal compensation for calls to its FX customers.

In support of its dubious position, Verizon cites to an FCC case in which AT&T allegedly could have routed calls from Baltimore to Atlanta, Georgia, so that a caller in Baltimore would appear to be making a local call when it was, instead, answered in AtlantA: In that case, the FCC ruled that an *inter*LATA FX call was not a local call for the purposes of compensation and thus access charges were due. However, Verizon does not mention that, in the context of an *intra*LATA FX call, it argued to the FCC that "intraLATA FX service is a type of local exchange service." (*AT&T Corp. v. Bell Atlantic-Pennsylvania*, 14 FCC Rcd 556, 589, ¶ 76 (1998), *reconsideration denied*, 15 FCC Rcd 7467 (2000).

Further, Verizon's example is not at all applicable here. The portion of the *AT&T* case that Verizon refers to dealt with an interstate, interLATA FX service. That is an

extreme example that is not at all comparable to a Virtual NXX assignment within the same LATA, as is the issue in this proceeding. The Commission should assign no weight to the case and example cited by Verizon.

Q: DO YOU AGREE WITH MR. HAYNES' ASSERTION THAT US LEC DOES NOT HAVE ANY RIGHT TO RECIPROCAL COMPENSATION FOR VIRTUAL NXX TRAFFIC UNDER THE FCC'S RULES? (Haynes at 14).

A: No, in fact, quite the opposite is true. The FCC's *ISP Traffic Order*[10] supports the conclusion that traffic rated as retail local traffic is eligible for reciprocal compensation in the intercarrier context. In the *ISP Traffic Order*, the FCC addressed the decision of the United States Court of Appeals for the District of Columbia Circuit that vacated and remanded the FCC's earlier decision regarding intercarrier compensation for ISP-bound traffic.[11] The FCC viewed the D.C. Circuit's remand order as:

> question[ing] whether this traffic should be considered 'local' for purposes of section 251(b)(5) in light of the ESP exemption, by which the Commission has allowed information service providers at their option to be treated for compensation purposes (but not for jurisdictional purposes) as end users.[12]

Upon further review of the *Declaratory Ruling*, the FCC concluded that the D.C. Circuit may have been right in its analysis of FCC precedent:

> We do recognize, however, that the court was concerned by how one would categorize this traffic under our *prior* interpretation of

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[10] *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Intercarrier Compensation for ISP-Bound Traffic*, CC Dkt Nos. 96-98, 99-68, Order on Remand and Report and Order, FCC 01-131 (rel. Apr. 27, 2001) ("*ISP Traffic Order*"), *rev'd, WorldCom v. FCC,* 01-1218 (D.C. Cir., May 3, 2002).

[11] *Bell Atlantic Tel. Cos. v. FCC*, 206 F.3d 1 (D.C. Cir. 2000), *vacating and remanding,* Declaratory Ruling in Docket 96-98 and Notice of Proposed Rulemaking in Docket No. 99-68, 14 FCC Rcd 3689 (1999) ("*Declaratory Ruling*").

[12] *ISP Traffic Order* at ¶ 28.

> section 251(b)(5), which focused on whether or not ISP-bound calls were 'local.' That inquiry arguably implicated the compensation mechanism for the traffic (which included a local component), as well as the meaning of 'termination' in the specific context of section 251(b)[.][13]

The FCC decided that, under its precedent, the term "local call" "could be interpreted as meaning . . . *traffic subject to local rates*" in addition to "traffic that is jurisdictionally intrastate."[14] In other words, FCC precedent justifies the payment of reciprocal compensation for traffic that is treated as local traffic, in addition to traffic whose end points are within specific local calling areas. In short, the *ISP Traffic Order* supports a determination that reciprocal compensation for non-ISP-bound traffic using virtual NXX arrangements is appropriate.

Further, in conjunction with the *ISP Traffic Order*, the FCC issued a Notice of Proposed Rulemaking to completely overhaul the existing intercarrier compensation regimes and replace them with a single, unified intercarrier compensation regime.[15] The FCC has identified the use of "virtual central office codes" as an issue to be resolved in its rulemaking proceeding on such a unified intercarrier compensation regime.[16] Thus, the issue of the proper regulatory treatment of traffic using virtual central office codes ultimately will be addressed by the FCC. Until that time, however, this Commission retains the jurisdiction to determine, as it should, that calls using virtual NXX arrangements properly are eligible for reciprocal compensation.

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[13] *Id.* at ¶ 56 (italics in original).

[14] *Id.* at ¶ 45 (emphasis added).

[15] *Developing a Unified Intercarrier Compensation Regime*, CC Dkt. No. 01-92, Notice of Proposed Rulemaking, FCC 01-132 (rel. Apr. 27, 2001).

[16] *Id.* at ¶ 115.

Q. DID THE WIRELINE BUREAU ADDRESS FX ARRANGEMENTS IN ITS RECENT ARBITRATION DECISION?

A: Yes. Verizon and the CLECs involved in the arbitration all addressed the issue of whether calls to FX numbers would be entitled to reciprocal compensation. It is apparent that Verizon made precisely the same arguments to the FCC that its affiliate, Verizon Maryland, makes here. In its conclusion, the Wireline Bureau rejected Verizon's arguments entirely, stating as follows:

> We agree with the petitioners that Verizon has offered no viable alternative to the current system, under which carriers rate calls by comparing the originating and terminating NPA-NXX codes. We therefore accept the petitioners' proposed language and reject Verizon's language that would rate calls according to their geographical end points. Verizon concedes that NPA-NXX rating is the established compensation mechanism not only for itself, but industry-wide. The parties all agree that rating calls by their geographical starting and ending points raises billing and technical issues that have no concrete, workable solutions at this time.[17]

Q. DO YOU AGREE WITH MR. HAYNE'S CHARACTERIZATION OF THE FLORIDA COMMISSION STAFF RECOMMENDATION REGARDING VIRTUAL NXX TRAFFIC (Haynes at 14-15)?

A: No, I do not. Verizon claims that the Staff Recommendation in Florida Docket No. 000075-TP resolved the issue of disputed virtual NXX code issues between Verizon's Florida affiliate and various CLECs in Verizon's favor.[18] Verizon argues that because the Florida commission found that virtual NXX traffic is not local traffic, no reciprocal compensation is payable on such traffic.

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[17] *FCC Arbitration Order* at ¶ 301.

Q. IS VERIZON'S POSITION CORRECT?

A: No, I do not believe it is. The Florida Staff Recommendation suggested that calls to virtual NXX customers located outside of the local calling area to which the NXX is assigned should not be considered local calls, a recommendation with which US LEC disagrees. However, Verizon's claim that the Staff Recommendation settled the issue of what compensation mechanism is applicable to virtual NXX traffic is wrong, and Verizon's representation that the Florida Staff Recommendation established that such calls are not eligible for reciprocal compensation is likewise simply incorrect. In fact, the Staff Recommendation Verizon cites explicitly states that because the record before it did not include the factual information necessary to make an assessment about whether reciprocal compensation or access charges should apply to virtual NXX traffic, the issue is "better left for parties to negotiate in individual interconnection agreements."[19] Indeed, the Florida Commission has not resolved the issue of whether reciprocal compensation is payable on such traffic (although it has been asked to do so by US LEC, which filed an arbitration against Verizon South raising issues similar to those raised in Maryland).

Q. WHAT ABOUT THE OTHER STATE COMMISSION DECISIONS CITED BY MR. HAYNES?

A: Mr. Haynes refers to several state commission decisions which he claims support Verizon's position on Issue 6. At the same time, numerous other commissions have ruled in favor of US LEC's position, and we will address those decisions in our Brief.

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[18] *See* December 5, 2001 Florida Public Service Commission Agenda Conference, Docket 000075-P, Adoption of November 21, 2001 Staff Recommendation, Issue 15.

[19] Staff Recommendation at 96.

Q: WHAT ACTION DOES US LEC RECOMMEND THE COMMISSION TAKE ON THE ISSUE OF VIRTUAL NXX?

A: We suggest that, in light of common practice throughout the industry to rely on the NPA/NXX of calling and called parties to determine the rating and routing of a call, as well as a carrier's compensation obligations for calls, and in light of the FCC's recent ruling on the issue adopting the position advocated here by US LEC, the Commission rule in US LEC's favor on this issue.

Q: DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

A: Yes.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
In the Matter of Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration	)	CC Docket No. 00-218
	)	
In the Matter of Petition of Cox Virginia Telcom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon-Virginia, Inc. and for Arbitration	)	CC Docket No. 00-249
	)	
In the Matter of Petition of AT&T Communications of Virginia Inc., Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia Corporation Commission Regarding Interconnection Disputes With Verizon Virginia Inc.	)	CC Docket No. 00-251

MEMORANDUM OPINION AND ORDER

Adopted: July 17, 2002 **Released: July 17, 2002**

By the Chief, Wireline Competition Bureau:

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I. INTRODUCTION

1. In this order, we issue the first of two decisions that resolve questions presented by three petitions for arbitration of the terms and conditions of interconnection agreements with Verizon Virginia, Inc. (Verizon). Following the enactment of the Telecommunications Act of 1996 (1996 Act),[1] the Commission adopted various rules to implement the legislatively mandated, market-opening measures that Congress put in place.[2] Under the 1996 Act's design, it has been largely the job of the state commissions to interpret and apply those rules through arbitration proceedings. In this proceeding, the Wireline Competition Bureau, acting through authority expressly delegated from the Commission, stands in the stead of the Virginia State Corporation Commission. We expect that this order, and the second order to follow, will provide a workable framework to guide the commercial relationships between the interconnecting carriers before us in Virginia.

2. The three requesting carriers in this proceeding, AT&T Communications of Virginia, Inc. (AT&T), WorldCom, Inc. (WorldCom) and Cox Virginia Telcom, Inc. (Cox) (collectively "petitioners"), have presented a wide range of issues for decision. They include issues involving network architecture, the availability of unbundled network elements (UNEs), and inter-carrier compensation, as well as issues regarding the more general terms and conditions that will govern the interconnecting carriers' rights and responsibilities. As we discuss more fully below, after the filing of the initial pleadings in this matter, the parties conducted extensive discovery while they participated in lengthy staff-supervised mediation, which resulted in the

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[1] *See* Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996). We refer to the Communications Act of 1934, as amended by the 1996 Act and other statutes, as the Communications Act, or the Act. *See* 47 U.S.C. §§ 151 *et seq.*

[2] *See, e.g., Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499 (1996) (*Local Competition First Report and Order*) (subsequent history omitted); *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, 15 FCC Rcd 3696 (1999) (*UNE Remand Order*).

settlement of a substantial portion of the issues that the parties initially presented. After the mediation, we conducted over a month of hearings at which both the petitioners and Verizon had full opportunity to present evidence and make argument in support of their position on the remaining issues. We base our decisions in this order on the analysis of the record of these hearings, the evidence presented therein, and the subsequent briefing materials filed by the parties.

3. Many of the issues that the parties have presented raise significant questions of communications policy that are also currently pending before the Commission in other proceedings. For example, certain of the network architecture issues implicate questions that the Commission is addressing through its ongoing rulemaking relating to inter-carrier compensation.[3] The Commission's pending triennial review of UNEs also touches on many of the issues presented here.[4] While we act, in this proceeding, under authority delegated by the Commission,[5] the arbitration provisions of the 1996 Act require that we decide all issues fairly presented.[6] Accordingly, in addressing the issues that the parties have presented for arbitration – the only issues that we decide in this order – we apply current Commission rules and precedents, with the goal of providing the parties, to the fullest extent possible, with answers to the questions that they have raised.

4. In our review of each issue before us, we have been mindful of recent court decisions relating to the Commission's applicable rules and precedent. Most significantly, we recognize that the United States Court of Appeals for the District of Columbia Circuit recently issued an order reviewing two Commission decisions that set forth rules governing unbundled network elements (UNEs) and line sharing.[7] The court's order remanded the *UNE Remand Order* for further action by the Commission, and it vacated and remanded the *Line Sharing Order*. Because the court remanded the *UNE Remand Order* without vacating or otherwise

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[3] *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Notice of Proposed Rulemaking, 16 FCC Rcd 9610 (2001).

[4] *See Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338; *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98; *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, CC Docket No. 98-147, Notice of Proposed Rulemaking, FCC 01-361, 16 FCC Rcd 22781 (2001) (*Triennial UNE Review NPRM*).

[5] *See* 47 U.S.C. § 155(c)(1); *see also Procedures for Arbitrations Conducted Pursuant to Section 252(e)(5) of the Communications Act of 1934, as amended*, 16 FCC Rcd 6231, 6233, paras. 8-10 (2001) (*Arbitration Procedures Order*) (delegating authority to the Bureau to conduct and decide these arbitration proceedings).

[6] *See* 47 U.S.C. § 252(b)(4)(C) (state commission shall resolve each issue in petition and response); *id.* § 252(c) (state commission shall resolve by arbitration any open issue).

[7] *See United States Telecom Ass'n v. FCC*, 290 F.3d 415 (D.C. Cir. 2002) ("*USTA v. FCC*"). The court reviewed two Commission decisions: the *UNE Remand Order* and *Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order in CC Docket No. 98-147 and Fourth Report and Order in CC Docket No. 96-98, 14 FCC Rcd 20912 (1999) (*Line Sharing Order*).

modifying it, its rules governing the availability of UNEs remain in effect pending further action by the Commission in response to the court's order. Similarly, because the Commission has sought rehearing of the court's order, the effect of that order has been stayed, even with respect to the line sharing rules, until further action by the court.[8] Accordingly, to the extent they are implicated in issues presented by the parties, we apply the Commission's existing UNE and line sharing rules. To the extent that these rules are modified in the future, the parties may rely on the change of law provisions in their respective agreements.

5. This order is the first of two that will decide the questions presented for arbitration. Below, we decide the "non-cost" issues that the parties have raised. Specifically, we resolve those issues that do not relate to the rates that Verizon may charge for the services and network elements that it will provide to the requesting carriers under this agreement. We have determined that it will best serve the interests of efficiency and prompt resolution of the parties' disputes to issue our decision on these non-cost issues in advance of the pricing decision, which will follow.

6. The requesting carriers in this proceeding, AT&T, WorldCom and Cox, originally brought their interconnection disputes with Verizon to the Virginia State Corporation Commission (Virginia Commission), as envisioned in section 252(b).[9] In the case of each requesting carrier, the Virginia Commission declined to arbitrate the terms and conditions of an interconnection agreement under federal standards, as required by section 252(c) of the Act.[10]

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[8] *See* Petition of FCC and United States for Rehearing or Rehearing *En Banc*, D.C. Circuit Nos. 00-1012, *et al.* & 00-1015, *et al.*, filed July 8, 2002.

[9] 47 U.S.C. § 252(b). WorldCom filed an arbitration petition with the Virginia Commission. *See Petition of MCI Metro Access Transmission Services of Virginia, Inc. and MCI WorldCom Communications of Virginia, Inc. for Arbitration of an Interconnection Agreement with Bell Atlantic-Virginia, Inc.*, Case No. PUC000225 (filed with Virginia Commission Aug. 10, 2000). Cox requested a declaratory ruling reconsidering the Virginia Commission's prior refusals to apply federal law in arbitrating interconnection disputes and, in the event the Virginia Commission granted that request, sought the arbitration of its interconnection dispute. *See Petition of Cox Virginia Telcom, Inc., for Declaratory Judgment and Conditional Petition for Arbitration*, Case No. PUC000212 (filed with Virginia Commission July 27, 2000). AT&T also requested a declaratory ruling that the Virginia Commission would arbitrate its interconnection dispute. *See Petition of AT&T Communications of Virginia, Inc., et al., for Declaratory Judgment*, Case No. PUC000261 (filed with Virginia Commission Sept. 25, 2000); AT&T subsequently sought arbitration of its interconnection dispute with Verizon. *See Application of AT&T Communications of Virginia, Inc., et al., for Arbitration*, Case No. PUC000282 (filed with Virginia Commission Oct. 20, 2000).

[10] 47 U.S.C. § 252(c). Section 252(c) requires that, in arbitrating an interconnection agreement, a state commission apply the "requirements of section 251, including the regulations prescribed by the Commission pursuant to section 251" and apply the pricing standards of section 252(d). 47 U.S.C. § 252(c)(1) – (2). The Virginia Commission declined to follow section 252(c), offering instead to apply Virginia state law in its disposition of the three requesting carriers' disputes with Verizon. *See Petition of MCI Metro Access Transmission Services of Virginia, Inc. and MCI WorldCom Communications of Virginia, Inc., for Arbitration of an Interconnection Agreement with Bell Atlantic-Virginia, Inc.*, Case No. PUC000225, Order, at 3 (issued by Virginia Comm'n Sept. 13, 2000) (*WorldCom Virginia Order*); *Petition of Cox Virginia Telcom, Inc.*, Case No. PUC000212, Order of Dismissal, at 5 (issued by Virginia Comm'n Nov. 1, 2000); *Petition for Declaratory Judgment and Application for* (continued....)

The Virginia Commission explained that it had concluded it could not apply federal standards in interconnection arbitrations without potentially waiving its Eleventh Amendment sovereign immunity, which it did not have the authority to do.[11] The three requesting carriers then petitioned the Commission to preempt the Virginia Commission pursuant to section 252(e)(5).[12] The Commission granted those petitions in January of 2001 and assumed jurisdiction to resolve the requests for arbitration.[13]

7. On January 19, 2001, the same date on which it granted WorldCom's preemption petition, the Commission issued an order governing the conduct of section 252(e)(5) proceedings in which it has preempted the arbitration authority of state commissions. The order delegates to the Chief of the Bureau the authority to serve as the Arbitrator.[14] As discussed at greater length below, the Commission also revised the interim rule that it had previously adopted and established a hybrid scheme of "final offer" arbitration for interconnection arbitrations. The revised standard grants the Arbitrator the "discretion to require the parties to submit new final offers, or adopt a result not submitted by any party, in circumstances where a final offer

(Continued from previous page)
Arbitration of AT&T Communications of Virginia, Inc., et al., Case Nos. PUC000261 and PUC000282, Order, at 3 (issued by Virginia Comm'n Nov. 22, 2000).

[11] *See, e.g., WorldCom Virginia Order* at 2. *Cf. Petition of Cavalier Telephone, LLC*, Case No. PUC990191, Order, at 3-4 (issued by Virginia Comm'n June 15, 2000) ("We have concluded that there is substantial doubt whether we can take action in this matter solely pursuant to the Act, given that we have been advised by the United States District Court for the Eastern District of Virginia that our participation in the federal regulatory scheme constructed by the Act, with regard to the arbitration of interconnection agreements, effects a waiver of the sovereign immunity of the Commonwealth.").

[12] *Petition of WorldCom, Inc., Pursuant to Section 252(e)(5) of the Communications Act*, CC Docket No. 00-218, (filed Oct. 26, 2000); *Petition of Cox Virginia Telcom, Inc. Pursuant to Section 252(e)(5) of the Communications Act*, CC Docket No. 00-249 (filed Dec. 12, 2000); *Petition of AT&T Communications of Virginia, Inc. Pursuant to Section 252(e)(5) of the Communications Act*, CC Docket No. 00-251 (filed Dec. 15, 2000).

[13] *Petition of WorldCom, Inc. for Preemption of Jurisdiction of the Virginia State Corporation Commission Pursuant to Section 252(e)(5) of the Telecommunications Act and for Arbitration of Interconnection Disputes with Verizon-Virginia, Inc.*, CC Docket No. 00-218, Memorandum Opinion and Order, 16 FCC Rcd 6224 (2001) (*WorldCom Preemption Order*); *Petition of Cox Virginia Telecom, Inc. for Preemption of Jurisdiction of the Virginia State Corporation Commission Pursuant to Section 252(e)(5) of the Telecommunications Act and for Arbitration of Interconnection Disputes with Verizon-Virginia, Inc.*, CC Docket No. 00-249, Memorandum Opinion and Order, 16 FCC Rcd 2321 (2001); *Petition of AT&T Communications of Virginia, Inc. for Preemption of Jurisdiction of the Virginia State Corporation Commission Pursuant to Section 252(e)(5) of the Telecommunications Act and for Arbitration of Interconnection Disputes with Verizon-Virginia, Inc.*, CC Docket No. 00-251, Memorandum Opinion and Order, 16 FCC Rcd. 2326 (2001).

[14] *Arbitration Procedures Order*, 16 FCC Rcd 6233. The Commission's rules governing review of action taken on delegated authority are found at 47 C.F.R. § 1.115. At the time of the *Arbitration Procedures Order*, the Commission delegated its authority to the Chief of the Common Carrier Bureau. Since then, the Bureau has been renamed the Wireline Competition Bureau. *See In the Matter of Establishment of the Media Bureau, Wireline Competition Bureau and Consumer and Governmental Affairs Bureau*, Order, 17 FCC Rcd 4672 (2002).

submitted by one or more of the parties fails to comply with the Act or the Commission's rules."[15]

II. PROCEDURAL HISTORY

8. In March, 2001, as required by the *Procedural Public Notice*, the parties contacted the Arbitrator to schedule a pre-filing conference.[16] On March 22, 2001, the parties met with the Arbitrator and Bureau staff to discuss a list of issues identified in the *Procedural Public Notice*, including the status of negotiations, procedures to be followed in the arbitration proceeding, potential consolidation of the proceedings, and a procedural schedule. On March 27, we issued a letter ruling on several issues raised during the pre-filing conference. Among other rulings, we set a procedural schedule, under which the parties were to conduct discovery and file testimony throughout the summer. The evidentiary hearing was scheduled for September, 2001 and post-hearing briefs were to be due in October, 2001. At the request of the parties, we postponed until July 2, 2001, the due date for cost studies, which originally were to be filed with the petitions for arbitration. The parties preferred that they be permitted to file separate petitions, with the option of later seeking consolidation of the proceedings; however, we instructed them each to assign shared issues the same number, to facilitate staff's review.

9. On April 23, AT&T, Cox and WorldCom filed separate petitions for arbitration. Consistent with the *Procedural Public Notice*, each petition contained a Request for Arbitration, listing with specificity both the resolved and unresolved issues, along with the relevant contract language, and a Statement of Relevant Authority for each issue. On May 31, 2001, Verizon filed its Answer, responding to each issue raised by petitioners, and raising additional issues. On June 18, petitioners filed their responses to Verizon's additional issues. In all, petitioners identified approximately 180 issues in their initial petitions, some of them raised jointly, and Verizon raised an additional 68 issues in its Answer.

10. *Supervised Negotiations*. On July 10, 2001, the Arbitrator convened a status conference to discuss, among other things, parties' efforts to simplify or settle issues and the schedule for the remainder of the proceeding. At this meeting, the parties jointly requested that Bureau staff assist with the settlement of certain issues, through supervised negotiations or mediation, and agreed to identify a list of "mediation issues." The parties also requested a delay of several weeks in all aspects of the procedural schedule, to allow them to focus on settlement negotiations, and to accommodate their request for an additional "surrebuttal" round of written testimony on cost issues.

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[15] *See* 47 C.F.R. § 51.807(f)(3).

[16] Procedures Established For Arbitration Of Interconnection Agreements Between Verizon and AT&T, Cox, and WorldCom, CC Docket Nos. 00-218, 00-249, 00-251, Public Notice, DA 01-270 (rel. Feb. 1, 2001) (*Procedural Public Notice*) (setting forth additional procedures, including requirements regarding contents of arbitration petition and response, discovery process and conduct of the evidentiary hearing).

b. Discussion

28. We deny, in whole, WorldCom's motion to strike. With respect to the substantial majority of the issues for which WorldCom alleges that Verizon submitted new language, WorldCom's motion is moot, either because we reject Verizon's proffered language, or because the parties had settled the issue by the end of the hearing.[53] For other issues that WorldCom identifies, the language Verizon proposed in November was more favorable to WorldCom than Verizon's previous proposals, and we therefore perceive no prejudice that WorldCom could have suffered arising from any inability to respond to the new proposals.[54] Additionally, we conclude that WorldCom had ample opportunity, during the initial and reply briefs, to respond to any changes in Verizon's November language.[55] Lastly, on one issue, Verizon's November language, while not identical to its earlier proposal, does not differ in any legally or operationally significant respect.[56]

IV. UNRESOLVED ISSUES

A. Standard of Review

29. Section 252(c) of the Act sets forth the standard of review to be used in arbitrations by the Commission and state commissions in resolving any open issue and imposing conditions upon the parties in the interconnection agreement.[57] This section states that any decision or condition must meet the requirements of section 251 and accompanying Commission regulations, establish rates in accordance with section 252(d), and provide an implementation schedule.[58] As mentioned earlier, section 252(e)(5) requires the Commission to issue an order preempting a state commission that fails to act to carry out is responsibilities under section 252, and to assume the responsibility of the state commission. In its *Local Competition First Report*

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[53] *See, e.g.*, Network Architecture Issues I-1, III-2, III-4, IV-1, IV-8, IV-11; Intercarrier Compensation Issues I-6, III-5, IV-35; UNE Issues III-6, III-7, III-8, III-9, III-10, III-11/IV-19, IV-23, IV-24, IV-25, VI-3-B; Business Process Issue IV-56 (settled); Rights of Way Issue III-13-H (settled); General Terms and Conditions Issues I-11, IV-101, IV-110 (settled).

[54] *See, e.g.*, Intercarrier Compensation Issue I-5 (language regarding calling party number percentage requirement changes from 95 to 90); General Terms and Conditions Issue III-15 (Verizon agrees to provide WorldCom additional information regarding Verizon's inability to obtain intellectual property rights).

[55] *See, e.g.*, Intercarrier Compensation Issue I-5 (WorldCom fully briefed issues relating to compensation for ISP-bound traffic); UNE Issues III-12 (WorldCom counsel cross examined Verizon witness on language WorldCom now challenges as late-proposed), IV-18 (despite opportunity in two briefs, WorldCom failed to identify how Verizon's language conflicted with statute or regulations).

[56] *See infra*, Issue IV-45, n.2300.

[57] 47 U.S.C. § 252(c).

[58] 47 U.S.C. § 252(c)(1)-(3).

and Order, the Commission promulgated rule 51.807 implementing section 252(e)(5).[59] Rule 51.807 provides, among other things, that (a) the Commission is not bound to apply state laws or standards that would have otherwise applied if the state commission were arbitrating the section 252 proceeding; (b) except as otherwise provided, the Commission's arbitrator shall use final offer arbitration; and (c) absent mutual consent of the parties, the Arbitrator's decision shall be binding on the parties.[60]

30. Based on the states' experience arbitrating interconnection disputes since 1996, the Commission modified rule 51.807 last year to provide the Arbitrator additional flexibility to resolve interconnection issues.[61] Specifically, rule 51.807(f)(3) was amended so that, if a final offer submitted by one or more parties fails to comply with the other requirements of this rule, or if the Arbitrator determines in unique circumstances that another result would better implement the Act, the Arbitrator has discretion to direct the parties to submit new final offers or to adopt a result not submitted by any party that is consistent with section 252 of the Act and the Commission's rules adopted pursuant to that section.[62] In its order approving this modification, the Commission explained that it would not identify those unique circumstances under which the Arbitrator could conclude that another result is appropriate. Below, we attempt to summarize two main categories of those instances in which we have found it necessary to depart from the proposals of the parties.

31. *Modifying to Achieve Consistency with the Act and Commission Rules.* In certain instances, we have modified one party's proposal, rather than either adopt one party's proposal or reject both and direct the parties to submit new final offers.[63] In these instances, where modification of the language can bring the agreement into conformity with the Act and Commission rules, we find that it conserves administrative resources to direct the parties simply to submit a compliance filing containing the corrected language that we provide.[64] Furthermore, just as the Commission recognized that the Arbitrator may conduct issue-by-issue final offer arbitration (as opposed to selecting one entire proposed contract over another), so too we find that, for certain issues, it is appropriate *within* an issue to select language from both parties to

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[59] *Local Competition First Report and Order*, 11 FCC Rcd at 16127-32, paras. 1283-95.

[60] *See* 47 C.F.R. § 51.807(b), (d), (h).

[61] *See Arbitration Procedures Order*, 16 FCC Rcd at 6232, paras. 4-6

[62] *See* 47 C.F.R. § 51.807(f)(3); *Arbitration Procedures Order*, 16 FCC Rcd at 6232, para. 5.

[63] *See, e.g.*, Issues III-3/III-3-A, III-11, and III-12.

[64] We note that, on a few occasions, we have directed a petitioner and Verizon to incorporate corrected language provided by a second petitioner or by Verizon to that second petitioner (after determining that neither the first petitioner's proposal nor Verizon's proposal to that first petitioner was consistent with our rules or the Act). *See* Issues III-1/III-2/IV-1 and III-3/III-3-A. Similarly, we have determined that, in at least one issue, the proposals offered by the parties are unnecessary and language adopted elsewhere in the contract addresses their concerns. *See, e.g.*, Issue III-8.

resolve the dispute (*i.e.*, to choose one subsection from one party and another subsection from the other party) or to adopt some but not all of a party's proposal.[65] We reiterate that we base our decisions on current Commission rules and precedent, and therefore reject or modify parties' proposals that extend beyond existing law.

32. *Modifying to Reflect Concessions Made at Hearing or on Other Issues.* During the course of the hearings, the parties made numerous concessions or compromises, some of which were incorporated into their most recent contract proposals[66] and several of which were not.[67] In those instances where one party clearly indicated that it supported or no longer opposed the other party's conceptual proposal or contract language[68] or indicated that it was willing to modify its own proposal to reflect the other party's concerns,[69] we determine that it is appropriate to direct the parties to submit language conforming to such statements.[70]

33. We also feel it necessary to comment on a theme running through many of the issues in this proceeding. In response to a petitioner's proposal that simply paraphrases or quotes a particular Commission rule, Verizon often indicates that its proposed language requires it to comply with the requirements of "applicable law," and argues that the petitioner's language is therefore unnecessary. We generally determine that Verizon should prevail on such issues. If there is no disagreement between the parties about what is the "applicable law" (*e.g.*, the relevant section of the Act, Commission rule or order) and the petitioner's proposed language is a mere recitation of that Commission rule or order, we typically conclude that the petitioner's proposal adds little to no value to the contract. Simply memorializing a Commission requirement in an interconnection agreement is unnecessary to ensure a carrier's rights or make clear a carrier's obligations with respect to that requirement. Indeed, we find it unlikely that quoting or

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[65] *See, e.g.*, Issues IV-74 (finding that both parties had legitimate concerns that could be addressed harmoniously by adopting language from each proposal), V-12, and IV-45. In this regard, we note that the parties defined the content of each numbered issue without our involvement. *See also, e.g.*, Issues IV-4, III-9, and IV-32 (adopting part, but not all, of a carrier's proposal).

[66] *See, e.g.*, Issue III-10 (AT&T modifying its proposal by eliminating many "operational details" to address Verizon's concern about the level of detail in AT&T's earlier proposal).

[67] *See, e.g.*, Issues III-4-B (directing parties to file compliance language incorporating AT&T's agreement, expressed during hearing and in post-hearing briefs, to return a firm order confirmation within a certain number of days).

[68] *See, e.g.* Issues I-7/III-4 (Verizon's witness testifying that WorldCom's 15 percent overhead proposal "sounds fine to us"). *See also* Tr. at 1501.

[69] *See, e.g.* Issue VI-3-B (WorldCom indicating that it is willing to delete one section of its proposal).

[70] *See, e.g.*, Issue IV-5. Also, in resolving one issue related to assurance of payment, we determine that it is appropriate to apply a compromise offered in another issue, concerning insurance. For these two issues (Issues VI-1-N and VI-1-P), we find that our rationale for adopting the compromise in one issue is equally applicable to the second.

paraphrasing a Commission rule in the parties' contract would reduce the likelihood of disputes over interpretation of that rule.

34. Including language that requires Verizon to comply with all applicable law affords a petitioner the same contractual remedies that would be available if the contract paraphrased the relevant Commission rule. Moreover, for those issues that we arbitrate, quoting a Commission rule will not "grandfather" or insulate it from the contract's change of law clause. To be clear, pursuant to section 252(a), and subject to the disclosure requirements of section 252(h), parties are permitted to negotiate terms and conditions without regard to subsections (b) and (c) of section 251. [71] In other words, if they so choose, the parties may memorialize in the contract a Commission rule or directive and exempt it from the agreement's change of law language. Similarly, they may agree to terms that are not compelled by, or are even inconsistent with, sections 251(b) and (c) of the Act. However, if the parties have not reached such an understanding and have asked the Commission to arbitrate their dispute, we will do so based on existing law and expect that any change in that law will be reflected in the contract. Notwithstanding this general approach towards use of the term "applicable law," we find that language clarifying a particular rule, or adding details of how the rule should operate in a commercial environment, may well be appropriate for adoption, if the proposed language is consistent with the Commission's rules and the Act.[72]

35. Finally, we note briefly that, in addressing the parties' disputes, we attempt to dispose fully of the substantive issue that the parties have presented and to provide adequate direction on how the parties should memorialize our decision in their respective interconnection agreements. As discussed above, our decision may take the form of adopting or rejecting proffered language, or adopting one side's language in modified form. We emphasize, however, that we have largely restricted ourselves to addressing the issues and the contract language that the parties have directly placed at issue through their presentations during the hearings we conducted and, most importantly, through their post-hearing briefs. There may be instances in which we have not specifically spoken to particular contract language because neither party addressed it in their advocacy, although it may have appeared in the contracts that the parties submitted after the hearings or even have appeared under a particular issue number in the JDPL. In those cases, we expect that the parties will generally be able to apply the analysis of the relevant portion of this order and the Commission precedents discussed therein to resolve any remaining disputes that they may have relating to contract language that the parties – and therefore the Bureau – left unaddressed.

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[71] *See* 47 U.S.C. § 252(a), (h).

[72] *See, e.g.*, Issue VI-3-B, *infra*.

B. Network Architecture

1. Issues I-1/VII-1/VII-3/VII-4 (Single Point of Interconnection and Related Matters)[73]

a. Introduction

36. The parties disagree about language governing interconnection between the parties, and associated operational and cost issues. In general, petitioners argue that the Commission's rules clearly establish their right to interconnect at a single point in each Local Access and Transport Area (LATA), and that this chosen point of interconnection (POI) represents the financial demarcation point between the parties. Verizon, on the other hand, argues that it should not have to bear the cost of inefficient network design choices made by competing LECs, and proposes contract language which, it argues, represents the most reasonable solution to the operational and cost issues caused by the CLECs' chosen interconnection choices.

37. Specifically, Verizon proposes language requiring AT&T, Cox and WorldCom to establish "geographically relevant interconnection points" (GRIPs) or "virtually geographically relevant interconnection points" (VGRIPs) with Verizon at designated or agreed upon points on the carriers' networks. While the GRIPs and VGRIPs interconnection proposals differ in various respects, under both plans the petitioners would be required to designate one or more "interconnection points" (IPs) within each LATA. Each carrier's IP, which may be different from the physical POI, would function as a point of demarcation of financial responsibility for the further transport of traffic delivered to its network. Under Verizon's GRIPs proposal to Cox, geographically relevant competitive LEC IPs would be located within the Verizon local calling area of equivalent Verizon end users, but would be positioned no more than 25 miles from the Verizon rate center of the Verizon NXX serving equivalent Verizon end users. Under the VGRIPs proposal, geographically relevant competitive LEC IPs would be located at a collocation site at each tandem office in a multiple-tandem LATA, at each Verizon end office in a single-tandem LATA, or at other Verizon-designated wire centers in LATAs with no tandem offices.

38. The petitioners oppose the inclusion of this language, arguing that it undermines their right to select a single technically-feasible POI in each LATA. They further argue that Verizon's proposed language is inconsistent with the Commission's rules, which prevent Verizon from assessing charges for traffic subject to reciprocal compensation that originates on Verizon's network. In lieu of Verizon's language, petitioners propose language implementing

[73] Because these issues present interrelated sets of contract language and disputed matters, we address them together. Issue I-1 concerns the financial implications of establishing a "single point of interconnection" in a LATA, and the parties' proposals defining their respective obligations to compensate each other for delivering traffic. Issue VII-4 addresses Verizon's proposed terms to AT&T for lowering reciprocal compensation payments under its "VGRIPs" compensation proposal. Issues VII-1 and VII-3 both address Verizon's objection to AT&T not using the term "interconnection point" in its interconnection proposal presented for arbitration. Issue VII-1 also addresses additional Verizon objections to AT&T's proposed Schedule 4, containing AT&T's interconnection proposal.

their own view of the Commission's rules.[74] Verizon raises additional specific objections to AT&T's proposed language, designated as Issues VII-1, VII-3 and VII-4, which we address at the end of this section.

39. As set forth below, we adopt petitioners' language and reject Verizon's. In making our determination on this issue, we look to the Commission's orders and rules governing interconnection and reciprocal compensation, particularly the Commission's *Local Competition First Report and Order* and Commission Rules 51.305 and 51.703.[75]

b. Point of Interconnection (Issues I-1 and VII-4)

(i) Positions of the Parties

40. AT&T contends that Verizon's VGRIPs proposal would enable Verizon to select the locations where each parties' traffic is delivered to the other's network for termination, and would transfer a substantial amount of the costs for Verizon's originating traffic, such as Verizon's originating transport costs, to AT&T.[76] AT&T argues that these features of VGRIPs render it inconsistent with the Act and the Commission's rules. AT&T also objects to Verizon's language lowering its reciprocal compensation payments to AT&T if AT&T does not allow Verizon to deliver traffic to AT&T at a Verizon-designated end office (the AT&T IP).[77] According to AT&T, this is another way of transferring Verizon's costs of delivering traffic onto AT&T, by circumventing Verizon's obligations to pay reciprocal compensation to AT&T.[78]

41. AT&T states that both the Act and the Commission's rules provide that new entrants may interconnect at any technically feasible point.[79] AT&T relies in part on the Commission's *SWBT Texas 271 Order*, citing it for the proposition that section 251 and the Commission's implementing rules "require an incumbent LEC to allow a competitive LEC to interconnect at any technically feasible point," including "the option to interconnect at only one technically feasible point in each LATA."[80] AT&T further states that under the Commission's

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[74] *See* AT&T's November Proposed Agreement, Sch. 4; WorldCom's November Proposed Agreement, Attach. IV, §§ 1.1 through 1.1.3.3, and 1.3 through 1.3.2; and Cox's November Proposed Agreement, Sec. 4.2.2.

[75] *See Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499 (1996) (*Local Competition First Report and Order*); 47 C.F.R. § 51.305; 47 C.F.R. § 51.703.

[76] *See* AT&T Brief at 12. AT&T's objections are directed at Verizon's VGRIPs proposal only, which AT&T states was the only Verizon interconnection proposal put at issue with respect to AT&T. *See id* at 12 and n.24.

[77] *See* AT&T Brief at 71.

[78] *See id* at 72.

[79] *See id.* at 6.

[80] *See id.* at 7, citing *Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of* (continued....)

rules each carrier is responsible for its costs to deliver originating local traffic to the point of interconnection.[81] Specifically, AT&T states that the Commission's rules implementing the reciprocal compensation provisions in section 252(d)(2)(A) preclude an incumbent LEC from charging carriers for local traffic that originates on the incumbent LEC's network.[82]

42. AT&T contends that, as provided in its proposal, each party should be financially responsible for (1) transporting its own originating traffic to the point of interconnection on the terminating party's network; and (2) paying for any transport and termination of the traffic to the end user on the terminating party's network.[83] Accordingly, AT&T rejects Verizon's claims that the petitioners' interconnection proposals require Verizon to subsidize virtually all of the costs of interconnection. AT&T argues that Verizon has presented no evidence of the extent of the additional costs (such as the cost of transporting originating traffic to a competitive LEC's POI) that Verizon claims it must bear as a result of the petitioners' interconnection proposals. AT&T further argues that, while Verizon may in fact pay incrementally more to transport its traffic in a competitive market than it would if it were the sole service provider, the Act does not insulate Verizon from all costs that result from opening local telecommunications markets to competition.[84]

43. AT&T also disputes the claim that its proposed language implicitly endorses the concept of an IP. According to AT&T, the AT&T language Verizon cites is simply a reflection of the Commission's rules defining transport for purposes of reciprocal compensation. AT&T states that its language, consistent with these rules, reflects the fact that the POI is the location where the transport portion of reciprocal compensation begins.[85] Finally, AT&T also disputes Verizon's claim that AT&T's arguments regarding points of interconnection represents, somehow, an impermissible change of position.[86]

44. Cox also disagrees with Verizon's proposals, offering objections similar to those of AT&T.[87] According to Cox, section 251(c)(2) of the Act and Commission Rule 51.305(a)(2)

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the Telecommunications Act of 1996 to Provide In-Region, InterLATA Services in Texas, Memorandum Opinion and Order, 15 FCC Rcd 18354, 18390, para. 78 (2000) (*SWBT Texas Order*).

[81] *See* AT&T Brief at 5.

[82] *See id.* at 9, citing 47 C.F.R. § 51.703(b) (for traffic subject to reciprocal compensation, prohibiting any LEC from charging other telecommunications carriers for traffic originating on the LEC's network). *See also* 47 U.S.C. § 252(d)(2)(A).

[83] *See* AT&T Reply at 2.

[84] *See id.* at 3.

[85] *See id.* at 34-35, citing 47 C.F.R. § 51.701(c).

[86] *See* AT&T Brief at 66-67.

[87] Cox believes that Verizon has formally offered only its GRIPs proposal to Cox, and not its VGRIPs proposal. *See* Cox Objection and Request for Sanctions at 1-3. Nonetheless, while preserving its procedural objection to (continued....)

require that competitive LECs be allowed to select any technically feasible point of interconnection within an incumbent LEC's network.[88] As did AT&T, Cox argues that Commission Rule 51.703(b) prevents an incumbent LEC from evading this requirement by imposing on a competitive LEC charges for transporting the incumbent LEC's traffic to the competitive LEC.[89] Cox argues that, as the Commission's *TSR Wireless Order* demonstrates, Verizon's GRIPs and VGRIPs proposals violate these provisions of the Act and the Commission's rules. Cox states that, in the *TSR Wireless Order*, the Commission held that a LEC cannot avoid its obligations to deliver traffic to another carrier's point of interconnection by charging the carrier for delivering traffic to the point of interconnection, regardless of how the LEC characterizes those charges.[90] According to Cox, Verizon's GRIPs and VGRIPs proposals violate the Commission's holding in the *TSR Wireless Order*, because Verizon's proposals would make Cox, rather than Verizon, responsible for the costs of delivering Verizon-originated traffic to Cox.[91]

45. Additionally, Cox argues that Verizon's proposals would limit Cox to collecting the end office rate for reciprocal compensation, rather than the tandem rate, for traffic Verizon delivers to Cox for termination.[92] According to Cox, these provisions violate the Commission's rules governing the treatment of competitive LEC switches for the purposes of calculating reciprocal compensation.[93] Cox also argues that Verizon has not clarified its proposed offset of transport and other costs against competitive LEC charges for delivery of Verizon's originating traffic. Cox asserts it is unclear precisely what would offset the competitive LEC charges under Verizon's proposal.[94] In addition, Cox argues that some elements of Verizon's proposals are arbitrary and unreasonable.[95] For example, Cox states that Verizon's own witness admitted that, under its GRIPs proposal, the 25-mile threshold triggering Verizon's selection of IPs is a number without basis in any engineering principle.[96] Cox also states that, while Verizon's VGRIPs

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Verizon's VGRIPs language, Cox's post-hearing briefs address substantive concerns with both proposals. *See* Cox Brief at n.3.

[88] *See* Cox Brief at 7; 47 U.S.C. § 251(c)(2); 47 C.F.R. § 51.305(a)(2).

[89] *See* Cox Brief at 7; 47 C.F.R. § 51.703(b).

[90] *See* Cox Brief at 7-8, citing *TSR Wireless, LLC v. US West Communications, Inc.*, 15 FCC Rcd 11166 (2000) (holding that LECs may not charge for either transport or facilities for traffic they deliver to paging companies), *aff'd sub nom. Qwest Corp. v. FCC*, 252 F.3d 462 (D.C. Cir. 2001).

[91] *See* Cox Brief at 7.

[92] *See id.* at 9.

[93] *See id.* at 9, citing 47 C.F.R. § 51.711(a)(3). Both AT&T and WorldCom raise similar objections to proposed Verizon language under Issue III-5, *infra*.

[94] *See* Cox Brief at 12-13, citing Tr. at 1361-63.

[95] *See* Cox Brief at 13-16.

[96] *See id.* at 13.

proposal provides for competitive LEC compensation of Verizon's originating transport costs in a single-tandem LATA, Verizon regularly bears the costs of transport within its own network to a distant tandem in a single-tandem LATA.[97]

46. WorldCom objects to Verizon's GRIPs and VGRIPs proposals for similar reasons to those offered by AT&T and Cox. Specifically, WorldCom also believes Verizon's proposals contravene WorldCom's right under the Commission's rules to select any technically feasible point of interconnection and not to be charged for delivery of Verizon's traffic to the point of interconnection.[98] WorldCom states that, although Verizon purports to recognize the competitive LEC's right to select the point or points of interconnection, Verizon's proposals ignore one critical aspect of that principle: the carrier that originates traffic is financially responsible for transporting the traffic to the point of interconnection with the other carrier's network. Instead, according to WorldCom, Verizon's proposal relieves Verizon of its obligation to deliver its originating traffic to the network of a co-carrier, and shifts to the co-carrier Verizon's cost of facilities used to deliver its originating calls.[99] WorldCom also objects that Verizon's proposals are non-mutual, shifting financial responsibility only when WorldCom receives Verizon's originating traffic, without any corresponding shift when WorldCom delivers traffic to Verizon.[100]

47. In addition, WorldCom objects to provisions in Verizon's GRIPs and VGRIPs proposals which it argues would allow Verizon to transform WorldCom collocation arrangements into physical points of interconnection. WorldCom argues that collocation arrangements, which are quite expensive to establish, are typically not established by WorldCom for interconnection but for access to unbundled network elements (UNEs).[101] WorldCom also objects to provisions in Verizon's proposals allowing Verizon to reduce its reciprocal compensation payments in those instances where WorldCom does not agree to a Verizon-designated IP.[102] WorldCom objects that this language effectively permits Verizon to charge transport and tandem switching to WorldCom for Verizon's originating traffic,[103] and contravenes WorldCom's right to receive symmetrical reciprocal compensation.[104]

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[97] *See id.* at 13.

[98] *See* WorldCom Brief at 6.

[99] *See id.* at 10.

[100] *See id.* at 14; WorldCom Reply at 12-13.

[101] *See* WorldCom Brief at 11-12.

[102] Specifically, Verizon's proposal would reduce reciprocal compensation by the amount of its end office rate less transport and tandem switching rates. *See* WorldCom Brief at 12-13.

[103] *See id.* at 12-13.

[104] *See id.* at 15.

48. Verizon objects to the petitioners' interconnection proposals on the grounds that they require Verizon to bear the entire cost of transporting traffic to competitive LEC points of interconnection, even though these transport costs are the result of the competitive LECs' interconnection and network architecture choices.[105] Verizon states that its local traffic bound for a competitive LEC's customer often must leave the Verizon legacy local calling area before reaching the competitive LEC's customer. Verizon states that it must incur the cost to transport the call to the competitive LEC's chosen point of interconnection, which may be outside the originating local calling area. Verizon claims that this problem is exacerbated when competitive LECs offer "virtual FX" or virtual foreign exchange service, by assigning NPA-NXX codes associated with a particular rate center or local calling area to customers physically located outside of that rate center or local calling area. This allows these customers to receive calls rated as local rather than toll even though the FX customer is located in a different local calling area than the caller.[106] According to Verizon, it incurs costs to transport traffic bound for a competitive LEC's virtual FX customer in another local calling area, yet it would not receive toll revenues from its own end user, nor would it receive compensation for originating access service from the competitive LEC. Instead, Verizon would be required to pay reciprocal compensation to the competitive LEC, for what it regards as toll traffic.[107]

49. Verizon contends that its VGRIPs proposal, which it maintains it has offered to all three petitioners, represents the most reasonable solution to the operational and cost issues raised by the competitive LECs' interconnection choices.[108] Verizon argues that the contract should explicitly differentiate between the terms "POI" (referring to a physical point of interconnection) and "IP" (referring to the demarcation point for financial responsibility). Verizon suggests that, notwithstanding AT&T's objections to Verizon's use of these two terms, AT&T's proposed language implicitly contains the same distinction. Specifically, Verizon states that AT&T's language would allow it to designate an AT&T collocation at a Verizon tandem as Verizon's POI, but financially obligate Verizon to transport its traffic to the terminating AT&T switch.[109]

50. Verizon does not dispute that competitive LECs can determine where they will physically interconnect with Verizon's network. Accordingly, it explains that its VGRIPs proposal provides each party with a menu of interconnection options, and would allow petitioners to select one technically feasible point of interconnection in a LATA, if they chose to configure their network in that manner.[110] Verizon states that the competitive LEC IPs are the

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[105] *See* Verizon Network Architecture Brief at 2.

[106] Verizon states that many of the competitive LECs' virtual FX customers are internet service providers (ISPs). *See* Verizon Network Architecture Brief at 2. The parties deal more fully with the issues of virtual FX service and assignment of NPA-NXX codes in Issue I-6, *infra*.

[107] *See* Verizon Network Architecture Brief at 2-3.

[108] *See id.* at 2.

[109] *See id.* at 20-21, citing AT&T's November Proposed Agreement to Verizon, Sch. 4, Part A, § 1.5.

[110] *See* Verizon Network Architecture Brief at 5-6 and 21.

points beyond which the competitive LEC would be *financially* responsible for the further transport of traffic to its network. According to Verizon, its VGRIPs proposal, by establishing competitive LEC IPs, merely shifts onto competitive LECs some of the costs Verizon incurs to transport traffic to the point of interconnection.[111] Verizon adds that, under the terms of its VGRIPs proposal, a competitive LEC's IP may very well be outside the Verizon local calling area in which traffic originates; in such circumstances, Verizon would absorb the transport costs it incurs to carry traffic to the IP. According to Verizon, this aspect of VGRIPs represents a significant compromise for Verizon.[112] Verizon maintains that its proposal is consistent with the Commission's *Local Competition First Report and Order*, which stated that "a requesting carrier that wishes a 'technically feasible' but expensive interconnection would, pursuant to section 252(d)(1), be required to bear the cost of that interconnection."[113] Verizon cites interconnection arbitration orders by the South Carolina Public Service Commission (South Carolina Commission) and the North Carolina Utilities Commission (North Carolina Commission) approving incumbent LEC interconnection proposals similar to Verizon's VGRIPs proposal.[114] Verizon also states that the U.S. Court of Appeals for the Third Circuit has recognized that state commissions may consider shifting onto a competitive LEC the costs that a competitive LEC's choice of points of interconnection would otherwise impose on the incumbent LEC.[115]

(ii) Discussion

51. We adopt the petitioners' proposed interconnection language, rather than Verizon's proposed language implementing its "GRIPS" and "VGRIPS" proposals.[116] We find

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[111] *See id.* at 5-8.

[112] *See id.* at 6.

[113] *See id.* at 8, quoting *Local Competition First Report and Order*, 11 FCC Rcd at 15603, para. 199.

[114] *See* Verizon Network Architecture Brief at 12-16, citing South Carolina Commission, *Petition of AT&T Communications of the Southern States, Inc., for Arbitration of Certain Terms and Conditions of a Proposed Interconnection Agreement with BellSouth Telecommunications, Inc., Pursuant to 47 U.S.C. Section 252*, Docket No. 2000-527-C, Order on Arbitration, Order No. 2001-079 (2001); North Carolina Commission, *In the Matter of Arbitration of Interconnection Agreement Between AT&T Communications of the Southern States, Inc., and TCG of the Carolinas, Inc., and BellSouth Telecommunications, Inc., Pursuant to the Telecommunications Act of 1996*, Docket Nos. P-140, Sub 73, P-646, Sub 7 (2001).

[115] *See* Verizon Network Architecture Brief at 16, citing *MCI Telecommunications Corp. v. Bell Atlantic Pennsylvania*, 271 F.3d 491, 518 (3rd. Cir. 2001).

[116] With respect to AT&T, we adopt AT&T's November Proposed Agreement, §§ 4.1 *et seq.* and 4.2 *et seq.*, and Schedule 4 (except for certain provisions modified or rejected elsewhere in this Order, such as in Issue III-3/III-3-a and Issue V-1/V-8); and reject Verizon's November Proposed Agreement, §§ 1.45(a), 1.63, 4.1 *et seq.*, 4.2 *et seq.*, 5.7.3 and 5.7.6 *et seq.* With respect to Cox, we adopt Cox's November Proposed Agreement, § 4.2 *et seq.*; and reject Verizon's November Proposed Agreement, § 4.2.2 *et seq.* With respect to WorldCom, we adopt WorldCom's November Proposed Attachment IV, §§ 1.1 through 1.1.3.3, and 1.3 through 1.3.2; and reject Verizon's November Proposed Agreement, Part B, §§ 2.49 and 2.71, and Interconnection Attachment, §§ 2.1 *et seq.*, 2.5, 7.1 *et seq.* and 7.5 *et seq.*

that petitioners' language more closely conforms to the Commission's current rules governing points of interconnection and reciprocal compensation than do Verizon's proposals. Because we adopt the petitioners' proposals, rather than Verizon's, we also determine that WorldCom's motion and Cox's objection are moot with respect to Issue I-1.

52. Under the Commission's rules, competitive LECs may request interconnection at any technically feasible point.[117] This includes the right to request a single point of interconnection in a LATA.[118] The Commission's rules implementing the reciprocal compensation provisions in section 252(d)(2)(A) prevent any LEC from assessing charges on another telecommunications carrier for telecommunications traffic subject to reciprocal compensation that originates on the LEC's network.[119] Furthermore, under these rules, to the extent an incumbent LEC delivers to the point of interconnection its own originating traffic that is subject to reciprocal compensation, the incumbent LEC is required to bear financial responsibility for that traffic. The interplay of these rules has raised questions about whether they lead to the deployment of inefficient or duplicative networks.[120] The Commission is currently examining the interplay of these rules in a pending rulemaking proceeding.[121] As the Commission recognized in that proceeding, incumbent LECs and competitive LECs have taken opposing views regarding application of the rules governing interconnection and reciprocal compensation.[122]

53. We find that the petitioners' proposed language more closely conforms to our existing rules and precedent than do Verizon's proposals.[123] Verizon's interconnection proposals

[117] *See* 47 U.S.C. § 251(c)(2); 47 C.F.R. § 51.305(a)(2).

[118] *See Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Notice of Proposed Rulemaking, 16 FCC Rcd 9610, 9634, 9650, paras. 72, 112 (2001) (*Intercarrier Compensation NPRM*); *SWBT Texas 271 Order*, 16 FCC Rcd at 18390, para. 78 n.174.

[119] *See* 47 C.F.R. § 51.703(b).

[120] *See Intercarrier Compensation NPRM*, 16 FCC Rcd at 9617, para. 14.

[121] *See id.*, 16 FCC Rcd at 9650-52, paras. 112-14.

[122] *See id.*, 16 FCC Rcd at 9650, para. 112.

[123] We note that the Commission declined to find that policies similar to GRIPs and VGRIPs violated the Act in the *Verizon Pennsylvania 271 Order*. *See Application of Verizon Pennsylvania Inc., Verizon Long Distance, Verizon Enterprise Solutions, Verizon Global Networks, Inc., and Verizon Select Services, Inc. for Authorization to Provide In-Region, InterLATA Services in Pennsylvania*, Memorandum Opinion and Order, 16 FCC Rcd 17419, 17474-75, para. 100 (2001) (*Verizon Pennsylvania 271 Order*). The Commission has not, however, required that all "new and unresolved interpretive disputes about the precise content of an incumbent LEC's obligations" be resolved in a Bell Operating Company's (BOC) favor in order for the BOC's section 271 application to be granted. *See Joint Application by SBC Communications Inc., Southwestern Bell Tel. Co., and Southwestern Bell Communications Services, Inc., d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma*, Memorandum Opinion and Order, 16 FCC Rcd 6237, 6246-47, para. 19 (2001) (*SWBT Kansas/Oklahoma 271 Order*). Thus, the *Verizon Pennsylvania 271 Order* is not determinative of the question we address here, which is whether Verizon's or petitioners' language is more consistent with the Act and our rules.

require competitive LECs to bear Verizon's costs of delivering its originating traffic to a point of interconnection beyond the Verizon-specified financial demarcation point, the IP. Specifically, under Verizon's proposed language, the competitive LEC's financial responsibility for the further transport of Verizon's traffic to the competitive LEC's point of interconnection and onto the competitive LEC's network would begin at the Verizon-designated competitive LEC IP, rather than the point of interconnection.[124] By contrast, under the petitioners' proposals, each party would bear the cost of delivering its originating traffic to the point of interconnection designated by the competitive LEC. The petitioners' proposals, therefore, are more consistent with the Commission's rules for section 251(b)(5) traffic, which prohibit any LEC from charging any other carrier for traffic originating on that LEC's network; they are also more consistent with the right of competitive LECs to interconnect at any technically feasible point.[125] Accordingly, we adopt the petitioners' proposals.

54. Verizon raises serious concerns about the apportionment of costs caused by a competitive LEC's choice of points of interconnection, such as, for example, the apportionment of costs for virtual FX traffic transported to distant points of interconnection.[126] As we have noted, the Commission is currently examining similar concerns on an industry-wide basis in a pending rulemaking proceeding.[127] Should the Commission's rules governing interconnection and reciprocal compensation change during that proceeding, we expect the agreements' change of law provisions to apply. As we indicate above, however, in this proceeding, we will decide the issues presented based on the Commission's existing rules, and the petitioners' interconnection proposals more closely conform to those rules than do Verizon's proposals.

c. Additional Interconnection Language (Issues VII-1 and VII-3)

(i) Positions of the Parties

55. The arguments raised by Verizon under Issues VII-1 and VII-3 overlap considerably with the questions addressed above under Issue I-1, and relate to the same sections of proposed language. While we thus discuss most of these arguments above, we discuss in this section a number of other specific criticisms raised by Verizon relating to AT&T's proposed Section 4. Specifically, Verizon contends:

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[124] *See* Verizon Network Architecture Brief at 6. Verizon states that a competitive LEC could discharge that financial responsibility, for example, by purchasing UNE transport from Verizon. *See id.* at 6.

[125] 47 C.F.R. § 51.703(b).

[126] For a more extensive discussion of Verizon's concerns regarding virtual FX traffic, *see infra*, Issue I-6.

[127] *See Intercarrier Compensation NPRM* at 9634-38, 9650-52, paras. 69-77, 112-15.

- AT&T has wasted time and resources by unilaterally changing provisions that the parties agreed upon during negotiations.[128]

- AT&T's proposed language allowing it to interconnect "at any technically feasible point" is too broad and vague, as the New York Commission recently held.[129]

- AT&T's proposal does not provide Verizon with many interconnection options, defaulting to providing Verizon's POI at the AT&T end office switch in the absence of mutual agreement.[130]

- AT&T uses the term "ESIT" in its proposed language, referring to intraLATA toll and local traffic, which would lead to treating intraLATA toll traffic subject to the Virginia Commission's tariffing authority in the same manner as section 251(b)(5) traffic.[131]

- AT&T's proposals contain timelines that are unnecessarily rigid, yet overly broad and vague.[132]

- AT&T's proposed language governing transition and trunk conversion costs unfairly holds Verizon responsible for half of AT&T's costs whenever AT&T decides to alter its existing network and interconnection arrangements with Verizon.[133] Verizon suggests that its own proposal is consistent with the New York Commission's recent determination that AT&T should pay for all relevant, incremental costs triggered by its actions during a network transition.[134]

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[128] *See* Verizon Network Architecture Brief at 21-22. For example, with respect to the parties' trunk group proposals, Verizon asserts that AT&T should have merely offered a redline comparison of AT&T's and Verizon's proposals if it wanted to point out any differences in the proposals, instead of putting already agreed upon language in dispute. *See, id.* at 23-24.

[129] *See* Verizon Network Architecture Brief at 22, citing Case 01-C-0095, *AT&T Petition for Arbitration to Establish an Interconnection Agreement with Verizon*, Order Resolving Arbitration Issues, at 28 (issued July 30, 2001) (*New York Commission AT&T Arbitration Order*) (in which, according to Verizon, the NY Commission adopted the same "POI" options offered here by Verizon).

[130] *See* Verizon Network Architecture Brief at 22-23.

[131] *See id.* at 23.

[132] *See id.* at 24, citing AT&T's November Proposed Agreement to Verizon, Sch. 4, Part B, § 3 (timelines for transitioning to new interconnection arrangements).

[133] *See* Verizon Network Architecture Brief at 24, citing AT&T's November Proposed Agreement to Verizon, Sch. 4, Part B, § 3 *et seq.*

[134] *See* Verizon Network Architecture Brief at 24, citing *New York Commission AT&T Arbitration Order* at 29.

- AT&T's proposal to interconnect with Verizon at a point of presence (POP) hotel or customer premise would be discriminatory because AT&T is uniquely advantaged, as a result of conditions dating back to the AT&T divestiture, by sometimes having wire centers in the same building as Verizon.[135]

56. AT&T responds to Verizon's objections to its proposed Schedule 4. Specifically, AT&T argues that any "reorganization" of its language prior to the hearing was almost entirely non-substantive, and was intended to make its language conform more closely to the structure of Verizon's model contract.[136] AT&T also contends that its use of the term "ESIT" to refer to local and toll traffic does not cause problems. AT&T states that the parties have agreed to carry both local and toll traffic on the same trunks, and apply a percent local usage factor to determine the relative amounts of reciprocal compensation and access charges owed to terminating carriers. AT&T argues that its treatment of toll traffic is thus consistent with section 251(b)(5) of the Act as well as Virginia's treatment of intrastate toll traffic.[137] To address Verizon's concerns regarding payment for network transitions, AT&T states that it has modified its language to make clear that each party bears its own non-recurring charges for network transitions.[138] The proposed language for intra-building interconnection is consistent with AT&T's right to interconnection at any technically feasible point, and would not allow the parties to grandfather existing interconnection arrangements indefinitely.[139]

(ii) Discussion

57. We reject Verizon's several arguments opposing inclusion of AT&T's Schedule 4 for the following reasons, and find that this proposed language is consistent with applicable law and precedent.

- Verizon's objection to AT&T's restructuring of its proposed language on trunk groups is without merit: there is simply no requirement that a petitioner for arbitration under section 252(b) must present the Arbitrator with the same language discussed during previous voluntary negotiations.

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[135] *See* Verizon Network Architecture Reply at 12.

[136] *See* AT&T Brief at 70, citing AT&T's November Proposed Agreement to Verizon, Sch. 4, Part C.

[137] *See* AT&T Reply at 33-34. AT&T also disputes Verizon's concerns that AT&T's use of the term ESIT carries any slamming implications. *See id* at 34. According to AT&T, both parties have agreed that intrastate toll traffic will be carried to the end user's chosen intraLATA toll provider, over the exchange access trunks corresponding to that particular provider.

[138] *See* AT&T Brief at 69.

[139] *See id.* at 67. AT&T explains that its language merely allows the parties to *agree mutually* to grandfather existing interconnection arrangements while they transition to new ones.

- We disagree with Verizon's contention that AT&T's language allowing it to interconnect at any technically feasible point is too broad and vague.[140] AT&T's proposed language restates its rights under the Act and the Commission's implementing rules, and lists several examples ("tandems, end offices, outside plant and customer premises") of what might constitute technically feasible points.[141]

- We reject Verizon's objection that AT&T's proposed language offers Verizon fewer interconnection options than for itself. The standards governing incumbent LEC interconnection under section 251(c)(2) of the Act simply do not apply to competitive entrants like AT&T.

- We find Verizon's objection to AT&T's use of the term ESIT to be lacking. As AT&T explains, the use of this term merely recognizes the parties' agreement to exchange 251(b)(5) traffic and toll traffic on the same trunk groups, applying a percentage of use factor to determine the portion of traffic subject to reciprocal compensation and the portion subject to access charges. Verizon fails to explain how this does violence to Virginia's regime governing intrastate access.

- We reject Verizon's claim that AT&T's proposes an unnecessarily rigid and unworkable plan for implementing network reconfigurations consistent with the contract language adopted herein. Verizon offers no support for its claim – for example, it does not explain why AT&T's proposed 45-day timeline for developing an implementation plan is unworkable. AT&T's proposed timetable appears reasonable and, even if the target dates to be impractical, the proposal envisions using the contract's dispute resolution process in the event any deadlines are missed.

- With respect to AT&T's language governing trunk conversion costs, we find that AT&T's modified language adequately addresses Verizon's stated concern that AT&T would require Verizon to pay AT&T's costs for trunk conversion.

- We reject Verizon's arguments that AT&T's language allowing it to interconnect at any technically feasible point, including a customer premises (*i.e.*, intra-building interconnection), discriminates against other carriers. Technically feasible interconnection is the right of every competitive entrant. The fact that AT&T in some instances, by the development of historical events, maintains wire centers on the same premises as Verizon hardly renders its proposed language discriminatory against other carriers.

2. Issues I-2/VII-5 (Distance-Sensitive Rates and Transport of Verizon Traffic from the IP to the POI)

[140] *See* AT&T's November Proposed Agreement to Verizon, Sch. 4, Part A, § 1.1.

[141] *See* 47 U.S.C. § 251(c)(2); 47 C.F.R. § 51.305.

a. Introduction

58. Verizon proposes language that would preclude petitioners from charging it distance-sensitive rates for "entrance facilities," in order to limit its transport costs in the event that it does not prevail on Issue I-1. These "entrance facilities" are interconnection facilities petitioners provide to Verizon that are used to transport Verizon-originated traffic to the petitioners' networks.[142] Verizon argues its proposed language would limit its transport costs in LATAs where a petitioner establishes only one, or few, points of interconnection (POIs). With respect to WorldCom, and as discussed in Issue I-1, Verizon seeks to include language requiring WorldCom to establish an interconnection point (IP) with Verizon, separate from the physical POI. The IP, rather than the POI, would serve as the demarcation of Verizon's financial responsibility for further transport of traffic.[143] Petitioners oppose Verizon's proposed language.[144] We reject Verizon's proposed language.

b. Positions of the Parties

59. AT&T opposes Verizon's language; it proposes no language of its own. AT&T believes that Issue I-2 presents the question of price caps for competitive LEC services, which, it argues under Issue I-9, are inconsistent with law.[145] Thus, AT&T argues that it should be able to

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[142] The following sections of Verizon's proposed contracts raise the distance-sensitive rate issue. With respect to AT&T, under Issue VII-5: Verizon's November Proposed Agreement to AT&T, § 4.2.7; *see* Verizon Network Architecture (NA) Brief at 17, n.32. At the hearing, counsel for Verizon stated that Issue VII-5 is the same as Issue I-2. *See* Tr. at 2708-09. With respect to Cox for Issue I-2: Verizon's November Proposed Agreement to Cox, §§ 4.3.8, 4.5.3; *see* Verizon NA Brief at 17, n.32; *see also* Cox Objection and Request for Sanctions at Exhibit 3. Verizon's November Proposed Contract to Cox, § 4.2.4, which Cox also identifies as at issue (*see* Second Revised Joint Decision Point List, Network Architecture (Nov. 2, 2001), at 26), was withdrawn by Verizon in its November contract filing. *See* Verizon November Proposed Agreement to Cox, at 17-18. With respect to WorldCom: Verizon's November Proposed Agreement to WorldCom, Part C, Interconnection Attach., § 2.1.3.5.1; *see* Verizon NA Brief at 17, n.32. WorldCom explains, however, that the "distance-sensitive rate" aspect of Issue I-2 is inapplicable to it because Verizon brings traffic on its own facilities to the point of interconnection with WorldCom. *See* n.165, *infra*. WorldCom also contests Verizon's proposed § 2.1.3.5.1 as part of the general language contested under Issue I-1. *See* Second Revised Joint Decision Point List, Network Architecture, Issue I-1, at 17.

[143] As discussed below, WorldCom frames its Issue I-2 differently than AT&T and Cox and, accordingly, challenges under Issue I-2 a different portion of Verizon's proposed contract, which it also challenges under Issue I-1. *See* Second Revised Joint Decision Point List, Network Architecture, Issue I-1, at 18-19 (challenging Verizon proposed §§ 7.1.1.2, 7.1.1.3, 7.1.1.3.1, 7.1.3), Issue I-2, at 24-25 (same).

[144] In November, Verizon modified its proposed language to Cox. *See* Verizon's November Proposed Agreement to Cox, § 4.5.3; *see also* Cox Objection and Request for Sanctions at Exhibit 3 (comparing Issue I-2 language in Revised Joint Decision Point List with Issue I-2 language in Second Revised Joint Decision Point List). Cox filed an Objection and Request for Sanctions, arguing that this language introduces a new approval requirement. *See* Cox Objection and Request for Sanctions at 2, 11-12.

[145] With respect to Issue I-2, AT&T consistently has cross-referenced its Issue I-9 argument. *See, e.g.*, AT&T Ex. 4 (Direct Testimony of R. Kirchberger), at 3; AT&T Statement of Unresolved Issues at 280-81. Neither AT&T nor Verizon identified in any of the Joint Decision Point Lists any language from either party's proposed contract as at (continued....)

recover its distance-sensitive charges for any transport it provides from Verizon's network to its own.[146] As in Issue I-1, AT&T argues that each party has the financial obligation to deliver its originating traffic to the POI. This means that Verizon must fully compensate AT&T for costs that AT&T incurs to deliver Verizon-originated traffic to that point (*i.e.*, if Verizon uses AT&T entrance facilities for this purpose).[147] Accordingly, AT&T objects to Verizon's proposed language that precludes distance-sensitive rates.[148] Verizon's complaint that it is hostage to paying AT&T transport ignores the reality that Verizon is the incumbent with the ubiquitous network and rarely needs to lease facilities from any carrier, a point which Verizon conceded at the hearing.[149]

60. Cox argues that Verizon's proposal would create an asymmetrical relationship. Verizon would bar Cox from charging distance-sensitive rates for the transport of Verizon-originated traffic over Cox facilities,[150] but would still charge Cox distance-sensitive rates for carrying Cox-originated traffic over Verizon's transport facilities.[151] Cox argues that asymmetrical rates are not justified in this matter for three reasons. First, Cox notes that it has proposed language under which Verizon could self-provision transport up to the "entrance facility point" for Cox's switching offices (*i.e.*, up to the Verizon wire center closest to the Cox switch).[152] Cox estimates that in Virginia the distance between its switch and the nearest Verizon serving wire center does not exceed four miles.[153] Thus, if Verizon chooses this alternative, it would pay Cox no more than a four-mile entrance facility charge. Verizon's witness acknowledged that this is a reasonable distance for which to pay transport charges.[154] Second, Cox argues, the fact that the current and proposed agreements both allow for mid-span meets

(Continued from previous page)
issue under Issue I-2. As noted, at the hearing, counsel for Verizon stated that Issue VII-5, which is a Verizon-designated AT&T issue, is the same as Issue I-2. *See* Tr. at 2708-09.

[146] *See* Tr. at 2707.

[147] *See* AT&T Brief at 73.

[148] *See* Verizon's November Proposed Agreement to AT&T, § 4.2.7.

[149] AT&T Brief at 73 n.247, citing Tr. at 1237-38. Moreover, as discussed with respect to Issue V-2, AT&T claims that, when the situation is reversed and AT&T purchases transport from Verizon for the same purpose, Verizon wants to charge AT&T distance-sensitive, market-based exchange access rates – Verizon's highest tariffed rate. *Id.* This, AT&T argues, is clearly inequitable. *Id.*

[150] *See* Cox Brief at 17.

[151] *See* Cox Brief at 17, citing Tr. at 1255-56; Verizon Ex. 18 (Rebuttal Testimony of D. Albert and P. D'Amico), at 12.

[152] *See* Tr. at 1021-23; Cox Ex. 1 (Direct Testimony of F. Collins), at 11-12; *see also* Cox November Proposed Agreement to Verizon, § 4.3.4.

[153] Cox Brief at 17, citing Cox Ex. 2 (Rebuttal Testimony of F. Collins), at 13; Tr. at 1028-29.

[154] Cox Brief at 17-18, citing Tr. at 1259.

largely eliminates Verizon's concerns because Verizon can control when and if it will pay distance-sensitive rates to Cox.[155] Third, although Verizon argues that elimination of mileage-sensitive rates is essential to protect it from the situation in which a competitive LEC chooses a single POI in a LATA and places it far distant from the Verizon end-office, Cox has already agreed to multiple IPs in Virginia. Accordingly, Cox asserts, the problem of the single POI does not exist with respect to Cox.[156] Allowing Verizon to charge Cox distance-sensitive rates, while denying Cox the same opportunity, forces Cox to subsidize Verizon's services.[157]

61. Moreover, Cox argues, several regulatory control mechanisms already ensure that Cox's rates are reasonable. These include common carrier rules requiring nondiscriminatory rates and state and federal regulatory oversight of Cox's rates and practices.[158] Verizon has admitted that it does not deem any of Cox's rates to be unreasonable and has never challenged them before a regulatory body.[159]

62. Finally, Cox argues, Verizon's November VGRIPs language, which also would give Verizon the sole right to designate IPs (while continuing to limit Cox to non-distance-sensitive charges),[160] violates two settled Commission policies.[161] First, it is contrary to the Commission's determination that competitive LECs are permitted to choose their POIs.[162] Second, it would require the Commission to revise its policy of treating Cox and Verizon as co-carriers and treat Cox as a subservient carrier.[163] Cox contends the Commission has stated that each carrier derives a benefit from interconnection and each should be required to bear the reasonable cost of it.[164]

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[155] Cox Brief at 18, citing Tr. at 1022-24.

[156] Cox. Brief at 18, citing Tr. at 1252-53.

[157] *Cox Brief at 19.*

[158] Cox Reply at 11-12.

[159] Cox Reply at 12, citing Cox Exhibits 22-24 (the only Cox rate Verizon deems unreasonable is a late fee; Verizon has not filed a complaint against Cox but would do so if it deemed Cox rates unreasonable).

[160] *See* Cox Objection and Request for Sanctions at Exhibit 3 (comparing Issue I-2 language in Revised Joint Decision Point List with Issue I-2 language in Second Revised Joint Decision Point List).

[161] Cox Reply at 11.

[162] *See* Cox Brief at 19, citing *Local Competition First Report and Order*, 11 FCC Rcd at 15608-09; 47 C.F.R. § 51.305(a); Cox Reply at 11.

[163] Cox Reply at 11, citing *Local Competition First Report and Order*, 11 FCC Rcd at 15981[sic. 15781, para. 553].

[164] Cox Brief at 17, citing *Local Competition First Report and Order*, 11 FCC Rcd at 15981[sic. 15781, para. 553].

63. According to WorldCom, Issue I-2 is different from Cox's Issue I-2 and does not concern distance-sensitive charges.[165] WorldCom states that, in a co-carrier environment, Verizon is responsible for delivering its traffic to the physical POI.[166] Under Verizon's proposed section 7.2 to WorldCom, however, WorldCom would be obligated to receive Verizon-originated traffic at points that Verizon designates as "WorldCom IPs" and then would be required to provide transport and termination of Verizon's traffic from that point.[167] Under Verizon's proposal, typically, a "WorldCom IP" would be at a point on Verizon's network before the POI, and WorldCom would not be able to assess charges other than reciprocal compensation for terminating traffic from the WorldCom IP.[168] Accordingly, WorldCom would have to provide "free transport" to Verizon between the WorldCom IP and the POI.[169] Reciprocal compensation does not reimburse WorldCom for the cost of this transport between the WorldCom IP and the POI, [170] because reciprocal compensation only recovers the cost of tandem switching by the terminating carrier, transport from that carrier's tandem to the terminating office, and end-office switching.[171]

64. Verizon argues that if the Commission does not accept the VGRIPs proposal, it should permit Verizon to address its legitimate transport concerns by preventing the petitioners

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[165] WorldCom Brief at 18 n.12. WorldCom explains that under the parties' current arrangement, Verizon is "able to self-provision facilities for the delivery of its traffic to WorldCom, and there is no factual basis for its proposal to limit WorldCom's transport charges to a non-distance-sensitive charge." WorldCom Reply at 19. Accordingly, Verizon's proposal to limit transport charges to a non-distance-sensitive charge is inapplicable to WorldCom.

[166] WorldCom Brief at 19 n.13.

[167] *See* WorldCom Brief at 18 & n.12; Verizon's November Proposed Agreement to WorldCom, Interconnection Attach., § 7.2 (compensation for transport and termination of § 251(b)(5) traffic shall be at the rates stated in the Pricing Attachment which "are to be applied at the MClm-IP for traffic delivered by Verizon for termination by MClm .... Except as expressly specified in this Agreement, no additional charges shall apply for the termination from the IP to the customer" of such traffic). Section 7.2 was not identified by either party in the Joint Decision Point Lists as at issue under either Issue I-1 or I-2.

[168] *See* WorldCom Brief at 18, citing WorldCom Ex. 3 (Direct Testimony of D. Grieco and G. Ball) at 28. The IP is either a Verizon end office or multiple Verizon tandems. These are not the POI in a multi-tandem LATA. WorldCom Brief at 18-19, citing WorldCom Ex. 3, at 29.

[169] WorldCom Brief at 18, citing WorldCom Ex. 3, at 28.

[170] *Id.*

[171] *Id.* at 19. Moreover, WorldCom argues, if it were, for example, to provide transport of Verizon traffic between a Verizon end-office (one potential manifestation of the WorldCom IP) and the POI at the Verizon tandem -- an average distance of ten miles in Virginia – WorldCom should be able to charge for this transport service. WorldCom Brief at 19, citing WorldCom Ex. 3, at 28-29; WorldCom Reply at 20, citing WorldCom Ex. 15 (Rebuttal Testimony of D. Grieco and G. Ball), at 30-31. Further, any restriction on such a charge, such as limiting it to a non-distance-sensitive charge, would be unreasonable. *See* WorldCom Reply at 20. WorldCom would be providing transport over some distance, and limiting WorldCom's ability to levy a reasonable charge would force WorldCom to provide transport at below cost rates. *See id.*

from charging it distance-sensitive rates for transport.[172] It claims that its proposal protects it from being penalized if a competitive LEC locates only one or a limited number of POIs in the LATA.[173] Through its proposal, Verizon seeks options, just as the competitive LECs have options, to limit the costs of interconnection. If the competitive LECs can unilaterally dictate the location of the POI without assuming any financial responsibility for that choice, refuse to provide collocation,[174] and unilaterally dictate how to establish the mid-span meet, [175] Verizon has no options other than to purchase transport from the competitive LECs.[176] Verizon's proposal would preclude petitioners from charging excessive rates when Verizon delivers its traffic to a distant competitive LEC POI. [177]

65. In response to Cox's claim that it should be treated as a co-carrier, Verizon argues that Cox only wants such treatment when it is to Cox's benefit.[178] Verizon should be given the same choices as competitive LECs.[179] Consistent with petitioners' desire to be treated as "co-carriers," they should be willing to offer Verizon the same opportunities they have to limit interconnection costs.[180] Otherwise, petitioners should not be permitted to charge Verizon distance-sensitive rates for transport because Verizon's choice as to where it may deliver traffic is limited.[181] Verizon's lack of interconnection choices, combined with the competitive LECs' option to choose whatever interconnection method they desire, could operate to maximize Verizon's costs.[182]

c. Discussion

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[172] Verizon NA Brief at 16.

[173] Verizon NA Brief at 16-17, citing Tr. at 1255, 18; *see also* Tr. at 2708-05.

[174] *See infra*, Issue I-3.

[175] Verizon says if it were able to establish mid-span meets with competitive LECs on terms and conditions agreeable to Verizon, then the mid-span meet would obviate the need for Verizon to collocate, but argues that the competitive LECs also want the unilateral ability to dictate how to accomplish the mid-span meet. Verizon NA Reply at 11, citing Issue III-3.

[176] Verizon NA Brief at 17; Verizon NA Reply at 11 n.32.

[177] *See* Verizon NA Brief at 17.

[178] Verizon NA Reply at 10, citing Cox Brief at 17.

[179] Verizon NA Reply at 11.

[180] *Id.* at 12.

[181] *Id.* at 11.

[182] *Id.* at 18.

66. Consistent with our decisions on Issues I-1 and I-9, we rule for petitioners on this issue. In Issue I-1, we rejected Verizon's GRIPs and VGRIPs proposals. Accordingly, and for the reasons we articulate under Issue I-1, we reject Verizon's proposal to WorldCom to establish an IP that is distinct from the POI.[183] We also will not prohibit distance-sensitive rates when Verizon uses petitioners' facilities to transport traffic originating on its network to petitioners' networks. Accordingly, we reject Verizon's proposed language.[184]

67. Verizon's contract proposals on Issue I-2 arise out of its complaints about the rules concerning where a carrier must deliver traffic originating on its network to the terminating carrier. Specifically these rules establish that: (1) competitive LECs have the right, subject to questions of technical feasibility, to determine where they will interconnect with, and deliver their traffic to, the incumbent LEC's network[185]; (2) competitive LECs may, at their option, interconnect with the incumbent's network at only one place in a LATA[186]; (3) all LECs are obligated to bear the cost of delivering traffic originating on their networks to interconnecting LECs' networks for termination[187]; and (4) competitive LECs may refuse to permit other LECs to collocate at their facilities.[188]

68. One result of these rules, which Verizon addresses in Issue I-2, is that sometimes Verizon must pay petitioners for transporting Verizon-originated traffic from the place where

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[183] Thus, we reject section 4.5.3 of Verizon's November Proposed Agreement to Cox, which requires Cox to provide additional IPs in a LATA upon request. Because we reject Verizon's VGRIPs proposal, and find in favor of petitioners on Issue I-2, we deny as moot Cox's Objection and Request for Sanctions with respect to this issue. Further, because we reject Verizon's VGRIPs proposal, we also reject Verizon's proposed language to WorldCom in section 7.2. *See* Verizon's November Proposed Agreement to WorldCom, Interconnection Attach., § 7.2.

[184] Thus, in addition to the VGRIPs language we reject above, we reject Verizon's November Proposed Agreement to AT&T, § 4.2.7; Verizon's November Proposed Agreement to Cox, §§ 4.3.8 and 4.5.3; and Verizon's November Proposed Agreement to WorldCom, Part C, Interconnection Attach., §§ 2.1.3.5.1 and 7.2. Because we reject Verizon's VGRIPs proposal, and find in favor of petitioners on Issue I-2, we deny as moot Cox's Objection and Request for Sanctions with respect to this issue.

[185] 47 U.S.C. § 251(c)(2); 47 C.F.R. § 51.305(a); *Local Competition First Report and Order*, 11 FCC Rcd at 15608, para. 209.

[186] *See Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Notice of Proposed Rulemaking, 16 FCC Rcd 9610, 9634, 9650-51, paras. 72, 112 (2001) (*Intercarrier Compensation Rulemaking*); *SWBT Texas 271 Order*, 15 FCC Rcd 18354, 18390 at para. 78 & n.170.

[187] This precept stems from rules 51.703(b) and 51.709(b), which on the one hand preclude all LECs from charging other carriers for local traffic that the LEC originates, 47 CFR § 51.703(b), and on the other hand permit carriers providing transmission facilities between two networks to recover from the interconnecting carrier "only the costs of the proportion of that trunk capacity used by [the] interconnecting carrier to send traffic that will *terminate* on the providing carrier's network." 47 CFR § 51.709(b)(emphasis added); *see also Local Competition First Report and Order*, 11 FCC Rcd at 16027-28, para. 1062.

[188] *See infra*, Issue III-3.

petitioners interconnect with Verizon's network to the petitioners' networks.[189] Thus, using Cox as an example, because Cox has statutory rights to choose the point where it interconnects with Verizon, and to collocate at a Verizon facility, the interconnection facility between Verizon's network and Cox's network may be owned by Cox. But, Verizon complains, because it does not have reciprocal statutory rights, if Cox is unwilling to let it collocate, Verizon cannot build its own interconnection facility to deliver its traffic to Cox's network.[190] In that case, in order to deliver its traffic to Cox, Verizon may have to purchase transport from Cox and pay a distance-sensitive rate component. Verizon complains about the distance-sensitive pricing of these transport facilities in Issue I-2. Because Cox chooses the interconnection point between the two networks, Verizon cannot control the distance over which it may be required to purchase transport.

69. Although we recognize, as we did in Issue I-1, that Verizon raises serious concerns about the apportionment of costs caused by competitive LECs' choice of points of interconnection,[191] we do not believe that limiting competitive LECs' transport charges for carrying Verizon-originated traffic is the appropriate way to address these concerns. Rather, we agree with AT&T that, by limiting the rates that petitioners charge for facilities that are used by Verizon to transport Verizon-originated traffic, Verizon's proposal would effectively constitute a price cap for competitive LEC services. As we discuss with respect to Issue I-9, however, the Bureau, acting as the Virginia Commission in this proceeding, is authorized by section 252 to determine just and reasonable rates to be charged by Verizon, not petitioners.[192] Accordingly, here, we cannot limit petitioners' rates for these transport facilities. To the extent that it believes that petitioners' rates for these facilities, including the distance-sensitive rate component, are unjust and unreasonable, Verizon may challenge them in proceedings before the Virginia

[189] As discussed in Issue I-1, Verizon argues that the place where the competitive LECs interconnect with Verizon's network is not necessarily the location where Verizon would choose to route its traffic, particularly if that location is distant from the place where the traffic originates on Verizon's network. Thus, in Issue I-1, Verizon argues that it could be inconvenient and expensive for Verizon to route, across its own facilities, all traffic destined for the place where the competitive LEC chooses to interconnect with Verizon (which could also be, at the competitive LECs' option, the only point of interconnection in that LATA). In Issue I-1, Verizon seeks to limit transport over its own facilities. Specifically, in Issue I-1, and with respect to WorldCom in Issue I-2, Verizon seeks to require the competitive LECs either to physically pick up the Verizon traffic at an earlier point on Verizon's network or to pay Verizon for carrying the Verizon traffic across its own network to the competitive LEC network. In Issue I-1, we rejected this aspect of Verizon's proposal.

[190] *See* Tr. at 1134-36; Verizon NA Brief at 17-18; Verizon NA Reply at 9-10. We note that the Verizon witness testified that it need not always collocate to interconnect at the CLEC switch. *See* Tr. at 1143-44; *see generally id.* at 1137-44.

[191] *See supra*, Issue I-1.

[192] *See infra*, Issue I-9.

Commission.[193] Also, Verizon may advocate alternative payment regimes before the Commission in the pending *Intercarrier Compensation Rulemaking* docket.[194]

70. Moreover, although Verizon complains that it should not be forced to buy transport from petitioners, we note that this is not the only method that Verizon uses to deliver its traffic to them. Cox presented evidence showing that, under its current agreement with Verizon, the parties interconnect and exchange a substantial amount of traffic through a mid-span meet, under which each party transports its own traffic up to the meet point.[195] Cox also states that it has agreed with Verizon to include mid-span meet interconnection provisions in the parties' new agreement, which will permit Verizon to continue to control its costs and engineer and provision its own facilities.[196] The Verizon witness did not dispute this testimony.[197] In Issue III-3, we decide the terms under which AT&T and WorldCom may establish mid-span meets with Verizon.[198]

71. Finally, although it is true that the statute permits competitive LECs to choose where they may deliver their traffic to the incumbent,[199] carriers do not always deliver originating traffic and receive terminating traffic at the same place.[200] The "single point of interconnection" rule benefits the competitive LEC by permitting it to interconnect for delivery of *its* traffic to the incumbent LEC network at a single point. It does not preclude the parties from agreeing that the incumbent may deliver its traffic to a different point or additional points that are more convenient for it. It appears from the record that AT&T and Cox have offered to negotiate such additional

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[193] *See id.* As we note in our discussion of Issue I-9, Verizon has presented no evidence that any of the petitioners are charging it unreasonable rates and, with respect to Cox, has admitted it would challenge any unreasonable rates.

[194] *Intercarrier Compensation Rulemaking*, 16 FCC Rcd 9610.

[195] *See* Tr. at 1022; 1260; Cox Ex. 2, at 13.

[196] *See* Cox Ex. 1, at 12, citing Cox Proposed Agreement to Verizon at § 4.4. Cox also demonstrated that it currently offers two interconnection points in the Norfolk LATA, which is one of two LATAs in Virginia where these carriers currently interconnect. *See* Tr. at 1252-53; *see also* Cox's November Proposed Agreement to Verizon at § 4.2.3.

[197] *See* Tr. at 1260.

[198] *See infra*, Issue III-3.

[199] 47 U.S.C. § 251(c)(2).

[200] The Commission's rules define "interconnection" as the "linking of two networks for the mutual exchange of traffic." 47 C.F.R. § 51.5. The parties' respective obligations to interconnect with each other, however, arise from different provisions of the Act. Incumbent LECs are required by section 251(c)(2) to permit any requesting telecommunications carrier to interconnect "for the transmission and routing of telephone exchange service and exchange access" with the incumbent's network "at any technically feasible point within the [incumbent] carrier's network." Non-incumbent carriers, on the other hand, are required by section 251(a)(1) "to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers."

points with Verizon.[201] WorldCom already permits Verizon to self-provision transport to WorldCom's facility.[202] To the extent that Verizon seeks prophylactically to "address future situations as well as other CLECs adopting this agreement,"[203] we do not think that is appropriate in this proceeding, particularly given the evidence presented, and thus decline to do so.

3. Issue I-3 (Reciprocal Collocation)

a. Introduction

72. Section 251(c)(6) of the Act requires incumbent LECs to permit the collocation of equipment at the incumbent's premises.[204] Verizon seeks the reciprocal right to collocate equipment at the premises of AT&T, Cox, and WorldCom, so that it can reduce its costs of transporting traffic to their networks.[205] The petitioners oppose this request. We reject Verizon's proposal.

b. Positions of the Parties

73. The petitioners assert that the Commission lacks authority to compel them to offer collocation to Verizon.[206] They argue that the Commission's rules forbid state commissions from imposing incumbent LEC obligations on competitive LECs,[207] and that several state commissions have held that competitive LECs cannot be required to offer collocation.[208] They claim that Congress distinguished between incumbent LECs and competitive LECs in enacting the

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[201] For example, AT&T's contract permits the parties to mutually agree to points where Verizon may interconnect with AT&T for delivery of its traffic; in addition to AT&T's switch. *See* AT&T's November Proposed Agreement to Verizon, Sch. 4, Part A, § 1.3, Part B § 2; *see also* AT&T Ex. 3 (Direct Testimony of D. Talbott & J. Schell, Jr.), at 139. Cox's witness testified that, in Virginia, Cox is willing to accept Verizon traffic from Verizon facilities within four miles from the Cox switch. *See* Tr. at 1021-23; *see also* Cox's November Proposed Agreement to Verizon at § 4.3.4. Verizon's witness agreed that was a reasonable distance. Tr. at 1259. In this regard we note that both parties have a duty to negotiate in good faith the terms and conditions of interconnection agreements. 47 U.S.C. § 251(c)(1).

[202] *See* WorldCom Reply at 19.

[203] *See* Tr. at 1261-62.

[204] 47 U.S.C. § 251(c)(6).

[205] Verizon's November Proposed Agreement to AT&T, §§ 4.2.2.3, 13.5; Verizon's November Proposed Agreement to Cox, §§ 4.3.4 (to the extent it addresses collocation), 4.3.5, 13.10; Verizon's November Proposed Agreement to WorldCom, Part C, Interconnection Attach., §§ 2.1.3.3-2.1.3.4. *See also* Tr. at 1265-66 (testimony of Verizon witness Albert).

[206] AT&T Brief at 31; Cox Brief at 20; WorldCom Brief at 20.

[207] Cox Brief at 20-21, citing 47 C.F.R. § 51.223(a).

[208] *See, e.g.*, AT&T Brief at 33; Cox Brief at 21.

Telecommunications Act of 1996 based on the incumbents' market power, and that the Commission should not redraw Congress's blueprint for promoting competition.[209] The petitioners state that, although they cannot be compelled to do so, they will allow Verizon to collocate at their premises in certain circumstances.[210]

74. Verizon recognizes that section 251(c)(6) applies to incumbent LECs, not competitive LECs, and that the Act does not require the petitioners to offer collocation at their premises.[211] Verizon maintains, however, that nothing in the Act prohibits the Commission from allowing Verizon to interconnect with the petitioners at their premises.[212] According to Verizon, fairness dictates that it have interconnection choices comparable to those available to the competitive LECs.[213] Verizon states that the collocation rights it requests would reduce its costs of delivering its originating traffic to the petitioners' networks.[214] Verizon argues that the petitioners should allow Verizon to collocate at their premises and otherwise help minimize Verizon's transport costs.[215]

c. Discussion

75. We reject Verizon's position and proposed contract language on this issue.[216] Verizon has not suggested any provision in the Act or the Commission's rules that requires petitioners to provide collocation to Verizon. Instead, Verizon argues that fairness dictates that it have collocation choices comparable to those available to competitive LECs.[217] Verizon's collocation obligations, however, arise primarily under section 251(c)(6) of the Act, which requires incumbent LECs, but not competitive LECs, to provide collocation to other carriers.[218] Indeed, in the *Local Competition First Report and Order*, the Commission decided not to impose

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[209] AT&T Brief at 31-33; Cox Brief at 21; WorldCom Brief at 20 n.15; WorldCom Reply at 22.

[210] AT&T Brief at 33-34; Cox Brief at 21; WorldCom Brief at 20 n.15.

[211] Verizon NA Brief at 19; Verizon Ex. 4 (Direct Testimony of D. Albert & P. D'Amico), at 29; Tr. at 1263-65 (testimony of Verizon witness Albert).

[212] Verizon NA Brief at 19; Tr. at 1263-65 (testimony of Verizon witness Albert).

[213] Verizon NA Brief at 19.

[214] *Id.* at 19-20; Verizon NA Reply at 11-12.

[215] Verizon NA Reply at 11-12.

[216] *See* Verizon's November Proposed Agreement to AT&T, §§ 4.2.2.3, 13.5; Verizon's November Proposed Agreement to Cox, §§ 4.3.4 (to the extent it addresses collocation), 4.3.5, 13.10; Verizon's November Proposed Agreement to WorldCom, Part C, Interconnection Attach., §§ 2.1.3.3-2.1.3.4.

[217] Verizon NA Brief at 19.

[218] *See Verizon Pennsylvania Order*, 16 FCC Rcd at 17475, para. 102 (stating that the 1996 Act does not impose a collocation obligation on non-incumbents); Verizon NA Brief at 19.

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August 1, 2002

VIA HAND DELIVERY

Marlene H. Dortch
Secretary
Office of the Secretary
Federal Communications Commission
Room TW-B-204
445 Twelfth Street, S.W.
Washington, D.C. 20554

REDACTED -
For Public Inspection

Re: Application by Verizon Virginia Inc., Verizon Long Distance Virginia Inc., Verizon Enterprise Solutions Virginia Inc., Verizon Global Networks Inc., and Verizon Select Services of Virginia Inc., for Authorization To Provide In-Region, InterLATA Services in Virginia

Dear Ms. Dortch:

This is the cover letter for the Application by Verizon Virginia Inc., Verizon Long Distance Virginia Inc., Verizon Enterprise Solutions Virginia Inc., Verizon Global Networks Inc., and Verizon Select Services of Virginia Inc., for Authorization To Provide In-Region, InterLATA Services in Virginia ("the Application").

This Application contains confidential information. We are filing confidential and redacted versions of the Application.

1. The Application consists of (a) a stand-alone document entitled Application by Verizon Virginia for Authorization To Provide In-Region, InterLATA Services in Virginia ("the Brief"), and (b) supporting documentation. The supporting documentation is organized as follows:

No. of Copies rec'd 0+1
List ABCDE

a. Appendix A includes declarations and attachments thereto in support of the Brief;

b. Appendices B through P consist of various materials including selected portions of the Virginia Public Utilities Commission proceedings, third-party OSS evaluations, Carrier-to-Carrier Guidelines, interconnection agreements, and additional supporting documents;

c. Appendix Q consists of Carrier-to-Carrier reports, Trend Reports, and Summary Measurements Reports.

2. Specifically, we are herewith submitting for filing:

a. One original of only the portions of the Application that contain confidential information (in paper form, except for certain materials that are being filed only on CD-ROM);

b. One original of a redacted Application (in paper form);

c. One copy of the redacted Application (in paper form);

d. Two CD-ROM sets containing the Brief and the supporting-documentation portion of the redacted Application; and

e. Four additional copies of the redacted Application (partly in paper form and partly on CD-ROM), so that each Commissioner may receive a copy.

3. We are also tendering to you certain copies of this letter and of portions of the Application for date-stamping purposes. Please date-stamp and return these materials.

4. Under separate cover, we are submitting copies (redacted as appropriate) of the Application to Ms. Janice Myles, Policy and Program Planning Division, Wireline Competition Bureau, Federal Communications Commission, Room 5-C-327, 445 12th Street, SW, Washington, D.C. 20554. We are also submitting copies (redacted as appropriate) to the Department of Justice, to the Virginia State Corporation Commission, and to Qualex (the Commission's copy contractor).

Thank you for your assistance in this matter. If you have any questions, please call me at 703-351-3860 or Steven McPherson at 703-351-3083.

Very truly yours,

Michael E. Glover

Encs.

REDACTED — For Public Inspection

DOCKET FILE COPY ORIGINAL

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Application by Verizon Virginia Inc.,	)	
Verizon Long Distance Virginia Inc.,	)	
Verizon Enterprise Solutions Virginia	)	WC Docket No. 02-214
Inc., Verizon Global Networks Inc., and	)	
Verizon Select Services of Virginia	)	
Inc., for Authorization To Provide	)	
In-Region, InterLATA Services in	)	
Virginia	)	

APPLICATION BY VERIZON VIRGINIA FOR AUTHORIZATION TO PROVIDE IN-REGION, INTERLATA SERVICES IN VIRGINIA

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August 1, 2002

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INTRODUCTION AND SUMMARY

The local market in Virginia is open, the checklist is satisfied, and consumers are now entitled to the enormous benefits that experience has shown will follow from Verizon's entry into the long distance business. Verizon's Application to provide interLATA services originating in Virginia should be granted.

This Application presents a clear-cut case for approval because Verizon has taken the same extensive steps to open its local markets in Virginia as it has taken in *eight* other Verizon states — which contain *75 percent* of Verizon's access lines — where the Commission has found that Verizon satisfies the requirements of the 1996 Act in all respects. Verizon uses substantially the same processes and procedures to provide the various checklist items in Virginia as it uses in its 271-approved states — Pennsylvania, New Jersey, New York, Massachusetts, Rhode Island, Vermont, Maine, and Connecticut. And, as in all of those states, competitors in Virginia are using the various checklist items in commercial volumes to enter the local market through all three entry paths available under the Act.

As the facts on the ground demonstrate, local competition is thriving in Virginia. As of May 2002, competing carriers already served approximately 763,000 lines, more than *85 percent* of which were served in whole or in part over facilities they have deployed themselves. Indeed, Virginia has proportionately more *facilities-based* competition than *any* of the other states that have been granted section 271 authority, at the time applications were filed in those states. See Brief Att. A, Ex. 3. Virginia likewise has proportionately more facilities-based *residential* competition than any other 271-approved state. See id. Ex. 4. There are *three* cable operators in Virginia that are providing telephone service over their cable networks and that, along with other facilities-based carriers, collectively serve at least 192,000 residential lines. And, of course, these carriers *offer* service to a far greater number of households.

Moreover, as was the case in Verizon's prior applications, Verizon's operations support systems ("OSS") in Virginia are in place, operational, and handling large commercial volumes. For example, in 2001, Verizon's pre-ordering systems processed more than 2.1 million transactions in Virginia and its ordering systems processed more than 650,000 transactions. And in just the first six months of this year, Verizon's systems in Virginia processed more than 1.1 million pre-ordering transactions and more than 385,000 ordering transactions.

At the same time, Verizon's performance has been excellent across the board. Verizon measures its performance in providing access to the checklist items in Virginia under comprehensive performance measurements adopted by the Virginia State Corporation Commission ("SCC"). These measurements are predominantly the same as those developed in New York and that are in use both in New York and in many of Verizon's other 271-approved states. From April through June 2002 — the most recent three-month period for which data are available — Verizon's performance under the SCC-approved measurements demonstrates that it:

- met the intervals for providing interconnection trunks to CLECs *100 percent* of the time;
- met the intervals for providing physical collocation arrangements to CLECs *100 percent* of the time;
- completed more than *99 percent* of CLECs' platform orders, and *99 percent* of CLECs' stand-alone voice-grade loop orders, on time;
- completed more than *98 percent* of CLECs' hot-cut orders on time;
- met nearly *99 percent* of its installation appointments for CLECs' unbundled DSL-capable loops; and
- met more than *99 percent* of its installation appointments for CLECs' resale orders that did not require the dispatch of a Verizon technician, and more than *98 percent* of resale orders that did require a dispatch.

Verizon's real-world experience also is confirmed by an independent third-party test by KPMG that Verizon passed with flying colors. Acting under the supervision of the SCC, KPMG evaluated 545 different aspects of Verizon's systems, and found that Verizon satisfied the test criteria for all but three. On two of those three items, there was no problem with Verizon's systems; KPMG's findings were merely inconclusive due to an insufficient sample size in its test. And Verizon has fully resolved the issues relating to the third item identified by KPMG.

Just as Verizon's performance in Virginia clearly satisfies the requirements of the 1996 Act, so do its wholesale rates. The Virginia SCC established TELRIC-compliant rates for the vast majority of network elements — all those established by this Commission's Local Competition Order — including unbundled loops, switching, and transport. In addition, this Commission is establishing rates for all network elements in an arbitration proceeding that is now complete and awaiting a final decision. In the meantime, Verizon is charging TELRIC-compliant rates for all elements, including those that were not included in the SCC's UNE-pricing decision. Moreover, the loop rates in Virginia are TELRIC-compliant for the separate and independent reason that they satisfy the Commission's established benchmark standard when compared to the recently established New York rates. Finally, while the switching rates set by the SCC comply fully with this Commission's TELRIC rules, Verizon also has agreed to true-up these rates to the switching rates this Commission establishes in the arbitration proceeding. By ensuring that the rates CLECs ultimately pay for switching are the rates set by this Commission, this additional step eliminates any conceivable concerns about those rates.

Verizon also is subject to a Performance Assurance Plan in Virginia that parallels the plans in Verizon's 271-approved states, which the Commission found provide "strong assurance that the local market will remain open after [Verizon] receives section 271 authorization." And

the remedy payments at risk annually in Virginia are proportionately the same as the remedy amounts at risk under the plans in Verizon's 271-approved states.

As the Commission has recognized, Verizon's long distance entry also will produce enormous benefits. Indeed, actual experience proves that Verizon's entry will both promote local competition and create significant benefits for customers of long distance service.

Local competition has increased dramatically in those in-region states where Verizon and other Bell companies have been authorized to provide long distance service. In New York, for example, local competition exploded after Verizon's entry: competitors in New York served just over one million lines at the time of Verizon's application; today they serve more than three million lines. One independent consumer group has estimated that the increase in *local* competition as a result of Verizon's entry is saving consumers in New York up to *$400 million per year*. And that same consumer group has estimated that the increase in *long distance* competition as a result of Verizon's entry is already saving consumers in New York up to nearly *$300 million per year*.

By any measure, therefore, Verizon's entry into the long distance market in other states has greatly enhanced both local and long distance competition. Consumers in Virginia — where Verizon's local markets are open to the same degree as in these other states — are now entitled to receive these same benefits.

The Commission should grant this Application.

I. VERIZON'S APPLICATION SATISFIES THE REQUIREMENTS OF SECTION 271(c)(1)(A).

Verizon easily meets the requirements to file this Application under so-called "Track A." See 47 U.S.C. § 271(c)(1)(A).[1] Whether they are viewed collectively or individually, competitors in Virginia are providing service predominantly over their own facilities to both residential and business subscribers. See Report of Alexander F. Skirpan, Jr., Hearing Examiner, Verizon Virginia Inc., To Verify with the Conditions Set Forth in 47 U.S.C. § 271(c), Case No. PUC-2002-00046, at 10 (July 12, 2002) ("Hearing Examiner's Report") (App. C, Tab 29) ("No party to this proceeding has challenged Verizon Virginia's assertion that it satisfies the requirements of § 271(c)(1)(A). There is no dispute that multiple competitors are providing telephone exchange service to residential and business customers either exclusively or predominantly over their own telephone facilities.").

On a collective basis, even by the most conservative of estimates, competing carriers in Virginia served at least 655,000 lines as of May 2002 either wholly or partially over facilities they deployed themselves (including in all cases their own switches), which is more than seven times the number they serve through resale. See Torre Decl. Att. 1, ¶ 4. As of that same date, competing carriers served approximately 192,000 *residential* lines using facilities they deployed themselves, which is more than six times the number of residential lines they served through resale. See id. Att. 1, ¶ 5. Overall, therefore, competing carriers in Virginia unquestionably are providing service on a predominantly facilities basis.

Moreover, just as this is true overall, it also is true of individual carriers. For example, looking just at four of the largest carriers in Virginia, they too are providing service

[1] Both Bell Atlantic and GTE were incumbent LECs in Virginia prior to the merger of these two companies to form Verizon; references to Verizon in Virginia mean the former Bell Atlantic serving area in Virginia.

predominantly over their own facilities to business and residential subscribers, both individually and collectively.

1. AT&T. — AT&T provides service to business and residential customers in Virginia using facilities it has deployed itself. See id. Att. 1, ¶ 23.[2] These facilities include AT&T's extensive cable network that reaches about 150,000 Virginia homes. See Torre Decl. Att. 1, ¶ 23, n.21. Although the information available to Verizon necessarily understates the number of facilities-based lines, AT&T serves approximately *** *** access lines in Virginia either wholly or partially over facilities it has deployed itself (including in all cases its own local switches). See id. Att. 1, ¶ 24. This includes approximately *** *** residential lines that AT&T appears to serve over its own cable network. See id. AT&T also serves approximately *** *** business lines and approximately *** *** residential lines through UNE platforms. See id.[3]

2. Cox. — Cox provides service to business and residential customers in Virginia using facilities it has deployed itself, including at least 1,800 route miles of fiber and three local circuit switches in Norfolk and Newport News. See Torre Decl. Att. 1, ¶ 27.[4] Cox also provides service over its cable network in Hampton Roads, and parts of Newport News, Williamsburg, and Virginia Beach. See Torre Decl. Att. 1, ¶ 27. While the information available to Verizon necessarily understates the number of facilities-based lines, Cox serves approximately

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[2] AT&T's interconnection agreement with Verizon was approved in 1997. See App. O, Tab 2.

[3] As the Commission previously has held, lines served through unbundled network elements (including pre-assembled platforms of such elements) qualify as a competitor's own facilities for purposes of the Track A requirements. See Michigan Order ¶ 101; Kansas/Oklahoma Order ¶¶ 41-42.

[4] Cox's interconnection agreement with Verizon was approved in 1997. See App. O, Tab 5.

*** *** access lines — including approximately *** *** residential lines — either wholly or partially over facilities that it has deployed itself (including in all cases its own local switches). See id. Att. 1, ¶ 28. Cox serves only *** *** business lines through resale. See id.

3. Comcast. — Comcast provides service to business and residential customers in Virginia using its cable network in northern Virginia. See id. Att. 1, ¶ 29.[5] While the information available to Verizon necessarily understates the number of facilities-based lines, Comcast serves approximately *** *** access lines — including approximately *** *** residential lines — either wholly or partially over facilities that it has deployed itself (including in all cases its own local switches). See Torre Decl. Att. 1, ¶ 30. Comcast does not appear to serve any customers in Virginia through resale. See id.

4. Cavalier. — Cavalier Telephone offers local services in Virginia to business and residential customers using its own extensive networks that include three local switches and at least 450 route miles of fiber. See id. 1, ¶ 25.[6] While the information available to Verizon necessarily understates the number of facilities-based lines, Cavalier serves approximately *** *** access lines — including more than *** *** residential lines — either wholly or partially over facilities that it has deployed itself (including in all cases its own local switches). See Torre Decl. Att. 1, ¶ 26. In contrast, Cavalier serves only *** *** lines via resale, only *** *** of which serve residential customers. See id.

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[5] Comcast is the successor to Jones Intercable's interconnection agreement with Verizon, which was approved in 2001. See App. O, Tab 5.

[6] Cavalier's interconnection agreement with Verizon was approved in 1999. See App. O, Tab 3.

II. VERIZON SATISFIES ALL REQUIREMENTS OF THE COMPETITIVE CHECKLIST.

Verizon unquestionably satisfies the requirements of the competitive checklist in Virginia. Verizon is making all 14 checklist items available on substantially the same terms and using substantially the same processes and procedures as it uses in its eight other 271-approved states — states that contain 75 percent of Verizon's total access lines. See Lacouture/Ruesterholz Decl. ¶ 8.[7]

Verizon also is providing each of the checklist items in large commercial quantities. For example, as of June 2002, Verizon had provided competing carriers in Virginia with approximately 233,000 interconnection trunks; 198,000 unbundled loops (including DSL loops and platforms); 87,000 resold lines; 397,000 directory listings; 518,000 ported numbers; and 590 in-service collocation arrangements. See Lacouture/Ruesterholz Decl. ¶¶ 17, 50, 94, 322, 356, 372; Brief Att. A, Ex. 1.

Moreover, Verizon provides service to CLECs in Virginia using the same interfaces and gateway systems as it uses in 271-approved states. See McLean/Wierzbicki/Webster Decl. ¶ 8.[8] With the enactment of the 1996 Act, Verizon was required to develop many new wholesale interfaces, systems, and processes for competing carriers, and Verizon has taken part in industry collaborative proceedings to help it develop these systems. See McLean/Wierzbicki/Webster Decl. ¶ 24. Using input from these proceedings, Verizon developed a common set of wholesale

[7] There currently is no ongoing litigation under 47 U.S.C. § 252(e)(6) that relates to Verizon's approved interconnection agreements in Virginia.

[8] See also First Louisiana Order ¶¶ 1, 3 (where an aspect of an applicant's checklist showing is "materially indistinguishable" from a showing in another state, the Commission will use its prior determination "as a starting point for [its] review" and "review any new data or information" from the parties only "to determine whether a different result is justified"); Second Louisiana Order ¶ 56 (where BOC "provides access to a particular checklist item through a region-wide process, such as its OSS, [the Commission] will consider both region-wide and state specific evidence in [its] evaluation of that checklist item").

interfaces and gateway systems across the entire footprint of the former Bell Atlantic — including Virginia and the other 271-approved states. See id. And, of course, the Commission has already found that these interfaces, gateways, processes, and procedures meet all the requirements of the Act. See Pennsylvania Order ¶ 11; New Jersey Order ¶ 75; New York Order ¶ 82; Massachusetts Order ¶¶ 50, 70, 90, 95, 97, 102; Rhode Island Order ¶¶ 58-71; Vermont Order ¶¶ 39-40; Maine Order ¶ 35; Connecticut Order ¶ 51.[9]

While the underlying OSS in Virginia differ in some respects from those in Verizon's 271-approved states, they are just as checklist compliant. The former Bell Atlantic service area in Virginia is now served by Verizon Virginia, which historically was part of the Chesapeake and Potomac ("C&P") Telephone Company. See McLean/Wierzbicki/Webster Decl. ¶ 26.[10] There is a single set of OSS serving Virginia and the other former C&P states. See McLean/Wierzbicki/Webster Decl. ¶ 26. Like the systems in Verizon's 271-approved states, the systems serving Virginia and the other C&P states are handling significant commercial volumes with a high degree of quality. These systems also have been subject to a third-party test by KPMG that Verizon passed with flying colors.

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[9] During the course of the state proceedings, AT&T argued that Verizon should be required to demonstrate compliance with the checklist in the former GTE territory in Virginia. As the Commission has held, however, "the Act does not require Verizon to make a showing of checklist compliance with respect to the former GTE operating company . . . in order to obtain section 271 authorization." Pennsylvania Order ¶ 8; see also id. ¶ 134. That determination — which AT&T has not appealed — is clearly correct because the checklist applies only to BOCs, see 47 U.S.C. § 271(d)(3)(A), and the former GTE local operating companies in Virginia are not themselves BOCs, but rather "affiliate[s]" of BOCs, see id. § 153(4)(C).

[10] The other C&P jurisdictions are Maryland, West Virginia, and the District of Columbia. See McLean/Wierzbicki/Webster Decl. ¶ 26. When the Bell System was broken apart in 1984, C&P became part of Bell Atlantic, together with the Bell operating companies serving Pennsylvania, New Jersey, and Delaware. Bell Atlantic then merged with NYNEX (which served New York, Connecticut, Massachusetts, Rhode Island, Maine, Vermont, and New Hampshire) in 1997, and the combined company retained the Bell Atlantic name.

Moreover, the Virginia SCC has conducted a comprehensive investigation of Verizon's checklist compliance that is entitled to maximum deference under the Commission's well-settled precedent.[11] In Virginia, the formal docket in the SCC's section 271 proceeding has seen submissions totaling thousands of pages from at least 11 main parties other than Verizon; it involved five days of hearings, filling more than 1,300 pages of transcript. The SCC also relied on the extensive work that it performed in other dockets, including a proceeding to establish wholesale rates. See infra pp. 45-51. The SCC's evaluation contained all of the elements that the Commission has found to "exemplif[y] the way in which rigorous state proceedings can contribute to the success of a section 271 application." New York Order ¶ 8. In particular, the SCC conducted an extensive proceeding with "full and open participation by all interested parties," id.; supervised "extensive independent third party testing" of Verizon's OSS, id.; adopted "clearly defined performance measures and standards," id.; and adopted "performance assurance measures that create a strong financial incentive for post-entry compliance," id. See also, e.g., Massachusetts Order ¶ 2; Pennsylvania Order ¶ 3; New Jersey Order ¶ 2.[12] Based on this extensive investigation, the SCC's Hearing Examiner released a 170-page report that

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[11] See, e.g., New York Order ¶ 51 ("Given the 90-day statutory deadline to reach a decision on a section 271 application . . . where the state has conducted an exhaustive and rigorous investigation into the BOC's compliance with the checklist, we may give evidence submitted by the state substantial weight."); Texas Order ¶ 4 (according state commission decision "substantial weight based on the totality of its efforts and the extent of expertise it has developed on section 271 issues").

[12] While certain competitors will likely argue, as they did during the course of the state proceedings, that the Virginia SCC is not in a position to make findings regarding Verizon's Application because it decided not to arbitrate Verizon's interconnection agreements with CLECs, there is no merit to such claims. It is the right of a state commission not to arbitrate under section 252(e)(5) of the Act, and the Act affords states that exercise that right the same ability to conduct an evaluation of a Bell company's checklist compliance and consult with this Commission regarding its findings as it does with respect to states that choose to arbitrate themselves. See 47 U.S.C. § 271(d)(2)(B).

concludes that "Verizon Virginia currently complies with each of the fourteen Checklist Items." Hearing Examiner's Report at 171.

As summarized below, the conclusions of the SCC's Hearing Examiner are supported by overwhelming evidence.

First, Verizon's actual performance in providing access to each of the 14 checklist items is excellent across the board. During the most recent three-month period for which data are available, Verizon's performance in Virginia has been excellent. From April through June 2002, Verizon completed on time at least 98 percent — and in most instances 99 percent or more — of CLECs' interconnection trunks, physical collocation arrangements, unbundled loops (including stand-alone loops, hot cuts, platforms, and DSL-capable loops), and non-dispatch resale orders. See Lacouture/Ruesterholz Decl. ¶¶ 27, 52, 98, 113, 142, 215, 379.

Second, as noted above, Verizon's systems have undergone independent third-party testing that Verizon passed with flying colors. See McLean/Wierzbicki/Webster Decl. ¶¶ 11, 22. Like the tests in Verizon's 271-approved states on which it was modeled, the KPMG test in Virginia was "broad in scope," "independent and blind," and used a "military-style test standard." Massachusetts Order ¶¶ 44-45; see also Pennsylvania Order ¶ 31. This test accordingly provides "persuasive evidence of Verizon's OSS readiness." Massachusetts Order ¶ 46. Altogether, the KPMG test evaluated 545 separate areas relating to Verizon's systems; Verizon satisfied all but three test points — 99.5 percent; two issues were inconclusive due to an insufficient sample size used in the KPMG test, and the third issue Verizon has fully resolved. See McLean/Wierzbicki/Webster Decl. ¶ 22; KPMG, Verizon Virginia OSS Evaluation Project Final Report (Version 2.0) (Apr. 15, 2002) ("KPMG Final Report") (App. D, Tab 5).

Third, Verizon reports its performance in Virginia under measurements that "track Verizon's performance on functions essential to an open, competitive local market." Massachusetts Order ¶ 237; see Pennsylvania Order ¶ 3; Guerard/Canny/DeVito Decl. ¶ 31. Verizon uses measurements in Virginia that are based on the New York measurements. See Guerard/Canny/DeVito Decl. ¶ 15, 17; Hearing Examiner's Report at 70 ("the Commission has established comprehensive performance measurements . . . that are comparable to the performance measurements adopted in New York, Pennsylvania, and New Jersey"). And, going forward, Verizon will continue to track the New York measurements in Virginia. See Guerard/Canny/DeVito Decl. ¶ 16, 23-24. The Commission has previously found these performance measurements acceptable. See New York Order ¶¶ 438-439; Massachusetts Order ¶¶ 243-244 (approving measurements that were substantially the same as those used in New York); Pennsylvania Order ¶¶ 3, 125, 127 (same); Rhode Island Order ¶ 108 (same); Vermont Order ¶ 74 (same); Maine Order ¶ 63 (same); New Jersey Order ¶ 176 (same).

Finally, Verizon is subject to a comprehensive Performance Assurance Plan in Virginia that mirrors the plan in New York and Massachusetts. The Virginia Plan places approximately $206 million in remedy payments at risk annually, an amount that is proportionately the same as the amounts at risk in Massachusetts and New York, see Guerard/Canny/DeVito Decl. ¶ 86, and that the Commission has found provides "assurance that the local market will remain open after Verizon receives section 271 authorization," Massachusetts Order ¶ 236. Consequently, this Plan provides added assurance that Verizon will continue to provide high-quality service to competing carriers.

Despite all this, competitors still will likely claim that this Application is premature and that it should be denied. In particular, competitors are likely to claim that this Commission has

only recently issued a decision in the Virginia arbitration proceeding, and that Verizon somehow has not yet done enough to demonstrate that it will comply with the terms of that order. There is no merit to such claims. The Virginia Arbitration Order[13] gives Verizon 45 days to modify its interconnection agreements with WorldCom, AT&T, and Cox, to make them consistent with the Commission's findings. See Virginia Arbitration Order ¶¶ 766-768. The parties are now assessing the Commission's decision and preparing interconnection agreements in accordance with that decision. See Lacouture/Ruesterholz Decl. ¶ 13. Once those conforming agreements are signed and approved they will be available for adoption by CLECs pursuant to the terms of the Act. See id.

In the interim until the relevant agreement is completed and approved, CLECs in Verizon's former Bell Atlantic service territory also may request in interconnection negotiations those service offerings and arrangements that the Commission found in the Virginia Arbitration Order to be required by applicable law, but which are not currently incorporated in any existing interconnection agreement in Virginia. See id. ¶ 14. Verizon is sending an industry letter advising CLECs in Virginia that Verizon will accept such requests from CLECs. See id.[14]

Competitors also are likely to argue that this Application is premature because this Commission has not yet issued a final decision with respect to pricing issues in the Virginia

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[13] See Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration, Memorandum Opinion and Order, CC Docket Nos. 00-218, 00-249 & 00-251, DA 02-731 (FCC rel. July 17, 2002) ("Virginia Arbitration Order") (App. P, Tab 14).

[14] Cf. Massachusetts Order ¶¶ 175-181 (finding that Verizon had satisfied the requirements of the Act with respect to line splitting, and was not merely making promises of future compliance, where Verizon had sent an industry letter to CLECs about a month after it filed its application, and about three weeks after the Commission adopted new line-splitting requirements, and where Verizon had offered to "incorporate[] line splitting contract language reflecting this policy into its Model Interconnection Agreement").

arbitration proceeding. But, as the Commission has repeatedly held, the fact that there are ongoing pricing proceedings that might affect a Bell company's offerings in the future does not affect whether a BOC satisfies the checklist at the time it files its application. For example, the Commission approved BellSouth's rates in Georgia despite the fact that there were ongoing proceedings to set new cost-based rates for UNEs in that state. See Georgia/Louisiana Order ¶ 96 ("we do not believe that the existence of a new Georgia cost docket, without more, should affect our review of the currently effective rates submitted with BellSouth's section 271 application . . . As a legal matter, we see nothing in the Act that requires us to consider only section 271 applications containing rates approved within a specific period of time before the filing of the application itself."). The Commission has likewise approved the rates in Rhode Island, Massachusetts, and New York, despite the fact that there were ongoing pricing proceedings in each of those states at the time Verizon filed those respective applications. See Rhode Island Order ¶ 31; Massachusetts Order ¶ 36; New York Order ¶ 247; see also AT&T, 220 F.3d at 617 ("If new information automatically required rejection of section 271 applications, we cannot imagine how such applications could ever be approved in this context of rapid regulatory and technological change.").

Moreover, competitors cannot legitimately claim that the wait for a final decision from this Commission has somehow affected the development of local competition in Virginia. As noted above, and described in detail below, Virginia has proportionately more facilities-based competition — including for residential customers — than *any* state that has been granted section 271 authority, at the time applications were filed in those states. And competitors are using the Act's other modes of entry in significant volumes as well. See infra Section IV(A).

Beyond their complaints regarding this Commission's Virginia arbitration proceeding, the issues that CLECs raised during the course of the state proceedings were based largely on stale or anecdotal evidence, involve claims that this Commission has rejected in prior section 271 proceedings, or already have been addressed by the Virginia SCC. In addition, CLECs raised a few complaints that were either individual carrier disputes that are not relevant to this proceeding or requests that Verizon be required to modify its checklist offerings in ways that go beyond the requirements of the Act. See Hearing Examiner's Report at 1 (noting that "many of the issues raised [in the state proceeding] concerned matters pending in other proceedings before the FCC").

In any event, the Commission repeatedly has made clear that it will evaluate a BOC's performance "based on the totality of the circumstances," and "an apparent disparity in performance for one measure, by itself, may not provide a basis for finding noncompliance with the checklist," Texas Order ¶ 58, if "the performance demonstrated by all the measurements as a whole" shows parity, Kansas/Oklahoma Order ¶ 32. Similarly, the fact that a measure may appear to reflect such a disparity does not necessarily mean that the applicant has not complied with the checklist if the disparity has "little or no competitive significance," or may be traced to CLEC behavior or other "factors outside of [the applicant's] control." New York Order ¶¶ 59, 202; see also Massachusetts Order ¶ 13 ("We may find that statistically significant differences exist, but conclude that such differences have little or no competitive significance in the marketplace. In such cases, we may conclude that the differences are not meaningful in terms of statutory compliance."); Kansas/Oklahoma Order ¶ 32 ("We may also find that the reported performance data is impacted by factors beyond a BOC's control, a finding that would make us less likely to hold the BOC wholly accountable for the disparity.").

Applying these standards here, it is abundantly clear that the checklist requirements are satisfied.

A. Interconnection (Checklist Item 1).

Verizon provides the same forms of interconnection in Virginia that it provides in states that have already received section 271 approval, and provides them using the same processes and procedures that it uses in those states. Moreover, as in Verizon's 271-approved states, real-world experience in Virginia proves that Verizon is able to meet the large and increasing demand for interconnection. See Hearing Examiner's Report at 28 (concluding that Verizon "meets the requirements . . . to provide interconnection").

1. Interconnection Trunks.

Verizon provides competing carriers in Virginia with the same kinds of interconnection trunks that it provides in its 271-approved states, and provides them using the same processes and procedures that it uses in those states. In Verizon's 271-approved states, the Commission found that Verizon provided interconnection to competing carriers that was "equal in quality to the interconnection Verizon provides to its own retail operations, and on terms and conditions that are just, reasonable, and nondiscriminatory." Massachusetts Order ¶ 183; see also Pennsylvania Order ¶ 99; New Jersey Order ¶ 154; Rhode Island Order ¶ 73; Vermont Order ¶ 45; Maine Order ¶ 52. The Commission also found that Verizon "makes interconnection available at any technically feasible point," and that it therefore demonstrates checklist compliance. Massachusetts Order ¶ 182.[15] The same is true here.

[15] Verizon provides interconnection trunks under interconnection agreements. See Lacouture/Ruesterholz Decl. ¶ 16. Verizon provides interconnection to the trunk sides of end office switches and to Verizon's signaling network, and provides both one-way and two-way trunks, 64 Kbps Clear Channel trunks, and traditional 56 Kbps trunks. See id. ¶¶ 16, 21-22. Verizon also will accept requests from CLECs for interconnection at other technically feasible points. See id. ¶ 16.

Through May 2002, Verizon has provided 30 competing carriers with approximately 233,000 interconnection trunks in Virginia. See Lacouture/Ruesterholz Decl. ¶ 17. To put these totals in perspective, this represents more than half the number of trunks Verizon has connecting its switches in the entirety of its own interoffice network in Virginia. See id. Through these trunks, CLECs are exchanging an average of approximately 1.4 billion minutes of traffic per month with Verizon. See id. ¶ 19.

Verizon provides interconnection trunks on time, even in the face of strong commercial demand. See Hearing Examiner's Report at 25 ("I agree with Verizon Virginia that its commercial performance in Virginia was good."). From April through June 2002, Verizon met the installation appointments for providing interconnection trunks to CLECs 100 percent of the time in Virginia. See Lacouture/Ruesterholz Decl. ¶ 27.[16] Verizon also has undertaken extraordinary efforts to accommodate the demand for interconnection trunks. For example, in 2001, Verizon increased the number of trunks between Verizon's network and CLEC networks by approximately 58 percent in Virginia. See Lacouture/Ruesterholz Decl. ¶ 18. Verizon also has adopted the same trunk forecasting process in Virginia that it uses in its 271-approved states. See id. ¶ 24. Finally, Verizon provides trunks to competing carriers that are of comparable or better quality than those it provides to itself. See id. ¶ 30.

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[16] As the Commission has recognized, "the Carrier Working Group in New York has decided to eliminate the 'average interval completed' series of metrics" beginning with the November 2001 report month. Rhode Island Order ¶ 70; see Lacouture/Ruesterholz Decl. ¶ 28. As of June 2002, these measurements are no longer reported in Virginia. See Guerard/Canny/DeVito Decl. ¶ 53. Accordingly, the Commission should focus on the missed appointment measurements instead, which the "Commission has given substantial weight . . . in previous section 271 applications." Rhode Island Order ¶ 70; see New Jersey Order ¶ 138 ("We conclude, as we have in prior section 271 orders, that the average completed interval metric is not the most accurate measure of provisioning timeliness."); Massachusetts Order ¶ 92 (finding that the average completed interval "data are not an accurate indicator of Verizon's performance").

During the course of the state proceeding in Virginia, several CLECs complained about Verizon's position regarding the physical location of the interconnection points for the exchange of traffic with CLECs. One of the issues resolved in the Virginia Arbitration Order was network architecture. See id. ¶ 37. The Commission selected the petitioner's network architecture proposals over Verizon's geographically relevant interconnection point ("GRIP") proposal. See id. As noted above, the arbitration parties are now incorporating the network architecture terms adopted in the Virginia Arbitration Order into their interconnection agreements. See id. Verizon's GRIP proposal, however, is not the only form of network interconnection available to CLECs in Virginia. See id. Verizon has entered interconnection agreements with CLECs in Virginia that allow the CLEC to select a single point of interconnection in the LATA. See id.

2. Collocation.

Verizon provides competitors in Virginia with essentially the same forms of collocation as it provides in its states that have received section 271 approval, using the same processes and procedures. See id. ¶ 42.[17] The Commission previously found that Verizon's collocation offerings "satisfy the requirements of sections 251 and 271 of the Act," and that Verizon has taken "steps necessary to implement the collocation requirements contained in the [Collocation Order] and the Collocation Reconsideration Order."[18] Massachusetts Order ¶ 194; see

[17] On June 28, 2002, the SCC approved a settlement joint settlement agreement between Verizon and various CLECs to resolve certain collocation rate issues. See Lacouture/Ruesterholz Decl. ¶ 43. This settlement puts to rest issues that several CLECs raised during the course of the state proceedings regarding Verizon's rates. See Hearing Examiner's Report at 27 (noting that SCC's approval of joint settlement agreement "answer[s] most of the issues complained of by Cavalier," and that the "remaining issues . . . fail to support a finding that such practices preclude an efficient carrier a reasonable opportunity to compete").

[18] Deployment of Wireline Services Offering Advanced Telecommunications Capability, First Report and Order and Further Notice of Proposed Rulemaking, 14 FCC Rcd 4761 (1999) ("Collocation Order"), vacated in part, GTE Serv. Corp. v. FCC, 205 F.3d 416 (D.C. Cir. 2000); Deployment of Wireline Services Offering Advanced Telecommunications Capability, Order on

Pennsylvania Order ¶ 99; New Jersey Order ¶ 154; Rhode Island Order ¶¶ 73-74; Vermont Order ¶ 45; Maine Order ¶ 52. The same is true in Virginia. Verizon also has modified its collocation offerings and processes to comply with the Collocation Remand Order.[19] See Lacouture/Ruesterholz Decl. ¶ 42.

Through May 2002, Verizon has placed in service about 590 collocation arrangements in central offices located throughout Virginia. See id. ¶ 50. Competitors are now collocated in central offices that serve 92 percent of Verizon's business lines in Virginia, and 83 percent of its residential lines. See Torre Decl. Att. 1, ¶ 10.

As in Verizon's 271-approved states, Verizon provides every form of collocation that is required by the Commission's rules.[20] *First*, in addition to standard physical arrangements, Verizon provides shared, adjacent, and "cageless" forms of collocation in accordance with the Commission's rules. See Lacouture/Ruesterholz Decl. ¶¶ 45, 62; Collocation Order ¶¶ 41-42. Cageless collocation arrangements now represent approximately 54 percent of the collocation arrangements in Verizon's central offices in Virginia. See Lacouture/Ruesterholz Decl. ¶ 50.

Reconsideration and Second Further Notice of Proposed Rulemaking in CC Docket No. 98-147 and Fifth Further Notice of Proposed Rulemaking in CC Docket No. 96-98, 15 FCC Rcd 17806 (2000) ("Collocation Reconsideration Order").

[19] Deployment of Wireline Services Offering Advanced Telecommunications Capability, Fourth Report and Order, 16 FCC Rcd 15435 (2001) ("Collocation Remand Order"), petitions for review denied, Verizon Tel. Cos. v. FCC, Nos. 01-1371 & 01-1379 (D.C. Cir. June 18, 2002).

[20] As in Verizon's 271-approved states, Verizon charges CLECs in Virginia for power based on the quantity of load amps they request rather than the quantity of fused amps. See Lacouture/Ruesterholz Decl. ¶ 79. CLECs in all of these states may determine for themselves the quantity of load amps they desire for each feed. See id. The practices in Virginia are the same as those in Verizon's other 271-approved states, where the Commission found that Verizon's collocation power charges were "just, reasonable, and nondiscriminatory." Massachusetts Order ¶ 199; see also Pennsylvania Order ¶ 104; New Jersey Order ¶ 154; Rhode Island Order ¶ 73; Vermont Order ¶ 45; Maine Order ¶ 52. In Virginia, the SCC has reviewed and approved the collocation power rates. See Lacouture/Ruesterholz Decl. ¶ 80.

Second, Verizon permits CLECs the option of establishing controlled-environment vaults or similar structures adjacent to Verizon central offices in which physical collocation space is unavailable. See id. ¶ 64; Collocation Order ¶ 44; Collocation Reconsideration Order ¶¶ 45-47. *Third*, Verizon provides virtual collocation, and has provided approximately 100 such arrangements for CLECs in Virginia. See Lacouture/Ruesterholz Decl. ¶¶ 43, 50. *Fourth*, Verizon offers collocation at remote terminals in the same manner as the Commission found compliant in Verizon's 271-approved states. See Lacouture/Ruesterholz Decl. ¶ 72; Pennsylvania Order ¶ 99; New Jersey Order ¶ 154; Massachusetts Order ¶ 196; Rhode Island Order ¶¶ 73-75; Vermont Order ¶ 45; Maine Order ¶ 52.[21] *Finally*, Verizon provides collocation within intervals adopted by the state commissions in Virginia: 76 business days for physical arrangements; 60 business days for virtual arrangements; and 45 calendar days for physical and virtual collocation augments. See Lacouture/Ruesterholz Decl. ¶ 51; see also Massachusetts Order ¶ 195 (finding that comparable intervals satisfied the checklist); New York Order ¶¶ 73-75 & n.157 (same).

Verizon provides collocation in a timely manner. From April through June 2002, Verizon completed all new physical and virtual collocation arrangements and augments in Virginia on time. See Lacouture/Ruesterholz Decl. ¶ 52. And in the event volumes grow further, KPMG has confirmed that Verizon has processes in place to forecast workload to ensure resources are available. See KPMG Final Report at 82-87.

[21] During the course of the state proceedings, Covad claimed that it was too costly for it to collocate a DSLAM at or near a remote terminal. See Lacouture/Ruesterholz Decl. ¶ 73. But whether or not Covad considers collocation at remote terminals to be a commercially viable business strategy has nothing to do with whether Verizon complies with the FCC's rules or this checklist item. See id.

Verizon also has taken the same extraordinary steps as it has taken in its 271-approved states to make collocation space available in its central offices. For example, Verizon will allow CLECs in Virginia to tour a central office within 10 days in those rare instances where it cannot accommodate a request for physical collocation, and it will file space-exhaustion notifications as required by the state commissions in those states upon determining that space is not available. See Lacouture/Ruesterholz Decl. ¶ 59. Verizon also has implemented methods and procedures to identify when a central office runs out of space for physical collocation, and to post this information on its Website within 10 days of when this occurs. See id. ¶ 55.

B. Unbundled Network Elements (Checklist Items 2, 4, 5, and 6).

Verizon provides competing carriers in Virginia with commercial volumes of unbundled network elements, including unbundled local loops, local switching, and local transport. Verizon provides these network elements using the same processes and procedures that it uses in Verizon states that have received section 271 approval. Through May 2002, Verizon has provided approximately 197,000 unbundled loops to CLECs. See id. ¶ 94. Moreover, Verizon has kept pace with increasing demand; it consistently delivers unbundled elements on time, when competing carriers request them. The Hearing Examiner found that "Verizon Virginia is offering nondiscriminatory access to network elements in accordance with the requirements of § 251(c)(3)." Hearing Examiner's Report at 77.

1. Unbundled Local Loops.

Verizon makes available to competing carriers in Virginia the same types of unbundled loops it makes available in its states that have received section 271 approval, and provides them using substantially the same processes and procedures as it uses in those states. See Lacouture/Ruesterholz Decl. ¶ 91; Pennsylvania Order ¶¶ 76-92 (finding that Verizon's provision of unbundled loops satisfies the Act); New Jersey Order ¶ 136 (same); Massachusetts

(ii) Discussion

254. We agree with Verizon that the general change of law provision in each interconnection agreement is sufficient to address any changes that may result from the ongoing proceedings relating to the *ISP Intercarrier Compensation Order*. None of the petitioners demonstrates that the general change of law provision would be inadequate to effectuate any court decision that reverses, remands or otherwise modifies the *ISP Intercarrier Compensation Order*. Verizon has asserted, as to Cox, that its general change of law provision's renegotiation terms would be activated by a reversal, other court decision, or remand of the *ISP Intercarrier Compensation Order*.[857] It appears that the same is true for the change of law provisions in the agreements with AT&T and WorldCom.[858] Additionally, the dispute resolution procedures incorporated into the parties' general change of law provisions are sufficient to address the petitioners' concerns that any change of law would trigger protracted negotiations when Verizon has no incentive to reach agreement.[859] Therefore, in light of the agreed-to general change of law provisions and related dispute resolution procedures, we reject the petitioners' proposed change of law provisions that are specific to this issue.[860]

255. We also find troubling those portions of AT&T and WorldCom's proposed change of law provisions that would retroactively increase the compensation due for delivery of ISP-bound traffic in the event of any stay, modification or (in the case of WorldCom) remand of the *ISP Intercarrier Compensation Order*.[861] These proposals sweep too broadly and could, as Verizon argues, be triggered by a modification or remand that did not reject, or even address, the

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[857] Tr. at 1790-92. *See* Verizon's November Proposed Agreement to Cox, § 27.

[858] *See* Verizon's November Proposed Agreement to AT&T, § 27; *see also* Issues IV-113/VI-1-E *infra* (adopting WorldCom's proposed section 25.2 of Part A).

[859] For example, according to the agreed-to general change of law provisions between Cox and Verizon, the parties commit to two rounds of good-faith negotiations that cannot exceed 45 days each. If they still cannot reach agreement, either side may file a complaint with the Virginia Commission or take other appropriate regulatory or legal action. *See* Verizon's November Proposed Agreement to Cox, § 28.9. *See also* Verizon's November Proposed Agreement to AT&T, § 28.11; Verizon's November Proposed Agreement to WorldCom, Part A, § 14; WorldCom's November Proposed Agreement to Verizon, Part A § 13; Issue IV-101 (dispute resolution provisions).

[860] Accordingly, we reject AT&T's November Proposed Agreement to Verizon, § 5.7.5.2.5; WorldCom's November Proposed Agreement to Verizon, Part C, Attach. I, § 8.6; and Cox's November Proposed Agreement to Verizon, § 5.7.7.1(c).

[861] AT&T proposes that upon a stay, reversal or modification of the order, "then (1) ISP-bound Traffic shall be deemed Local Traffic retroactive to the effective date of this Agreement; (2) any compensation that would have been due under this Agreement since its effective date for the exchange of ISP-bound traffic shall immediately be due and payable." AT&T's November Proposed Agreement to Verizon, § 5.7.5.2.5. WorldCom proposes that certain contract provisions, including rates, "may be voided by either Party . . . if any legislative, regulatory, or judicial action, rule, or regulation modifies, reverses, vacates, or remands the ISP Remand Order, in whole or in part," adding that ISP-bound traffic would be deemed section 251(b)(5) traffic, and retroactive payment would be due. WorldCom's November Proposed Agreement to Verizon, Part C, Attach. I, § 8.6.

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order's rate structure for ISP-bound traffic. Indeed, we note that the D.C. Circuit's recent remand of the *ISP Intercarrier Compensation Order* likely would have triggered at least WorldCom's proposed language, even though the court expressly declined to reach the issue of rates for ISP-bound traffic.

d. Definition of "Internet Traffic"

256. In the *ISP Intercarrier Compensation Order*, the Commission determined that ISP-bound traffic is not subject to the reciprocal compensation provisions of section 251(b)(5).[862] Generally speaking, the order focused on traffic bound for ISPs over the public switched telecommunications network, which the Commission referred to as "ISP-bound traffic." Because the order "carved out" ISP-bound traffic as one category of traffic not subject to section 251(b)(5) reciprocal compensation, the parties argue about precisely how to define the rest of the universe of traffic that is not subject to section 251(b)(5) reciprocal compensation. Verizon also proposes the term "Measured Internet Traffic" to define the traffic that is bound for an ISP and therefore not subject to reciprocal compensation under section 251(b)(5).

(i) Positions of the Parties

257. The petitioners assert that Verizon's proposed contract, which provides that reciprocal compensation does not apply to "interstate or intrastate Exchange Access, Information Access, or exchange services for Exchange Access or Information Access,"[863] is over-inclusive and could be read to exclude from reciprocal compensation not only ISP-bound traffic, but also other forms of information access traffic, or more broadly, all of the traffic types listed in section 251(g).[864] Cox argues that Verizon's proposed language improperly reverses the presumption in section 251(g), exempting the traffic types listed therein from reciprocal compensation, rather than, as the statute requires, leaving in place previous compensation regimes until they have been superseded by new rules.[865]

258. WorldCom complains that Verizon's defined term, "Measured Internet Traffic," which incorporates another Verizon-defined term – "Internet Traffic" – defines ISP-bound traffic more broadly than does the *ISP Intercarrier Compensation Order* and therefore generates

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[862] *See ISP Intercarrier Compensation Order*, 16 FCC Rcd at 9166-74, paras. 34-47. As we note above, this order has been remanded to the Commission. *See WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002).

[863] *See, e.g.*, Verizon's November Proposed Agreement to WorldCom, Part C, Interconnection Attach., § 7.3.1.

[864] WorldCom Brief at 80; Cox Reply at 22-23; *see* Verizon's November Proposed Agreement to AT&T, § 1.68(a); Verizon's November Proposed Agreement to WorldCom, Part C, Interconnection Attach., § 7.3.1; Verizon's November Proposed Agreement to Cox, § 1.60a. According to WorldCom, exclusion of information access services could affect "traffic to other enhanced service providers that has traditionally been treated as local." WorldCom Brief at 80.

[865] Cox Reply at 23, citing 47 U.S.C. § 251(g).

285. We disagree with Verizon's criticism of Cox's language implementing the growth cap for 2002.[945] Verizon asserts that "the number of ISP-bound minutes for which [Cox] is entitled to compensation in 2001 may be *less* than the 2001 cap itself."[946] While that may be true, the calculation of minutes to which Cox was entitled to compensation in 2002 is the product of the cap in 2001 and the 10 percent growth factor. The *ISP Intercarrier Compensation Order* established a baseline – the first quarter of 2001 – as a starting point for all subsequent calculations. The growth cap for 2002 does not reflect a calculation independent of the first quarter of 2001, based on actual traffic for the whole of 2001.

2. Issue I-6 (Toll Rating and Virtual Foreign Exchanges)

a. Introduction

286. The parties disagree over how to determine whether a call passing between their networks is subject to reciprocal compensation (traditionally referred to as "local") or access charges (traditionally referred to as "toll"). The petitioners advocate a continuation of the current regime, which relies on a comparison of the originating and terminating central office codes, or NPA-NXXs, associated with a call. Verizon objects to the petitioners' call rating regime because it allows them to provide a virtual foreign exchange ("virtual FX") service that obligates Verizon to pay reciprocal compensation, while denying it access revenues, for calls that go between Verizon's legacy rate centers. This virtual FX service also denies Verizon the toll revenues that it would have received if it had transported these calls entirely on its own network as intraLATA toll traffic. Verizon argues simply that "toll" rating should be accomplished by comparing the geographical locations of the starting and ending points of a call.

287. Of particular importance to this issue is a comparison of the two sides' FX services. When Verizon provides FX service ("traditional FX"), it connects the subscribing customer, via a dedicated private line for which the subscriber pays, to the end office switch in the distant rate center from which the subscriber wishes callers to be able to reach him without incurring toll charges. Verizon then assigns the FX subscriber a number associated with the distant switch. By contrast, when the petitioners provide their virtual FX service, they rely on the larger serving areas of their switches to allow callers from a distant Verizon legacy rate center to reach the virtual FX subscriber without incurring toll charges. Thus, the petitioners simply assign the subscriber an NPA-NXX associated with the rate center the subscriber designates and rely on their switches' broad coverage, rather than a dedicated private line, to transport the calls between legacy rate centers.

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[945] Accordingly, we also adopt Cox's proposed section 5.7.7.4(b), but revise it by replacing the last sentence with the following: "The cap for total Internet Traffic minutes for 2002 is calculated by increasing the cap for total Internet Traffic minutes for 2001 by ten percent." Finally, we adopt Cox's proposed sections 5.7.7.4(c)-(e) without revision.

[946] *See* Verizon IC Brief at 10 n.4.

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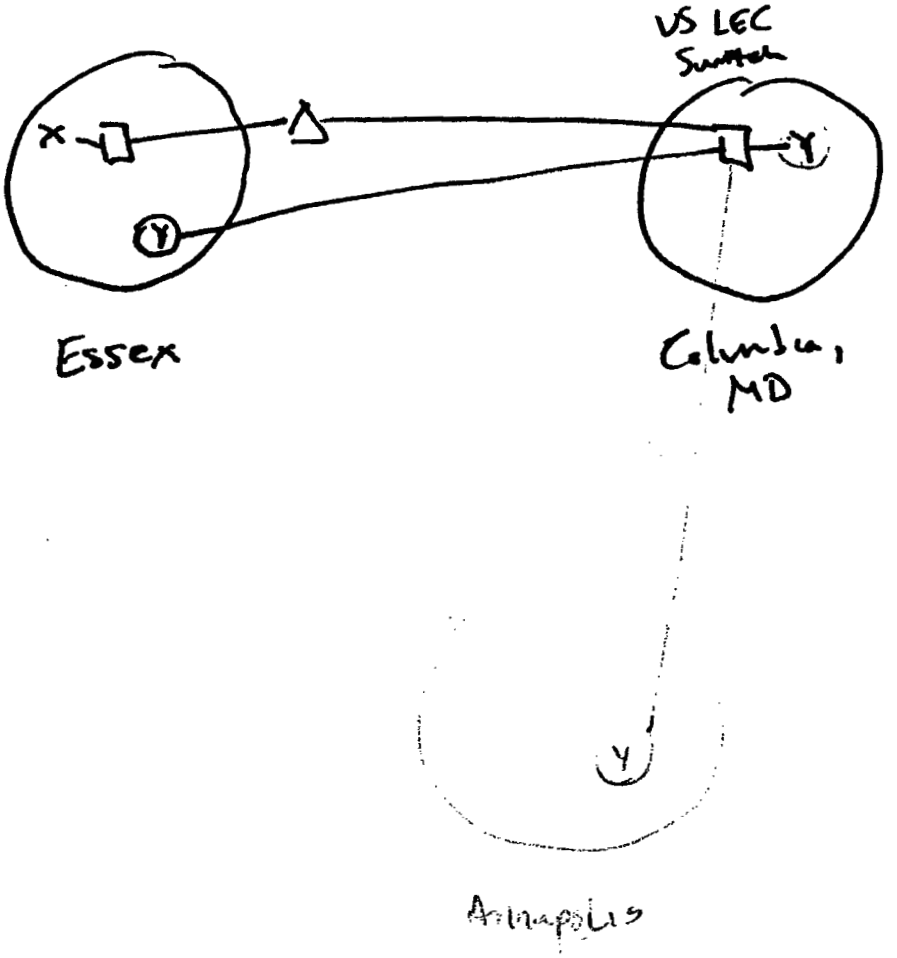

USLEC#9

BEFORE THE
MARYLAND PUBLIC SERVICE COMMISSION

Petition of US LEC of Maryland Inc. for Arbitration with Verizon Maryland Inc Pursuant to 47 U.S.C. § 252(b) of the Communications Act of 1934, as Amended by the Telecommunications Act of 1996	)	Case No. 8922

VERIZON MARYLAND INC.'S RESPONSES TO
US LEC OF MARYLAND INC.'S FIRST SET OF DISCOVERY REQUESTS

Verizon Maryland Inc. ("Verizon") hereby submits the following responses to the requests included in US LEC of Maryland Inc.'s ("US LEC") First Set of Discovery Requests (filed June 17, 2002).

Subject to and without waiving any of Verizon's objections (filed June 24, 2002), Verizon responds to US LEC's Requests as follows:

Request for Admission No. 1

Please admit that Verizon currently delivers its originated traffic to a single US LEC-IP per LATA in (a) the District of Columbia (236) LATA and (b) the Baltimore (238) LATA. If you do not so admit, please explain the reasons for your denial.

Response to Request for Admission No. 1

Verizon admits that it currently delivers traffic originated by its end-user customers in the District of Columbia and Baltimore LATAs for delivery to US LEC customers in those LATAs to a single physical point, on US LEC's network, in each of the LATAs.

Request for Admission No. 3

Please admit that Verizon is currently financially responsible for the facilities used to deliver its originated traffic to the single US LEC-IP in (a) the DC (236) LATA and (b) the Baltimore (238) LATA. If you do not so admit, please explain the reasons for your denial.

US LEC 10

Response to Request for Admission No. 3

Verizon admits that it currently delivers the traffic identified in the response to Request for Admission No. 1 to the points identified in that response, using facilities that it owns, without charge to US LEC.

Request for Admission No. 10

Please admit that Verizon-proposed Section 7.1.1.1 permits US LEC to meet its VGRIP obligation by establishing an IP at a Verizon tandem through a third-party collocation site. If you do not so admit, please explain the reasons for your denial.

Response to Request for Admission No. 10

Verizon so admits and has already so informed US LEC during discussions between the parties.

Interrogatory No. 1

To the extent not identified through pre-filed testimony, identify each person whom you expect to call as an expert witness in this proceeding, state the subject matter on which each expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion and identify all documents which the expert has reviewed or relied upon for the facts and opinions to which he will testify.

Response to Interrogatory No. 1

All such matters are identified through pre-filed testimony.

Interrogatory No. 2

Please identify and explain the factors Verizon analyzes when determining how, where, and when to establish an Interconnection Point or Point of Interconnection with a CLEC.

Response to Interrogatory No. 2

Verizon's Interconnection Points ("IPs") are established at the end office serving the terminating Verizon end-user customer, or at the tandem serving the terminating end office. The tandem and end office switches serving a particular customer are the designated wire center

switches, as provided in the Local Exchange Routing Guide ("LERG"), that include translations and terminate the appropriate trunking facilities to complete calls to that Verizon customer. Moreover, the reciprocal compensation rates established by the Maryland Public Service Commission ("PUC") are based on efficient Verizon IPs for end office and tandem routed calls using the terminating end office and tandem serving the terminating end office.

Interrogatories No. 7 and 9

7. Please provide all cost studies and other documents in your possession, custody or control relating to an analysis of Verizon's purported costs based upon a single Interconnection Point or Point of Interconnection per LATA with a CLEC.

9. Please provide all traffic studies, cost studies, network planning, and other documents in your possession, custody or control relating to an analysis of Verizon's purported costs of delivering Verizon's originating local traffic to US LEC's IP at its switch in (a) the DC (236) LATA and (b) the Baltimore (238) LATA.

Response to Interrogatories No. 7 and 9

Verizon does not possess any traffic studies, cost studies, or other documents referenced in these interrogatories.

Interrogatories No. 16-17

16. Please identify and explain the factors Verizon analyzes when determining whether a trunk and/or dedicated transport is efficiently utilized when that trunk and/or dedicated transport is (a) between two Verizon end offices; (b) between a Verizon end office and a Verizon tandem; (c) between a Verizon end office and a CLEC end office; (d) between a Verizon tandem and a CLEC end office.

17. Please state the utilization level that Verizon believes is efficient from a network planning perspective for each of the trunks and dedicated facility categories listed in DR 16.

Response to Interrogatories No. 16-17

(a), (b), and (d): Verizon evaluates the utilization of final trunk groups based on the ratio of "trunks required" to "trunks in service." For a specific trunk group, "trunks required" is the calculation of the number of trunks needed to provide service at the engineering design level

(either B.005 or B.01), based on the traffic demand (offered load/usage) on the trunk group during the study period. "Trunks in service" is the installed number of trunks in operation during that period. Verizon uses this utilization measurement to monitor and provide additional trunks for itself and for CLEC trunk groups that Verizon engineers.

Verizon will review final trunk groups to determine the need to take the following actions: (1) disconnect trunks from underutilized trunk groups that have a utilization level of less than 60 percent; (2) analyze trunk groups that reach a utilization level of 70 percent or greater, to determine whether those trunk groups should be augmented; and (3) augment trunk groups that reach a utilization level of 80 percent or greater.

(a) and (c): For high-usage trunk groups, Verizon engineers these trunk groups using an Economic Centum Call Second ("ECCS") (Hundred Call Second) equal to five.

Interrogatory No. 23

Please explain how Verizon proposes to inform US LEC of the amount and application of any "other costs (to the extent Verizon purchases such transport from ... a third party)" that must be included in the Verizon-proposed calculation in Section 7.1.1.1.1.

Response to Interrogatory No. 23

Verizon will notify US LEC in writing.

Interrogatory No. 24

Using the rates in Appendix A of the proposed agreement, and assuming (a) that US LEC maintains its IP at its switches—(located at V&H coordinates 05635/01612 (CLLI TYCRVA03DSO) in the DC (236) LATA and at V&H coordinates 05550/01587 (CLLI CLMAMDJTDSO) in the Baltimore (238) LATA)—and assuming (b) that Verizon originates (x) 100, (y) 1,000, or (z) 100,000 minutes of local traffic a month from each Verizon end office to US LEC in the LATA, please calculate the amount by which Verizon proposes to reduce US LEC's reciprocal compensation rate under the Verizon-proposed calculation defined in Section 7.1.1.1.1 of the Interconnection Attachment. Please explain each step in your calculation and provide documentation supporting your calculation.

Response to Interrogatory No. 24

Under Section 7.1.1.1.1 of the Interconnection Attachment, and assuming that no tandem switching or other costs are incurred, the following calculation is used:

$$\frac{\text{dedicated transport rate per mile} \times \text{\# of miles between Verizon originating office and US LEC location} + \text{fixed dedicated transport rate}}{\text{average minutes of use for a DS1}} = \text{per minute transport rate}$$

Using the applicable rates in Appendix A of the proposed agreement, the per minute transport rate is:

$$\frac{(\$0.375 \times [\text{miles}]) + \$30.61}{200000} = \$0.000002 \times \text{miles} + \$0.000153$$

Assuming that the distance between the end office and the US LEC IP that is not geographically relevant is 25 miles and that 100,000 minutes of use are originated in the month, the credit would be $20.30.

$$(\$0.000002 \times 25) + \$0.000153 = \$0.000203 \times 100000 \text{ minutes} = \$20.30$$

US LEC is capable of performing the calculations for the end offices in the District of Columbia and Baltimore LATAs, inasmuch as those calculations vary only with respect to the distance between the end office and the US LEC switch in that LATA and the number of minutes of traffic originated.

Interrogatory No. 26

Please identify and explain the financial, technical, or other reasons why US LEC could not meet its VGRIP obligation by establishing its IP through a means other than collocation (*e.g.*, entrance facility, mid-span meet, etc.). Please provide all documentation supporting your response.

Response to Interrogatory No. 26

Verizon would be willing to consider VGRIP language that would include other interconnection alternatives and would review a VGRIP proposal from US LEC that includes

multiple interconnection options. However, US LEC has made it clear that, regardless of the permitted means of interconnection, it will not accept Verizon-originated traffic at more than one point per LATA.

Interrogatories No. 39-40

39. Please state whether Verizon believes the charges identified in Verizon-proposed Section 7.1.1.1.1 of the Interconnection Attachment comply with a Total Element Long Run Incremental Cost methodology adopted by the Federal Communications Commission and/or the Commission. If the answer is yes, please provide a detailed explanation of your reasoning and provide all documentation supporting your assertion.

40. Please state whether Verizon believes the charges identified in Verizon-proposed Section 7.1.1.1.1 of the Interconnection Attachment comply with the pricing standards of section 252(d) of the Act. If the answer is yes, please provide a detailed explanation of your reasoning and provide all documentation supporting your assertion.

Response to Interrogatories No. 39-40

Verizon believes the charges referenced in these two interrogatories satisfy the requirements of 47 U.S.C. § 252(d), which the FCC has interpreted to require rates for unbundled network elements ("UNE") to be set using the Total Element Long-Run Incremental Cost ("TELRIC") methodology. As Verizon has previously explained to US LEC, the charges identified in Section 7.1.1.1.1 are based on the UNE rates that the Maryland PSC established for the specified facilities. The Maryland PSC has found that these rates were set pursuant to basic TELRIC principles and comply with TELRIC. *See* Md. P.S.C. Order No. 74365, dated July 2, 1998.

Interrogatories No. 46-47

46. Does Verizon have the capability to distinguish Voice Information Service traffic from other local traffic?

47. If your response to DR 46 is affirmative, please state the process by which you distinguish such traffic, state how long that process has been in place and identify all studies you have undertaken to determine the accuracy of the process.

Response to Interrogatories No. 46-47

Verizon has the capability of distinguishing Voice Information Service traffic that is dialed using distinct NXX codes, including 976 and 915 numbers. Verizon distinguishes the traffic on the basis of the dialed number; this process has been in place for many years and is accurate. Verizon does not ordinarily distinguish Voice Information Service traffic that is not dialed using dedicated NXX codes.

Interrogatory No. 48

Have you ever billed or received reciprocal compensation for calls received from CLECs for termination to your customers who offer Voice Information Services? Please explain your answer.

Response to Interrogatory No. 48

If Voice Information Service traffic that is dialed using distinct NXX codes, including 976 and 915 numbers, is delivered to Verizon over a separate trunk group, it is Verizon's policy not to bill reciprocal compensation on such traffic. If Voice Information Service traffic is not delivered to Verizon over a separate trunk group, Verizon would not routinely distinguish such traffic from local traffic for reciprocal compensation billing purposes.

Interrogatories No. 50, 51, and 53

50. Do you contend that "receiving" traffic is different than "terminating" traffic for the purposes of assessing reciprocal compensation? Please provide the factual and legal basis for your contention.

51. Do you contend that traffic can be "received" but not terminated? Please provide the factual and legal basis for your contention.

53. Do you contend that there is a difference between a "receiving" party and a "terminating" party with respect to a particular call?

Response to Interrogatories No. 50, 51, and 53

"Receiving traffic" is a broader term than "terminating traffic." It includes traffic, such as Internet-bound traffic, that the receiving carrier does not terminate but instead passes on to another party for onward transmission. For example, with respect to an Internet-bound call from a Verizon customer through an Internet service provider ("ISP") served by US LEC, US LEC would receive the call but would not terminate it. The factual and legal basis for this conclusion are set forth in Mark L. Evans & Aaron M. Panner, "Analysis of Issues on Remand in ISP Reciprocal Compensation Proceeding," attached to the Comments of the United States Telecom Association in CC Docket No. 96-98 (FCC filed July 21, 2000), *available at* http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6511457918, and in the Declaration of Charles Jackson, attached to Comments of Verizon Communications Inc. in CC Docket No. 96-98 (FCC filed July 21, 2000), *available at* http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6511359995.

Interrogatory No. 56

Please explain how you rate each of the following types of traffic originated by or terminated to your FX customers, and provide all documentation supporting your answer:

(a) A call placed by a Verizon end user to a Verizon FX customer where the NXX code of the dialed number (FX customer) and the NXX code of the calling party's number are assigned to the same local calling area, but the FX customer is not physically located within that local calling area.

(b) A call placed by a Verizon FX customer to a Verizon end user where the NXX code of the dialed number and the NXX code of the calling party's number (FX customer) are assigned to the same local calling area, but the FX customer is not physically located in that local calling area.

(c) A call placed by a Verizon end user to a Verizon FX customer where the NXX code of the dialed number (FX customer) is assigned to a local calling area within the same local access transport area ("LATA") as the calling party, but not assigned to the same local calling area as the calling party, and where the FX customer is physically located in the same local calling area as the calling party.

(d) A call placed by a Verizon FX customer to a Verizon end user where the NXX code of the dialed number is assigned to a local calling area within the same LATA, but not within the same local calling area, as the NXX code assigned to the FX customer, and where the FX customer is physically located in the same local calling area as the called party.

(e) A call carried by an interexchange carrier and terminated to a Verizon FX customer.

Response to Interrogatory No. 56

(a) With Foreign Exchange ("FX") service, calls are rated between originating and terminating subscribers based on the originating customer's class of service to the "foreign" switch. In this example, the call would appear "local" to the caller and would be rated as such. The Verizon FX customer (the called party) would not receive such calls as part of local service. Instead, the FX subscriber would pay a separate charge equal to the basic exchange service rate in the caller's local calling area, as well as paying a private line charge to transport the call beyond the caller's local calling area to the FX customer's premises. The currently available service options are contained in the following Verizon tariffs: Verizon Maryland Inc., P.S.C.–Md.–No. 204, § 3.

(b) See response (a). In this case, the call would be rated as "local" to the FX customer, who has purchased basic exchange service in the foreign exchange, as well as private line service. The called party would not pay to receive the call.

(c) See response (a). A call to an NXX associated with a non-local exchange would be billed as toll. The example is largely academic, however, because,if the FX customer is located in the same local calling area as the caller, the FX customer would ordinarily provide the calling party with a locally rated number, not an FX number that would require the caller to incur toll charges.

(d) See response (c).

(e) Calls are rated by the interexchange carrier to the FX customer's foreign switch.

Interrogatory No. 57

Please explain how you bill each end user (or IXC) for each of the types of traffic identified in DR 56, and provide all documentation supporting your answer.

Response to Interrogatory No. 57

(a)-(d) Calls would be billed as they are rated, as described in Verizon's Response to Interrogatory No. 56.

(e) Such calls would be billed by the interexchange carrier.

Interrogatory No. 58

Please explain how you account (for separations or other regulatory purposes) for each of the types of traffic identified in DR 56, and provide all documentation supporting your answer.

Response to Interrogatory No. 58

Calls are accounted for as local or toll based on how the call is rated.

Interrogatory No. 60

Have you ever billed or received reciprocal compensation for calls received from customers of CLECs or other LECs for termination to your FX customers located in Maryland? Please explain your answer.

Response to Interrogatory No. 60

If a CLEC customer originated a call to a Verizon FX customer with an assigned NXX code associated with the same local calling area as the NXX code of the originating CLEC customer, Verizon would ordinarily bill (and therefore also receive) reciprocal compensation on such a call. Verizon believes that in-bound FX traffic constitutes a very small proportion of in-bound traffic received from CLECs. Verizon does not believe that reciprocal compensation is due on such traffic.

Interrogatory No. 61

Are there any circumstances in which Verizon has been billed and/or paid access charges to the originating carrier for a call originated by another carrier and terminating to a Verizon FX customer? If so, please describe all circumstances under which such an obligation arose.

Response to Interrogatory No. 61

See Response to Interrogatory 56(e). If a carrier delivers traffic to a Verizon FX number that is rated as an interLATA or intraLATA toll call, and the carrier's customer originated the call, the originating carrier would owe access charges under Verizon's state and federal tariffs.

Interrogatory No. 62

Please state whether you offer any FX-Like Service; *e.g.*, do you currently offer any services or products to your customers, other than your FX service, under which a customer can obtain a telephone number with an "NXX" associated with a local calling area that is different from the local calling area in which the customer has a physical presence?

Response to Interrogatory No. 62

Verizon offers Enhanced IntelliLinQ PRI Hub Service and Internet Protocol Routing Service in Maryland.

Interrogatory No. 63

Please state whether you provide "Internet Protocol Routing Service" in Maryland.

Response to Interrogatory No. 63

Yes.

Interrogatory No. 64

Please state whether you provide "Single Number Service-Primary Rate Interface," Hub-PRI service, SNS-PRI service, or their functional equivalents, in Maryland.

Response to Interrogatory No. 64

See Response to Interrogatory No. 62.

Interrogatory No. 65

Please state whether you provide in Maryland any service, apart from 1-8YY service, by which an Internet service provider can use a single number for all of its customers within a LATA to reach it to obtain Internet access and not incur toll charges.

Response to Interrogatory No. 65

Both Enhanced IntelliLinQ PRI Hub Service and Internet Protocol Routing Service provide this functionality.

Interrogatory No. 66

Is "1-500" service available to ISPs in Maryland?

Response to Interrogatory No. 66

Yes.

Interrogatory No. 67

If the answer to DRs 62, 63, 64, 65, or 66 is yes, please state the name of each such service, identify the tariff where the product is described, provide copies of all product descriptions and marketing materials associated with each service offering and state the number of customers in the DC and Baltimore LATAs who purchase each FX-like service.

Response to Interrogatory No. 67

See Reponses to Interrogatories No. 62-66. Internet Protocol Routing Service is described in Verizon's Tariff F.C.C. No. 1, § 16.5 and in Verizon Maryland Inc., P.S.C.-Md.-No. 203, § 29. Enhanced IntelliLinQ PRI Hub Service is described in Verizon Maryland Inc. P.S.C.-Md.-No. 203, § 14. Verizon objects to the request for copies of all product descriptions and market materials as overly broad and unduly burdensome and not reasonably calculated to lead to discovery of relevant information. Verizon objects to the request for the number of customers who purchase Verizon's service because such information is proprietary and competitively sensitive.

Interrogatory No. 75

Have you ever billed or received reciprocal compensation for calls received from customers of CLECs or other LECs for termination to your customers who have purchased or subscribed to FX-Like Services? Please explain your answer.

Response to Interrogatory No. 75

See Response to Interrogatory No. 60. CLEC customers are generally unable to dial 1-500 numbers; Verizon does not believe that it has ever billed or received reciprocal compensation for calls received from customers of CLECs or other LECs for delivery to customers who have purchased 1-500 service. Verizon believes that "FX-Like Services" traffic constitutes a very small proportion of in-bound traffic received from CLECs. Verizon does not believe that reciprocal compensation is due on such traffic.

Interrogatory No. 81

Please state whether your costs of originating locally-dialed calls from your customers to US LEC customers having line numbers assigned to the same NPA-NXX code vary depending on the physical location of those customers.

Response to Interrogatory No. 81

Verizon's costs of delivering traffic depend on the location of the applicable CLEC interconnection point and do not vary depending on the location of the CLEC customer. As Verizon has explained in the testimony of Terry Haynes, CLECs' use of virtual NXX codes may deprive Verizon of appropriate compensation for originating and transporting interexchange traffic.

Interrogatory No. 84

Has Verizon developed a process by which it can separate or identify traffic as FX or FX-Like Services traffic from all other locally dialed traffic?

Response to Interrogatory No. 84

Verizon has no automated process in place to identify CLEC-originated traffic bound for Verizon FX numbers. Verizon can accurately estimate the volume of such traffic using traffic studies. Verizon believes that the traffic described constitutes a very small proportion of in-bound traffic received from CLECs.

Interrogatory No. 86

Would implementing a process to separate FX or FX-Like Services traffic from all other locally dialed traffic require Verizon, US LEC, and other LECs to implement a new billing system to rate such traffic for purposes of intercarrier compensation?

Response to Interrogatory No. 86

No with respect to Verizon. Verizon cannot respond to this Interrogatory with respect to any other carrier.

Interrogatory No. 87

If the answer to DR 86 is yes, what does Verizon project the cost of implementing such a billing system to be?

Response to Interrogatory No. 87

N/A.

Respectfully submitted,

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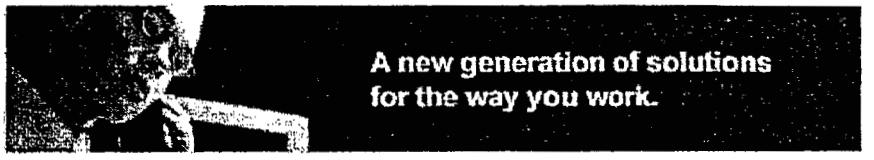
202/326-7900

Attorneys for Verizon Maryland Inc.

July 15, 2002

Virtual Office Solutions

This product is available in all states.*



Virtual Office Solutions (VOS) provides the flexibility today's businesses need to create alternate work environments. A comprehensive solution that blends voice services with managed Internet connectivity and a virtual private network, VOS ensures that your employees remain productive while working remotely or telecommuting.

The New Workforce

The U.S. workforce is changing. Last year, more employees worked off site than ever before. Take a look at what analysts reported about the 2000 workforce:

- Roughly 14 percent of the workforce telecommuted at least three days per week.
- Nearly 30 million employees worked from home in a primary or secondary job during 2000, approximately 7 million of these as full-time telecommuters.
- About 19 million remote workers accessed the Internet from home.

Benefits of Virtual Office Solutions

- Increased network uptime - Leverage Verizon's state-of-the-art IP network, so you don't have to build or maintain your own.
- Cost savings through advanced technology - Dial up from almost anywhere with a local call to get greater control over access-related costs.
- Flexibility and scalability - Quickly add or change features, services or equipment for easy-to-manage growth. Eliminate modem pools and the responsibility for scaling the network and engineering ports.
- Boosted performance — Teleworking increases productivity and employee retention due to:
  - Fewer interruptions
  - Increased schedule flexibility
  - Reduced absenteeism and healthcare-related costs
  - Tangible, practical benefits to attract and retain the best employees and reduce your recruiting expenses
  - Off-site response capability to ensure business continuity
- Environmental friendliness - Teleworking relieves the hassle and stress of the daily commute and improves air quality by removing cars from the road. Learn more about the environmental impact of working virtually.

How Virtual Office Solutions Works

Working with you to establish policies and procedures, Verizon helps manage your remote users wherever they are, regardless of what service or equipment they're using. See a snapshot of our network diagram. VOS works with multiple Verizon IP services:

- Verizon Virtual Office Dial-Up Access
- Verizon Virtual Office DSL

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- Verizon Virtual Office Multi User-User DSL
- Security Advantage

VOS also includes program development, Web-based ordering, implementation management and ongoing maintenance of your virtual office program. Additional enhancements include:

- Business grade voice services.
- Equipment to support your voice and data services.
- Conference Connections© -conferencing without reservations.
- Managed security options, including Site Patrol and other security services.
- Consulting services for any aspect of a virtual office program.

Site Patrol is a trademark of Genuity, Inc.

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AGREEMENT

by and between

US LEC OF MARYLAND INC.

and

VERIZON MARYLAND INC.,
f/k/a BELL ATLANTIC MARYLAND, INC.

FOR THE STATE OF

MARYLAND

VZ #1

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AGREEMENT

PREFACE

This Agreement ("Agreement") shall be deemed effective upon Commission approval pursuant to Section 252 of the Act (the "Effective Date"), between US LEC of Maryland Inc. ("US LEC"), a corporation organized under the laws of the State of North Carolina with offices at 6801 Morrison Boulevard, Charlotte, North Carolina 28211 and Verizon Maryland Inc., f/k/a Bell Atlantic - Maryland, Inc. ("Verizon"), a corporation organized under the laws of the State of Maryland with offices at 1 East Pratt Street, Baltimore, Maryland 21202 (Verizon and US LEC may be referred to hereinafter, each, individually as a "Party", and, collectively, as the "Parties").

GENERAL TERMS AND CONDITIONS

In consideration of the mutual promises contained in this Agreement, and intending to be legally bound, pursuant to Section 252 of the Act, Verizon and US LEC hereby agree as follows:

1. The Agreement

1.1 This Agreement includes: (a) the Principal Document; (b) the Tariffs of each Party applicable to the Services that are offered for sale by it in the Principal Document (which Tariffs are incorporated into and made a part of this Agreement by reference); and, (c) an Order by a Party that has been accepted by the other Party.

1.2 Except as otherwise expressly provided in the Principal Document (including, but not limited to, the Pricing Attachment), conflicts among provisions in the Principal Document, Tariffs, and an Order by a Party that has been accepted by the other Party, shall be resolved in accordance with the following order of precedence, where the document identified in subsection "(a)" shall have the highest precedence: (a) the Principal Document; (b) the Tariffs; and, (c) an Order by a Party that has been accepted by the other Party. The fact that a provision appears in the Principal Document but not in a Tariff, or in a Tariff but not in the Principal Document, shall not be interpreted as, or deemed grounds for finding, a conflict for the purposes of this Section 1.2.

1.3 This Agreement constitutes the entire agreement between the Parties on the subject matter hereof, and supersedes any prior or contemporaneous agreement, understanding, or representation, on the subject matter hereof. Except as otherwise provisioned in the Principal Document, the Principal Document may not be waived or modified except by a written document that is signed by the Parties. Subject to the requirements of Applicable Law, a Party shall have the right to add, modify, or withdraw, its Tariff(s) at any time, without the consent of, or notice to, the other Party.

2. Term and Termination

2.1 This Agreement shall be effective as of the Effective Date and, unless cancelled or terminated earlier in accordance with the terms hereof, shall continue in effect until two years after expected date of signature (the "Initial Term") (***DATE***). Thereafter, this Agreement shall continue in force and effect unless and until cancelled or terminated as provided in this Agreement.

2.2 Either US LEC or Verizon may terminate this Agreement effective upon the expiration of the Initial Term or effective upon any date after expiration of the

Initial Term by providing written notice of termination at least ninety (90) days in advance of the date of termination.

2.3 If either US LEC or Verizon provides notice of termination pursuant to Section 2.2 and on or before the proposed date of termination either US LEC or Verizon has requested negotiation of a new interconnection agreement, unless this Agreement is cancelled or terminated earlier in accordance with the terms hereof (including, but not limited to, pursuant to Section 12), this Agreement shall remain in effect until the earlier of: (a) the effective date of a new interconnection agreement between US LEC and Verizon; or, (b) the date one (1) year after the proposed date of termination.

2.4 If either US LEC or Verizon provides notice of termination pursuant to Section 2.2 and by 11:59 PM Eastern Time on the proposed date of termination neither US LEC nor Verizon has requested negotiation of a new interconnection agreement, (a) this Agreement will terminate at 11:59 PM Eastern Time on the proposed date of termination, and (b) the Services being provided under this Agreement at the time of termination will be terminated, except to the extent that the Purchasing Party has requested that such Services continue to be provided pursuant to an applicable Tariff or SGAT.

3. Glossary and Attachments

The Glossary and the following Attachments are a part of this Agreement:

Additional Services Attachment

Interconnection Attachment

Resale Attachment

UNE Attachment

Collocation Attachment

911 Attachment

Pricing Attachment

4. Applicable Law

4.1 The construction, interpretation and performance of this Agreement shall be governed by (a) the laws of the United States of America and (b) the laws of the State of Maryland, without regard to its conflicts of laws rules. All disputes relating to this Agreement shall be resolved through the application of such laws.

4.2 Each Party shall remain in compliance with Applicable Law in the course of performing this Agreement.

4.3 Neither Party shall be liable for any delay or failure in performance by it that results from requirements of Applicable Law, or acts or failures to act of any governmental entity or official.

4.4 Each Party shall promptly notify the other Party in writing of any governmental action that limits, suspends, cancels, withdraws, or otherwise materially affects, the notifying Party's ability to perform its obligations under this Agreement.

4.5 If any provision of this Agreement shall be invalid or unenforceable under Applicable Law, such invalidity or unenforceability shall not invalidate or render unenforceable any other provision of this Agreement, and this Agreement shall be construed as if it did not contain such invalid or unenforceable provision;

provided, that if the invalid or unenforceable provision is a material provision of this Agreement, or the invalidity or unenforceability materially affects the rights or obligations of a Party hereunder or the ability of a Party to perform any material provision of this Agreement, the Parties shall promptly renegotiate in good faith and amend in writing this Agreement in order to make such mutually acceptable revisions to this Agreement as may be required in order to conform the Agreement to Applicable Law.

4.6 If any final and unstayed legislative, regulatory, judicial or other governmental decision, order, determination or action, or any change in Applicable Law, materially affects any material provision of this Agreement, the rights or obligations of a Party hereunder, or the ability of a Party to perform any material provision of this Agreement, the Parties shall promptly renegotiate in good faith and amend in writing this Agreement in order to make such mutually acceptable revisions to this Agreement as may be required in order to conform the Agreement to Applicable Law.

4.7 Notwithstanding anything in this Agreement to the contrary, if, as a result of any final and unstayed legislative, judicial, regulatory or other governmental decision, order, determination or action, or any change in Applicable Law, Verizon is not required by Applicable Law to provide any Service, payment or benefit, otherwise required to be provided to US LEC hereunder, then Verizon may discontinue the provision of any such Service, payment or benefit. Verizon will provide ninety (90) days prior written notice to US LEC of any such discontinuance of a Service, unless a different notice period or different conditions are specified in this Agreement (including, but not limited to, in an applicable Tariff) or Applicable Law for termination of such Service in which event such specified period and/or conditions shall apply.

5. Assignment

Neither Party may assign this Agreement or any right or interest under this Agreement, nor delegate any obligation under this Agreement, without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed. Any attempted assignment or delegation in violation of this Section 5 shall be void and ineffective and constitute default of this Agreement.

6. Assurance of Payment

6.1 Upon request by Verizon, US LEC shall provide to Verizon adequate assurance of payment of amounts due (or to become due) to Verizon hereunder.

6.2 Assurance of payment of charges may be requested by Verizon if US LEC (a) in Verizon's reasonable judgment, at the Effective Date or at any time thereafter, does not have established credit with Verizon, (b) in Verizon's reasonable judgment, at the Effective Date or at any time thereafter, is unable to demonstrate that it is creditworthy, (c) fails to timely pay a bill rendered to US LEC by Verizon, or (d) admits its inability to pay its debts as such debts become due, has commenced a voluntary case (or has had a case commenced against it) under the U.S. Bankruptcy Code or any other law relating to bankruptcy, insolvency, reorganization, winding-up, composition or adjustment of debts or the like, has made an assignment for the benefit of creditors or is subject to a receivership or similar proceeding.

6.3 Unless otherwise agreed by the Parties, the assurance of payment shall, at Verizon's option, consist of (a) a cash security deposit in U.S. dollars held by

Verizon or (b) an unconditional, irrevocable standby letter of credit naming Verizon as the beneficiary thereof and otherwise in form and substance satisfactory to Verizon from a financial institution acceptable to Verizon. The cash security deposit or letter of credit shall be in an amount equal to two (2) months anticipated charges (including, but not limited to, both recurring and non-recurring charges), as reasonably determined by Verizon, for the Services to be provided by Verizon to US LEC in connection with this Agreement.

6.4 To the extent that Verizon elects to require a cash deposit, the Parties intend that the provision of such deposit shall constitute the grant of a security interest in the deposit pursuant to Article 9 of the Uniform Commercial Code as in effect in any relevant jurisdiction.

6.5 If payment of interest on a cash deposit is required by an applicable Verizon Tariff or by Applicable Law, interest will be paid on any such cash deposit held by Verizon at the higher of the interest rate stated in such Tariff or the interest rate required by Applicable Law.

6.6 Verizon may (but is not obligated to) draw on the letter of credit or cash deposit, as applicable, upon notice to US LEC in respect of any amounts to be paid by US LEC hereunder that are not paid within thirty (30) days of the date that payment of such amounts is required by this Agreement.

6.7 If Verizon draws on the letter of credit or cash deposit, upon request by Verizon, US LEC shall provide a replacement or supplemental letter of credit or cash deposit conforming to the requirements of Section 6.2.

6.8 Notwithstanding anything else set forth in this Agreement, if Verizon makes a request for assurance of payment in accordance with the terms of this Section, then Verizon shall have no obligation thereafter to perform under this Agreement until such time as US LEC has provided Verizon with such assurance of payment.

6.9 The fact that a deposit or a letter of credit is requested by Verizon hereunder shall in no way relieve US LEC from compliance with the requirements of this Agreement (including, but not limited to, any applicable Tariffs) as to advance payments and payment for Services, nor constitute a waiver or modification of the terms herein pertaining to the discontinuance of Services for nonpayment of any amounts payment of which is required by this Agreement.

7. Audits

7.1 Except as may be otherwise specifically provided in this Agreement, either Party ("Auditing Party") may audit the other Party's ("Audited Party") books, records, documents, facilities and systems for the purpose of evaluating the accuracy of the Audited Party's bills. Such audits may be performed once in each Calendar Year; provided, however, that audits may be conducted more frequently (but no more frequently than once in each Calendar Quarter) if the immediately preceding audit found previously uncorrected net inaccuracies in billing in favor of the Audited Party having an aggregate value of at least $1,000,000.

7.2 The audit shall be performed by independent certified public accountants selected and paid by the Auditing Party. The accountants shall be reasonably acceptable to the Audited Party. Prior to commencing the audit, the accountants shall execute an agreement with the Audited Party in a form reasonably acceptable to the Audited Party that protects the confidentiality of the information disclosed by the Audited Party to the accountants. The audit shall take place at

a time and place agreed upon by the Parties; provided, that the Auditing Party may require that the audit commence no later than sixty (60) days after the Auditing Party has given notice of the audit to the Audited Party.

7.3 Each Party shall cooperate fully in any such audit, providing reasonable access to any and all employees, books, records, documents, facilities and systems, reasonably necessary to assess the accuracy of the Audited Party's bills.

7.4 Audits shall be performed at the Auditing Party's expense, provided that there shall be no charge for reasonable access to the Audited Party's employees, books, records, documents, facilities and systems necessary to assess the accuracy of the Audited Party's bills.

8. Authorization

8.1 Verizon represents and warrants that it is a corporation duly organized, validly existing and in good standing under the laws of the State of Maryland and has full power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement.

8.2 US LEC represents and warrants that it is a corporation duly organized, validly existing and in good standing under the laws of the State of North Carolina, and has full power and authority to execute and deliver this Agreement and to perform its obligations under this Agreement.

8.3 US LEC Certification.

Notwithstanding any other provision of this Agreement, Verizon shall have no obligation to perform under this Agreement until such time as US LEC has obtained such FCC and Commission authorization as may be required by Applicable Law for conducting business in Maryland. US LEC shall not place any orders under this Agreement until it has obtained such authorization. US LEC shall provide proof of such authorization to Verizon upon request.

9. Billing and Payment; Disputed Amounts1

9.1 Except as otherwise provided in this Agreement, each Party shall submit to the other Party on a monthly basis in an itemized form, statement(s) of charges incurred by the other Party under this Agreement.

9.2 Except as otherwise provided in this Agreement, payment of amounts billed for Services provided under this Agreement, whether billed on a monthly basis or as otherwise provided in this Agreement, shall be due, in immediately available U.S. funds, on the later of the following dates (the "Due Date"): (a) the due date specified on the billing Party's statement; or, (b) twenty (20) days after the date the statement is received by the billed Party. Payments shall be transmitted by electronic funds transfer.

9.3 **[DISPUTED ITEM]** If any portion of an amount billed by a Party under this Agreement is subject to a good faith dispute between the Parties, the billed Party shall give notice to the billing Party of the amounts it disputes ("Disputed Amounts") and include in such notice the specific details and reasons for disputing each item. ~~A Party may also dispute prospectively with a single notice a class of charges that it disputes.~~ Notice of a dispute may be given by a Party at any time, either before or after an amount is paid, and a Party's payment of an amount shall not constitute a waiver of such Party's right to subsequently dispute its obligation to pay such amount or to seek a refund of any amount paid;

provided, however, if the billed party fails to provide a notice of dispute within sixty (60) days of the invoice date for the amount in question, then the billed party shall be deemed to have waived any disputes as to those amounts. The billed Party shall pay by the Due Date all undisputed amounts. Billing disputes shall be subject to the terms of Section 14, Dispute Resolution.

9.4 Undisputed charges due to the billing Party that are not paid by the Due Date, shall be subject to a late payment charge. The late payment charge shall be in an amount specified by the billing Party which shall not exceed a rate of one-and-one-half percent (1.5%) of the overdue amount (including any unpaid previously billed late payment charges) per month.

9.5 Although it is the intent of both Parties to submit timely statements of charges, failure by either Party to present statements to the other Party in a timely manner shall not constitute a breach or default, or a waiver of the right to payment of the incurred charges, by the billing Party under this Agreement, and, except for assertion of a provision of Applicable Law that limits the period in which a suit or other proceeding can be brought before a court or other governmental entity of appropriate jurisdiction to collect amounts due, the billed Party shall not be entitled to dispute the billing Party's statement(s) based on the billing Party's failure to submit them in a timely fashion.

10. Confidentiality

10.1 As used in this Section 10, "Confidential Information" means the following information that is disclosed by one Party ("Disclosing Party") to the other Party ("Receiving Party") in connection with, or anticipation of, this Agreement:

10.1.1 Books, records, documents and other information disclosed in an audit pursuant to Section 7;

10.1.2 Any forecasting information provided pursuant to this Agreement;

10.1.3 Customer Information (except to the extent that (a) the Customer information is published in a directory, (b) the Customer information is disclosed through or in the course of furnishing a Telecommunications Service, such as a Directory Assistance Service, Operator Service, Caller ID or similar service, or LIDB service, or, (c) the Customer to whom the Customer Information is related has authorized the Receiving Party to use and/or disclose the Customer Information);

10.1.4 information related to specific facilities or equipment (including, but not limited to, cable and pair information);

10.1.5 any information that is in written, graphic, electromagnetic, or other tangible form, and marked at the time of disclosure as "Confidential" or "Proprietary;" and

10.1.6 any information that is communicated orally or visually and declared to the Receiving Party at the time of disclosure, and by written notice with a statement of the information given to the Receiving Party within ten (10) days after disclosure, to be "Confidential or "Proprietary".

Notwithstanding any other provision of this Agreement, a Party shall have the right to refuse to accept receipt of information which the other Party has identified as Confidential Information pursuant to Sections 10.1.5 or 10.1.6.

10.2 Except as otherwise provided in this Agreement, the Receiving Party shall:

10.2.1 use the Confidential Information received from the Disclosing Party only in performance of this Agreement; and,

10.2.2 using the same degree of care that it uses with similar confidential information of its own (but in no case a degree of care that is less than commercially reasonable), hold Confidential Information received from the Disclosing Party in confidence and restrict disclosure of the Confidential Information solely to those of the Receiving Party's Affiliates and the directors, officers, employees, Agents and contractors of the Receiving Party and the Receiving Party's Affiliates, that have a need to receive such Confidential Information in order to perform the Receiving Party's obligations under this Agreement. The Receiving Party's Affiliates and the directors, officers, employees, Agents and contractors of the Receiving Party and the Receiving Party's Affiliates, shall be required by the Receiving Party to comply with the provisions of this Section 10 in the same manner as the Receiving Party. The Receiving Party shall be liable for any failure of the Receiving Party's Affiliates or the directors, officers, employees, Agents or contractors of the Receiving Party or the Receiving Party's Affiliates, to comply with the provisions of this Section 10.

10.3 The Receiving Party shall return or destroy all Confidential Information received from the Disclosing Party, including any copies made by the Receiving Party, within thirty (30) days after a written request by the Disclosing Party is delivered to the Receiving Party, except for (a) Confidential Information that the Receiving Party reasonably requires to perform its obligations under this Agreement.

10.4 Unless otherwise agreed, the obligations of Sections 10.2 and 10.3 do not apply to information that:

10.4.1 was, at the time of receipt, already in the possession of or known to the Receiving Party free of any obligation of confidentiality and restriction on use;

10.4.2 is or becomes publicly available or known through no wrongful act of the Receiving Party, the Receiving Party's Affiliates, or the directors, officers, employees, Agents or contractors of the Receiving Party or the Receiving Party's Affiliates;

10.4.3 is rightfully received from a third person having no direct or indirect obligation of confidentiality or restriction on use to the Disclosing Party with respect to such information;

10.4.4 is independently developed by the Receiving Party;

10.4.5 is approved for disclosure or use by written authorization of the Disclosing Party (including, but not limited to, in this Agreement); or

10.4.6 is required to be disclosed by the Receiving Party pursuant to Applicable Law, provided that the Receiving Party shall have made commercially reasonable efforts to give adequate notice of the requirement to the Disclosing Party in order to enable the Disclosing Party to seek protective arrangements.

10.5 Notwithstanding the provisions of Sections 10.1 through 10.4, the Receiving Party may use and disclose Confidential Information received from the Disclosing Party to the extent necessary to enforce the Receiving Party's rights under this Agreement or Applicable Law. In making any such disclosure, the Receiving Party shall make reasonable efforts to preserve the confidentiality and restrict the use of the Confidential Information while it is in the possession of any person to whom it is disclosed, including, but not limited to, by requesting any governmental entity to whom the Confidential Information is disclosed to treat it as confidential and restrict its use to purposes related to the proceeding pending before it.

10.6 The Disclosing Party shall retain all of the Disclosing Party's right, title and interest in any Confidential Information disclosed by the Disclosing Party to the Receiving Party. Except as otherwise expressly provided in this Agreement, no license is granted by this Agreement with respect to any Confidential Information (including, but not limited to, under any patent, trademark or copyright), nor is any such license to be implied solely by virtue of the disclosure of Confidential Information.

10.7 The provisions of this Section 10 shall be in addition to and not in derogation of any provisions of Applicable Law, including, but not limited to, 47 U.S.C. § 222, and are not intended to constitute a waiver by a Party of any right with regard to the use, or protection of the confidentiality of, CPNI provided by Applicable Law.

10.8 Each Party's obligations under this Section 10 shall survive expiration, cancellation or termination of this Agreement.

11. Counterparts

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

12. Default

If either Party ("Defaulting Party") fails to make a payment required by this Agreement (including, but not limited to, any payment required by Section 9.3 of undisputed amounts to the billing Party) or materially breaches any other material provision of this Agreement, and such failure or breach continues for thirty (30) days after written notice thereof from the other Party, the other Party may, by written notice to the Defaulting Party, (a) suspend the provision of any or all Services hereunder, or (b) cancel this Agreement and terminate the provision of all Services hereunder.

13. Discontinuance of Service by US LEC

13.1 If US LEC proposes to discontinue, or actually discontinues, its provision of service to all or substantially all of its Customers, whether voluntarily, as a result of bankruptcy, or for any other reason, US LEC shall send written notice of such discontinuance to Verizon, the Commission, and each of US LEC's Customers. US LEC shall provide such notice such number of days in advance of discontinuance of its service as shall be required by Applicable Law. Unless the period for advance notice of discontinuance of service required by Applicable Law is more than thirty (30) days, to the extent commercially feasible, US LEC shall send such notice at least thirty (30) days prior to its discontinuance of service.

13.2 Such notice must advise each US LEC Customer that unless action is taken by the US LEC Customer to switch to a different carrier prior to US LEC's proposed discontinuance of service, the US LEC Customer will be without the service provided by US LEC to the US LEC Customer.

13.3 Should a US LEC Customer subsequently become a Verizon Customer as a result of US LEC discontinuing service, US LEC shall provide Verizon with all information necessary for Verizon to establish service for the US LEC Customer, including, but not limited to, the US LEC Customer's billed name, listed name, service address, and billing address, and the services being provided to the US LEC Customer.

13.4 Nothing in this Section 13 shall limit Verizon's right under this agreement (including, but not limited to, rights set forth in sections 2 and 12 hereof) to cancel or terminate this Agreement or suspend provision of Services under this Agreement.

14. Dispute Resolution

14.1 Except as otherwise provided in this Agreement, any dispute between the Parties regarding the interpretation or enforcement of this Agreement or any of its terms shall be addressed by good faith negotiation between the Parties. To initiate such negotiation, a Party must provide to the other Party written notice of the dispute that includes both a detailed description of the dispute or alleged nonperformance and the name of an individual who will serve as the initiating Party's representative in the negotiation. The other Party shall have ten Business Days to designate its own representative in the negotiation. The Parties' representatives shall meet at least once within 45 days after the date of the initiating Party's written notice in an attempt to reach a good faith resolution of the dispute. Upon agreement, the Parties' representatives may utilize other alternative dispute resolution procedures such as private mediation to assist in the negotiations.

14.2 If the Parties have been unable to resolve the dispute within 45 days of the date of the initiating Party's written notice, either Party may pursue any remedies available to it under this Agreement, at law, in equity, or otherwise, including, but not limited to, instituting an appropriate proceeding before the Commission, the FCC, or a court of competent jurisdiction.

15. Force Majeure

15.1 Neither Party shall be responsible for any delay or failure in performance which results from causes beyond its reasonable control ("Force Majeure Events"), whether or not foreseeable by such Party. Such Force Majeure Events include, but are not limited to, adverse weather conditions, flood, fire, explosion, earthquake, volcanic action, power failure, embargo, boycott, war, revolution, civil commotion, act of public enemies, labor unrest (including, but not limited to, strikes, work stoppages, slowdowns, picketing or boycotts), inability to obtain equipment, parts, software or repairs thereof, acts or omissions of the other Party, and acts of God.

15.2 If a Force Majeure Event occurs, the non-performing Party shall give prompt notification of its inability to perform to the other Party. During the period that the non-performing Party is unable to perform, the other Party shall also be excused from performance of its obligations to the extent such obligations are reciprocal to, or depend upon, the performance of the non-performing Party that has been prevented by the Force Majeure Event. The non-performing Party shall use

commercially reasonable efforts to avoid or remove the cause(s) of its non-performance and both Parties shall proceed to perform once the cause(s) are removed or cease.

15.3 Notwithstanding the provisions of Sections 15.1 and 15.2, in no case shall a Force Majeure Event excuse either Party from an obligation to pay money as required by this Agreement.

15.4 Nothing in this Agreement shall require the non-performing Party to settle any labor dispute except as the non-performing Party, in its sole discretion, determines appropriate.

16. Forecasts

In addition to any other forecasts required by this Agreement, upon request by Verizon, US LEC shall provide to Verizon forecasts regarding the Services that US LEC expects to purchase from Verizon, including, but not limited to, forecasts regarding the types and volumes of Services that US LEC expects to purchase and the locations where such Services will be purchased.

17. Fraud

Each party assumes responsibility for all fraud associated with its Customers and accounts. Neither party shall bear responsibility for, nor have any obligation to investigate or make adjustments to the other party's account in cases of, fraud by the other party's Customers or other third parties.

18. Good Faith Performance

The Parties shall act in good faith in their performance of this Agreement. Except as otherwise expressly stated in this Agreement (including, but not limited to, where consent, approval, agreement or a similar action is stated to be within a Party's sole discretion), where consent, approval, mutual agreement or a similar action is required by any provision of this Agreement, such action shall not be unreasonably withheld, conditioned or delayed.

19. Headings

The headings used in the Principal Document are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning of the Principal Document.

20. Indemnification

20.1 Each Party ("Indemnifying Party") shall indemnify, defend and hold harmless the other Party ("Indemnified Party"), the Indemnified Party's Affiliates, and the directors, officers and employees of the Indemnified Party and the Indemnified Party's Affiliates, from and against any and all Claims that arise out of bodily injury to or death of any person, or damage to, or destruction or loss of, tangible real and/or personal property of any person, to the extent such injury, death, damage, destruction or loss, was proximately caused by the grossly negligent or intentionally wrongful acts or omissions of the Indemnifying Party, the Indemnifying Party's Affiliates, or the directors, officers, employees, Agents or contractors (excluding the Indemnified Party) of the Indemnifying Party or the Indemnifying Party's Affiliates, in connection with this Agreement.

20.2 Indemnification Process.

20.2.1 As used in this Section 20, "Indemnified Person" means a person whom an Indemnifying Party is obligated to indemnify, defend and/or hold harmless under Section 20.1.

20.2.2 An Indemnifying Party's obligations under Section 20.1 shall be conditioned upon the following:

20.2.3 The Indemnified Person: (a) shall give the Indemnifying Party notice of the Claim promptly after becoming aware thereof (including a statement of facts known to the Indemnified Person related to the Claim and an estimate of the amount thereof); (b) prior to taking any material action with respect to a Third Party Claim, shall consult with the Indemnifying Party as to the procedure to be followed in defending, settling, or compromising the Claim; (c) shall not consent to any settlement or compromise of a Third Party Claim without the written consent of the Indemnifying Party; (d) shall permit the Indemnifying Party to assume the defense of a Third Party Claim (including, except as provided below, the compromise or settlement thereof) at the Indemnifying Party's own cost and expense, provided, however, that the Indemnified Person shall have the right to approve the Indemnifying Party's choice of legal counsel.

20.2.4 If the Indemnified Person fails to comply with Section 20.2.1 with respect to a Claim, to the extent such failure shall have a material adverse effect upon the Indemnifying Party, the Indemnifying Party shall be relieved of its obligation to indemnify, defend and hold harmless the Indemnified Person with respect to such Claim under this Agreement.

20.2.5 Subject to 20.2.6 and 20.2.7, below, the Indemnifying Party shall have the authority to defend and settle any Third Party Claim.

20.2.6 With respect to any Third Party Claim, the Indemnified Person shall be entitled to participate with the Indemnifying Party in the defense of the Claim if the Claim requests equitable relief or other relief that could affect the rights of the Indemnified Person. In so participating, the Indemnified Person shall be entitled to employ separate counsel for the defense at the Indemnified Person's expense. The Indemnified Person shall also be entitled to participate, at its own expense, in the defense of any Claim, as to any portion of the Claim as to which it is not entitled to be indemnified, defended and held harmless by the Indemnifying Party.

20.2.7 In no event shall the Indemnifying Party settle a Third Party Claim or consent to any judgment with regard to a Third Party Claim without the prior written consent of the Indemnified Party, which shall not be unreasonably withheld, conditioned or delayed. In the event the settlement or judgment requires a contribution from or affects the rights of an Indemnified Person, the Indemnified Person shall have the right to refuse such settlement or judgment with respect to itself and, at its own cost and expense, take over the defense against the Third Party Claim, provided that in such event the Indemnifying Party shall not be responsible for, nor shall it be obligated to indemnify or hold harmless the Indemnified Person against, the Third Party Claim for any amount in excess of such refused settlement or judgment.

20.2.8 The Indemnified Person shall, in all cases, assert any and all provisions in applicable Tariffs and Customer contracts that limit liability to third persons as a bar to, or limitation on, any recovery by a third-person claimant.

20.2.9 The Indemnifying Party and the Indemnified Person shall offer each other all reasonable cooperation and assistance in the defense of any Third Party Claim.

20.3 Except as otherwise provided in Section 20.1 above, each Party agrees that it will not implead or bring any action against the other Party, the other Party's Affiliates, or any of the directors, officers or employees of the other Party or the other Party's Affiliates, based on any claim by any person for personal injury or death that occurs in the course or scope of employment of such person by the other Party or the other Party's Affiliate and that arises out of performance of this Agreement.

20.4 Each Party's obligations under this Section 20 shall survive expiration, cancellation or termination of this Agreement.

21. Insurance

21.1 US LEC shall maintain during the term of this Agreement and for a period of two years thereafter all insurance and/or bonds required to satisfy its obligations under this Agreement (including, but not limited to, its obligations set forth in Section 20 hereof) and all insurance and/or bonds required by Applicable Law. The insurance and/or bonds shall be obtained from an insurer having an A.M. Best insurance rating of at least A-, financial size category VII or greater. At a minimum and without limiting the foregoing undertaking, US LEC shall maintain the following insurance:

[DISPUTED ITEMS – 21.1.1 – 21.1.5]

21.1.1 Commercial General Liability Insurance, on an occurrence basis, including but not limited to, premises-operations, broad form property damage, products/completed operations, contractual liability, independent contractors, and personal injury, with limits of at least ~~$2~~1,000,000 combined single limit for each occurrence.

21.1.2 Commercial Motor Vehicle Liability Insurance covering all owned, hired and non-owned vehicles, with limits of at least ~~$2~~1,000,000 combined single limit for each occurrence.

21.1.3 Excess Liability Insurance, in the umbrella form, with limits of at least $10,000,000 combined single limit for each occurrence.

21.1.4 Worker's Compensation Insurance as required by Applicable Law, and Employer's Liability Insurance with limits of not less than ~~$2,0~~100,000 per occurrence with a $500,000 policy limit.

21.1.5 All risk property insurance on a full replacement cost basis for all of US LEC's real and personal property located at any Collocation site or otherwise located on or in any Verizon premises (whether owned, leased or otherwise occupied by Verizon), facility, equipment or right-of-way.

21.2 Any deductibles, self-insured retentions or loss limits ("Retentions") for the foregoing insurance must be disclosed on the certificates of insurance to be provided to Verizon pursuant to Sections 21.4 and 21.5, and Verizon reserves the right to reject any such Retentions in its reasonable discretion. All Retentions shall be the responsibility of US LEC.

21.3 US LEC shall name Verizon and Verizon's Affiliates as additional insureds on the foregoing liability insurance.

21.4 US LEC shall, within two (2) weeks of the Effective Date hereof at the time of each renewal of, or material change in, US LEC 's insurance policies, and at such other times as Verizon may reasonably specify, furnish certificates or other proof of the foregoing insurance reasonably acceptable to Verizon. The certificates or other proof of the foregoing insurance shall be sent to: Director - Contract Performance & Administration, Verizon Wholesale Markets, 600 Hidden Ridge, HQEWMNOTICES, Irving. TX 75038.

21.5 US LEC shall require its contractors, if any, that may enter upon the premises or access the facilities or equipment of Verizon or Verizon's affiliates to maintain insurance in accordance with Sections 21.1 through 21.3 and, if requested, to furnish Verizon certificates or other adequate proof of such insurance acceptable to Verizon in accordance with Section 21.4

21.6 If US LEC or US LEC's contractors fail to maintain insurance as required in Sections 21.1 through 21.5, above, Verizon may (but shall not be obligated to) purchase such insurance and US LEC shall reimburse Verizon for the cost of the insurance.

21.7 Certificates furnished by US LEC or US LEC's contractors shall contain a clause stating: "Verizon Maryland Inc., f/k/a Bell Atlantic - Maryland, Inc. shall be notified in writing at least thirty (30) days prior to cancellation of, or any material change in, the insurance."

22. Intellectual Property

22.1 Except as expressly stated in this Agreement, this Agreement shall not be construed as granting a license with respect to any patent, copyright, trade name, trademark, service mark, trade secret or any other intellectual property, now or hereafter owned, controlled or licensable by either Party. Except as expressly stated in this Agreement, neither Party may use any patent, copyrightable materials, trademark, trade name, trade secret or other intellectual property right, of the other Party except in accordance with the terms of a separate license agreement between the Parties granting such rights.

22.2 Except as stated in Section 22.4, neither Party shall have any obligation to defend, indemnify or hold harmless, or acquire any license or right for the benefit of, or owe any other obligation or have any liability to, the other Party or its Affiliates or Customers based on or arising from any Third Party Claim alleging or asserting that the provision or use of any service, facility, arrangement, or software by either Party under this Agreement, or the performance of any service or method, either alone or in combination with the other Party, constitutes direct, vicarious or contributory infringement or inducement to infringe, or misuse or misappropriation of any patent, copyright, trademark, trade secret, or any other proprietary or intellectual property right of any Party or third person. Each Party, however, shall offer to the other reasonable cooperation and assistance in the defense of any such claim.

22.3 NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE PARTIES AGREE THAT NEITHER PARTY HAS MADE, AND THAT THERE DOES NOT EXIST, ANY WARRANTY, EXPRESS OR IMPLIED, THAT THE USE BY EACH PARTY OF THE OTHER'S SERVICES PROVIDED UNDER THIS AGREEMENT SHALL NOT GIVE RISE TO A CLAIM OF INFRINGEMENT, MISUSE, OR MISAPPROPRIATION OF ANY INTELLECTUAL PROPERTY RIGHT.

22.4 US LEC agrees that the Services provided by Verizon hereunder shall be subject to the terms, conditions and restrictions contained in any applicable agreements (including, but not limited to software or other intellectual property license agreements) between Verizon and Verizon's vendors. Verizon agrees to advise US LEC, directly or through a third party, of any such terms, conditions or restrictions that may limit any US LEC use of a Service provided by Verizon that is otherwise permitted by this Agreement. At US LEC's written request, to the extent required by Applicable Law, Verizon will use Verizon's best efforts, as commercially practicable, to obtain intellectual property rights from Verizon's vendor to allow US LEC to use the Service in the same manner as Verizon that are coextensive with Verizon's intellectual property rights, on terms and conditions that are equal in quality to the terms and conditions under which Verizon has obtained Verizon's intellectual property rights. US LEC shall reimburse Verizon for the cost of obtaining such rights.

23. Joint Work Product

The Principal Document is the joint work product of the Parties, has been negotiated by the Parties, and shall be fairly interpreted in accordance with its terms. In the event of any ambiguities, no inferences shall be drawn against either Party.

24. Law Enforcement.

24.1 Each Party may cooperate with law enforcement authorities and national security authorities to the full extent required or permitted by Applicable Law in matters related to Services provided by it under this Agreement, including, but not limited to, the production of records, the establishment of new lines or the installation of new services on an existing line in order to support law enforcement and/or national security operations, and, the installation of wiretaps, trap-and-trace facilities and equipment, and dialed number recording facilities and equipment.

24.2 A Party shall not have the obligation to inform the other Party or the Customers of the other Party of actions taken in cooperating with law enforcement or national security authorities, except to the extent required by Applicable Law.

24.3 Where a law enforcement or national security request relates to the establishment of lines (including, but not limited to, lines established to support interception of communications on other lines), or the installation of other services, facilities or arrangements, a Party may act to prevent the other Party from obtaining access to information concerning such lines, services, facilities and arrangements, through operations support system interfaces.

25. Liability

25.1 As used in this Section 25, "Service Failure" means a failure to comply with a direction to install, restore or terminate Services under this Agreement, a failure to provide Services under this Agreement, and failures, mistakes, omissions, interruptions, delays, errors, defects or the like, occurring in the course of the provision of any Services under this Agreement.

25.2 Except as otherwise stated in Section 25.5, the liability, if any, of a Party, a Party's Affiliates, and the directors, officers and employees of a Party and a Party's Affiliates, to the other Party, the other Party's Customers, and to any other person, for Claims arising out of a Service Failure shall not exceed an amount equal to the pro rata applicable monthly charge for the Services that are subject to the Service Failure for the period in which such Service Failure occurs.

25.3 Except as otherwise stated in Section 25.5, a Party, a Party's Affiliates, and the directors, officers and employees of a Party and a Party's Affiliates, shall not be liable to the other Party, the other Party's Customers, or to any other person, in connection with this Agreement (including, but not limited to, in connection with a Service Failure or any breach, delay or failure in performance, of this Agreement) for special, indirect, incidental, consequential, reliance, exemplary, punitive, or like damages, including, but not limited to, damages for lost revenues, profits or savings, or other commercial or economic loss, even if the person whose liability is excluded by this Section has been advised of the possibility of such damages.

25.4 The limitations and exclusions of liability stated in Sections 25.1 through 25.3 shall apply regardless of the form of a claim or action, whether statutory, in contract, warranty, strict liability, tort (including, but not limited to, negligence of a Party), or otherwise.

25.5 Nothing contained in Sections 25.1 through 25.4 shall exclude or limit liability:

25.5.1 under Sections 20, Indemnification, or 41, Taxes.

25.5.2 for any obligation to indemnify, defend and/or hold harmless that a Party may have under this Agreement.

25.5.3 for damages arising out of or resulting from bodily injury to or death of any person, or damage to, or destruction or loss of, tangible real and/or personal property of any person, or Toxic or Hazardous Substances, to the extent such damages are otherwise recoverable under Applicable Law;

25.5.4 for a claim for infringement of any patent, copyright, trade name, trade mark, service mark, or other intellectual property interest;

25.5.5 under Section 258 of the Act or any order of FCC or the Commission implementing Section 258; or

25.5.6 under the financial incentive or remedy provisions of any service quality plan required by the FCC or the Commission.

25.6 In the event that the liability of a Party, a Party's Affiliate, or a director, officer or employee of a Party or a Party's Affiliate, is limited and/or excluded under both this Section 25 and a provision of an applicable Tariff, the liability of the Party or other person shall be limited to the smaller of the amounts for which such Party or other person would be liable under this Section or the Tariff provision.

25.7 Each Party shall, in its tariffs and other contracts with its Customers, provide that in no case shall the other Party, the other Party's Affiliates, or the directors, officers or employees of the other Party or the other Party's Affiliates, be liable to such Customers or other third-persons for any special, indirect, incidental, consequential, reliance, exemplary, punitive or other damages, arising out of a Service Failure.

26. Network Management

26.1 Cooperation. The Parties will work cooperatively in a commercially reasonable manner to install and maintain a reliable network. US LEC and Verizon will exchange appropriate information (*e.g.*, network information, maintenance contact numbers, escalation procedures, and information required to comply with requirements of law enforcement and national security agencies) to achieve this desired reliability. In addition, the Parties will work cooperatively in a commercially reasonable manner to apply sound network management principles to alleviate or to prevent traffic congestion and subject to Section 17, to minimize fraud associated with third number billed calls, calling card calls, and other services related to this Agreement.

26.2 Responsibility for Following Standards. Each Party recognizes a responsibility to follow the standards that may be agreed to between the Parties and to employ characteristics and methods of operation that will not interfere with or impair the service, network or facilities of the other Party or any third parties connected with or involved directly in the network or facilities of the other.

26.3 Interference or Impairment. If a Party ("Impaired Party") reasonably determines that the services, network, facilities, or methods of operation, of the other Party ("Interfering Party") will or are likely to interfere with or impair the Impaired Party's provision of services or the operation of the Impaired Party's network or facilities, the Impaired Party may interrupt or suspend any Service provided to the Interfering Party to the extent necessary to prevent such interference or impairment, subject to the following:

26.3.1 Except in emergency situations (e.g., situations involving a risk of bodily injury to persons or damage to tangible property, or an interruption in Customer service) or as otherwise provided in this Agreement, the Impaired Party shall have given the Interfering Party at least ten (10) days' prior written notice of the interference or impairment or potential interference or impairment and the need to correct the condition within said time period; and,

26.3.2 Upon correction of the interference or impairment, the Impaired Party will promptly restore the interrupted or suspended Service. The Impaired Party shall not be obligated to provide an out-of-service credit allowance or other compensation to the Interfering Party in connection with the suspended Service.

26.4 Outage Repair Standard. In the event of an outage or trouble in any Service being provided by a Party hereunder, the Providing Party will follow Verizon's standard procedures for isolating and clearing the outage or trouble in a manner consistent with its obligations to act in a non-discriminatory manner.

27. Non-Exclusive Remedies

Except as otherwise expressly provided in this Agreement, each of the remedies provided under this Agreement is cumulative and is in addition to any other remedies that may be available under this Agreement or at law or in equity.

28. Notice of Network Changes

If a Party makes a change in the information necessary for the transmission and routing of services using that Party's facilities or network, or any other change in its facilities or network that will materially affect the interoperability of its facilities or network with the

other Party's facilities or network, the Party making the change shall publish notice of the change at least ninety (90) days in advance of such change, and shall use reasonable efforts, as commercially practicable, to publish such notice at least one hundred eighty (180) days in advance of the change; provided, however, that if an earlier publication of notice of a change is required by Applicable Law (including, but not limited to, 47 CFR 51.325 through 51. 335) notice shall be given at the time required by Applicable Law.

29. Notices

29.1 Except as otherwise provided in this Agreement, notices given by one Party to the other Party under this Agreement:

29.1.1 shall be in writing;

29.1.2 shall be delivered (a) personally, (b) by express delivery service with next Business Day delivery, (c) by First Class, certified or registered U.S. mail, postage prepaid, or (d) by facsimile telecopy, with a copy delivered in accordance with (a), (b) or (c), preceding; and

29.1.3 shall be delivered to the following addresses of the Parties:

To US LEC:

Wanda G. Montano
Vice President Regulatory and Industry Affairs
US LEC Corporation
6801 Morrison Boulevard
Charlotte, NC 28211
Telephone Number: 704-319-1074
Facsimile Number: 704-602-1074
Internet Address: wmontano@uslec.com

with a copy to:

General Counsel
US LEC Corporation
6801 Morrison Boulevard
Charlotte, NC 28211
Telephone Number: 704-319-1119
Facsimile Number: 704-602-1119
Internet Address: sturley@uslec.com

To Verizon:

Director-Contract Performance & Administration
Verizon Wholesale Markets
600 Hidden Ridge
HQEWMNOTICES
Irving, TX 75038
Telephone Number: 972-718-5988
Facsimile Number: 972-719-1519
Internet Address: wmnotices@verizon.com

with a copy to:

Vice President and Associate General Counsel
Verizon Wholesale Markets
1515 North Court House Road
Suite 500
Arlington, VA 22201
Facsimile: 703-351-3664

or to such other address as either Party shall designate by proper notice.

Notices will be deemed given as of the earlier of (a) where there is personal delivery of the notice, the date of actual receipt, (b) where the notice is sent via express delivery service for next Business Day delivery, the next Business Day after the notice is sent, (c) where the notice is sent via First Class U.S. Mail, three (3) Business Days after mailing, (d) where notice is sent via certified or registered U.S. mail, the date of receipt shown on the Postal Service receipt, and (e) where the notice is sent via facsimile telecopy, if the notice is sent on a Business Day and before 5 PM. in the time zone where it is received, on the date set forth on the telecopy confirmation, or if the notice is sent on a non-Business Day or if the notice is sent after 5 PM in the time zone where it is received, the next Business Day after the date set forth on the telecopy confirmation .

30. Ordering and Maintenance

US LEC shall use Verizon's electronic Operations Support System access platforms to submit Orders and requests for maintenance and repair of Services, and to engage in other pre-ordering, ordering, provisioning, maintenance and repair transactions. If Verizon has not yet deployed an electronic capability for US LEC to perform a pre-ordering, ordering, provisioning, maintenance or repair, transaction offered by Verizon, US LEC shall use such other processes as Verizon has made available for performing such transaction (including, but not limited, to submission of Orders by telephonic facsimile transmission and placing trouble reports by voice telephone transmission).

31. Performance Standards

31.1 Verizon shall provide Services under this Agreement in accordance with the performance standards required by Applicable Law, including, but not limited to, Section 251(c) of the Act.

31.2 To the extent required by Appendix D, Section V, "Carrier-to-Carrier Performance Plan (Including Performance Measurements)," and Appendix D, Attachment A, "Carrier-to-Carrier Performance Assurance Plan," of the Merger Order, Verizon shall provide performance measurement results to US LEC.

31.3 US LEC shall provide Services under this Agreement in accordance with the performance standards required by Applicable Law.

32. Point of Contact for US LEC Customers

32.1 US LEC shall establish telephone numbers and mailing addresses at which US LEC Customers may communicate with US LEC and shall advise US LEC Customers of these telephone numbers and mailing addresses.

32.2 Except as otherwise agreed to by Verizon, Verizon shall have no obligation, and may decline, to accept a communication from a US LEC customer, including, but not limited to, a US LEC Customer request for repair or maintenance of a Verizon Service provided to US LEC.

33. Predecessor Agreements

33.1 Except as stated in Section 33.1.1 or as otherwise agreed in writing by the Parties:

33.1.1 any prior interconnection or resale agreement between the Parties for the State of Maryland pursuant to Section 252 of the Act and in effect immediately prior to the Effective Date is hereby terminated; and

33.1.2 any Services that were purchased by one Party from the other Party under a prior interconnection or resale agreement between the Parties for the State of Maryland pursuant to Section 252 of the Act and in effect immediately prior to the Effective Date, shall as of the Effective Date be subject to and purchased under this Agreement.

33.2 Except as otherwise agreed in writing by the Parties, if a Service purchased by a Party under a prior interconnection or resale agreement between the Parties pursuant to Section 252 of the Act was subject to a contractual commitment that it would be purchased for a period of longer than one month, and such period had not yet expired as of the Effective Date and the Service had not been terminated prior to the Effective Date, to the extent not inconsistent with this Agreement, such commitment shall remain in effect and the Service will be purchased under this Agreement; provided, that if this Agreement would materially alter the terms of the commitment, either Party make elect to cancel the commitment.

33.3 If either Party elects to cancel the commitment pursuant to the proviso in Section 33.1.1, the Purchasing Party shall not be liable for any termination charge that would otherwise have applied. However, if the commitment was cancelled by the Purchasing Party, the Providing Party shall be entitled to payment from the Purchasing Party of the difference between the price of the Service that was actually paid by the Purchasing Party under the commitment and the price of the Service that would have applied if the commitment had been to purchase the Service only until the time that the commitment was cancelled.

34. Publicity and Use of Trademarks or Service Marks

34.1 A Party, its Affiliates, and their respective contractors and Agents, shall not use the other Party's trademarks, service marks, logos or other proprietary trade dress, in connection with the sale of products or services, or in any advertising, press releases, publicity matters or other promotional materials, unless the other Party has given its written consent for such use, which consent the other Party may grant or withhold in its sole discretion.

34.2 Neither Party may imply any direct or indirect affiliation with or sponsorship or endorsement of it or its services or products by the other Party.

34.3 Any violation of this Section 34 shall be considered a material breach of this Agreement.

35. References

35.1 All references to Sections, Appendices and Exhibits shall be deemed to be references to Sections, Appendices and Exhibits of this Agreement unless the context shall otherwise require.

35.2 Unless the context shall otherwise require, any reference to a Tariff, agreement, technical or other document (including Verizon or third party guides, practices or handbooks), or provision of Applicable Law, is to such Tariff, agreement, document, or provision of Applicable Law, as amended and supplemented from time to time (and, in the case of a Tariff or provision of Applicable Law, to any successor Tariff or provision).

36. Relationship of the Parties

36.1 The relationship of the Parties under this Agreement shall be that of independent contractors and nothing herein shall be construed as creating any other relationship between the Parties.

36.2 Nothing contained in this Agreement shall make either Party the employee of the other, create a partnership, joint venture, or other similar relationship between the Parties, or grant to either Party a franchise, distributorship or similar interest.

36.3 Except for provisions herein expressly authorizing a Party to act for another Party, nothing in this Agreement shall constitute a Party as a legal representative or Agent of the other Party, nor shall a Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against, in the name or on behalf of the other Party unless otherwise expressly permitted by such other Party in writing, which permission may be granted or withheld by the other Party in its sole discretion.

36.4 Each Party shall have sole authority and responsibility to hire, fire, compensate, supervise, and otherwise control its employees, Agents and contractors. Each Party shall be solely responsible for payment of any Social Security or other taxes that it is required by Applicable Law to pay in conjunction with its employees, Agents and contractors, and for withholding and remitting to the applicable taxing authorities any taxes that it is required by Applicable Law to collect from its employees.

36.5 Except as otherwise expressly provided in this Agreement, no Party undertakes to perform any obligation of the other Party, whether regulatory or contractual, or to assume any responsibility for the management of the other Party's business.

36.6 The relationship of the Parties under this Agreement is a non-exclusive relationship.

37. Reservation of Rights

37.1 Notwithstanding anything to the contrary in this Agreement, neither Party waives, and each Party hereby expressly reserves, its rights: (a) to appeal or otherwise seek the reversal of and changes in any arbitration decision associated with this Agreement; (b) to challenge the lawfulness of this Agreement and any provision of this Agreement; (c) to seek changes in this Agreement (including, but not limited to, changes in rates, charges and the Services that must be offered) through changes in Applicable Law; and, (d) to challenge the lawfulness and propriety of, and to seek to change, any Applicable Law, including, but not limited to any rule, regulation, order or decision of the Commission, the FCC, or a court of applicable jurisdiction. Nothing in this Agreement shall be deemed to limit or prejudice any position a Party has taken or may take before the Commission, the FCC, any other state or federal regulatory or legislative bodies, courts of applicable jurisdiction, or industry fora. The provisions of this Section shall survive the expiration, cancellation or termination of this Agreement.

37.2 US LEC acknowledges US LEC has been advised by Verizon that it is Verizon's position that this Agreement contains certain provisions which are intended to reflect Applicable Law and Commission and/or FCC arbitration decisions.

38. Subcontractors

A Party may use a contractor of the Party (including, but not limited to, an Affiliate of the Party) to perform the Party's obligations under this Agreement; provided, that a Party's use of a contractor shall not release the Party from any duty or liability to fulfill the Party's obligations under this Agreement.

39. Successors and Assigns

This Agreement shall be binding on and inure to the benefit of the Parties and their respective legal successors and permitted assigns.

40. Survival

The rights, liabilities and obligations of a Party for acts or omissions occurring prior to the expiration, cancellation or termination of this Agreement, the rights, liabilities and obligations of a Party under any provision of this Agreement regarding confidential information (including but not limited to, Section 10, indemnification or defense (including, but not limited to, Section 20, or limitation or exclusion of liability (including, but not limited to, Section 25, and the rights, liabilities and obligations of a Party under any provision of this Agreement which by its terms or nature is intended to continue beyond or to be performed after the expiration, cancellation or termination of this Agreement, shall survive the expiration, cancellation or termination of this Agreement.

41. Taxes

41.1 In General. With respect to any purchase hereunder of Services, if any federal, state or local tax, fee, surcharge or other tax-like charge (a "Tax") is required or permitted by Applicable Law or a Tariff to be collected from the Purchasing Party by the Providing Party, then (a) the Providing Party shall properly bill the Purchasing Party for such Tax, (b) the Purchasing Party shall timely remit such Tax to the Providing Party and (c) the Providing Party shall timely remit such collected Tax to the applicable taxing authority.

41.2 Taxes Imposed on the Providing Party. With respect to any purchase hereunder of Services, if any federal, state or local Tax is imposed by Applicable Law on the receipts of the Providing Party, and such Applicable Law permits the Providing Party to exclude certain receipts received from sales for resale to a public utility, distributor, telephone company, local exchange carrier, telecommunications company or other communications company ("Telecommunications Company"), such exclusion being based solely on the fact that the Purchasing Party is also subject to a tax based upon receipts ("Receipts Tax"), then the Purchasing Party (a) shall provide the Providing Party with notice in writing in accordance with Section 41.6 of this Agreement of its intent to pay the Receipts Tax and (b) shall timely pay the Receipts Tax to the applicable tax authority.

41.3 Taxes Imposed on Customers. With respect to any purchase hereunder of Services that are resold to a third party, if any federal, state or local Tax is imposed by Applicable Law on the subscriber, end-user, Customer or ultimate consumer ("Subscriber") in connection with any such purchase, which a Telecommunications Company is required to impose and/or collect from a Subscriber, then the Purchasing Party (a) shall be required to impose and/or

collect such Tax from the Subscriber and (b) shall timely remit such Tax to the applicable taxing authority.

41.4 Liability for Uncollected Tax, Interest and Penalty. If the Providing Party has not received an exemption certificate from the Purchasing Party and the Providing Party fails to bill the Purchasing Party for any Tax as required by Section 41.1, then, as between the Providing Party and the Purchasing Party, (a) the Purchasing Party shall remain liable for such unbilled Tax and (b) the Providing Party shall be liable for any interest assessed thereon and any penalty assessed with respect to such unbilled Tax by such authority. If the Providing Party properly bills the Purchasing Party for any Tax but the Purchasing Party fails to remit such Tax to the Providing Party as required by Section 41.1, then, as between the Providing Party and the Purchasing Party, the Purchasing Party shall be liable for such uncollected Tax and any interest assessed thereon, as well as any penalty assessed with respect to such uncollected Tax by the applicable taxing authority. If the Providing Party does not collect any Tax as required by Section 41.1 because the Purchasing Party has provided such Providing Party with an exemption certificate that is later found to be inadequate by a taxing authority, then, as between the Providing Party and the Purchasing Party, the Purchasing Party shall be liable for such uncollected Tax and any interest assessed thereon, as well as any penalty assessed with respect to such uncollected Tax by the applicable taxing authority. If the Purchasing Party fails to pay the Receipts Tax as required by Section 41.2, then, as between the Providing Party and the Purchasing Party, (x) the Providing Party shall be liable for any Tax imposed on its receipts and (y) the Purchasing Party shall be liable for any interest assessed thereon and any penalty assessed upon the Providing Party with respect to such Tax by such authority. If the Purchasing Party fails to impose and/or collect any Tax from Subscribers as required by Section 41.3, then, as between the Providing Party and the Purchasing Party, the Purchasing Party shall remain liable for such uncollected Tax and any interest assessed thereon, as well as any penalty assessed with respect to such uncollected Tax by the applicable taxing authority. With respect to any Tax that the Purchasing Party has agreed to pay, or is required to impose on and/or collect from Subscribers, the Purchasing Party agrees to indemnify and hold the Providing Party harmless on an after-tax basis for any costs incurred by the Providing Party as a result of actions taken by the applicable taxing authority to recover the Tax from the Providing Party due to the failure of the Purchasing Party to timely pay, or collect and timely remit, such Tax to such authority. In the event either Party is audited by a taxing authority, the other Party agrees to cooperate fully with the Party being audited in order to respond to any audit inquiries in a proper and timely manner so that the audit and/or any resulting controversy may be resolved expeditiously.

41.5 Tax exemptions and Exemption Certificates. If Applicable Law clearly exempts a purchase hereunder from a Tax, and if such Applicable Law also provides an exemption procedure, such as an exemption-certificate requirement, then, if the Purchasing Party complies with such procedure, the Providing Party shall not collect such Tax during the effective period of such exemption. Such exemption shall be effective upon receipt of the exemption certificate or affidavit in accordance with the terms set forth in Section 41.6. If Applicable Law clearly exempts a purchase hereunder from a Tax, but does not also provide an exemption procedure, then the Providing Party shall not collect such Tax if the Purchasing Party (a) furnishes the Providing Party with a letter signed by an officer requesting such an exemption and citing the provision in the Applicable Law which clearly allows such exemption and (b) supplies the Providing Party with an indemnification agreement, reasonably acceptable to the Providing Party

(e.g., an agreement commonly used in the industry), which holds the Providing Party harmless on an after-tax basis with respect to its forbearing to collect such Tax.

41.6 All notices, affidavits, exemption-certificates or other communications required or permitted to be given by either Party to the other, for purposes of this Section 41, shall be made in writing and shall be delivered in person or sent by certified mail, return receipt requested, or registered mail, or a courier service providing proof of service, and sent to the addressees set forth in Section 29 as well as to the following:

To Verizon:

Tax Administration
Verizon Communications
1095 Avenue of the Americas
Room 3109
New York, NY 10036

To US LEC:

Telecommunications Tax Manager
US LEC Corporation
6801 Morrison Boulevard
Charlotte, NC 28211

Either Party may from time to time designate another address or other addressees by giving notice in accordance with the terms of this Section. Any notice or other communication shall be deemed to be given when received.

42. Technology Upgrades

Notwithstanding any other provision of this Agreement, Verizon shall have the right to deploy, upgrade, migrate and maintain its network at its discretion, and to the extent permitted by Applicable Law. The Parties acknowledge that Verizon, at its election, may deploy fiber throughout its network and that such fiber deployment may inhibit or facilitate US LEC's ability to provide service using certain technologies. Nothing in this Agreement shall limit Verizon's ability to modify its network through the incorporation of new equipment or software or otherwise. US LEC shall be solely responsible for the cost and activities associated with accommodating such changes in its own network.

43. Territory

43.1 This Agreement applies to the territory in which Verizon operates as an Incumbent Local Exchange Carrier in the State of Maryland.

43.2 Notwithstanding any other provision of this Agreement, Verizon may terminate this Agreement as to a specific operating territory or portion thereof if Verizon sells or otherwise transfers its operations in such territory or portion thereof to a third-person. Verizon shall provide US LEC with at least 90 calendar days prior written notice of such termination, which shall be effective upon the date specified in the notice. Verizon shall be obligated to provide Services under this Agreement only within this territory.

44. Third Party Beneficiaries

Except as expressly set forth in this Agreement, this Agreement is for the sole benefit of the Parties and their permitted assigns, and nothing herein shall create or be construed to provide any third-persons (including, but not limited to, Customers or contractors of a Party) with any rights (including, but not limited to, any third-party beneficiary rights) hereunder. Except as expressly set forth in this Agreement, a Party shall have no liability under this Agreement to the Customers of the other Party or to any other third person.

45. 251 and 271 Requirements

45.1 The Parties agree that the satisfactory and timely performance of the terms of this Agreement may be construed by an appropriate regulatory authority as satisfying Verizon's obligations under Section 251 of the Act.

45.2 The Parties understand and agree that this Agreement will be filed with the Commission and may thereafter be filed with the FCC as an integral part of an application by Verizon or an Affiliate of Verizon pursuant to Section 271(d) of the Act.

46. 252(i) Obligations

46.1 To the extent required by Applicable Law, each Party shall comply with Section 252(i) of the Act and Appendix D, Sections 30 through 32, of the Merger Order ("Merger Order MFN Provisions").

46.2 To the extent that the exercise by US LEC of any rights it may have under Section 252(i) or the Merger Order MFN Provisions results in the rearrangement of Services by Verizon, US LEC shall be solely liable for all costs associated therewith, as well as for any termination charges associated with the termination of existing Verizon Services.

47. Use of Service

Each Party shall make commercially reasonable efforts to ensure that its Customers comply with the provisions of this Agreement (including, but not limited to the provisions of applicable Tariffs) applicable to the use of Services purchased by it under this Agreement.

48. Waiver

A failure or delay of either Party to enforce any of the provisions of this Agreement, or any right or remedy available under this Agreement or at law or in equity, or to require performance of any of the provisions of this Agreement, or to exercise any option which is provided under this Agreement, shall in no way be construed to be a waiver of such provisions, rights, remedies or options.

49. Warranties

EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, NEITHER PARTY MAKES OR RECEIVES ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES PROVIDED, OR TO BE PROVIDED, UNDER THIS AGREEMENT AND THE PARTIES DISCLAIM ANY OTHER WARRANTIES, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE WARRANTIES AGAINST INFRINGEMENT, AND WARRANTIES ARISING BY TRADE CUSTOM, TRADE USAGE, COURSE OF DEALING OR PERFORMANCE, OR OTHERWISE.

50. Withdrawal of Services

50.1 Notwithstanding anything contained in this Agreement, except as otherwise required by Applicable Law, and as specified in Section 4, Verizon may terminate its offering and/or provision of any Service under this Agreement upon ninety (90) days prior written notice to US LEC.

50.2 **[DISPUTED ITEM]** Notwithstanding anything contained in this Agreement, except as otherwise required by Applicable Law, and as specified in Section 4 and Section 8 of the Interconnection Attachment, Verizon may with ninety (90) days prior written notice to US LEC terminate any provision of this Agreement that provides for the payment by Verizon to US LEC of compensation related to traffic, including, but not limited to, Reciprocal Compensation and other types of compensation for termination of traffic delivered by Verizon to US LEC. Following such termination, except as otherwise agreed in writing by the Parties, Verizon shall be obligated to provide compensation to US LEC related to traffic only to the extent required by Applicable Law. If Verizon exercises its right of termination under this Section, the Parties shall negotiate in good faith appropriate substitute provisions for compensation related to traffic; provided, however, that except as otherwise voluntarily agreed by Verizon in writing in its sole discretion, Verizon shall be obligated to provide compensation to US LEC related to traffic only to the extent required by Applicable Law. If within sixty (60) days after Verizon's notice of termination the Parties are unable to agree in writing upon mutually acceptable substitute provisions for compensation related to traffic, either Party may submit their disagreement to dispute resolution in accordance with Section 14 of this Agreement.

SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the Effective Date.

US LEC OF MARYLAND INC.	VERIZON MARYLAND INC.
By: _____	By: _____
Printed: Wanda G. Montano	Printed: Jeffrey A. Masoner
Title: Vice President, Regulatory and Industry Affairs	Title: Vice President – Interconnection Policy and Planning

GLOSSARY

1. General Rule

1.1 The provisions of Sections 1.2 through 1.4 and Section 2 apply with regard to the Principal Document. Terms used in a Tariff shall have the meanings stated in the Tariff.

1.2 Unless the context clearly indicates otherwise, when a term listed in this Glossary is used in the Principal Document, the term shall have the meaning stated in this Glossary. A defined term intended to convey the meaning stated in this Glossary is capitalized when used. Other terms that are capitalized, and not defined in this Glossary or elsewhere in the Principal Document, shall have the meaning stated in the Act. Additional definitions that are specific to the matters covered in a particular provision of the Principal Document may appear in that provision. To the extent that there may be any conflict between a definition set forth in this Glossary and any definition in a specific provision, the definition set forth in the specific provision shall control with respect to that provision.

1.3 Unless the context clearly indicates otherwise, any term defined in this Glossary which is defined or used in the singular shall include the plural, and any term defined in this Glossary which is defined or used in the plural shall include the singular.

1.4 The words "shall" and "will" are used interchangeably throughout the Principal Document and the use of either indicates a mandatory requirement. The use of one or the other shall not confer a different degree of right or obligation for either Party.

2. Definitions

2.1 Act.

The Communications Act of 1934 (47 U.S.C. §151 et seq.), as from time to time amended (including, but not limited to, by the Telecommunications Act of 1996).

2.2 ADSL (Asymmetrical Digital Subscriber Line).

A transmission technology on twisted pair copper Loop plant, which transmits an asymmetrical digital signal of up to 8 Mbps toward the Customer and up to 1 Mbps from the Customer, as specified in ANSI standards T1.413-1998 and Bell Atlantic Technical Reference TR-72575.

2.3 Affiliate.

Shall have the meaning set forth in the Act.

2.4 Agent.

An agent or servant.

2.5 Agreement.

This Agreement, as defined in Section 1 of the General Terms and Conditions.

2.6 Ancillary Traffic.

All traffic that is destined for ancillary services, or that may have special billing requirements, including but not limited to the following: Directory Assistance, 911/E911, Operator Services (IntraLATA call completion), IntraLATA third party, collect and calling card, 800/888 database query, LIDB, and Voice Information Services Traffic as described in Section 5 of the Additional Services Attachment.

2.7 ANI (Automatic Number Identification).

The signaling parameter that refers to the number transmitted through the network identifying the billing number of the calling party.

2.8 Applicable Law.

All effective laws, government regulations and government orders, applicable to each Party's performance of its obligations under this Agreement.

2.9 ASR (Access Service Request).

An industry standard form, which contains data elements and usage rules used by the Parties to add, establish, change or disconnect services or trunks for the purposes of interconnection.

2.10 BFR (Bona Fide Request).

The process described in the Network Element Attachment that prescribes the terms and conditions relating to a Party's request that the other Party provide a UNE that it is not otherwise required to provide under the terms of this Agreement.

2.11 Business Day.

Monday through Friday, except for holidays.

2.12 Calendar Quarter.

January through March, April through June, July through September, or October through December.

2.13 Calendar Year.

January through December.

2.14 CCS (Common Channel Signaling).

A method of transmitting call set-up and network control data over a digital signaling network separate from the public switched telephone network facilities that carry the actual voice or data content of the call.

2.15 Central Office.

A local switching system for connecting lines to lines, lines to trunks, or trunks to trunks for the purpose of originating/terminating calls over the public switched telephone network. A single Central Office may handle several Central Office codes ("NXX"). Sometimes this term is used to refer to a telephone company building in which switching systems and telephone equipment are installed.

2.16 Central Office Switch.

A switch used to provide Telecommunications Services, including, but not limited to, an End Office Switch or a Tandem Switch. A Central Office Switch may also be employed as a combination End Office/Tandem Office Switch.

2.17 Claims.

Any and all claims, demands, suits, actions, settlements, judgments, fines, penalties, liabilities, injuries, damages, losses, costs (including, but not limited to, court costs), and expenses (including, but not limited to, reasonable attorney's fees).

2.18 CLEC (Competitive Local Exchange Carrier).

Any Local Exchange Carrier other than Verizon that is operating as a Local Exchange Carrier in the territory in which Verizon operates as an ILEC in the State of Maryland. US LEC is or shortly will become a CLEC.

2.19 CLLI Codes.

Common Language Location Identifier Codes.

2.20 CMDS (Centralized Message Distribution System).

The billing record and clearing house transport system that LECs use to exchange out collects and in collects as well as Carrier Access Billing System (CABS) records.

2.21 Commission.

Maryland Public Service Commission

2.22 CPN (Calling Party Number).

A CCS parameter that identifies the calling party's telephone number.

2.23 CPNI (Customer Proprietary Network Information).

Shall have the meaning set forth in Section 222 of the Act, 47 U.S.C. § 222.

2.24 Cross Connection.

For a Collocation arrangement, the facilities between the collocating Party's equipment and the equipment or facilities of the housing Party (such as the housing Party's digital signal cross connect, Main Distribution Frame, or other suitable frame or panel).

2.25 Customer.

A third party residence or business end-user subscriber to Telephone Exchange Services provided by either of the Parties.

2.26 Digital Signal Level.

One of several transmission rates in the time-division multiplex hierarchy.

2.27 DS0 (Digital Signal Level 0).

The 64kbps zero-level signal in the time-division multiplex hierarchy.

2.28 DS1 (Digital Signal Level 1).

The 1.544 Mbps first-level signal in the time-division multiplex hierarchy.

2.29 DS3 (Digital Signal Level 3).

The 44.736 Mbps third-level signal in the time-division multiplex hierarchy.

2.30 EMI (Exchange Message Interface).

Standard used for the interexchange of telecommunications message information between local exchange carriers and interexchange carriers for billable, non-billable, sample, settlement and study data. Data is provided between companies via a unique record layout that contains Customer billing information, account summary and tracking analysis. EMI format is contained in document SR-320 published by the Alliance for Telcom Industry Solutions.

2.31 End Office Switch or End Office.

A switching entity that is used to terminate Customer station Loops for the purpose of interconnection to each other and to trunks.

2.32 Entrance Facility.

The facilities between a Party's designated premises and the Central Office serving that designated premises.

2.33 Exchange Access.

Shall have the meaning set forth in the Act.

2.34 Extended Local Calling Scope Arrangement.

An arrangement that provides a Customer a local calling scope (Extended Area Service, "EAS"), outside of the Customer's basic exchange serving area. Extended Local Calling Scope Arrangements may be either optional or non-optional. "Optional Extended Local Calling Scope Arrangement Traffic" is traffic that under an optional Extended Local Calling Scope Arrangement chosen by the Customer terminates outside of the Customer's basic exchange serving area.

2.35 FCC.

The Federal Communications Commission.

2.36 FCC Internet Order.

Order on Remand and Report and Order, *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Intercarrier Compensation for ISP Bound Traffic*, FCC 01-131, CC Docket Nos. 96-98 and 99-68, (adopted April 18, 2001).

2.37 FCC Regulations.

The final and unstayed, effective regulations promulgated by the FCC, as amended from time to time.

2.38 HDSL (High-Bit Rate Digital Subscriber Line).

A transmission technology that transmits up to a DS1 level signal, using any one of the following line codes: 2 Binary/1 Quaternary (2B1Q), Carrierless AM/PM, Discrete Multitone (DMT), or 3 Binary/1 Octal (3BO).

2.39 IDLC (Integrated Digital Loop Carrier).

A subscriber Loop carrier system that integrates within the switch at a DS1 level, which is twenty-four (24) Loop transmission paths combined into a 1.544 Mbps digital signal.

2.40 ILEC (Incumbent Local Exchange Carrier).

Shall have the meaning stated in the Act.

2.41 Inside Wire or Inside Wiring.

All wire, cable, terminals, hardware, and other equipment or materials, on the Customer's side of the Rate Demarcation Point.

2.42 Internet Traffic.

Any traffic that is transmitted to or returned from the Internet at any point during the duration of the transmission.

2.43 InterLATA Service.

Shall have the meaning set forth in the Act.

2.44 IntraLATA.

Telecommunications that originate and terminate within the same LATA.

2.45 IP (Interconnection Point). **[DISPUTED ITEM]**

~~For Reciprocal Compensation Traffic, the point at which a Party who receives Reciprocal Compensation Traffic from the other Party assesses Reciprocal Compensation charges for the further transport and termination of that Reciprocal Compensation Traffic.~~"Interconnection point" or "IP" means the switching, Wire Center, or similar network node in a Party's network at which such Party accepts Local Traffic from the other Party. Verizon IPs include any Verizon End Office, for the delivery of traffic terminated to numbers served out of that End Office, and /or any Verizon access Tandem Office, for the delivery of traffic to numbers served out of any Verizon End Office that subtends that access Tandem Office. US LEC IPs include any US LEC Switch, for the delivery of traffic terminated to numbers terminated out of that Switch.

2.46 ISDN (Integrated Services Digital Network).

A switched network service providing end-to-end digital connectivity for the simultaneous transmission of voice and data. Basic Rate Interface-ISDN (BRI-ISDN) provides for digital transmission of two (2) 64 kbps bearer channels and one (1) 16 kbps data and signaling channel (2B+D). Primary Rate Interface-

ISDN (PRI-ISDN) provides for digital transmission of twenty-three (23) 64 kbps bearer channels and one (1) 64 kbps data and signaling channel (23B+D).

2.47 IXC (Interexchange Carrier).

A Telecommunications Carrier that provides, directly or indirectly, InterLATA or IntraLATA Telephone Toll Services.

2.48 LATA (Local Access and Transport Area).

Shall have the meaning set forth in the Act.

2.49 LEC (Local Exchange Carrier).

Shall have the meaning set forth in the Act.

2.50 LERG (Local Exchange Routing Guide).

A Telcordia Technologies reference containing NPA/NXX routing and homing information.

2.51 LIDB (Line Information Data Base).

Line Information databases which provide, among other things, calling card validation functionality for telephone line number cards issued by Verizon and other entities and validation data for collect and third number-billed calls(e.g., data for billed number screening).

2.52 Line Side.

An End Office Switch connection that provides transmission, switching and optional features suitable for Customer connection to the public switched network, including loop start supervision, ground start supervision and signaling for BRI-ISDN service.

2.53 Loop.

A transmission path that extends from a Main Distribution Frame, DSX-panel, or functionally comparable piece of equipment in a Customer's serving End Office, to the Rate Demarcation Point (or NID if installed at the Rate Demarcation Point) in or at the Customer's premises. The actual transmission facilities used to provide a Loop may utilize any of several technologies.

2.54 LSR (Local Service Request).

An industry standard form, which contains data elements and usage rules, used by the Parties to establish, add, change or disconnect resold Telecommunications Services and Network Elements.

2.55 MDF (Main Distribution Frame).

The primary point at which outside plant facilities terminate within a Wire Center, for interconnection to other Telecommunications facilities within the Wire Center. The distribution frame used to interconnect cable pairs and line trunk equipment terminating on a switching system.

2.56 Measured Internet Traffic. **[DISPUTED ITEM]**

Dial-up, switched Internet Traffic originated by a Customer of one Party ("Originating Party") on that Party's network at a point in a LATA~~Verizon local calling area~~, and delivered to a Customer or an Internet Service Provider served by the other Party ("Terminating Party"), on that other Party's network at a point in the same LATA~~Verizon local calling area~~. ~~Verizon local calling areas shall be as defined by Verizon. For the purposes of this definition, a Verizon local calling area includes a Verizon non-optional Extended Local Calling Scope Arrangement, but does not include a Verizon optional Extended Local Calling Scope Arrangement. Calls originated~~ Measured Internet Traffic does not include: (1) any traffic that is carried by a third party carrier at any point between the Customer of the Originating Party and the Customer or Internet Service Provider served by the Terminating Party; or (2) traffic that is carried by a Party on a 1+ presubscription basis, or on a casual dialed (10XXX/101XXXX) basis~~, are not considered Measured Internet Traffic~~.

2.57 MECAB (Multiple Exchange Carrier Access Billing).

A document prepared by the Billing Committee of the Ordering and Billing Forum (OBF), which functions under the auspices of the Carrier Liaison Committee (CLC) of the Alliance for Telecommunications Industry Solutions (ATIS). The MECAB document, published by Telcordia Technologies as Special Report SR-BDS-000983, contains the recommended guidelines for the billing of an Exchange Access Service provided by two or more LECs, or by one LEC in two or more states, within a single LATA.

2.58 MECOD (Multiple Exchange Carriers Ordering and Design Guidelines for Access Services - Industry Support Interface).

A document developed by the Ordering/Provisioning Committee under the auspices of the Ordering and Billing Forum (OBF), which functions under the auspices of the Carrier Liaison Committee (CLC) of the Alliance for Telecommunications Industry Solutions (ATIS). The MECOD document, published by Telcordia Technologies as Special Report SR-STS-002643, establishes methods for processing orders for Exchange Access Service that is to be provided by two or more LECs.

2.59 Merger Order.

The FCC's ORDER "In re Application of GTE Corporation, Transferor, and Bell Atlantic Corporation, Transferee, For Consent to Transfer of Control of Domestic and International Section 214 and 310 Authorizations and Application to Transfer of a Submarine Cable Landing License", Memorandum Opinion and Order, FCC CC Docket No. 98-184, FCC 00-221 (June 16, 2000), as modified from time to time.

2.60 NANP (North American Numbering Plan).

The system of telephone numbering employed in the United States, Canada, Bermuda, Puerto Rico and certain Caribbean islands. The NANP format is a 10-digit number that consist of a 3-digit NPA Code (commonly referred to as the area code), followed by a 3-digit NXX code and 4 digit line number.

2.61 Network Element.

Shall have the meaning stated in the Act.

2.62 NID (Network Interface Device).

The Verizon provided interface terminating Verizon's Telecommunications network on the property where the Customer's service is located at a point determined by Verizon. The NID contains an FCC Part 68 registered jack from which Inside Wire may be connected to Verizon's network.

2.63 NPA (Numbering Plan Area).

Also sometimes referred to as an area code, is the first three-digit indicator of each 10-digit telephone number within the NANP. There are two general categories of NPA, "Geographic NPAs" and "Non-Geographic NPAs". A Geographic NPA is associated with a defined geographic area, and all telephone numbers bearing such NPA are associated with services provided within that geographic area. A Non-Geographic NPA, also known as a "Service Access Code" or "SAC Code" is typically associated with a specialized Telecommunications Service that may be provided across multiple geographic NPA areas. 500, 700, 800, 888 and 900 are examples of Non-Geographic NPAs.

2.64 NXX, NXX Code, Central Office Code or CO Code.

The three-digit switch entity indicator (i.e. the first three digits of a seven-digit telephone number).

2.65 Order.

An order or application to provide, change or terminate a Service (including, but not limited to, a commitment to purchase a stated number or minimum number of lines or other Services for a stated period or minimum period of time).

2.66 POI (Point of Interconnection).

The physical location where the one Party's facilities physically interconnect with the other Party's facilities for the purpose of exchanging traffic.

2.67 Port.

A line card (or equivalent) and associated peripheral equipment on an End Office Switch that interconnects individual Loops or individual Customer trunks with the switching components of an End Office Switch and the associated switching functionality in that End Office Switch. Each Port is typically associated with one (or more) telephone number(s) that serves as the Customer's network address. The Port is part of the provision of unbundled Local Switching Element.

2.68 Principal Document.

This document, including, but not limited to, the Title Page, the Table of Contents, the Preface, the General Terms and Conditions, the signature page, this Glossary, the Attachments, and the Appendices to the Attachments

2.69 Providing Party.

A Party offering or providing a Service to the other Party under this Agreement.

2.70 Purchasing Party.

A Party requesting or receiving a Service from the other Party under this Agreement.

2.71 Rate Center Area.

The geographic area that has been identified by a given LEC as being associated with a particular NPA-NXX code assigned to the LEC for its provision of Telephone Exchange Services. The Rate Center Area is the exclusive geographic area that the LEC has identified as the area within which it will provide Telephone Exchange Services bearing the particular NPA-NXX designation associated with the specific Rate Center Area.

2.72 Rate Center Point.

A specific geographic point, defined by a V&H coordinate, located within the Rate Center Area and used to measure distance for the purpose of billing for distance-sensitive Telephone Exchange Services and Toll Traffic. Pursuant to Telcordia Practice BR-795-100-100, the Rate Center Point may be an End Office location, or a "LEC Consortium Point Of Interconnection."

2.73 Rate Demarcation Point.

The physical point in a Verizon provided network facility at which Verizon's responsibility for maintaining that network facility ends and the Customer's responsibility for maintaining the remainder of the facility begins, as set forth in this Agreement, Verizon's applicable Tariffs, if any, or as otherwise prescribed under Applicable Law.

2.74 Reciprocal Compensation.

The arrangement for recovering, in accordance with Section 251(b)(5) of the Act, the FCC Internet Order, and other applicable FCC orders and FCC Regulations, costs incurred for the transport and termination of Reciprocal Compensation Traffic originating on one Party's network and terminating on the other Party's network (as set forth in Section 7 of the Interconnection Attachment).

2.75 Reciprocal Compensation Traffic. **[DISPUTED ITEM]**

Telecommunications traffic originated by a Customer of one Party on that Party's network and terminated to a Customer of the other Party on that other Party's network, except for Telecommunications traffic that is interstate or intrastate Exchange Access, Information Access, or exchange services for Exchange Access or Information Access. The determination of whether Telecommunications traffic is Exchange Access or Information Access shall be based upon Verizon's local calling areas as defined by Verizon. Reciprocal Compensation Traffic does not include: (1) any Internet Traffic; (2) traffic that does not originate and terminate within the same Verizon local calling area as defined by Verizon; (3) Toll Traffic, including, but not limited to, calls originated on a 1+ presubscription basis, or on a casual dialed (10XXX/101XXXX) basis; (4) Optional Extended Local Calling Scope Arrangement Traffic; (5) special access, private line, Frame Relay, ATM, or any other traffic that is not switched by the terminating Party; or, (6) Tandem Transit Traffic~~; or, (7) Voice Information Service Traffic (as defined in Section 5 of the Additional Services Attachment)~~. For the purposes of this definition, a Verizon local calling area includes a Verizon non-optional Extended Local Calling Scope Arrangement, but does not include a Verizon optional Extended Local Calling Scope Arrangement.

2.76 Retail Prices.

The prices at which a Service is provided by Verizon at retail to subscribers who are not Telecommunications Carriers.

2.77 Routing Point.

A specific geographic point identified by a specific V&H coordinate. The Routing Point is used to route inbound traffic to specified NPA-NXXs. The Routing Point must be located within the LATA in which the corresponding NPA-NXX is located. However, the Routing Point associated with each NPA-NXX need not be the same as the corresponding Rate Center Point, nor must it be located within the corresponding Rate Center Area, nor must there be a unique and separate Routing Point corresponding to each unique and separate Rate Center Area.

2.78 Service.

Any Interconnection arrangement, Network Element, Telecommunications Service, Collocation arrangement, or other service, facility or arrangement, offered by a Party under this Agreement.

2.79 SS7 (Signaling System 7).

The common channel out-of-band signaling protocol developed by the Consultative Committee for International Telephone and Telegraph (CCITT) and the American National Standards Institute (ANSI). Verizon and US LEC currently utilize this out-of-band signaling protocol.

2.80 Subsidiary.

A corporation or other person that is controlled by a Party.

2.81 Switched Access Detail Usage Data.

A category 1101XX record as defined in the EMI Telcordia Practice BR-010-200-010.

2.82 Switched Access Summary Usage Data.

A category 1150XX record as defined in the EMI Telcordia Practice BR-010-200-010.

2.83 Switched Exchange Access Service.

The offering of transmission and switching services for the purpose of the origination or termination of Toll Traffic. Switched Exchange Access Services include but may not be limited to: Feature Group A, Feature Group B, Feature Group D, 700 access, 800 access, 888 access and 900 access.

2.84 Tandem Switch.

A switching entity that has billing and recording capabilities and is used to connect and switch trunk circuits between and among End Office Switches and between and among End Office Switches and carriers' aggregation points, points of termination, or points of presence, and to provide Switched Exchange Access Services. Nothing contained in this definition waives either Party's rights with

respect to the interpretation or applicability of 47 CFR Section 51.711(a)(3).

2.85 Tariff.

2.85.1 Any applicable Federal or state tariff of a Party, as amended from time-to-time; or

2.85.2 Any standard agreement or other document, as amended from time-to-time, that sets forth the generally available terms, conditions and prices under which a Party offers a Service.

The term "Tariff" does not include any Verizon statement of generally available terms (SGAT) which has been approved or is pending approval by the Commission pursuant to Section 252(f) of the Act.

2.86 Telcordia Technologies.

Telcordia Technologies, Inc., formerly known as Bell Communications Research, Inc. (Bellcore).

2.87 Telecommunications Carrier.

Shall have the meaning set forth in the Act.

2.88 Telecommunications Services.

Shall have the meaning set forth in the Act.

2.89 Telephone Exchange Service.

Shall have the meaning set forth in the Act.

2.90 Third Party Claim.

A Claim where there is (a) a claim, demand, suit or action by a person who is not a Party, (b) a settlement with, judgment by, or liability to, a person who is not a Party, or (c) a fine or penalty imposed by a person who is not a Party.

2.91 Toll Traffic.

Traffic that is originated by a Customer of one Party on that Party's network and terminates to a Customer of the other Party on that other Party's network and is not Reciprocal Compensation Traffic, Measured Internet Traffic, or Ancillary Traffic. Toll Traffic may be either "IntraLATA Toll Traffic" or "InterLATA Toll Traffic", depending on whether the originating and terminating points are within the same LATA.

2.92 Toxic or Hazardous Substance.

Any substance designated or defined as toxic or hazardous under any "Environmental Law" or that poses a risk to human health or safety, or the environment, and products and materials containing such substance. "Environmental Laws" means the Comprehensive Environmental Response, Compensation, and Liability Act, the Emergency Planning and Community Right-to-Know Act, the Water Pollution Control Act, the Air Pollution Control Act, the

Toxic Substances Control Act, the Resource Conservation and Recovery Act, the Occupational Safety and Health Act, and all other Federal, Sate or local laws or governmental regulations or requirements, that are similar to the above-referenced laws or that otherwise govern releases, chemicals, products, materials or wastes that may pose risks to human health or safety, or the environment, or that relate to the protection of wetlands or other natural resources.

2.93 Traffic Factor 1.

For traffic exchanged via Interconnection Trunks, a percentage calculated by dividing the number of minutes of interstate traffic (excluding Measured Internet Traffic) by the total number of minutes of interstate and intrastate traffic. ([Interstate Traffic Total Minutes of Use {excluding Measured Internet Traffic Total Minutes of Use} + {Interstate Traffic Total Minutes of Use + Intrastate Traffic Total Minutes of Use}] x 100). Until the form of a Party's bills is updated to use the term "Traffic Factor 1," the term "Traffic Factor 1" may be referred to on the Party's bills and in billing related communications as "Percent Interstate Usage" or "PIU."

2.94 Traffic Factor 2.

For traffic exchange via Interconnection Trunks, a percentage calculated by dividing the combined total number of minutes of Reciprocal Compensation Traffic and Measured Internet Traffic by the total number of minutes of intrastate traffic. ([{Reciprocal Compensation Traffic Total Minutes of Use + Measured Internet Traffic Total Minutes of Use} • Intrastate Traffic Total Minutes of Use] x 100). Until the form of a Party's bills is updated to use the term "Traffic Factor 2," the term "Traffic Factor 2" may be referred to on the Party's bills and in billing related communications as "Percent Local Usage" or "PLU."

2.95 Trunk Side.

A Central Office Switch connection that is capable of, and has been programmed to treat the circuit as, connecting to another switching entity, for example, to another carrier's network. Trunk side connections offer those transmission and signaling features appropriate for the connection of switching entities and cannot be used for the direct connection of ordinary telephone station sets.

2.96 UDLC (Universal Digital Loop Carrier).

UDLC arrangements consist of a Central Office Terminal and a Remote Terminal located in the outside plant or at a customer premises. The Central Office and the Remote Terminal units perform analog to digital conversions to allow the feeding facility to be digital. UDLC is deployed where the types of services to be provisioned by the systems cannot be integrated such as non-switched services and UNE Loops.

2.97 V and H Coordinates Method.

A method of computing airline miles between two points by utilizing an established formula that is based on the vertical and horizontal coordinates of the two points.

2.98 Voice Grade.

Either an analog signal of 300 to 3000 Hz or a digital signal of 56/64 kilobits per second. When referring to digital Voice Grade service (a 56-64 kbps channel), the terms "DS0" or "sub-DS1" may also be used.

2.99 Wire Center.

A building or portion thereof which serves as the premises for one or more Central Office Switches and related facilities.

ADDITIONAL SERVICES ATTACHMENT

1. Alternate Billed Calls

1.1 The Parties will engage in settlements of intraLATA intrastate alternate-billed calls (*e.g.*, collect, calling card, and third-party billed calls) originated or authorized by their respective Customers in accordance with an arrangement mutually agreed to by the Parties.

2. Dialing Parity - Section 251(b)(3)

Each Party shall provide the other Party with nondiscriminatory access to such services and information as are necessary to allow the other Party to implement local Dialing Parity in accordance with the requirements of Section 251(b)(3) of the Act.

3. Directory Assistance (DA) and Operator Services (OS)

3.1 Either Party may request that the other Party provide the requesting Party with nondiscriminatory access to the other Party's directory assistance services (DA), IntraLATA operator call completion services (OS), and/or directory assistance listings database to the extent that such services are offered by a Party. If either Party makes such a request, the Parties shall enter into a mutually acceptable written agreement for such access.

3.2 US LEC shall arrange, at its own expense, the trunking and other facilities required to transport traffic to and from the designated DA and OS switch locations.

4. Directory Listing and Directory Distribution

To the extent required by Applicable Law, Verizon will provide directory services to US LEC. Such services will be provided in accordance with the terms set forth herein.

4.1 Listing Information.

As used herein, "Listing Information" means a US LEC Customer's primary name, address (including city, state and zip code), telephone number(s), the delivery address and number of directories to be delivered, and, in the case of a business Customer, the primary business heading under which the business Customer desires to be placed, and any other information Verizon deems necessary for the publication and delivery of directories.

4.2 Listing Information Supply.

US LEC shall provide to Verizon on a regularly scheduled basis, at no charge, and in a format required by Verizon or by a mutually agreed upon industry standard (e.g., Ordering and Billing Forum developed), all Listing Information and the service address for each US LEC Customer whose service address location falls within the geographic area covered by the relevant Verizon directory. US LEC shall also provide to Verizon on a daily basis, (a) information showing US LEC Customers who have disconnected or terminated their service with US LEC; and (b) delivery information for each non-listed or non-published US LEC Customer to enable Verizon to perform its directory distribution responsibilities. Verizon shall promptly provide to US LEC, (normally within forty-eight (48) hours

of receipt by Verizon, excluding non-Business Days), a query on any listing that is not acceptable.

4.3 Listing Inclusion and Distribution.

Verizon shall include, on a nondiscriminatory basis and consistent with any obligations it may have under Applicable Law, each US LEC Customer's Primary Listing in all appropriate alphabetical directories (both print and electronic) and, for business Customers, in the appropriate classified (Yellow Pages) directories (both print and electronic) in accordance with the directory configuration, scope and schedules determined by Verizon in its sole discretion, and shall provide initial distribution of such directories to such US LEC Customers in the same manner it provides initial distribution of such directories to its own Customers. "Primary Listing" means a Customer's primary name, address, and telephone number. Listings of US LEC's Customers shall be interfiled with listings of Verizon's Customers and the Customers of other LECs included in the Verizon directories. US LEC shall pay Verizon's tariffed charges for additional and foreign alphabetical listings and other alphabetical services (e.g. caption arrangements) for US LEC's Customers. Verizon will not require a minimum number of listings per order.

4.4 Verizon Information.

Upon request by US LEC, Verizon shall make available to US LEC the following information to the extent that Verizon provides such information to its own business offices: a directory list of relevant NXX codes, directory and "Customer Guide" close dates, publishing data, and Yellow Pages headings. Verizon also will make available to US LEC, upon written request, a copy of Verizon's alphabetical listings standards and specifications manual.

4.5 Confidentiality of Listing Information.

Verizon shall accord US LEC Listing Information the same level of confidentiality that Verizon accords its own listing information, and shall use such Listing Information solely for the purpose of providing directory-related services; provided, however, that should Verizon elect to do so, it may use or license US LEC Listing Information for directory publishing, direct marketing, or any other purpose for which Verizon uses or licenses its own listing information, so long as US LEC Customers are not separately identified as such; and provided further that US LEC may identify those of its Customers who request that their names not be sold for direct marketing purposes, and Verizon shall honor such requests to the same extent it does so for its own Customers. Verizon shall not be obligated to compensate US LEC for Verizon's use or licensing of US LEC Listing Information.

4.6 Accuracy.

Both Parties shall use commercially reasonable efforts to ensure the accurate publication of US LEC Customer listings. At US LEC's request, Verizon shall provide US LEC with a report of all US LEC Customer listings normally no more than ninety (90) days and no less than thirty (30) days prior to the service order close date for the applicable directory. Verizon shall process any corrections made by US LEC with respect to its listings, provided such corrections are received prior to the close date of the particular directory.

4.7 Indemnification.

US LEC shall adhere to all practices, standards, and ethical requirements established by Verizon with regard to listings. By providing Verizon with Listing Information, US LEC warrants to Verizon that US LEC has the right to provide such Listing Information to Verizon on behalf of its Customers. US LEC shall make commercially reasonable efforts to ensure that any business or person to be listed is authorized and has the right (a) to provide the product or service offered, and (b) to use any personal or corporate name, trade name, trademark, service mark or language used in the listing. US LEC agrees to release, defend, hold harmless and indemnify Verizon from and against any and all claims, losses, damages, suits, or other actions, or any liability whatsoever, suffered, made, instituted, or asserted by any person arising out of Verizon's publication or dissemination of the Listing Information as provided by US LEC hereunder.

4.8 Liability.

Verizon's liability to US LEC in the event of a Verizon error in or omission of a listing shall not exceed the lesser of the amount of charges actually paid by US LEC for such listing or the amount by which Verizon would be liable to its own customer for such error or omission. US LEC agrees to take all reasonable steps, including, but not limited to, entering into appropriate contractual provisions with its Customers, to ensure that its and Verizon's liability to US LEC's Customers in the event of a Verizon error in or omission of a listing shall be subject to the same limitations of liability applicable between Verizon and its own Customers as set forth in Verizon's applicable tariffs.

4.9 Service Information Pages.

Verizon shall include all US LEC NXX codes associated with the geographic areas to which each directory pertains, to the extent it does so for Verizon's own NXX codes, in any lists of such codes that are contained in the general reference portion of each directory. US LEC's NXX codes shall appear in such lists in the same manner as Verizon's NXX information. In addition, when US LEC is authorized to, and is offering, local service to Customers located within the geographic area covered by a specific directory, at US LEC's request, Verizon shall include, at no charge, in the "Customer Guide" or comparable section of the applicable alphabetical directories, US LEC's critical contact information for US LEC's installation, repair and Customer service, as provided by US LEC, and such other essential local service oriented information as is agreed to in writing by the Parties, including appropriate identifying logo. Such critical contact information shall appear alphabetically by local exchange carrier and in accordance with Verizon's generally applicable policies. US LEC shall be responsible for providing the necessary information to Verizon by the applicable close date for each affected directory.

4.10 Directory Publication.

Nothing in this Agreement shall require Verizon to publish a directory where it would not otherwise do so.

4.11 Other Directory Services.

US LEC acknowledges that if US LEC desires directory services in addition to those described herein, such additional services must be obtained under separate agreement with Verizon's directory publishing company.

5. Voice Information Service Traffic

5.1 [DISPUTED ITEM] For purposes of this Section 5, (a) Voice Information Service means a service that provides [i] recorded voice announcement information or [ii] a vocal discussion program open to the public, and (b) Voice Information Service Traffic means intraLATA switched voice traffic, delivered to a Voice Information Service. Voice Information Service Traffic does not include any form of Internet Traffic. Voice Information Service Traffic also does not include 555 traffic or similar traffic with AIN service interfaces, which traffic shall be subject to separate arrangements between the Parties. ~~Voice Information Service Traffic is not subject to Reciprocal Compensation charges under Section 7 the Interconnection Attachment.~~

5.2 If a US LEC Customer is served by resold Verizon dial tone line Telecommunications Service or a Verizon Local Switching UNE, to the extent reasonably feasible, Verizon will route Voice Information Service Traffic originating from such Service or UNE to the appropriate Voice Information Service connected to Verizon's network unless a feature blocking such Voice Information Service Traffic has been installed. For such Voice Information Service Traffic, US LEC shall pay to Verizon without discount any Voice Information Service provider charges billed by Verizon to US LEC. US LEC shall pay Verizon such charges in full regardless of whether or not US LEC collects such charges from its own Customer.

5.3 [DISPUTED ITEM] ~~US LEC~~The Parties shall have the option to route Voice Information Service Traffic that originates on its own network to the appropriate Voice Information Service connected to ~~Verizon's~~ the other Party's network. ~~In the event US LEC exercises such option, US LEC will establish, at its own expense, a dedicated trunk group to the Verizon Voice Information Service serving switch. This trunk group will be utilized to allow US LEC to route Voice Information Service Traffic originated on its network to Verizon.~~ For such Voice Information Service Traffic, unless ~~US LEC~~the originating Party has entered into a written agreement with ~~Verizon~~ the terminating Party under which ~~US LEC~~the originating Party will collect from ~~US LEC's~~its Customer and remit to ~~Verizon~~ the terminating Party the Voice Information Service provider's charges, ~~US LEC~~the originating Party shall pay to ~~Verizon~~ the terminating Party without discount any Voice Information Service provider charges billed by ~~Verizon~~ the terminating Party to ~~US LEC~~the originating Party. ~~US LEC~~The originating Party shall pay ~~Verizon~~ the terminating Party such charges in full regardless of whether or not ~~US LEC~~the originating Party collects such charges from its own Customer.

6. Intercept and Referral Announcements

6.1 When a Customer changes its service provider from Verizon to US LEC, or from US LEC to Verizon, and does not retain its original telephone number, the Party formerly providing service to such Customer shall provide a referral announcement ("Referral Announcement") on the abandoned telephone number which provides the Customer's new number or other appropriate information, to the extent known to the Party formerly providing service. Notwithstanding the foregoing, a Party shall not be obligated under this Section to provide a Referral Announcement if the Customer owes the Party unpaid overdue amounts or the Customer requests that no Referral Announcement be provided.

6.2 Referral Announcements shall be provided, in the case of business Customers, for a period of not less than one hundred and twenty (120) days after the date the Customer changes its telephone number, and, in the case of residential Customers, not less than thirty (30) days after the date the Customer changes its telephone number; provided that if a longer time period is required by Applicable Law, such longer time period shall apply. Except as otherwise provided by

Applicable Law, the period for a referral may be shortened by the Party formerly providing service if a number shortage condition requires reassignment of the telephone number.

6.3 This referral announcement will be provided by each Party at no charge to the other Party; provided that the Party formerly providing service may bill the Customer its standard Tariff charge, if any, for the referral announcement.

7. Originating Line Number Screening (OLNS)

Upon US LEC's request, Verizon will update its database used to provide originating line number screening (the database of information which indicates to an operator the acceptable billing methods for calls originating from the calling number (e.g., penal institutions, COCOTS).

8. Operations Support Systems (OSS) Services

8.1 Definitions.

The terms listed below shall have the meanings stated below:

8.1.1 Verizon Operations Support Systems: Verizon systems for pre-ordering, ordering, provisioning, maintenance and repair, and billing.

8.1.2 Verizon OSS Services: Access to Verizon Operations Support Systems functions. The term "Verizon OSS Services" includes, but is not limited to: (a) Verizon's provision of US LEC Usage Information to US LEC pursuant to Section 8.3 below; and, (b) "Verizon OSS Information", as defined in Section 8.1.4 below.

8.1.3 Verizon OSS Facilities: Any gateways, interfaces, databases, facilities, equipment, software, or systems, used by Verizon to provide Verizon OSS Services to US LEC.

8.1.4 Verizon OSS Information: Any information accessed by, or disclosed or provided to, US LEC through or as a part of Verizon OSS Services. The term "Verizon OSS Information" includes, but is not limited to: (a) any Customer Information related to a Verizon Customer or a US LEC Customer accessed by, or disclosed or provided to, US LEC through or as a part of Verizon OSS Services; and, (b) any US LEC Usage Information (as defined in Section 8.1.6 below) accessed by, or disclosed or provided to, US LEC.

8.1.5 Verizon Retail Telecommunications Service: Any Telecommunications Service that Verizon provides at retail to subscribers that are not Telecommunications Carriers. The term "Verizon Retail Telecommunications Service" does not include any Exchange Access service (as defined in Section 3(16) of the Act, 47 U.S.C. § 153(16)) provided by Verizon.

8.1.6 US LEC Usage Information: For a Verizon Retail Telecommunications Service purchased by US LEC pursuant to the Resale Attachment, the usage information that Verizon would record if Verizon was furnishing such Verizon Retail Telecommunications Service to a Verizon end-user retail Customer. For a Verizon Local Switching Network Element purchased by US LEC pursuant to the Network Element Attachment, the usage information that Verizon would record if Verizon was using

such Local Switching Network Element to furnish a Verizon Retail Telecommunications Service to a Verizon end-user retail Customer.

8.1.7 Customer Information: CPNI of a Customer and any other non-public, individually identifiable information about a Customer or the purchase by a Customer of the services or products of a Party.

8.2 Verizon OSS Services.

8.2.1 Upon request by US LEC, Verizon shall provide to US LEC Verizon OSS Services. Such Verizon OSS Services will be provided in accordance with, but only to the extent required by, Applicable Law.

8.2.2 Subject to the requirements of Applicable Law, Verizon Operations Support Systems, Verizon Operations Support Systems functions, Verizon OSS Facilities, Verizon OSS Information, and the Verizon OSS Services that will be offered by Verizon, shall be as determined by Verizon. Subject to the requirements of Applicable Law, Verizon shall have the right to change Verizon Operations Support Systems, Verizon Operations Support Systems functions, Verizon OSS Facilities, Verizon OSS Information, and the Verizon OSS Services, from time-to-time, without the consent of US LEC.

8.2.3 To the extent required by Applicable Law, in providing Verizon OSS Services to US LEC, Verizon will comply with Verizon's applicable OSS Change Management Guidelines, as such Guidelines are modified from time-to-time, including, but not limited to, the provisions of the Guidelines related to furnishing notice of changes in Verizon OSS Services. Verizon's OSS Change Management Guidelines will be set out on a Verizon website.

8.3 US LEC Usage Information.

8.3.1 Upon request by US LEC, Verizon shall provide to US LEC US LEC Usage Information. Such US LEC Usage Information will be provided in accordance with, but only to the extent required by, Applicable Law.

8.3.2 US LEC Usage Information will be available to US LEC through the following:

8.3.2.1 Daily Usage File on Data Tape.

8.3.2.2 Daily Usage File through Network Data Mover (NDM).

8.3.3 US LEC Usage Information will be provided in an Alliance for Telecommunications Industry Solutions EMI format.

8.3.4 Daily Usage File Data Tapes provided pursuant to Section 8.3.2.1 above will be issued each day, Monday through Friday, except holidays observed by Verizon.

8.3.5 Except as stated in this Section 8.3, subject to the requirements of Applicable Law, the manner in which, and the frequency with which, US LEC Usage Information will be provided to US LEC shall be determined by Verizon.

8.4 Access to and Use of Verizon OSS Facilities.

8.4.1 Verizon OSS Facilities may be accessed and used by US LEC only to the extent necessary for US LEC's access to and use of Verizon OSS Services pursuant to this Agreement.

8.4.2 Verizon OSS Facilities may be accessed and used by US LEC only to provide Telecommunications Services to US LEC Customers.

8.4.3 US LEC shall restrict access to and use of Verizon OSS Facilities to US LEC. This Section 8 does not grant to US LEC any right or license to grant sublicenses to other persons, or permission to other persons (except US LEC's employees, agents and contractors, in accordance with Section 8.4.7 below), to access or use Verizon OSS Facilities.

8.4.4 US LEC shall not (a) alter, modify or damage the Verizon OSS Facilities (including, but not limited to, Verizon software), (b) copy, remove, derive, reverse engineer, or decompile, software from the Verizon OSS Facilities, or (c) obtain access through Verizon OSS Facilities to Verizon databases, facilities, equipment, software, or systems, which are not offered for US LEC's use under this Section 8.

8.4.5 US LEC shall comply with all practices and procedures established by Verizon for access to and use of Verizon OSS Facilities (including, but not limited to, Verizon practices and procedures with regard to security and use of access and user identification codes).

8.4.6 All practices and procedures for access to and use of Verizon OSS Facilities, and all access and user identification codes for Verizon OSS Facilities: (a) shall remain the property of Verizon; (b) shall be used by US LEC only in connection with US LEC's use of Verizon OSS Facilities permitted by this Section 8; (c) shall be treated by US LEC as Confidential Information of Verizon pursuant to Section 10 of the General Terms and Conditions; and, (d) shall be destroyed or returned by US LEC to Verizon upon the earlier of request by Verizon or the expiration or termination of this Agreement.

8.4.7 US LEC's employees, agents and contractors may access and use Verizon OSS Facilities only to the extent necessary for US LEC's access to and use of the Verizon OSS Facilities permitted by this Agreement. Any access to or use of Verizon OSS Facilities by US LEC's employees, agents, or contractors, shall be subject to the provisions of this Agreement, including, but not limited to, Section 10 of the General Terms and Conditions and Section 8.5.2.3 of this Attachment.

8.5 Verizon OSS Information.

8.5.1 Subject to the provisions of this Section 8, in accordance with, but only to the extent required by, Applicable Law, Verizon grants to US LEC a non-exclusive license to use Verizon OSS Information.

8.5.2 All Verizon OSS Information shall at all times remain the property of Verizon. Except as expressly stated in this Section 8, US LEC shall acquire no rights in or to any Verizon OSS Information.

8.5.2.1 The provisions of this Section 8.5.2 shall apply to all Verizon OSS Information, except (a) US LEC Usage Information, (b) CPNI of US LEC, and (c) CPNI of a Verizon

Customer or a US LEC Customer, to the extent the Customer has authorized US LEC to use the CPNI.

8.5.2.2 Verizon OSS Information may be accessed and used by US LEC only to provide Telecommunications Services to US LEC Customers.

8.5.2.3 US LEC shall treat Verizon OSS Information that is designated by Verizon, through written or electronic notice (including, but not limited to, through the Verizon OSS Services), as "Confidential" or "Proprietary" as Confidential Information of Verizon pursuant to Section 10 of the General Terms and Conditions.

8.5.2.4 Except as expressly stated in this Section 8, this Agreement does not grant to US LEC any right or license to grant sublicenses to other persons, or permission to other persons (except US LEC's employees, agents or contractors, in accordance with Section 8.5.2.5 below), to access, use or disclose Verizon OSS Information.

8.5.2.5 US LEC's employees, agents and contractors may access, use and disclose Verizon OSS Information only to the extent necessary for US LEC's access to, and use and disclosure of, Verizon OSS Information permitted by this Section 8. Any access to, or use or disclosure of, Verizon OSS Information by US LEC's employees, agents or contractors, shall be subject to the provisions of this Agreement, including, but not limited to, Section 10 of the General Terms and Conditions and Section 8.5.2.3 above.

8.5.2.6 US LEC's license to use Verizon OSS Information shall expire upon the earliest of: (a) the time when the Verizon OSS Information is no longer needed by US LEC to provide Telecommunications Services to US LEC Customers; (b) termination of the license in accordance with this Section 8; or (c) expiration or termination of this Agreement.

8.5.2.7 All Verizon OSS Information received by US LEC shall be destroyed or returned by US LEC to Verizon, upon expiration, suspension or termination of the license to use such Verizon OSS Information.

8.5.3 Unless sooner terminated or suspended in accordance with this Agreement or this Section 8 (including, but not limited to, Section 2.2 of the General Terms and Conditions and Section 8.6.1 below), US LEC's access to Verizon OSS Information through Verizon OSS Services shall terminate upon the expiration or termination of this Agreement.

8.5.4 Audits.

8.5.4.1 Verizon shall have the right (but not the obligation) to audit US LEC to ascertain whether US LEC is complying with the requirements of Applicable Law and this Agreement with regard to US LEC 's access to, and use and disclosure of, Verizon OSS Information.

8.5.4.2 Without in any way limiting any other rights Verizon may have under this Agreement or Applicable Law, Verizon shall have the right (but not the obligation) to monitor US LEC 's access to and use of Verizon OSS Information which is made available by Verizon to US LEC pursuant to this Agreement, to ascertain whether US LEC is complying with the requirements of Applicable Law and this Agreement, with regard to US LEC 's access to, and use and disclosure of, such Verizon OSS Information. The foregoing right shall include, but not be limited to, the right (but not the obligation) to electronically monitor US LEC 's access to and use of Verizon OSS Information which is made available by Verizon to US LEC through Verizon OSS Facilities.

8.5.4.3 Information obtained by Verizon pursuant to this Section 8.5.4 shall be treated by Verizon as Confidential Information of US LEC pursuant to Section 10 of the General Terms and Conditions; provided that, Verizon shall have the right (but not the obligation) to use and disclose information obtained by Verizon pursuant to this Section 8.5.4 to enforce Verizon's rights under this Agreement or Applicable Law.

8.5.5 US LEC acknowledges that the Verizon OSS Information, by its nature, is updated and corrected on a continuous basis by Verizon, and therefore that Verizon OSS Information is subject to change from time to time.

8.6 Liabilities and Remedies.

8.6.1 Any breach by US LEC, or US LEC's employees, agents or contractors, of the provisions of Sections 8.4 or 8.5 above shall be deemed a material breach of this Agreement. In addition, if US LEC or an employee, agent or contractor of US LEC at any time breaches a provision of Sections 8.4 or 8.5 above and such breach continues for more than ten (10) days after written notice thereof from Verizon, then, except as otherwise required by Applicable Law, Verizon shall have the right, upon notice to US LEC, to suspend the license to use Verizon OSS Information granted by Section 8.5.1 above and/or the provision of Verizon OSS Services, in whole or in part.

8.6.2 US LEC agrees that Verizon would be irreparably injured by a breach of Sections 8.4 or 8.5 above by US LEC or the employees, agents or contractors of US LEC, and that Verizon shall be entitled to seek equitable relief, including injunctive relief and specific performance, in the event of any such breach. Such remedies shall not be deemed to be the exclusive remedies for any such breach, but shall be in addition to any other remedies available under this Agreement or at law or in equity.

8.7 Relation to Applicable Law.

The provisions of Sections 8.4, 8.5 and 8.6 above with regard to the confidentiality of information shall be in addition to and not in derogation of any provisions of Applicable Law with regard to the confidentiality of information, including, but not limited to, 47 U.S.C. § 222, and are not intended to constitute a

waiver by Verizon of any right with regard to protection of the confidentiality of the information of Verizon or Verizon Customers provided by Applicable Law.

8.8 Cooperation.

US LEC, at US LEC's expense, shall reasonably cooperate with Verizon in using Verizon OSS Services. Such cooperation shall include, but not be limited to, the following:

8.8.1 Upon request by Verizon, US LEC shall by no later than the fifteenth (15th) day of the last month of each Calendar Quarter submit to Verizon reasonable, good faith estimates of the volume of each type of OSS transaction that US LEC anticipates submitting in each week of the next Calendar Quarter.

8.8.2 US LEC shall reasonably cooperate with Verizon in submitting orders for Verizon Services and otherwise using the Verizon OSS Services, in order to avoid exceeding the capacity or capabilities of such Verizon OSS Services.

8.8.3 US LEC shall participate in cooperative testing of Verizon OSS Services and shall provide assistance to Verizon in identifying and correcting mistakes, omissions, interruptions, delays, errors, defects, faults, failures, or other deficiencies, in Verizon OSS Services.

8.9 Verizon Access to Information Related to US LEC Customers.

8.9.1 Verizon shall have the right to access, use and disclose information related to US LEC Customers that is in Verizon's possession (including, but not limited to, in Verizon OSS Facilities) to the extent such access, use and/or disclosure has been authorized by the US LEC Customer in the manner required by Applicable Law.

8.9.2 Upon request by Verizon, US LEC shall negotiate in good faith and enter into a contract with Verizon, pursuant to which Verizon may obtain access to US LEC's fully implemented operations support systems (including, systems for pre-ordering, ordering, provisioning, maintenance and repair, and billing) and information contained in such systems, to permit Verizon to obtain information related to US LEC Customers (as authorized by the applicable US LEC Customer), to permit Customers to transfer service from one Telecommunications Carrier to another, and for such other purposes as may be permitted by Applicable Law. Such contract shall include protections for US LEC's intellectual property similar to those set forth for Verizon's intellectual property in Section 21.4 of the General Terms and Conditions.

8.10 Verizon Pre-OSS Services.

8.10.1 As used in this Section 8, "Verizon Pre-OSS Service" means a service which allows the performance of an activity which is comparable to an activity to be performed through a Verizon OSS Service and which Verizon offers to provide to US LEC prior to, or in lieu of, Verizon's provision of the Verizon OSS Service to US LEC. The term "Verizon Pre-OSS Service" includes, but is not limited to, the activity of placing orders for Verizon Services through a telephone facsimile communication.

8.10.2 Subject to the requirements of Applicable Law, the Verizon Pre-OSS Services that will be offered by Verizon shall be as determined by Verizon and Verizon shall have the right to change Verizon Pre-OSS Services, from time-to-time, without the consent of US LEC.

8.10.3 Subject to the requirements of Applicable Law, the prices for Verizon Pre-OSS Services shall be as determined by Verizon and shall be subject to change by Verizon from time-to-time.

8.10.4 The provisions of Sections 8.4 through 8.8 above shall also apply to Verizon Pre-OSS Services. For the purposes of this Section 8.10: (a) references in Sections 8.4 through 8.8 above to Verizon OSS Services shall be deemed to include Verizon Pre-OSS Services; and, (b) references in Sections 8.4 through 8.8 above to Verizon OSS Information shall be deemed to include information made available to US LEC through Verizon Pre-OSS Services.

8.11 Cancellations.

Verizon may cancel orders for service which have had no activity within thirty-one (31) consecutive calendar days after the original service due date.

9. Poles, Ducts, Conduits and Rights-of-Way

9.1 Verizon shall afford US LEC non-discriminatory access to poles, ducts, conduits and rights-of-way owned or controlled by Verizon. Such access shall be provided in accordance with, but only to the extent required by, Applicable Law, pursuant to Verizon's applicable Tariffs, or, in the absence of an applicable Verizon Tariff, Verizon's generally offered form of license agreement, or, in the absence of such a Tariff and license agreement, a mutually acceptable agreement to be negotiated by the Parties.

9.2 US LEC shall afford Verizon non-discriminatory access to poles, ducts, conduits and rights-of-way owned or controlled by US LEC. Such access shall be provided pursuant to US LEC's applicable Tariffs, or, in the absence of an applicable US LEC Tariff, US LEC's generally offered form of license agreement, or, in the absence of such a Tariff and license agreement, a mutually acceptable agreement to be negotiated by the Parties. The terms, conditions and prices offered to Verizon by US LEC for such access shall be no less favorable than the terms, conditions and prices offered to US LEC by Verizon for access to poles, ducts, conduits and rights of way owned or controlled by Verizon.

10. Telephone Numbers

10.1 This Section applies in connection with US LEC Customers served by Telecommunications Services provided by Verizon to US LEC for resale or a Local Switching Network Element provided by Verizon to US LEC.

10.2 US LEC's use of telephone numbers shall be subject to Applicable Law the rules of the North American Numbering Council and the North American Numbering Plan Administrator, the applicable provisions of this Agreement (including, but not limited to, this Section 10), and Verizon's practices and procedures for use and assignment of telephone numbers, as amended from time-to-time.

10.3 Subject to Sections 10.2 and 10.4, if a Customer of either Verizon or US LEC who is served by a Verizon Telecommunications Service ("VTS") or a Verizon Local Switching Network Element ("VLSNE") changes the LEC that serves the

Customer using such VTS or VLSNE (including a change from Verizon to US LEC, from US LEC to Verizon, or from US LEC to a LEC other than Verizon), after such change, the Customer may continue to use with such VTS or VLSNE the telephone numbers that were assigned to the VTS or VLSNE for the use of such Customer by Verizon immediately prior to the change.

10.4 Verizon shall have the right to change the telephone numbers used by a Customer if at any time: (a) the Customer requests service at a new location, that is not served by the Verizon switch and the Verizon rate center from which the Customer previously had service; (b) continued use of the telephone numbers is not technically feasible; or, (c) in the case of Telecommunications Service provided by Verizon to US LEC for resale, the type or class of service subscribed to by the Customer changes.

10.5 If service on a VTS or VLSNE provided by Verizon to US LEC under this Agreement is terminated and the telephone numbers associated with such VTS or VLSNE have not been ported to a US LEC switch, the telephone numbers shall be available for reassignment by Verizon to any person to whom Verizon elects to assign the telephone numbers, including, but not limited to, Verizon, Verizon Customers, US LEC, or Telecommunications Carriers other than Verizon and US LEC.

10.6 US LEC may reserve telephone numbers only to the extent Verizon's Customers may reserve telephone numbers.

11. Routing for Operator Services and Directory Assistance Traffic

For a Verizon Telecommunications Service dial tone line purchased by US LEC for resale pursuant to the Resale Attachment, upon request by US LEC, Verizon will establish an arrangement that will permit US LEC to route the US LEC Customer's calls for operator and directory assistance services to a provider of operator and directory assistance services selected by US LEC. Verizon will provide this routing arrangement in accordance with, but only to the extent required by, Applicable Law. Verizon will provide this routing arrangement pursuant to an appropriate written request submitted by US LEC and a mutually agreed-upon schedule. This routing arrangement will be implemented at US LEC's expense, with charges determined on an individual case basis. In addition to charges for initially establishing the routing arrangement, US LEC will be responsible for ongoing monthly and/or usage charges for the routing arrangement. US LEC shall arrange, at its own expense, the trunking and other facilities required to transport traffic to US LEC's selected provider of operator and directory assistance services.

INTERCONNECTION ATTACHMENT

1. General

Each Party ("Providing Party") shall provide to the other Party, in accordance with this Agreement, the Providing Party's applicable Tariffs, and Applicable Law, interconnection with the Providing Party's network for the transmission and routing of Telephone Exchange Service and Exchange Access.

2. Methods for Interconnection and Trunk Types

2.1 Methods for Interconnection.

2.1.1 In accordance with, but only to the extent required by, Applicable Law, the Parties shall provide interconnection of their networks at any technically feasible point as specified in this Agreement.

2.1.2 **[DISPUTED ITEM]** Each Party ("Originating Party"), at its own expense, shall provide for delivery to the relevant IP of the other Party ("~~Receiving~~ Terminating Party") Reciprocal Compensation Traffic and Measured Internet Traffic that the Originating Party wishes to deliver to the ~~Receiving~~ Terminating Party.

2.1.3 US LEC may use any of the following methods for interconnection with Verizon:

2.1.3.1 a Collocation arrangement US LEC has established at the Verizon-IP pursuant to the Collocation Attachment; and/or

2.1.3.2 a Collocation arrangement, or an Entrance Facility and transport arrangement, that has been established separately at the Verizon-IP by a third party and that is used by US LEC to interconnect with Verizon; and/or

2.1.3.3 an Entrance Facility and transport obtained from Verizon (and any necessary multiplexing) pursuant to the applicable Verizon access Tariff or contractual arrangement, from the US LEC network to the Verizon-IP.

2.1.4 US LEC may order from Verizon, in accordance with the rates, terms and conditions set forth in this Agreement and applicable Verizon Tariff(s) (or in the absence of applicable rates, terms and conditions set forth in this Agreement and Verizon Tariff(s), in accordance with rates, terms and conditions to be negotiated by the Parties), any of the methods for interconnection specified in Section 2.1.3 above.

2.1.5 Verizon may use any of the following methods for interconnection with US LEC:

2.1.5.1 an arrangement Verizon has established at the US LEC-IP that is operationally equivalent to a Collocation arrangement (including, but not limited to, a Verizon provided Entrance Facility); and/or

2.1.5.2 an arrangement that a third party has established at the US LEC-IP that is operationally equivalent to a Collocation

arrangement and that is used by Verizon to interconnect with US LEC; and/or

2.1.5.3 a non-distance sensitive Entrance Facility obtained from US LEC (and any necessary multiplexing), from the POI to the US LEC-IP (including, but not limited to, at Verizon's election, an Entrance Facility accessed by Verizon through interconnection at a Collocation arrangement that US LEC has established at a Verizon Wire Center pursuant to the Collocation Attachment, or through interconnection at a Collocation arrangement that has been established separately at a Verizon Wire Center by a third party and that is used by US LEC), or an Entrance Facility obtained from a third party that has established an interconnection arrangement with US LEC.

2.1.6 Verizon may order from US LEC, in accordance with the rates, terms and conditions set forth in this Agreement and applicable US LEC Tariff(s) (or in the absence of applicable rates, terms and conditions set forth in this Agreement and US LEC Tariff(s), in accordance with rates, terms and conditions to be negotiated by the Parties), any of the methods for interconnection specified in Section 2.1.5 above.

2.2 Trunk Types.

2.2.1 In interconnecting their networks pursuant to this Attachment, the Parties will use, as appropriate, the following separate and distinct trunk groups:

2.2.1.1 Interconnection Trunks for the transmission and routing of Reciprocal Compensation Traffic, translated LEC IntraLATA toll free service access code (e.g., 800/888/877) traffic, and IntraLATA Toll Traffic, between their respective Telephone Exchange Service Customers, Tandem Transit Traffic, and, Measured Internet Traffic, all in accordance with Sections 5 through 8 of this Attachment;

2.2.1.2 Access Toll Connecting Trunks for the transmission and routing of Exchange Access traffic, including translated InterLATA toll free service access code (e.g., 800/888/877) traffic, between US LEC Telephone Exchange Service Customers and purchasers of Switched Exchange Access Service via a Verizon access Tandem in accordance with Sections 9 through 11 of this Attachment; and

2.2.1.3 Miscellaneous Trunk Groups as mutually agreed to by the Parties, including, but not limited to: (a) choke trunks for traffic congestion and testing; and, (b) untranslated IntraLATA/InterLATA toll free service access code (e.g. 800/888/877) traffic.

2.2.2 Other types of trunk groups may be used by the Parties as provided in other Attachments to this Agreement (e.g., 911/E911 Trunks; Information Services Trunks) or in other separate agreements between the Parties (e.g., Directory Assistance Trunks, Operator Services Trunks, BLV/BLVI Trunks).

2.2.3 Except as otherwise provided in this Agreement, the Parties will mutually agree upon where One-Way Interconnection Trunks (trunks with traffic going in one direction, including one-way trunks and uni-directional two-way trunks) and/or Two-Way Interconnection Trunks (trunks with traffic going in both directions) will be deployed.

2.2.4 In the event the volume of traffic between the Party's networks, which is carried by a Final Tandem Interconnection Trunk group, exceeds the Centium Call Second (Hundred Call Second) busy hour equivalent of one (1) DS-1 at any time and/or 200,000 minutes of use for a single month: (a) if One-Way Interconnection Trunks are used, the originating Party shall promptly establish new End Office One-Way Interconnection Trunk groups between the Verizon End Office and the US LEC network; or, (b) if Two-Way Interconnection Trunks are used, US LEC shall promptly submit an ASR to Verizon to establish new End Office Two-Way Interconnection Trunk group(s) between that Verizon End Office and the US LEC network.

2.2.5 Except as otherwise agreed in writing by the Parties, the total number of Tandem Interconnection Trunks between US LEC's network and a Verizon Tandem will be limited to a maximum of 240 trunks. In the event that the Parties have exhausted Tandem offload requirements, as stated in Section 2.2.4, then the Parties agree to exceed the 240 trunk limitation at the Verizon Tandem until such time as Verizon or US LEC exceeds 200,000 combined minutes of use to a specific end office as detailed in Section 2.2.4. US LEC shall promptly submit an ASR to Verizon to establish new or additional End Office Trunks to insure that the volume of traffic between US LEC's network and the Verizon Tandem does not exceed the capacity of the 240 trunks.

2.3 One-Way Interconnection Trunks.

2.3.1 Where the Parties have agreed to use One-Way Interconnection Trunks for the delivery of traffic from US LEC to Verizon, US LEC, at US LEC's own expense, shall:

2.3.1.1 provide its own facilities for delivery of the traffic to the US LEC Collocation arrangement at the Verizon-IP or to the third-party Collocation arrangement used by US LEC at the Verizon-IP; and/or

2.3.1.2 obtain transport for delivery of the traffic to the US LEC Collocation arrangement at the Verizon-IP or to the third-party Collocation arrangement used by US LEC at the Verizon-IP (a) from a third-party, or, (b) if Verizon offers such transport pursuant to this Agreement or an applicable Verizon Tariff, from Verizon; and/or

2.3.1.3 order the One-Way Trunks from Verizon in accordance with the rates, terms and conditions set forth in this Agreement and applicable Verizon Tariffs, for installation on an Entrance Facility obtained by US LEC from Verizon pursuant to Sections 2.1.3.3 and 2.1.4, and also order multiplexing and transport from Verizon pursuant to Sections 2.1.3.3 and 2.1.4.

2.3.1.3.1 For each Tandem One -Way Interconnection Trunk group provided by Verizon to US LEC with a utilization level of less than sixty percent (60%) for three consecutive months, unless the Parties agree otherwise, US LEC will promptly submit ASRs to disconnect a sufficient number of Interconnection Trunks to attain a utilization level of approximately sixty percent (60%). The minimum utilization level of sixty percent (60%) is not required until trunk group members have been in service for at least ninety (90) days.

2.3.2 Where the Parties have agreed to use One-Way Interconnection Trunks for the delivery of traffic from Verizon to US LEC, Verizon, at Verizon's own expense, shall:

2.3.2.1 provide its own facilities for delivery of the traffic to the Verizon Collocation arrangement or interconnection arrangement at the US LEC-IP or to the third-party Collocation arrangement used by Verizon at the US LEC-IP; or

2.3.2.2 obtain transport for delivery of the traffic to the Verizon Collocation arrangement or interconnection arrangement at the US LEC-IP or to the third-party Collocation arrangement used by Verizon at the US LEC-IP (a) from a third-party, or, (b) if US LEC offers such transport pursuant to this Agreement or an applicable US LEC Tariff, from US LEC; or

2.3.2.3 order the One-Way Trunks from US LEC in accordance with the rates, terms and conditions set forth in this Agreement and applicable US LEC Tariffs for installation on an Entrance Facility obtained by Verizon from US LEC pursuant to Sections 2.1.5.3 and 2.1.6, or obtain the One-Way Trunks from a third-party that has established an interconnection arrangement with US LEC.

2.4 Two-Way Interconnection Trunks.

2.4.1 Where the Parties have agreed to use Two-Way Interconnection Trunks for the exchange of traffic between Verizon and US LEC, US LEC shall order from Verizon, and Verizon shall provide, the Two-Way Interconnection Trunks and the Entrance Facility, on which such Trunks will ride, and transport and multiplexing, in accordance with the rates, terms and conditions set forth in this Agreement and Verizon's applicable Tariffs.

2.4.2 Prior to ordering any Two-Way Interconnection Trunks from Verizon, US LEC shall meet with Verizon to conduct a joint planning meeting ("Joint Planning Meeting"). At that Joint Planning Meeting, each Party shall provide to the other Party originating Centium Call Second (Hundred Call Second) information, and the Parties shall mutually agree on the appropriate initial number of Two-Way End Office and Tandem Interconnection Trunks and the interface specifications at the Point of Interconnection (POI). Where the Parties have agreed to convert existing One-Way Interconnection Trunks to Two-Way Interconnection Trunks, at the Joint Planning Meeting, the Parties shall

also mutually agree on the conversion process and project intervals for conversion of such One-Way Interconnection Trunks to Two-Way Interconnection Trunks.

2.4.3 Two-Way Interconnection Trunks shall be from a Verizon End Office or Tandem to a mutually agreed upon POI.

2.4.4 On a semi-annual basis, US LEC shall submit a good faith forecast to Verizon of the number of End Office and Tandem Two-Way Interconnection Trunks that US LEC anticipates Verizon will need to provide during the ensuing two (2) year period to carry traffic from US LEC to Verizon and from Verizon to US LEC. US LEC's trunk forecasts shall conform to the Verizon CLEC trunk forecasting guidelines as in effect at that time.

2.4.5 The Parties shall meet (telephonically or in person) from time to time, as needed, to review data on End Office and Tandem Two-Way Interconnection Trunks to determine the need for new trunk groups and to plan any necessary changes in the number of Two-Way Interconnection Trunks.

2.4.6 Two-Way Interconnection Trunks shall have SS7 Common Channel Signaling. The Parties agree to utilize B8ZS and Extended Super Frame (ESF) DS1 facilities, where available.

2.4.7 With respect to End Office Two-Way Interconnection Trunks, both Parties shall use an economic Centium Call Second (Hundred Call Second) equal to five (5).

2.4.8 Two-Way Interconnection Trunk groups that connect to a Verizon access Tandem shall be engineered using a design blocking objective of Neal-Wilkenson B.005 during the average time consistent busy hour. Two-Way Interconnection Trunk groups that connect to a Verizon local Tandem shall be engineered using a design blocking objective of Neal-Wilkenson B.01 during the average time consistent busy hour. Verizon and US LEC shall engineer Two-Way Interconnection Trunks using BOC Notes on the LEC Networks SR-TSV-002275.

2.4.9 The performance standard for final Two-Way Interconnection Trunk groups shall be that no such Interconnection Trunk group will exceed its design blocking objective (B.005 or B.01, as applicable) for three (3) consecutive calendar traffic study months.

2.4.10 US LEC shall determine and order the number of Two-Way Interconnection Trunks that are required to meet the applicable design blocking objective for all traffic carried on each Two-Way Interconnection Trunk group. US LEC shall order Two-Way Interconnection Trunks by submitting ASRs to Verizon setting forth the number of Two-Way Interconnection Trunks to be installed and the requested installation dates within Verizon's effective standard intervals or negotiated intervals, as appropriate. US LEC shall complete ASRs in accordance with OBF Guidelines as in effect from time to time.

2.4.11 Verizon may (but shall not be obligated to) monitor Two-Way Interconnection Groups using service results for the applicable design

blocking objective. If Verizon observes blocking in excess of the applicable design objective on any Tandem Two-Way Interconnection Trunk group and US LEC has not notified Verizon that it has corrected such blocking, Verizon may submit to US LEC a Trunk Group Service Request directing US LEC to remedy the blocking. Upon receipt of a Trunk Group Service Request, US LEC will complete an ASR to augment the Two-Way Interconnection Trunk Group with excessive blocking and submit the ASR to Verizon within five (5) Business Days.

2.4.12 The Parties will review all Tandem Two-Way Interconnection Trunk groups that reach a utilization level of seventy percent (70%), or greater, to determine whether those groups should be augmented. US LEC will promptly augment all Tandem Two-Way Interconnection Trunk groups that reach a utilization level of eighty percent (80%) by submitting ASRs for additional trunks sufficient to attain a utilization level of approximately seventy percent (70%), unless the Parties agree that additional trunking is not required. For each Tandem Two-Way Interconnection Trunk group with a utilization level of less than sixty percent (60%), unless the Parties agree otherwise, US LEC will promptly submit ASRs to disconnect a sufficient number of Interconnection Trunks to attain a utilization level of approximately sixty percent (60%) for each respective group, unless the Parties agree that the Two-Way Interconnection Trunks should not be disconnected. In the event US LEC fails to submit an ASR for Two-Way Interconnection Trunks in conformance with this section, Verizon may bill US LEC for the excess Interconnection Trunks at the applicable Verizon rates.

2.4.13 Because Verizon will not be in control of when and how many Two-Way Interconnection Trunks are established between its network and US LEC's network, Verizon's performance in connection with these Two-Way Interconnection Trunk groups shall not be subject to any performance measurements and remedies under this Agreement, and, except as otherwise required by Applicable Law, under any FCC or Commission approved carrier-to-carrier performance assurance guidelines or plan.

2.4.14 Upon three (3) months prior written notice and with the mutual agreement of the Parties, either Party may withdraw its traffic from a Two-Way Interconnection Trunk group and install One-Way Interconnection Trunks to the other Party's relevant POI, provided that, if a Party has failed to comply with this Agreement with regard to Two-Way Interconnection Trunks, the other Party may upon three (3) months prior written notice and without mutual agreement of the non-complying Party, withdraw its traffic from a Two-Way Interconnection Trunk group and install One-Way Interconnection Trunks to the non-complying Party's relevant POI.

2.4.15 US LEC will route its traffic to Verizon over the End Office and Tandem Two-Way Interconnection Trunks in accordance with SR-TAP-000191, including but not limited to those standards requiring that a call from US LEC to a Verizon End Office will first be routed to the End Office Interconnection Trunk group between US LEC and the Verizon End Office.

2.4.16 When the Parties implement Two-Way Interconnection Trunks, the Parties will work cooperatively to calculate a Proportionate Percentage

of Use ("PPU") factor for each facility on which the Two-Way Interconnection Trunks ride, based on the total number of minutes of traffic that each Party sends over the Two-Way Interconnection Trunks riding on that facility. US LEC will pay a percentage of Verizon's monthly recurring charges for each facility on which the Two-Way Interconnection Trunks ride equal to US LEC's percentage of use of that facility as shown by the PPU. The PPU shall not be applied to calculate the charges for any portion of a facility that is on US LEC's side of US LEC's-IP, which charges shall be solely the financial responsibility of US LEC. During the first full calendar quarter (and any partial calendar quarter preceding such first full calendar quarter) after the first Two-Way Interconnection Trunk is established on a facility, the PPU for that facility will be fifty percent (50%) for each Party. For each calendar quarter thereafter, the Parties shall recalculate the PPU using actual traffic usage data for the preceding calendar quarter.

Non-recurring charges for the facility on which the Two-Way Interconnection Trunks ride shall be apportioned as follows: (a) for the portion of the facility on Verizon's side of the US LEC-IP, US LEC shall pay fifty percent (50%) of the Verizon non-recurring charges; and, (b) for the portion of the facility on US LEC's side of the US LEC-IP, US LEC shall be solely responsible for the non-recurring charges.

Notwithstanding the foregoing provisions of this Section 2.4.16, if US LEC fails to provide US LEC-IPs in accordance with this Agreement, US LEC will be responsible for one hundred percent (100%) of all recurring and non-recurring charges associated with Two-Way Interconnection Trunk groups until US LEC establishes such US LEC-IPs.

3. Alternative Interconnection Arrangements

3.1 In addition to the foregoing methods of Interconnection, and subject to mutual agreement of the Parties, the Parties may agree to establish an End Point Fiber Meet arrangement, which may include a SONET backbone with an optical interface at the OC-n level in accordance with the terms of this Section. The Fiber Distribution Frame at the US LEC location shall be designated as the POI for both Parties.

3.2 The establishment of any End Point Fiber Meet arrangement is expressly conditioned upon the Parties' reaching prior written agreement on routing, appropriate sizing and forecasting, equipment, ordering, provisioning, maintenance, repair, testing, augment, and compensation, procedures and arrangements, reasonable distance limitations, and on any other arrangements necessary to implement the End Point Fiber Meet arrangement.

3.3 Except as otherwise agreed by the Parties, End Point Fiber Meet arrangements shall be used only for the termination of Reciprocal Compensation Traffic, Measured Internet Traffic, and IntraLATA Toll Traffic.

4. Initiating Interconnection

4.1 If US LEC determines to offer Telephone Exchange Services and to interconnect with Verizon in any LATA in which Verizon also offers Telephone Exchange Services and in which the Parties are not already interconnected pursuant to this

Agreement, US LEC shall provide written notice to Verizon of the need to establish Interconnection in such LATA pursuant to this Agreement.

4.2 The notice provided in Section 4.1 shall include (a) the initial Routing Point(s); (b) the applicable US LEC-IPs to be established in the relevant LATA in accordance with this Agreement; (c) US LEC's intended Interconnection activation date; (d) a forecast of US LEC's trunking requirements conforming to Section 14.3; and (e) such other information as Verizon shall reasonably request in order to facilitate Interconnection.

4.3 The interconnection activation date in the new LATA shall be mutually agreed to by the Parties after receipt by Verizon of all necessary information as indicated above. Within ten (10) Business Days of Verizon's receipt of US LEC's notice provided for in Section 4.1, Verizon and US LEC shall confirm the Verizon-IP(s), the US LEC-IP(s) and the mutually agreed upon Interconnection activation date for the new LATA.

5. Transmission and Routing of Telephone Exchange Service Traffic

5.1 Scope of Traffic.

Section 5 prescribes parameters for Interconnection Trunks used for Interconnection pursuant to Sections 2 through 4 of this Attachment.

5.2 Trunk Group Connections and Ordering.

5.2.1 For One-Way or Two-Way Interconnection Trunks, both Parties shall use either a DS-1 or DS-3 facilities interface at the POI. When and where an STS-1 interface is available, the Parties may agree to use such an interface. Upon mutual agreement, the Parties may agree to use an optical interface (such as OC-n).

5.2.2 When One-Way or Two-Way Interconnection Trunks are provisioned using a DS-3 interface facility, then US LEC shall order the multiplexed DS-3 facilities to the Verizon Central Office that is designated in the NECA 4 Tariff as an Intermediate Hub location, unless otherwise agreed to in writing by Verizon. The specific NECA 4 Intermediate Hub location to be used for One-Way or Two-Way Interconnection Trunks shall be in the appropriate Tandem subtending area based on the LERG. In the event the appropriate DS-3 Intermediate Hub is not used, then US LEC shall pay 100% of the facility charges for the One-Way or Two-Way Interconnection Trunks.

5.2.3 Each Party will identify its Carrier Identification Code, a three or four digit numeric code obtained from Telcordia, to the other Party when ordering a trunk group.

5.2.4 Unless mutually agreed to by both Parties, each Party will outpulse ten (10) digits to the other Party.

5.2.5 Each Party will use commercially reasonable efforts to monitor trunk groups under its control and to augment those groups using generally accepted trunk engineering standards so as to not exceed blocking objectives. Each Party agrees to use modular trunk engineering techniques for trunks subject to this Attachment.

5.3 Switching System Hierarchy and Trunking Requirements.

For purposes of routing US LEC traffic to Verizon, the subtending arrangements between Verizon Tandem Switches and Verizon End Office Switches shall be the same as the Tandem/End Office subtending arrangements Verizon maintains for the routing of its own or other carriers' traffic. For purposes of routing Verizon traffic to US LEC, the subtending arrangements between US LEC Tandem Switches and US LEC End Office Switches shall be the same as the Tandem/End Office subtending arrangements that US LEC maintains for the routing of its own or other carriers' traffic.

5.4 Signaling.

Each Party will provide the other Party with access to its databases and associated signaling necessary for the routing and completion of the other Party's traffic in accordance with the provisions contained in the Unbundled Network Element Attachment or applicable access tariff.

5.5 Grades of Service.

The Parties shall initially engineer and shall monitor and augment all trunk groups consistent with the Joint Process as set forth in Section 14.1.

6. Traffic Measurement and Billing over Interconnection Trunks

6.1 For billing purposes, each Party shall pass Calling Party Number (CPN) information on calls carried over the Interconnection Trunks.

6.1.1 As used in this Section 6, "Traffic Rate" means the applicable Reciprocal Compensation Traffic rate, Measured Internet Traffic rate, intrastate Switched Exchange Access Service rate, interstate Switched Exchange Access Service rate, or intrastate/interstate Tandem Transit Traffic rate, as provided in the Pricing Attachment, an applicable Tariff, or, for Measured Internet Traffic, the FCC Internet Order.

6.1.2 If for any monthly period the originating Party passes CPN on ninety percent (90%) or more of its calls, the other Party ("Billing Party") may bill the originating Party the Local Traffic call completion rate, intrastate Switched Exchange Access Service rates, intrastate/interstate Tandem Transit Traffic rates, or interstate Switched Exchange Access Service rates applicable to each minute of traffic, as provided in Attachment A and applicable Tariffs, for which CPN is passed. For any remaining (up to 10%) calls without CPN information, the Billing Party may bill the originating Party for such traffic at the Reciprocal Compensation rate, intrastate Switched Exchange Access Service rates, intrastate/interstate Tandem Transit Traffic rates, or interstate Switched Exchange Access Service rates applicable to each minute of traffic, as provided in Attachment A and applicable Tariffs, in direct proportion to the minutes of use of calls passed with CPN information. If for any monthly billing period the originating Party passes CPN on eighty percent (80%) or more of its calls and provides evidence that it passed CPN on ninety percent (90%) or more of its calls for which it was technically feasible to do so, the Billing Party may bill the originating Party for traffic without CPN information at the Local Traffic call completion rate, intrastate Switched Exchange Access rates, intrastate/interstate Tandem Transit Traffic rates, or interstate Switched Exchange Access rates, applicable to each minute of traffic, as provided in Attachment A and applicable

Tariffs, in direct proportion to the minutes of use of calls passed with CPN information.

6.1.3 If the originating Party fails to pass CPN at the levels set forth in section 6.1.2 the Billing Party may bill the higher of its interstate Switched Exchange Access Service rates or its intrastate Switched Exchange Access Services rates for all traffic that is passed without CPN, unless the Parties agree that other rates should apply to such traffic.

6.2 At such time as a Billing Party has the capability, on an automated basis, to use such CPN to classify traffic delivered over Interconnection Trunks by the other Party by Traffic Rate type (e.g., Reciprocal Compensation Traffic/Measured Internet Traffic, intrastate Switched Exchange Access Service, interstate Switched Exchange Access Service, or intrastate/interstate Tandem Transit Traffic), such Billing Party may bill the originating Party the Traffic Rate applicable to each relevant minute of traffic for which CPN is passed. If the Billing Party lacks the capability, on an automated basis, to use CPN information on an automated basis to classify traffic delivered by the other Party by Traffic Rate type, the originating Party will supply Traffic Factor 1 and Traffic Factor 2. The Traffic Factors shall be supplied in writing by the originating Party within thirty (30) days of the Effective Date and shall be updated in writing by the originating Party quarterly. Measurement of billing minutes for purposes of determining terminating compensation shall be in conversation seconds (the time in seconds that the Parties equipment is used for a completed call, measured from the receipt of answer supervision to the receipt of disconnect supervision). Measurement of billing minutes for originating toll free service access code (e.g., 800/888/877) calls shall be in accordance with applicable Tariffs. Determinations as to whether traffic is Reciprocal Compensation Traffic or Measured Internet Traffic shall be made in accordance with Section 7.3.2.1 below.

6.3 Each Party, at its own expense, reserves the right to audit all Traffic, up to a maximum of two audits per calendar year, to ensure that rates are being applied appropriately; provided, however, that either Party shall have the right to conduct additional audit(s) if the preceding audit disclosed material errors or discrepancies. Each Party agrees to provide the necessary Traffic data in conjunction with any such audit in a timely manner.

6.4 Nothing in this Agreement shall be construed to limit either Party's ability to designate the areas within which that Party's Customers may make calls which that Party rates as "local" in its Customer Tariffs.

7. Reciprocal Compensation Arrangements Pursuant to Section 251(b)(5) of the Act

7.1 Reciprocal Compensation Traffic Interconnection Points.

7.1.1 Except as otherwise agreed by the Parties, the Interconnection Points ("IPs") from which US LEC will provide transport and termination of Reciprocal Compensation Traffic to its Customers ("US LEC-IPs") shall be as follows:

[SECTIONS 7.1.1.1, 7.1.1.2 AND 7.1.1.3 IN DISPUTE]

7.1.1.1. For each LATA in which US LEC requests to interconnect with Verizon, except as otherwise agreed by the Parties, US LEC shall establish an IP.~~Geographically Relevant~~

~~Interconnection Points ("IPs"). Each Party (an "Originating Party") may request that the other Party (a "Receiving party") establish IPs on the Receiving Party's network that are geographically relevant to the NXXs (and associated rate centers) that are assigned by the Receiving Party. The Originating Party is responsible for delivering Reciprocal Compensation Traffic originating on its network to the Receiving Party's geographically relevant IP. The points on the US LEC network at which Verizon shall hand off Reciprocal Compensation Traffic to US LEC are designated as the US LEC Interconnection Points ("US LEC IPs"). The points on the Verizon network at which US LEC shall hand off Reciprocal Compensation Traffic to Verizon are designated as the Verizon Interconnection Points ("Verizon IPs"). In the case of Verizon as a Receiving Party, to the extent US LEC requests Verizon to establish a geographically relevant IP in addition to the Verizon IPs at the Verizon Tandems, the geographically relevant IP shall be the Verizon end office serving the Customer for whom the traffic is intended. In the case of US LEC as a Receiving Party, US LEC will establish geographically relevant IPs by establishing a US LEC IP at a Collocation site at each Verizon Tandem in a LATA (or at such other wire centers in the LATA designated by Verizon) for those NXXs serving equivalent Verizon rate centers which subtend the Verizon Tandem. In any LATA in which Verizon agrees that US LEC may meet its obligation to establish geographically relevant IPs through a Collocation site at fewer than all of the Verizon Tandems in a LATA, then Verizon shall determine and advise US LEC as to which US LEC IP established at a Collocation site (or other available US LEC IP) Verizon will deliver traffic from each relevant originating rate center or other originating location.~~

7.1.1.1.1 ~~If US LEC fails to establish a geographically relevant IP as provided herein, then without waiver of Verizon's right to seek enforcement of the requirements of this Section, until the requested IP is established, US LEC shall bill and Verizon shall pay the applicable intercarrier compensation rate for relevant traffic less Verizon's transport rate (calculated by taking the dedicated transport per mile rate multiplied by the average mileage between the originating end offices and the CLEC POI plus the fixed dedicated transport rate and dividing the total by the average minutes of use for a DS1), tandem switching rate (to the extent the traffic is tandem switched), and other costs (to the extent Verizon purchases such transport from US LEC or a third party), from Verizon's originating End Office to US LEC's IP.~~

7.1.1.1.2 ~~Should either Party offer additional IPs to any Telecommunications Carrier that is not a Party to~~

~~this Agreement, the other Party may elect to deliver traffic to such IPs for the NXXs or functionalities served by those IPs. To the extent that any such US LEC IP is not located at a Collocation site at a Verizon Tandem, then US LEC shall permit Verizon to establish physical interconnection at the US LEC IP, to the extent such physical interconnection is technically feasible.~~

7.1.1.2 ~~At any time that US LEC establishes a Collocation site at a Verizon End Office, then either Party may request that such US LEC Collocation site be established as the US LEC IP for traffic originated by Verizon Customers served by that End Office. Approval of such request shall not be unreasonably withheld or delayed. If US LEC should fail to establish an IP at an end office Collocation site pursuant to Verizon's request, within ninety (90) days following Verizon's request, then without waiver of Verizon's right to seek enforcement of the requirements of this Section, until the requested IP is established, US LEC shall bill and Verizon shall pay the applicable intercarrier compensation rate for relevant traffic less Verizon's transport rate, tandem switching rate (to the extent the traffic is tandem switched), and other costs (to the extent Verizon purchases such transport from US LEC or a third party), from Verizon's originating End Office to US LEC's IP.~~

7.1.1.3 In any LATA where the Parties are already interconnected prior to the effective date of this Agreement, US LEC may maintain existing CLEC-IPs~~, except that Verizon may request in writing to transition such US LEC IPs to the US LEC IPs described in subsections 7.1.1.1 and 7.1.1.2, above. Upon such request, the Parties shall negotiate mutually satisfactory arrangements for the transition to CLEC IPs that conform to subsections 7.1.1.1 and 7.1.1.2 above. If the Parties have not reached agreement on such arrangements within thirty (30) days, (a) either Party may pursue available dispute resolution mechanisms; and, (b) US LEC shall bill and Verizon shall pay only the lesser of the negotiated intercarrier compensation rate or the End Office reciprocal compensation rate for relevant traffic, less Verizon's transport rate, tandem switching rate (to the extent traffic is tandem switched), and other costs (to the extent that Verizon purchases such transport from US LEC or a third party), from Verizon's originating End Office to the US LEC IP~~.

7.1.2 Except as otherwise agreed by the Parties, the Interconnection Points ("IPs") from which Verizon will provide transport and termination of Reciprocal Compensation Traffic to its Customers ("Verizon-IPs") shall be as follows:

7.1.2.1 For Reciprocal Compensation Traffic delivered by US LEC to the Verizon Tandem subtended by the terminating End

Office serving the Verizon Customer, the Verizon-IP will be the Verizon Tandem switch.

7.1.2.2 For Reciprocal Compensation Traffic delivered by US LEC to the Verizon terminating End Office serving the Verizon Customer, the Verizon-IP will be Verizon End Office switch.

7.1.3 Should either Party offer additional IPs to any Telecommunications Carrier that is not a Party to this Agreement, the other Party may elect to deliver traffic to such IPs for the NXXs or functionalities served by those IPs. To the extent that any such US LEC-IP is not located at a Collocation site at a Verizon Tandem Wire Center or Verizon End Office Wire Center, then US LEC shall permit Verizon to establish physical Interconnection through collocation or other operationally comparable arrangements acceptable to Verizon at the US LEC-IP.

7.1.4 Each Party is responsible for delivering its Reciprocal Compensation Traffic that is to be terminated by the other Party to the other Party's relevant IP.

7.2 Reciprocal Compensation. **[DISPUTED ITEM]**

The Parties shall compensate each other for the transport and termination of Reciprocal Compensation Traffic delivered to the terminating Party in accordance with Section 251(b)(5) of the Act at the rates stated in the Pricing Attachment. These rates are to be applied at the US LEC-IP for traffic delivered by Verizon for termination by US LEC, and at the Verizon-IP for traffic delivered by US LEC for termination by Verizon. Except as expressly specified in this Agreement, no additional charges shall apply for the termination from the IP to the Customer of Reciprocal Compensation Traffic delivered to the Verizon-IP by US LEC or the US LEC-IP by Verizon. When such Reciprocal Compensation Traffic is delivered over the same trunks as Toll Traffic, any port or transport or other applicable access charges related to the delivery of Toll Traffic from the IP to an end user shall be prorated to be applied only to the Toll Traffic. The designation of traffic as Reciprocal Compensation Traffic for purposes of Reciprocal Compensation shall be based on the ~~actual~~ originating NPA-NXX rate center and the terminating NPA-NXX rate center~~points of the complete end-to-end communication~~.

7.3 Traffic Not Subject to Reciprocal Compensation.

7.3.1 Reciprocal Compensation shall not apply to interstate or intrastate Exchange Access, Information Access, or exchange services for Exchange Access or Information Access.

7.3.2 Reciprocal Compensation shall not apply to Internet Traffic.

7.3.2.1 The determination of whether traffic is Reciprocal Compensation Traffic or Internet Traffic shall be performed in accordance with Paragraphs 8 and 79, and other applicable provisions, of the FCC Internet Order (including, but not limited to, in accordance with the rebuttable presumption established by the FCC Internet Order that traffic delivered to a carrier that exceeds a 3:1 ratio of terminating to originating traffic is Internet Traffic, and in accordance with the process established by the FCC Internet Order for rebutting such presumption before the Commission).

7.3.3 Reciprocal Compensation shall not apply to Toll Traffic, including, but not limited to, calls originated on a 1+ presubscription basis, or on a casual dialed (10XXX/101XXXX) basis.

7.3.4 Reciprocal Compensation shall not apply to Optional Extended Local Calling Area Traffic.

7.3.5 Reciprocal Compensation shall not apply to special access, private line, or any other traffic that is not switched by the terminating Party.

7.3.6 Reciprocal Compensation shall not apply to Tandem Transit Traffic.

7.3.7 **[DISPUTED ITEM]** ~~Reciprocal Compensation shall not apply to Voice Information Service Traffic (as defined in Section 5 of the Additional Services Attachment).~~

7.4 The Reciprocal Compensation rates (including, but not limited to, the Reciprocal Compensation per minute of use charges) billed by US LEC to Verizon shall not exceed the Reciprocal Compensation rates (including, but not limited to, Reciprocal Compensation per minute of use charges) billed by Verizon to US LEC.

8. Other Types of Traffic

8.1 **[DISPUTED ITEM]** ~~Notwithstanding any other provision of this Agreement or any Tariff: (a) the Parties' rights and obligations with respect to any intercarrier compensation that may be due in connection with their exchange of Internet Traffic shall be governed by the terms of the FCC Internet Order and other applicable FCC orders and FCC Regulations; and, (b) a Party shall not be obligated to pay any intercarrier compensation for Internet Traffic that is in excess of the intercarrier compensation for Internet Traffic that such Party is required to pay under the FCC Internet Order and other applicable FCC orders and FCC Regulations.~~ Notwithstanding any other provision of this Agreement or any Tariff, and except as set forth herein, the Parties' rights and obligations with respect to intercarrier compensation that is due in connection with their exchange of Internet Traffic shall be governed by the terms of the FCC Internet Order and other applicable FCC Orders and FCC Regulations. From the effective date of this Agreement until June 13, 2003, the parties shall compensate each other for the exchange of Internet Traffic at the rate of $0.0010 per MOU. From June 14, 2003 through the term of this agreement, or until the FCC issues a permanent rate structure governing intercarrier compensation for such traffic that is final and non-appealable, whichever is earlier, the parties shall compensate each other for the exchange of Internet Traffic at the rate of $0.0007 per MOU.

8.1.1 **[DISPUTED ITEM]** In the event the FCC's Internet Order is stayed, vacated, remanded or overturned by a court of competent jurisdiction, the Parties will maintain the rate structure set forth in section 8.1 hereof for the term of this Agreement; provided, however, that in consideration for maintaining the rate structure of the Internet Order, the Parties will waive all other provisions of the FCC's Internet Order, including but not limited to the growth cap and new market provisions.

8.2 Subject to Section 8.1 above, interstate and intrastate Exchange Access, Information Access, exchange services for Exchange Access or Information Access, and Toll Traffic, shall be governed by the applicable provisions of this Agreement and applicable Tariffs.

8.3 For any traffic originating with a third party carrier and delivered by US LEC to Verizon, US LEC shall pay Verizon the same amount that such third party carrier would have been obligated to pay Verizon for termination of that traffic at the location the traffic is delivered to Verizon by US LEC.

8.4 Any traffic not specifically addressed in this Agreement shall be treated as required by the applicable Tariff of the Party transporting and/or terminating the traffic.

8.5 Interconnection Points.

8.5.1 The IP for Measured Internet Traffic shall be the same as the IP for Reciprocal Compensation Traffic under Section 7.1 above.

8.5.2 **[DISPUTED ITEM]** Except as otherwise set forth in the applicable Tariff of a Party ("~~Receiving~~ Terminating Party") that ~~receives~~terminates Toll Traffic from the other Party, the IP of the ~~Receiving~~ Terminating Party for Toll Traffic delivered to the ~~Receiving~~ Terminating Party by the other Party shall be the same as the IP of the ~~Receiving~~ Terminating Party for Reciprocal Compensation Traffic under Section 7.1 above.

8.5.3 **[DISPUTED ITEM]** The IP for traffic exchanged between the Parties that is not Reciprocal Compensation Traffic, Measured Internet Traffic or Toll Traffic, shall be as specified in the applicable provisions of this Agreement or the applicable Tariff of the ~~receiving~~ terminating Party, or in the absence of applicable provisions in this Agreement or a Tariff of the ~~receiving~~ terminating Party, as mutually agreed by the Parties.

9. Transmission and Routing of Exchange Access Traffic

9.1 Scope of Traffic.

Section 9 prescribes parameters for certain trunks to be established over the Interconnections specified in Sections 2 through 5 of this Attachment for the transmission and routing of traffic between US LEC Telephone Exchange Service Customers and Interexchange Carriers ("Access Toll Connecting Trunks"), in any case where US LEC elects to have its End Office Switch subtend a Verizon Tandem. This includes casually-dialed (1010XXX and 101XXXX) traffic.

9.2 Access Toll Connecting Trunk Group Architecture.

9.2.1 If US LEC chooses to subtend a Verizon access Tandem, US LEC's NPA/NXX must be assigned by US LEC to subtend the same Verizon access Tandem that a Verizon NPA/NXX serving the same Rate Center Area subtends as identified in the LERG.

9.2.2 US LEC shall establish Access Toll Connecting Trunks pursuant to applicable access Tariffs by which it will provide Switched Exchange Access Services to Interexchange Carriers to enable such Interexchange Carriers to originate and terminate traffic to and from US LEC's Customers.

9.2.3 The Access Toll Connecting Trunks shall be two-way trunks. Such trunks shall connect the End Office US LEC utilizes to provide Telephone Exchange Service and Switched Exchange Access to its

Customers in a given LATA to the Tandem Verizon utilizes to provide Exchange Access in such LATA.

9.2.4 Access Toll Connecting Trunks shall be used solely for the transmission and routing of Exchange Access to allow US LEC's Customers to connect to or be connected to the interexchange trunks of any Interexchange Carrier which is connected to a Verizon access tandem.

10. Meet-Point Billing Arrangements

10.1 US LEC and Verizon will establish Meet-Point Billing (MPB) arrangements in order to provide a common transport option to Switched Exchange Access Services customers via a Verizon access Tandem Switch in accordance with the Meet Point Billing guidelines contained in the OBF's MECAB and MECOD documents, except as modified herein, and in Verizon's applicable Tariffs. The arrangements described in this Section 10 are intended to be used to provide Switched Exchange Access Service where the transport component of the Switched Exchange Access Service is routed through an access Tandem Switch that is provided by Verizon.

10.2 In each LATA, the Parties shall establish MPB arrangements for the applicable US LEC Routing Point/Verizon Serving Wire Center combinations.

10.3 Interconnection for the MPB arrangement shall occur at the Verizon access Tandems in the LATA, unless otherwise agreed to by the Parties.

10.4 US LEC and Verizon will use reasonable efforts, individually and collectively, to maintain provisions in their respective state access Tariffs, and/or provisions within the National Exchange Carrier Association (NECA) Tariff No. 4, or any successor Tariff sufficient to reflect the MPB arrangements established pursuant to this Agreement.

10.5 In general, there are four alternative Meet-Point Billing arrangements possible, which are: Single Bill/Single Tariff, Multiple Bill/Single Tariff, Multiple Bill/Multiple Tariff, and Single Bill/Multiple Tariff, as outlined in the OBF MECAB Guidelines.

Each Party shall implement the "Multiple Bill/Single Tariff" or "Multiple Bill/Multiple Tariff" option, as appropriate, in order to bill an IXC for the portion of the MPB arrangement provided by that Party. Alternatively, in former Bell Atlantic service areas, upon agreement of the Parties, each Party may use the New York State Access Pool on its behalf to implement the Single Bill/Multiple Tariff or Single Bill/Single Tariff option, as appropriate, in order to bill an IXC for the portion of the MPB arrangement provided by that Party.

10.6 The rates to be billed by each Party for the portion of the MPB arrangement provided by it shall be as set forth in that Party's applicable Tariffs, or other document that contains the terms under which that Party's access services are offered. For each US LEC Routing Point/Verizon Serving Wire Center combination, the MPB billing percentages for transport between the US LEC Routing Point and the Verizon Serving Wire Center shall be calculated in accordance with the formula set forth in Section 10.17.

10.7 Each Party shall provide the other Party with the billing name, billing address, and Carrier Identification Code (CIC) of the IXC, and identification of the Verizon Wire Center serving the IXC in order to comply with the MPB notification process as outlined in the MECAB document.

10.8 Verizon shall provide US LEC with the Switched Access Detail Usage Data (EMI category 1101XX records) on magnetic tape or via such other media as the Parties may agree to, no later than ten (10) Business Days after the date the usage occurred.

10.9 US LEC shall provide Verizon with the Switched Access Summary Usage Data (EMI category 1150XX records) on magnetic tape or via such other media as the Parties may agree, no later than ten (10) Business Days after the date of its rendering of the bill to the relevant IXC, which bill shall be rendered no less frequently than monthly.

10.10 All usage data to be provided pursuant to Sections 10.8 and 10.9 shall be sent to the following addresses:

To US LEC:

Access Billing/IT Group
US LEC Corporation
6801 Morrison Boulevard
Charlotte, NC 28211

For Verizon:

New York State Access Pool
C/O ACM, Inc.
120 Erie Blvd.
Schenectady, N.Y. 12305
Attn: Mark Ferri

Either Party may change its address for receiving usage data by notifying the other Party in writing pursuant to Section 29 of the General Terms and Conditions.

10.11 US LEC and Verizon shall coordinate and exchange the billing account reference (BAR) and billing account cross reference (BACR) numbers or Operating Company Number ("OCN"), as appropriate, for the MPB arrangements described in this Section 10. Each Party shall notify the other if the level of billing or other BAR/BACR elements change, resulting in a new BAR/BACR number, or if the OCN changes.

10.12 Each Party agrees to provide the other Party with notification of any errors it discovers in MPB data within thirty (30) calendar days of the receipt of the original data. The other Party shall attempt to correct the error and resubmit the data within ten (10) Business Days of the notification. In the event the errors cannot be corrected within such ten- (10) Business-Day period, the erroneous data will be considered lost. In the event of a loss of data, whether due to uncorrectable errors or otherwise, both Parties shall cooperate to reconstruct the lost data and, if such reconstruction is not possible, shall accept a reasonable estimate of the lost data based upon prior usage data.

10.13 Either Party may request a review or audit of the various components of access recording up to a maximum of two (2) audits per calendar year. All costs associated with each review and audit shall be borne by the requesting Party.

Such review or audit shall be conducted subject to Section 7 of the General Terms and Conditions and during regular business hours. A Party may conduct additional audits, at its expense, upon the other Party's consent, which consent shall not be unreasonably withheld.

10.14 Except as expressly set forth in this Agreement, nothing contained in this Section 10 shall create any liability for damages, losses, claims, costs, injuries, expenses or other liabilities whatsoever on the part of either Party.

10.15 MPB will apply for all traffic bearing the 500, 900, toll free service access code (e.g. 800/888/877) (to the extent provided by an IXC) or any other non-geographic NPA which may be designated for such traffic in the future.

10.16 In the event US LEC determines to offer Telephone Exchange Services in a LATA in which Verizon operates an access Tandem Switch, Verizon shall permit and enable US LEC to subtend the Verizon access Tandem Switch(es) designated for the Verizon End Offices in the area where there are located US LEC Routing Point(s) associated with the NPA NXX(s) to/from which the Switched Exchange Access Services are homed.

10.17 Except as otherwise mutually agreed by the Parties, the MPB billing percentages for each Routing Point/Verizon Serving Wire Center combination shall be calculated according to the following formula, unless as mutually agreed to by the Parties:

a / (a + b) = US LEC Billing Percentage

and

b / (a + b) = Verizon Billing Percentage

where:

a = the airline mileage between US LEC Routing Point and the actual point of interconnection for the MPB arrangement; and

b = the airline mileage between the Verizon Serving Wire Center and the actual point of interconnection for the MPB arrangement.

10.18 US LEC shall inform Verizon of each LATA in which it intends to offer Telephone Exchange Services and its calculation of the billing percentages which should apply for such arrangement. Within ten (10) Business Days of US LEC's delivery of notice to Verizon, Verizon and US LEC shall confirm the Routing Point/Verizon Serving Wire Center combination and billing percentages.

11. Toll Free Service Access Code (e.g., 800/888/877) Traffic

The following terms shall apply when either Party delivers toll free service access code (e.g., 800/877/888)("8YY") calls to the other Party. For the purposes of this Section 11, the terms "translated" and "untranslated" refers to those toll free service access code calls that have been queried ("translated") or have not been queried ("untranslated") to an 8YY database. Except as otherwise agreed to by the Parties, all then US LEC originating "untranslated" 8YY traffic will be routed over a separate one-way trunk group.

11.1 When US LEC delivers translated 8YY calls to Verizon for completion,

11.1.1 to an IXC, US LEC shall:

11.1.1.1 provide an appropriate EMI record to Verizon for processing and Meet Point Billing in accordance with Section 10 above; and

11.1.1.2 bill the IXC the US LEC query charge associated with the call.

11.1.2 to Verizon or another LEC that is a toll free service access code service provider in the LATA, US LEC shall:

11.1.2.1 provide an appropriate EMI record to the toll free service access code service provider; and

11.1.2.2 bill to the toll free service access code service provider the US LEC's Tariffed Feature Group D ("FGD") Switched Exchange Access or Reciprocal Compensation charges, as applicable, and the US LEC query charge; and

11.1.2.3 Verizon shall bill applicable Tandem Transit Service charges and associated passthrough charges to US LEC.

11.2 When Verizon performs the query and delivers translated 8YY calls, originated by Verizon's or another LEC's Customer,

11.2.1 to US LEC in it's capacity as a toll free service access code service provider, Verizon shall:

11.2.1.1 bill US LEC the Verizon query charge associated with the call as specified in the Pricing Attachment; and

11.2.1.2 provide an appropriate EMI record to US LEC; and

11.2.1.3 bill US LEC Verizon's Tariffed FGD Switched Exchange Access or Reciprocal Compensation charges as applicable.

11.3 When US LEC: delivers untranslated 8YY calls to Verizon for completion,

11.3.1 to an IXC, Verizon shall:

11.3.1.1 query the call and route the call to the appropriate IXC; and

11.3.1.2 provide an appropriate EMI record to US LEC to facilitate billing to the IXC; and

11.3.1.3 bill the IXC the Verizon query charge associated with the call and any other applicable Verizon charges.

11.3.2 to Verizon or another LEC that is a toll free service access code service provider in the LATA, Verizon shall:

11.3.2.1 query the call and route the call to the appropriate LEC toll free service access code service provider; and

11.3.2.2 provide an appropriate EMI record to US LEC; to facilitate billing to the LEC toll free service access code service provider; and

11.3.2.3 bill the LEC toll free service access code service provider the query charge associated with the call and any other applicable Verizon charges.

11.4 Verizon will not direct untranslated toll free service access code call to US LEC.

12. Tandem Transit Traffic

12.1 As used in this Section 12, Tandem Transit Traffic is Telephone Exchange Service traffic that originates on US LEC's network, and is transported through a Verizon Tandem to the Central Office of a CLEC, ILEC other than Verizon, Commercial Mobile Radio Service (CMRS) carrier, or other LEC, that subtends the relevant Verizon Tandem to which US LEC delivers such traffic. Neither the originating nor terminating customer is a Customer of Verizon. Subtending Central Offices shall be determined in accordance with and as identified in the Local Exchange Routing Guide (LERG). Switched Exchange Access Service traffic is not Tandem Transit Traffic.

12.2 Tandem Transit Traffic Service provides US LEC with the transport of Tandem Transit Traffic as provided below.

12.3 Tandem Transit Traffic may be routed over the Interconnection Trunks described in Sections 3 through 6. US LEC shall deliver each Tandem Transit Traffic call to Verizon with CCS and the appropriate Transactional Capabilities Application Part ("TCAP") message to facilitate full interoperability of CLASS Features and billing functions.

12.4 **[DISPUTED ITEM]** US LEC shall exercise its best efforts to enter into a reciprocal Telephone Exchange Service traffic arrangement (either via written agreement or mutual Tariffs) with any CLEC, ILEC, CMRS carrier, or other LEC, to which it delivers Telephone Exchange Service traffic that transits Verizon's Tandem Office. ~~If US LEC does not enter into and provide notice to Verizon of the above-referenced arrangement within 180 days of the initial traffic exchange with relevant third-party carriers, then Verizon may, at its sole discretion, terminate Tandem Transit Service at anytime upon thirty (30) days written notice to US LEC, provided, however, that Verizon shall not terminate Tandem Transit Service pursuant to this section 12.4 pending resolution of a complaint on such termination filed by US LEC at the Commission (which complaint shall include a request for expedited resolution by the Commission) within 15 days of receipt of notice of termination provided by Verizon.~~

12.5 US LEC shall pay Verizon for Transit Service that US LEC originates at the rate specified in the Pricing Attachment, plus any additional charges or costs the CLEC, ILEC , CMRS carrier, or other LEC, imposes or levies on Verizon for the delivery or termination of such traffic, including any Switched Exchange Access Service charges.

12.6 Verizon will not be required to provide Tandem Transit Traffic Services for local Tandem Transit Traffic to be delivered to a CLEC, ILEC, CMRS carrier, or other LEC, if the volume of local Tandem Transit Traffic to be delivered to the CLEC, ILEC, CMRS carrier, or other LEC exceeds one (1) DS-1 level volume of calls per CLEC, ILEC, CMRS carrier, or other LEC per Verizon tandem serving area for a period of three consecutive months. Prior to the threshold being reached, US LEC and the relevant 3rd party shall negotiate agreements to establish direct connections, so that these direct connections can be made available when the threshold has been exceeded for 60 days. Once the first directly connected DS-1 is installed to a CLEC, ILEC, CMRS carrier, or other LEC, overflow traffic may

traverse the Verizon tandem to that entity until such time that the level of overflow traffic meets the requirements specified in this Section 12.6 addressing the need for an additional DS-1. Each subsequent need for an additional DS-1 will be handled in a like manner.

12.7 If or when a third party carrier's Central Office subtends a US LEC Central Office, then US LEC shall offer to Verizon a service arrangement equivalent to or the same as Tandem Transit Service provided by Verizon to US LEC as defined in this Section 12 such that Verizon may terminate calls to a Central Office of a CLEC, ILEC, CMRS carrier, or other LEC, that subtends a US LEC Central Office ("Reciprocal Tandem Transit Service"). US LEC shall offer such Reciprocal Transit Service arrangements under terms and conditions no less favorable than those provided in this Section 12.

12.8 Neither Party shall take any actions to prevent the other Party from entering into a direct and reciprocal traffic exchange agreement with any carrier to which it originates, or from which it terminates, traffic.

13. Number Resources, Rate Center Areas and Routing Points

13.1 Nothing in this Agreement shall be construed to limit or otherwise adversely affect in any manner either Party's right to employ or to request and be assigned any Central Office Codes ("NXX") pursuant to the Central Office Code Assignment Guidelines and any relevant FCC or Commission orders, as may be amended from time to time, or to establish, by Tariff or otherwise, Rate Center Areas and Routing Points corresponding to such NXX codes.

13.2 It shall be the responsibility of each Party to program and update its own switches and network systems pursuant to information provided on ASRs as well as the LERG in order to recognize and route traffic to the other Party's assigned NXX codes. Except as expressly set forth in this Agreement, neither Party shall impose any fees or charges whatsoever on the other Party for such activities.

13.3 Unless otherwise required by Commission order, the Rate Center Areas will be the same for each Party. During the term of this Agreement, US LEC shall adopt the Rate Center Area and Rate Center Points that the Commission has approved for Verizon within the LATA and Tandem serving area. US LEC shall assign whole NPA-NXX codes to each Rate Center Area unless otherwise ordered by the FCC, the Commission or another governmental entity of appropriate jurisdiction, or the LEC industry adopts alternative methods of utilizing NXXs.

13.4 US LEC will also designate a Routing Point for each assigned NXX code. US LEC shall designate one location for each Rate Center Area in which the US LEC has established NXX code(s) as the Routing Point for the NPA-NXXs associated with that Rate Center Area, and such Routing Point shall be within the same LATA as the Rate Center Area but not necessarily within the Rate Center Area itself. Unless specified otherwise, calls to subsequent NXXs of US LEC will be routed in the same manner as calls to US LEC's initial NXXs.

13.5 Notwithstanding anything to the contrary contained herein, nothing in this Agreement is intended, and nothing in this Agreement shall be construed, to in any way constrain US LEC's choices regarding the size of the local calling area(s) that US LEC may establish for its Customers, which local calling areas may be larger than, smaller than, or identical to Verizon's local calling areas.

14. Joint Network Implementation and Grooming Process; and Installation, Maintenance, Testing and Repair

14.1 Joint Network Implementation and Grooming Process.

Upon request of either Party, the Parties shall jointly develop an implementation and grooming process (the "Joint Grooming Process" or "Joint Process") which may define and detail, inter alia:

14.1.1 standards to ensure that Interconnection Trunks experience a grade of service, availability and quality which is comparable to that achieved on interoffice trunks within Verizon's network and in accord with all appropriate relevant industry-accepted quality, reliability and availability standards. Except as otherwise stated in this Agreement, trunks provided by either Party for Interconnection services will be engineered using a design-blocking objective of B.01.

14.1.2 the respective duties and responsibilities of the Parties with respect to the administration and maintenance of the trunk groups, including, but not limited to, standards and procedures for notification and discoveries of trunk disconnects;

14.1.3 disaster recovery provision escalations;

14.1.4 additional technically feasible and geographically relevant IP(s) in a LATA as provided in Section 2; and

14.1.5 such other matters as the Parties may agree, including, e.g., End Office to End Office high usage trunks as good engineering practices may dictate.

14.2 Installation, Maintenance, Testing and Repair.

Unless otherwise agreed in writing by the Parties, to the extent required by Applicable Law, Interconnection provided by a Party shall be equal in quality to that provided by such Party to itself, any subsidiary, affiliates or third party. If either Party is unable to fulfill its obligations under this Section 14.2, it shall notify the other Party of its inability to do so and will negotiate alternative intervals in good faith. The Parties agree that to the extent required by Applicable Law, the standards to be used by a Party for isolating and clearing any disconnections and/or other outages or troubles shall be at parity with standards used by such Party with respect to itself, any subsidiary, affiliate or third party.

14.3 Forecasting Requirements for Trunk Provisioning.

Within ninety (90) days of executing this Agreement, US LEC shall provide Verizon a two (2) year traffic forecast. This initial forecast will provide the amount of traffic to be delivered to and from Verizon over each of the Interconnection Trunk groups over the next eight (8) quarters. The forecast shall be updated and provided to Verizon on an as-needed basis but no less frequently than semiannually. All forecasts shall comply with the Verizon CLEC Interconnection Trunking Forecast Guide and shall include, at a minimum, Access Carrier Terminal Location (ACTL), traffic type (Reciprocal Compensation Traffic/Toll Traffic, Operator Services, 911, etc.), code (identifies trunk group), A location/Z location (CLLI codes for US LEC-IPs and Verizon-IPs), interface type (e.g., DS1), and trunks in service each year (cumulative).

14.3.1 Initial Forecasts/Trunking Requirements. Because Verizon's trunking requirements will, at least during an initial period, be dependent on the Customer segments and service segments within Customer segments

to whom US LEC decides to market its services, Verizon will be largely dependent on US LEC to provide accurate trunk forecasts for both inbound (from Verizon) and outbound (to Verizon) traffic. Verizon will, as an initial matter, provide the same number of trunks to terminate Reciprocal Compensation Traffic to US LEC as US LEC provides to terminate Reciprocal Compensation Traffic to Verizon. At Verizon's discretion, when US LEC expressly identifies particular situations that are expected to produce traffic that is substantially skewed in either the inbound or outbound direction, Verizon will provide the number of trunks US LEC suggests; provided, however, that in all cases Verizon's provision of the forecasted number of trunks to US LEC is conditioned on the following: that such forecast is based on reasonable engineering criteria, there are no capacity constraints, and US LEC's previous forecasts have proven to be reliable and accurate.

14.3.1.1 Monitoring and Adjusting Forecasts. Verizon will, for ninety (90) days, monitor traffic on each trunk group that it establishes at US LEC's suggestion or request pursuant to the procedures identified in Section 14.3. At the end of such ninety-(90) day period, Verizon may disconnect trunks that, based on reasonable engineering criteria and capacity constraints, are not warranted by the actual traffic volume experienced.

14.3.1.2 In subsequent periods, Verizon may also monitor traffic for ninety (90) days on additional trunk groups that US LEC suggests or requests Verizon to establish.

15. Number Portability - Section 251(B)(2)

15.1 Scope.

The Parties shall provide Number Portability (NP) in accordance with rules and regulations as from time to time prescribed by the FCC.

15.2 Procedures for Providing LNP ("Long-term Number Portability").

The Parties will follow the LNP provisioning process recommended by the North American Numbering Council (NANC) and adopted by the FCC. In addition, the Parties agree to follow the LNP ordering procedures established at the OBF. The Parties shall provide LNP on a reciprocal basis.

15.2.1 A Customer of one Party ("Party A") elects to become a Customer of the other Party ("Party B"). The Customer elects to utilize the original telephone number(s) corresponding to the Telephone Exchange Service(s) it previously received from Party A, in conjunction with the Telephone Exchange Service(s) it will now receive from Party B. After Party B has received authorization from the Customer in accordance with Applicable Law and sends an LSR to Party A, Parties A and B will work together to port the Customer's telephone number(s) from Party A's network to Party B's network.

15.2.2 When a telephone number is ported out of Party A's network, Party A will remove any non-proprietary line based calling card(s) associated with the ported number(s) from its Line Information Database (LIDB). Reactivation of the line-based calling card in another LIDB, if desired, is the responsibility of Party B or Party B's Customer.

15.2.3 When a Customer of Party A ports their telephone numbers to Party B and the Customer has previously secured a reservation of line numbers from Party A for possible activation at a future point, these reserved but inactive numbers may be ported along with the active numbers to be ported provided the numbers have been reserved for the Customer. Party B may request that Party A port all reserved numbers assigned to the Customer or that Party A port only those numbers listed by Party B. As long as Party B maintains reserved but inactive numbers ported for the Customer, Party A shall not reassign those numbers. Party B shall not reassign the reserved numbers to another Customer.

15.2.4 When a Customer of Party A ports their telephone numbers to Party B, in the process of porting the Customer's telephone numbers, Party A shall implement the ten-digit trigger feature where it is available. When Party A receives the porting request, the unconditional trigger shall be applied to the Customer's line before the due date of the porting activity. When the ten-digit unconditional trigger is not available, Party A and Party B must coordinate the disconnect activity.

15.2.5 The Parties shall furnish each other with the Jurisdiction Information Parameter (JIP) in the Initial Address Message (IAM), containing a Local Exchange Routing Guide (LERG)-assigned NPA-NXX (6 digits) identifying the originating switch on calls originating from LNP capable switches.

15.2.6 Where LNP is commercially available, the NXXs in the office shall be defined as portable, except as noted in 14.2.7, and translations will be changed in the Parties' switches to open those NXXs for database queries in all applicable LNP capable offices within the LATA of the given switch(es). On a prospective basis, all newly deployed switches will be equipped with LNP capability and so noted in the LERG.

15.2.7 All NXXs assigned to LNP capable switches are to be designated as portable unless a NXX(s) has otherwise been designated as non-portable. Non-portable NXXs include NXX codes assigned to paging, cellular and wireless services; codes assigned for internal testing and official use and any other NXX codes required to be designated as non-portable by the rules and regulations of the FCC. NXX codes assigned to mass calling on a choked network may not be ported using LNP technology but are portable using methods established by the NANC and adopted by the FCC. On a prospective basis, newly assigned codes in switches capable of porting shall become commercially available for porting with the effective date in the network.

15.2.8 Both Parties' use of LNP shall meet the performance criteria specified by the FCC. Both Parties will act as the default carrier for the other Party in the event that either Party is unable to perform the routing necessary for LNP.

15.3 Procedures for Providing NP Through Full NXX Code Migration.

Where a Party has activated an entire NXX for a single Customer, or activated at least eighty percent (80%) of an NXX for a single Customer, with the remaining numbers in that NXX either reserved for future use by that Customer or otherwise unused, if such Customer chooses to receive Telephone Exchange Service from

the other Party, the first Party shall cooperate with the second Party to have the entire NXX reassigned in the LERG (and associated industry databases, routing tables, etc.) to an End Office operated by the second Party. Such transfer will be accomplished with appropriate coordination between the Parties and subject to appropriate industry lead times for movements of NXXs from one switch to another. Neither Party shall charge the other in connection with this coordinated transfer.

15.4 Procedures for Providing INP (Interim Number Portability).

The Parties shall provide Interim Number Portability (INP) in accordance with rules and regulations prescribed from time to time by the FCC and state regulatory bodies, the Parties respective company procedures, and as set forth in this Section 15.4. The Parties shall provide INP on a reciprocal basis.

15.4.1 In the event that either Party, Party B, wishes to serve a Customer currently served at an End Office of the other Party, Party A, and that End Office is not LNP-capable, Party A shall make INP available only where LNP is not commercially available or not required by FCC orders and regulations. INP will be provided by remote call forwarding (RCF) and/or direct inward dialing (DID) technology, which will forward terminating calls to Party B's End Office. Party B shall provide Party A with an appropriate "forward-to" number.

15.4.2 Prices for INP and formulas for sharing Terminating access revenues associated with INP shall be provided where applicable, upon request by either Party.

15.4.3 Either Party wishing to use DID to provide for INP must request a dedicated trunk group from the End Office where the DID numbers are currently served to the new serving-End Office. If there are no existing facilities between the respective End Offices, the dedicated facilities and transport trunks will be provisioned as unbundled service through the ASR provisioning process. The requesting party will reroute the DID numbers to the pre-positioned trunk group using the LSR provisioning process. DID trunk rates are contained in the Parties' respective tariffs.

15.4.4 The Parties Agree that, per FCC 98-275, Paragraph 16, effective upon the date LNP is available at any End Office of one Party, Party A, providing INP for Customers of the other Party, Party B, no further orders will be accepted for new INP at that End Office. Orders for new INP received prior to that date, and change orders for existing INP, shall be worked by Party A. Orders for new INP received by Party A on or after that date shall be rejected. Existing INP will be grand-fathered, subject to Section 15.4.5, below.

15.4.5 In offices equipped with LNP prior to September 1, 1999 for former Bell Atlantic offices and October 1, 2000 for former GTE offices, the Parties agree to work together to convert all existing INP-served Customers to LNP by December 31, 2000 in accordance with a mutually agreed to conversion process and schedule. If mutually agreed to by the Parties, the conversion period may be extended one time by no more than 90 days from December 31, 2000.

15.4.6 Upon availability of LNP after October 1, 2000 at an End Office of either Party, both Parties agree to work together to convert the existing

INP-served Customers to LNP by no later than 90 days from the date of LNP availability unless otherwise agreed to by the Parties.

15.4.7 When Verizon offers LNP to US LEC but US LEC has not converted to LNP at the end of the agreed to conversion period, then the remaining INPs will be changed to a functionally equivalent tariff service and billed to US LEC at the tariff rate(s) for the subject jurisdiction.

15.5 Procedures for LNP Request.

The Parties shall provide for the requesting of End Office LNP capability on a reciprocal basis through a written request. The Parties acknowledge that Verizon has deployed LNP throughout its network in compliance with FCC 96-286 and other applicable FCC rules.

15.5.1 If Party B desires to have LNP capability deployed in an End Office of Party A, which is not currently capable, Party B shall issue a LNP request to Party A. Party A will respond to the Party B, within ten (10) days of receipt of the request, with a date for which LNP will be available in the requested End Office. Party A shall proceed to provide for LNP in compliance with the procedures and timelines set forth in FCC 96-286, Paragraph 80, and FCC 97-74, Paragraphs 65 through 67.

15.5.2 The Parties acknowledge that each can determine the LNP-capable End Offices of the other through the Local Exchange Routing Guide (LERG). In addition the Parties shall make information available upon request showing their respective LNP-capable End Offices, as set forth in this Section 15.5.

RESALE ATTACHMENT

1. General

Verizon shall provide to US LEC, in accordance with this Agreement (including, but not limited to, Verizon's applicable Tariffs) and the requirements of Applicable Law, Verizon's Telecommunications Services for resale by US LEC; provided, that notwithstanding any other provision of this Agreement, Verizon shall be obligated to provide Telecommunications Services to US LEC only to the extent required by Applicable Law and may decline to provide a Telecommunications Service to US LEC to the extent that provision of such Telecommunications Service is not required by Applicable Law.

2. Use of Verizon Telecommunications Services

2.1 Verizon Telecommunications Services may be purchased by US LEC under this Resale Attachment only for the purpose of resale by US LEC as a Telecommunications Carrier. Verizon Telecommunications Services to be purchased by US LEC for other purposes (including, but not limited to, US LEC's own use) must be purchased by US LEC pursuant to other applicable Attachments to this Agreement (if any), or separate written agreements, including, but not limited to, applicable Verizon Tariffs.

2.2 US LEC shall not resell:

2.2.1 Residential service to persons not eligible to subscribe to such service from Verizon (including, but not limited to, business or other nonresidential Customers);

2.2.2 Lifeline, Link Up America, or other means-tested service offerings, to persons not eligible to subscribe to such service offerings from Verizon;

2.2.3 Grandfathered or discontinued service offerings to persons not eligible to subscribe to such service offerings from Verizon; or

2.2.4 Any other Verizon service in violation of a restriction stated in this Agreement (including, but not limited to, a Verizon Tariff) that is not prohibited by Applicable Law.

2.2.5 In addition to any other actions taken by US LEC to comply with this Section 2.2, US LEC shall take those actions required by Applicable Law to determine the eligibility of US LEC Customers to purchase a service, including, but not limited to, obtaining any proof or certification of eligibility to purchase Lifeline, Link Up America, or other means-tested services, required by Applicable Law. US LEC shall indemnify Verizon from any Claims resulting from US LEC's failure to take such actions required by Applicable Law.

2.2.6 Verizon may perform audits to confirm US LEC's conformity to the provisions of this Section 2.2. Such audits may be performed twice per calendar year and shall be performed in accordance with Section 7 of the General Terms and Conditions.

2.3 US LEC shall be subject to the same limitations that Verizon's Customers are subject to with respect to any Telecommunications Service that Verizon grandfathers or discontinues offering. Without limiting the foregoing, except to the extent that Verizon follows a different practice for Verizon Customers in regard to a grandfathered Telecommunications Service, such grandfathered Telecommunications Service: (a) shall be available only to a Customer that already has such Telecommunications Service; (b) may not be moved to a new service location; and, (c) will be furnished only to the extent that facilities continue to be available to provide such Telecommunications Service.

2.4 US LEC shall not be eligible to participate in any Verizon plan or program under which Verizon Customers may obtain products or services which are not Verizon Telecommunications Services, in return for trying, agreeing to purchase, purchasing, or using, Verizon Telecommunications Services.

2.5 In accordance with 47 CFR § 51.617(b), Verizon shall be entitled to all charges for Verizon Exchange Access services used by interexchange carriers to provide service to US LEC Customers.

3. Availability of Verizon Telecommunications Services

3.1 Verizon will provide a Verizon Telecommunications Service to US LEC for resale pursuant to this Attachment where and to the same extent, but only where and to the same extent, that such Verizon Telecommunications Service is provided to Verizon's Customers.

3.2 Verizon shall apply a wholesale discount to promotions in accordance with the requirements set forth in 47 CFR 51.613 to the extent such requirements remain Applicable Law.

3.3 To the extent required by Applicable Law, the Verizon Telecommunications Services to be provided to US LEC for resale pursuant to this Attachment will include a Verizon Telecommunications Service customer-specific contract service arrangement ("CSA") (such as a customer specific pricing arrangement or individual case based pricing arrangement) that Verizon is providing to a Verizon Customer at the time the CSA is requested by US LEC.

4. Responsibility for Charges

US LEC shall be responsible for and pay all charges for any Verizon Telecommunications Services provided by Verizon pursuant to this Resale Attachment.

5. Operations Matters

5.1 Facilities.

5.1.1 Verizon and its suppliers shall retain all of their right, title and interest in all facilities, equipment, software, information, and wiring, used to provide Verizon Telecommunications Services.

5.1.2 Verizon shall have access at all reasonable times to US LEC Customer locations for the purpose of installing, inspecting, maintaining, repairing, and removing, facilities, equipment, software, and wiring, used to provide the Verizon Telecommunications Services. US LEC shall, at US LEC's expense, obtain any rights and authorizations necessary for such access.

5.1.3 Except as otherwise agreed to in writing by Verizon, Verizon shall not be responsible for the installation, inspection, repair, maintenance, or removal, of facilities, equipment, software, or wiring, provided by US LEC or US LEC Customers for use with Verizon Telecommunications Services.

5.2 Branding.

5.2.1 Except as stated in Section 5.2.2, in providing Verizon Telecommunications Services to US LEC, Verizon shall have the right (but not the obligation) to identify the Verizon Telecommunications Services with Verizon's trade names, trademarks and service marks ("Verizon Marks"), to the same extent that these Services are identified with Verizon's Marks when they are provided to Verizon's Customers. Any such identification of Verizon's Telecommunications Services shall not constitute the grant of a license or other right to US LEC to use Verizon's Marks.

5.2.2 To the extent required by Applicable Law, upon request by US LEC and at prices, terms and conditions to be negotiated by US LEC and Verizon, Verizon shall provide Verizon Telecommunications Services for resale that are identified by US LEC's trade name, or that are not identified by trade name, trademark or service mark.

5.2.3 If Verizon uses a third-party contractor to provide Verizon Operator Services or Verizon Directory Assistance Services, US LEC will be responsible for entering into a direct contractual arrangement with the third-party contractor at US LEC's expense (a) to obtain identification of Verizon Operator Services or Verizon Directory Assistance Services purchased by US LEC for resale with US LEC's trade name, or (b) to obtain removal of trade name, trademark or service mark identification from Verizon Operator Services or Verizon Directory Assistance Services purchased by US LEC for resale.

6. Rates and Charges

The rates and charges for Verizon Telecommunication Services purchased by US LEC for resale pursuant to this Attachment shall be as provided in this Attachment and the Pricing Attachment.

NETWORK ELEMENTS ATTACHMENT

1. General

1.1 Verizon shall provide to US LEC, in accordance with this Agreement (including, but not limited to, Verizon's applicable Tariffs) and the requirements of Applicable Law, and as specified in Section 4 of the General Terms and Conditions, access to Verizon's Network Elements on an unbundled basis and in combinations (Combinations); provided, however, that notwithstanding any other provision of this Agreement, Verizon shall be obligated to provide unbundled Network Elements (UNEs) and Combinations to US LEC only to the extent required by Applicable Law and may decline to provide UNEs or Combinations to US LEC to the extent that provision of such UNEs or Combinations is not required by Applicable Law. The Parties agree to work cooperatively to develop an orderly and efficient transition process for discontinuation of provisioning of such UNE or Combination. Unless otherwise agreed to by the Parties (or required by Applicable Law), the transition period shall be at most three (3) months from the date that the FCC, Commission or court of competent jurisdiction issues a final and unstayed public notice that Verizon is not required to provide such UNE or Combination. The parties may agree to migrate UNEs or Combinations discontinued pursuant to this section to comparable services at rates, terms and conditions agreed to by the Parties provided that comparable services are available and offered generally by Verizon. Any such migration shall occur in an orderly and efficient manner designed to minimize service interruption or discontinuation.

1.2 Except as otherwise required by Applicable Law: (a) Verizon shall be obligated to provide a UNE or Combination pursuant to this Agreement only to the extent such UNE or Combination, and the equipment and facilities necessary to provide such UNE or Combination, are available in Verizon's network; (b) Verizon shall have no obligation to construct or deploy new facilities or equipment to offer any UNE or Combination; and, (c) Verizon shall not be obligated to combine Network Elements that are not already combined in Verizon's network. Except as otherwise required by Applicable Law, Verizon shall not be obligated, and may decline, to provide a UNE or Combination to US LEC, if US LEC, either itself or through a third party (e.g., US LEC's Customer), has ordered Telecommunications Services from Verizon in order to impose on Verizon an obligation to provide such UNE or a Combination. For example, except as otherwise required by Applicable Law, Verizon shall not be obligated, and may decline, to provide a UNE or Combination to US LEC if US LEC ordered Telecommunications Services or advised its Customer to order Telecommunications Services where the UNE or Combination desired by US LEC was not available in order to permit US LEC to subsequently convert the Telecommunications Services to the UNE or Combination desired by US LEC.

1.3 US LEC may use a UNE or Combination only for those purposes for which Verizon is required by Applicable Law to provide such UNE or Combination to US LEC. Without limiting the foregoing, US LEC may use a UNE or Combination (a) only to provide a Telecommunications Service and (b) to provide Exchange Access services only to the extent that Verizon is required by Applicable Law to provide such UNE or Combination to US LEC in order to allow US LEC to provide such Exchange Access services.

1.4 Notwithstanding any other provision of this Agreement:

1.4.1 To the extent Verizon is required by a change in Applicable Law to provide to US LEC a UNE or Combination that is not offered under this Agreement to US LEC as of the Effective Date, the terms, conditions and prices for such UNE or Combination (including, but not limited to, the terms and conditions defining the UNE or Combination and stating when and where the UNE or Combination will be available and how it will be used, and terms, conditions and prices for pre-ordering, ordering, provisioning, repair, maintenance and billing) shall be as provided in an applicable Verizon Tariff, or, in the absence of an applicable Verizon Tariff, as mutually agreed in writing by the Parties.

1.4.2 Verizon shall not be obligated to provide to US LEC, and US LEC shall not request from Verizon, access to a proprietary advanced intelligent network service.

1.5 Without limiting Verizon's rights pursuant to Applicable Law or any other section of this Agreement to terminate its provision of a UNE or a Combination, if Verizon provides a UNE or Combination to US LEC, and the Commission, the FCC, a court or other governmental body of appropriate jurisdiction determines or has determined that Verizon is not required by Applicable Law to provide such UNE or Combination, Verizon may terminate its provision of such UNE or Combination to US LEC. If Verizon terminates its provision of a UNE or a Combination to US LEC pursuant to this Section 1.5 and US LEC elects to purchase other services offered by Verizon in place of such UNE or Combination, then: (a) Verizon shall reasonably cooperate with US LEC to coordinate the termination of such UNE or Combination and the installation of such services to minimize the interruption of service to Customers of US LEC; and, (b) US LEC shall pay all applicable charges for such services, including, but not limited to, all applicable installation charges.

1.6 Nothing contained in this Agreement shall be deemed to constitute an agreement by Verizon that any item identified in this Agreement as a Network Element is (i) a Network Element under Applicable Law, or (ii) a Network Element Verizon is required by Applicable Law to provide to US LEC on an unbundled basis or in combination with other Network Elements.

1.7 Except as otherwise expressly stated in this Agreement, or as otherwise stated in the "combo requirements" incorporated by reference into Section 16 of this Network Elements Attachment, US LEC shall access Verizon's UNEs specifically identified in this Agreement via Collocation in accordance with the Collocation Attachment at the Verizon Wire Center where those UNEs exist, and each Loop or Port shall, in the case of Collocation, be delivered to US LEC's Collocation node by means of a Cross Connection.

1.8 If as the result of US LEC Customer actions (i.e., Customer Not Ready ("CNR")), Verizon cannot complete requested work activity when a technician has been dispatched to the US LEC Customer premises, US LEC will be assessed a non-recurring charge associated with this visit. This charge will be the sum of the applicable Service Order charge as provided in the Pricing Attachment and the Premises Visit Charge as provided in Verizon's applicable retail or wholesale Tariff.

2. Verizon's Provision of Network Elements

Subject to the conditions set forth in Section 1, in accordance with, but only to the extent required by, Applicable Law, Verizon shall provide US LEC access to the following:

2.1 Loops, as set forth in Section 3;

2.2 Line Sharing, as set forth in Section 4;

2.3 Line Splitting, as set forth in Section 5;

2.4 Sub-Loops, as set forth in Section 6;

2.5 Inside Wire, as set forth in Section 7;

2.6 Dark Fiber, as set forth in Section 8;

2.7 Network Interface Device, as set forth in Section 9;

2.8 Switching Elements, as set forth in Section 10;

2.9 Interoffice Transmission Facilities (IOF), as set forth in Section 11;

2.10 Signaling Networks and Call-Related Databases, as set forth in Section 12;

2.11 Operations Support Systems, as set forth in Section 13; and

2.12 Other UNEs in accordance with Section 14.

3. Loop Transmission Types

Subject to the conditions set forth in Section 1, Verizon shall allow US LEC to access Loops unbundled from local switching and local transport, in accordance with this Section 3 and the rates and charges provided in the Pricing Attachment. Verizon shall allow US LEC access to Loops in accordance with, but only to extent required by, Applicable Law. The available Loop types are as set forth below:

3.1 "2 Wire Analog Voice Grade Loop" or "Analog 2W" provides an effective 2-wire channel with 2-wire interfaces at each end that is suitable for the transport of analog Voice Grade (nominal 300 to 3000 Hz) signals and loop-start signaling. This Loop type is more fully described in Verizon TR-72565, as revised from time-to-time. If "Customer-Specified Signaling" is requested, the Loop will operate with one of the following signaling types that may be specified when the Loop is ordered: loop-start, ground-start, loop-reverse-battery, and no signaling. Customer specified signaling is more fully described in Verizon TR-72570, as revised from time-to-time.

3.2 "4-Wire Analog Voice Grade Loop" or "Analog 4W" provides an effective 4-wire channel with 4-wire interfaces at each end that is suitable for the transport of analog Voice Grade (nominal 300 to 3000 Hz) signals. This Loop type will operate with one of the following signaling types that may be specified when the Loop is ordered: loop-start, ground-start, loop-reverse-battery, duplex, and no signaling. This Loop type is more fully described in Verizon TR-72570, as revised from time-to-time.

3.3 "2-Wire ISDN Digital Grade Loop" or "BRI ISDN" provides a channel with 2-wire interfaces at each end that is suitable for the transport of 160 kbps digital services using the ISDN 2B1Q line code. This Loop type is more fully described in ANSI T1.601-1998 and Verizon TR 72575, (as revised from time-to-time. In some cases loop extension equipment may be necessary to bring the line loss within acceptable levels. Verizon will provide loop extension equipment only upon request. A separate charge will apply for loop extension equipment.

3.4 "2-Wire ADSL-Compatible Loop" or "ADSL 2W" provides a channel with 2-wire interfaces at each end that is suitable for the transport of digital signals up to 8 Mbps toward the Customer and up to 1 Mbps from the Customer. This Loop type is more fully described in Verizon TR-72575, as revised from time-to-time. ADSL-Compatible Loops will be available only where existing copper facilities are available and meet applicable specifications. Verizon will not build new copper facilities. The upstream and downstream ADSL power spectral density masks and dc line power limits in Verizon TR 72575, as revised from time-to-time, must be met.

3.5 "2-Wire HDSL-Compatible Loop" or "HDSL 2W" consists of a single 2-wire non-loaded, twisted copper pair that meets the carrier serving area design criteria. This Loop type is more fully described in Verizon TR-72575, as revised from time-to-time. The HDSL power spectral density mask and dc line power limits referenced in Verizon TR 72575, as revised from time-to-time, must be met. 2-wire HDSL-compatible local loops will be provided only where existing facilities are available and can meet applicable specifications. Verizon will not build new copper facilities. The 2-wire HDSL-compatible loop is available only in Bell Atlantic Service Areas.

3.6 "4-Wire HDSL-Compatible Loop" or "HDSL 4W" consists of two 2-wire non-loaded, twisted copper pairs that meet the carrier serving area design criteria. This Loop type is more fully described in Verizon TR-72575, as revised from time-to-time. The HDSL power spectral density mask and dc line power limits referenced in Verizon TR 72575, as revised from time-to-time, must be met. 4-Wire HDSL-compatible local loops will be provided only where existing facilities are available and can meet applicable specifications. Verizon will not build new copper facilities.

3.7 "4-Wire DS1-compatible Loop" provides a channel with 4-wire interfaces at each end. Each 4-wire channel is suitable for the transport of 1.544 Mbps digital signals simultaneously in both directions using PCM line code. This Loop type is more fully described in ANSI T1.403 and Verizon TR 72575, as revised from time-to-time. DS-1-compatible Loops will be available only where existing facilities can meet the specifications in ANSI T1.403 and Verizon TR 72575. as revised from time-to-time.

3.8 "2-Wire IDSL-Compatible Metallic Loop" consists of a single 2-wire non-loaded, twisted copper pair that meets revised resistance design criteria. This UNE Loop is intended to be used with very-low band symmetric DSL systems that meet the Class 1 signal power limits and other criteria in the draft T1E1.4 loop spectrum management standard (T1E1.4/2000-002R3) and are not compatible with 2B1Q 160 kbps ISDN transport systems. The actual data rate achieved depends upon the performance of CLEC-provided modems with the electrical characteristics associated with the loop. This Loop type is more fully described in T1E1.4/2000-002R3. This loop cannot be provided via UDLC. IDLC-compatible local loops will be provided only where facilities are available and can meet applicable specifications. Verizon will not build new copper facilities.

3.9 "2-Wire SDSL-Compatible Loop", is intended to be used with low band symmetric DSL systems that meet the Class 2 signal power limits and other criteria in the draft T1E1.4 loop spectrum management standard (T1E1.4/2000-002R3). This UNE loop consists of a single 2-wire non-loaded, twisted copper pair that meets Class 2 length limit in T1E1.4/2000-002R3. The data rate achieved depends on the performance of the CLEC-provided modems with the electrical characteristics associated with the loop. This Loop type is more fully described in T1E1.4/2000-002R3. SDSL-compatible local loops will be provided only where facilities are

available and can meet applicable specifications. Verizon will not build new copper facilities.

3.10 "4-Wire 56 kbps Loop" is a 4-wire Loop that provides a transmission path that is suitable for the transport of digital data at a synchronous rate of 56 kbps in opposite directions on such Loop simultaneously. A 4-Wire 56 kbps Loop consists of two pairs of non-loaded copper wires with no intermediate electronics or it consists of universal digital loop carrier with 56 kbps DDS dataport transport capability. Verizon shall provide 4-Wire 56 kbps Loops to US LEC in accordance with, and subject to, the technical specifications set forth in Verizon Technical Reference TR72575, Issue 2, as revised from time-to-time.

3.11 "DS-3 Loops" will support the transmission of asynchronous bipolar serial data at a rate of 44.736 Mbps or the equivalent of 28 DS-1 channels. This Loop type is more fully described in Verizon TR 72575, as revised from time to time. The DS-3 Loop includes the electronics necessary to provide the DS-3 transmission rate. A DS-3 Loop will only be provided where the electronics are at the requested installation date currently available for the requested loop. Verizon will not install new electronics.

3.12 "Digital Designed Loops" are comprised of designed loops that meet specific US LEC requirements for metallic loops over 18k ft. or for conditioning of ADSL, HDSL, SDSL, IDSL, or BRI ISDN Loops. "Digital Designed Loops" may include requests for:

3.12.1 a 2W Digital Designed Metallic Loop with a total loop length of 18k to 30k ft., unloaded, with the option to remove bridged tap;

3.12.2 a 2W ADSL Loop of 12k to 18k ft. with an option to remove bridged tap;

3.12.3 a 2W ADSL Loop of less than 12k ft. with an option to remove bridged tap;

3.12.4 a 2W HDSL Loop of less than 12k ft. with an option to remove bridged tap:

3.12.5 a 4W HDSL Loop of less than 12k ft with an option to remove bridged tap;

3.12.6 a 2 W Digital Designed Metallic Loop with Verizon-placed ISDN loop extension electronics;

3.12.7 a 2W SDSL Loop with an option to remove bridged tap; and

3.12.8 a 2W IDSL Loop of less than 18k ft. with an option to remove bridged tap;

3.13 Verizon shall make Digital Designed Loops available to US LEC at the rates as set forth in the Pricing Attachment.

3.14 The following ordering procedures shall apply to the xDSL Loops and Digital Designed Loops:

3.14.1 US LEC shall place orders for xDSL Loops and Digital Designed Loops by delivering to Verizon a valid electronic transmittal service order or other mutually agreed upon type of service order. Such service order shall be provided in accordance with industry format and

specifications or such format and specifications as may be agreed to by the Parties.

3.14.2 Verizon is conducting a mechanized survey of existing Loop facilities, on a Central Office by Central Office basis, to identify those Loops that meet the applicable technical characteristics established by Verizon for compatibility with ADSL, HDSL, IDSL, SDSL and BRI ISDN signals. The results of this survey will be stored in a mechanized database and made available to US LEC as the process is completed in each Central Office. US LEC must utilize this mechanized loop qualification database, where available, in advance of submitting a valid electronic transmittal service order for an ADSL, HDSL, IDSL, SDSL or BRI ISDN Loop. Charges for mechanized loop qualification information are set forth in the Pricing Attachment.

3.14.3 If the Loop is not listed in the mechanized database described in Section 3.14.2, US LEC must request a manual loop qualification prior to submitting a valid electronic service order for an ADSL, HDSL, SDSL, IDSL, or BRI ISDN Loop. The rates for manual loop qualification are set forth in the Pricing Attachment. In general, Verizon will complete a manual loop qualification request within three Business Days, although Verizon may require additional time due to poor record conditions, spikes in demand, or other unforeseen events.

3.14.4 If a query to the mechanized loop qualification database or manual loop qualification indicates that a Loop does not qualify (e.g., because it does not meet the applicable technical parameters set forth in the Loop descriptions above), US LEC may request an Engineering Query, as described in Section 3.14.6, to determine whether the result is due to characteristics of the loop itself (e.g., specific number and location of bridged taps, the specific number of load coils, or the gauge of the cable).

3.14.5 If US LEC submits a service order for an ADSL, HDSL, SDSL, IDSL, or BRI ISDN Loop that has not been prequalified, Verizon will query the service order back to US LEC for qualification and will not accept such service order until the Loop has been prequalified on a mechanized or manual basis. If US LEC submits a service order for an ADSL, HDSL, SDSL, IDSL, or BRI ISDN Loop that is, in fact, not compatible with such services in its existing condition, Verizon will respond back to US LEC with a "Nonqualified" indicator and with information showing whether the non-qualified result is due to the presence of load coils, presence of digital loop carrier, or loop length (including bridged tap).

3.14.6 Where US LEC has followed the prequalification procedure described above and has determined that a Loop is not compatible with ADSL, HDSL, SDSL, IDSL, or BRI ISDN service in its existing condition, it may either request an Engineering Query to determine whether conditioning may make the Loop compatible with the applicable service; or if US LEC is already aware of the conditioning required (e.g., where US LEC has previously requested a qualification and has obtained loop characteristics), US LEC may submit a service order for a Digital Designed Loop. Verizon will undertake to condition or extend the Loop in accordance with this Section 3.14 upon receipt of US LEC's valid, accurate and pre-qualified service order for a Digital Designed Loop.

3.15 The Parties will make reasonable efforts to coordinate their respective roles in order to minimize provisioning problems. In general, where conditioning or loop extensions are requested by US LEC, an interval of eighteen (18) Business Days will be required by Verizon to complete the loop analysis and the necessary construction work involved in conditioning and/or extending the loop as follows:

3.15.1 Three (3) Business Days will be required following receipt of US LEC's valid, accurate and pre-qualified service order for a Digital Designed Loop to analyze the loop and related plant records and to create an Engineering Work Order.

3.15.2 Upon completion of an Engineering Work Order, Verizon will initiate the construction order to perform the changes/modifications to the Loop requested by US LEC. Conditioning activities are, in most cases, able to be accomplished within fifteen (15) Business Days. Unforeseen conditions may add to this interval.

After the engineering and conditioning tasks have been completed, the standard Loop provisioning and installation process will be initiated, subject to Verizon's standard provisioning intervals.

3.16 If US LEC requires a change in scheduling, it must contact Verizon to issue a supplement to the original service order. If US LEC cancels the request for conditioning after a loop analysis has been completed but prior to the commencement of construction work, US LEC shall compensate Verizon for an Engineering Work Order charge as set forth in the Pricing Attachment. If US LEC cancels the request for conditioning after the loop analysis has been completed and after construction work has started or is complete, US LEC shall compensate Verizon for an Engineering Work Order charge as well as the charges associated with the conditioning tasks performed as set forth in the Pricing Attachment.

3.17 Conversion of Live Telephone Exchange Service to Analog 2W Loops.

3.17.1 The following coordination procedures shall apply to "live" cutovers of Verizon Customers who are converting their Telephone Exchange Services to US LEC Telephone Exchange Services provisioned over Analog 2W unbundled Local Loops ("Analog 2W Loops) to be provided by Verizon to US LEC:

3.17.1.1 Coordinated cutover charges shall apply to conversions of live Telephone Exchange Services to Analog 2W Loops. When an outside dispatch is required to perform a conversion, additional charges may apply. If US LEC does not request a coordinated cutover, Verizon will process US LEC's order as a new installation subject to applicable standard provisioning intervals.

3.17.1.2 US LEC shall request Analog 2W Loops for coordinated cutover from Verizon by delivering to Verizon a valid electronic Local Service Request ("LSR"). Verizon agrees to accept from US LEC the date and time for the conversion designated on the LSR ("Scheduled Conversion Time"), provided that such designation is within the regularly scheduled operating hours of the Verizon Regional CLEC Control Center ("RCCC") and subject to the availability of Verizon's work force. In the event that Verizon's work force

is not available, US LEC and Verizon shall mutually agree on a New Conversion Time, as defined below. US LEC shall designate the Scheduled Conversion Time subject to Verizon standard provisioning intervals as stated in the Verizon CLEC Handbook, as may be revised from time to time. Within three (3) Business Days of Verizon's receipt of such valid LSR, or as otherwise required by Applicable Law, Verizon shall provide US LEC the scheduled due date for conversion of the Analog 2W Loops covered by such LSR.

3.17.1.3 US LEC shall provide dial tone at the US LEC Collocation site at least forty-eight (48) hours prior to the Scheduled Conversion Time.

3.17.1.4 Either Party may contact the other Party to negotiate a new Scheduled Conversion Time (the "New Conversion Time"); provided, however, that each Party shall use commercially reasonable efforts to provide four (4) business hours' advance notice to the other Party of its request for a New Conversion Time. Any Scheduled Conversion Time or New Conversion Time may not be rescheduled more than one (1) time in a business day, and any two New Conversion Times for a particular Analog 2W Loop shall differ by at least eight (8) hours, unless otherwise agreed to by the Parties.

3.17.1.5 If the New Conversion Time is more than one (1) business hour from the original Scheduled Conversion Time or from the previous New Conversion Time, the Party requesting such New Conversion Time shall be subject to the following:

3.17.1.5.1 If Verizon requests to reschedule outside of the one (1) hour time frame above, the Analog 2W Loops Service Order Charge for the original Scheduled Conversion Time or the previous New Conversion Time shall be waived upon request from US LEC; and

3.17.1.5.2 If US LEC requests to reschedule outside the one (1) hour time frame above, US LEC shall be charged an additional Analog 2W Loops Service Order Charge for rescheduling the conversion to the New Conversion Time.

3.17.1.6 If US LEC is not ready to accept service at the Scheduled Conversion Time or at a New Conversion Time, as applicable, an additional Service Order Charge shall apply. If Verizon is not available or ready to perform the conversion within thirty (30) minutes of the Scheduled Conversion Time or New Conversion Time, as applicable, Verizon and US LEC will reschedule and, upon request from US LEC, Verizon will waive the Analog 2W Loop Service Order Charge for the original Scheduled Conversion Time.

3.17.1.7 The standard time interval expected from disconnection of a live Telephone Exchange Service to the connection of the

Analog 2W Loops to US LEC is fifteen (15) minutes per Analog 2W Loop for all orders consisting of twenty (20) Analog 2W Loops or less. Orders involving more than twenty (20) Loops will require a negotiated interval.

3.17.1.8 Conversions involving LNP will be completed according to North American Numbering Council ("NANC") standards, via the regional Number Portability Administration Center ("NPAC").

3.17.1.9 If US LEC requires Analog 2W Loop conversions outside of the regularly scheduled Verizon RCCC operating hours, such conversions shall be separately negotiated. Additional charges (e.g. overtime labor charges) may apply for desired dates and times outside of regularly scheduled RCCC operating hours.

3.18 Verizon shall provide US LEC access to its Loops at each of Verizon's Wire Centers for Loops terminating in that Wire Center. In addition, if US LEC orders one or more Loops provisioned via Integrated Digital Loop Carrier or Remote Switching technology deployed as a Loop concentrator, Verizon shall, where available, move the requested Loop(s) to a spare physical Loop, if one is existing and available, at no additional charge to US LEC. If, however, no spare physical Loop is available, Verizon shall within three (3) Business Days of US LEC's request notify US LEC of the lack of available facilities. US LEC may then at its discretion make a Network Element Bona Fide Request pursuant to Section 14.3 to Verizon to provide the unbundled Local Loop through the demultiplexing of the integrated digitized Loop(s). US LEC may also make a Network Element Bona Fide Request pursuant to Section 14.3 for access to Unbundled Local Loops at the Loop concentration site point. Notwithstanding anything to the contrary in this Agreement, standard provisioning intervals shall not apply to Loops provided under this Section 3.18.

4. Line Sharing

4.1 "Line Sharing" is an arrangement by which Verizon facilitates US LEC's provision of ADSL (in accordance with T1.413), Splitterless ADSL (in accordance with T1.419), RADSL (in accordance with TR # 59), Multiple Virtual Line (MVL) (a proprietary technology), or any other xDSL technology that is presumed to be acceptable for shared line deployment in accordance with FCC rules, to a particular Customer location over an existing copper Loop that is being used simultaneously by Verizon to provide analog circuit-switched voice grade service to that Customer by making available to US LEC, solely for US LEC's own use, the frequency range above the voice band on the same copper Loop required by US LEC to provide such services. This Section 4 addresses line sharing over loops that are entirely copper loops.

4.2 Subject to the conditions set forth in Section 1, Verizon shall provide Line Sharing to US LEC for US LEC's provision of ADSL (in accordance with T1.413), Splitterless ADSL (in accordance with T1.419), RADSL (in accordance with TR # 59), MVL (a proprietary technology), or any other xDSL technology that is presumed to be acceptable for shared line deployment in accordance with FCC rules, in accordance with this Section 4 and the rates and charges provided in the Pricing Attachment. Verizon shall provide Line Sharing to US LEC in accordance with, but only to the extent required by, Applicable Law. In order for a Loop to be eligible for Line Sharing, the following conditions must be satisfied for the duration of the Line Sharing arrangement: (i) the Loop must consist of a

copper loop compatible with an xDSL service that is presumed to be acceptable for shared-line deployment in accordance with FCC rules; (ii) Verizon must be providing simultaneous circuit-switched analog voice grade service to the Customer served by the Loop in question; (iii) the Verizon Customer's dial tone must originate from a Verizon End Office Switch in the Wire Center where the Line Sharing arrangement is being requested; and (iv) the xDSL technology to be deployed by US LEC on that Loop must not significantly degrade the performance of other services provided on that Loop.

4.3 Verizon shall make Line Sharing available to US LEC at the rates and charges set forth in the Pricing Attachment. In addition to the recurring and nonrecurring charges shown in the Pricing Attachment for Line Sharing itself, the following rates shown in the Pricing Attachment and in Verizon's applicable Tariffs are among those that may apply to a Line Sharing arrangement: (i) prequalification charges to determine whether a Loop is xDSL compatible (i.e., compatible with an xDSL service that is presumed to be acceptable for shared-line deployment in accordance with FCC rules); (ii) engineering query charges, engineering work order charges, or Loop conditioning (Digital Designed Loop) charges; (iii) charges associated with Collocation activities requested by US LEC; and (iv) misdirected dispatch charges, charges for installation or repair, manual intervention surcharges, trouble isolation charges, and pair swap/line and station transfer charges.

4.4 The following ordering procedures shall apply to Line Sharing:

4.4.1 To determine whether a Loop qualifies for Line Sharing, the Loop must first be prequalified to determine if it is xDSL compatible. US LEC must utilize the Loop qualification processes described in the terms applicable to xDSL and Digital Designed Loops to make this determination.

4.4.2 US LEC shall place orders for Line Sharing by delivering to Verizon a valid electronic transmittal service order or other mutually agreed upon type of service order. Such service order shall be provided in accordance with industry format and specifications or such format and specifications as may be agreed to by the Parties.

4.4.3 If the Loop is prequalified by US LEC through the Loop prequalification database, and if a positive response is received and followed by receipt of US LEC's valid, accurate and pre-qualified service order for Line Sharing, Verizon will return an LSR confirmation within twenty-four (24) hours (weekends and holidays excluded) for LSRs with less than six (6) loops and within 72 hours (weekends and holidays excluded) for LSRs with six (6) or more loops.

4.4.4 If the Loop requires qualification manually or through an Engineering Query, three (3) additional Business Days will generally be required to obtain Loop qualification results before an order confirmation can be returned following receipt of US LEC's valid, accurate request. Verizon may require additional time to complete the Engineering Query where there are poor record conditions, spikes in demand, or other unforeseen events.

4.4.5 If conditioning is required to make a Loop capable of supporting Line Sharing and US LEC orders such conditioning, then Verizon shall provide such conditioning in accordance with the terms of this Agreement pertaining to Digital Designed Loops; or if this Agreement

does not contain provisions pertaining to Digital Designed Loops, then in accordance with Verizon's generally available rates, terms and conditions applicable to Digital Design Loops; provided, however, that Verizon shall not be obligated to provide Loop conditioning if Verizon establishes, in the manner required by Applicable Law, that such conditioning is likely to degrade significantly the voice-grade service being provided to Verizon's Customers over such Loops.

4.4.6 The standard Loop provisioning and installation process will be initiated for the Line Sharing arrangement only once the requested engineering and conditioning tasks have been completed on the Loop. Scheduling changes and charges associated with order cancellations after conditioning work has been initiated are addressed in the terms pertaining to Digital Designed Loops, as referenced in Section 4.4.5, above. The standard provisioning interval for the Line Sharing arrangement shall be as set out in the Verizon Product Interval Guide; provided that the standard provisioning interval for the Line Sharing arrangement shall not exceed the shortest of the following intervals: (a) six (6) business days; (b) the standard provisioning interval for the Line Sharing arrangement that is stated in an applicable Verizon Tariff; or, (c) the standard provisioning interval for the Line Sharing arrangement that is required by Applicable Law. The standard provisioning interval for the Line Sharing arrangement shall commence only once any requested engineering and conditioning tasks have been completed. Line Sharing arrangements that require pair swaps or line and station transfers in order to free-up facilities may have a provisioning interval that is longer than the standard provisioning interval for the Line Sharing arrangement. In no event shall the Line Sharing interval offered to US LEC be longer than the interval offered to any similarly situated Affiliate of Verizon.

4.4.7 US LEC must provide all required Collocation, CFA, Special Bill Number (SBN) and NC/NCI information when a Line Sharing Arrangement is ordered. Collocation augments required, either at the Point of Termination (POT) Bay, Collocation node, or for splitter placement, must be ordered using standard collocation applications and procedures, unless otherwise agreed to by the Parties or specified in this Agreement.

4.4.8 The Parties recognize that Line Sharing is an offering that requires both Parties to make reasonable efforts to coordinate their respective roles in order to minimize provisioning problems and facility issues. US LEC will provide reasonable, timely, and accurate forecasts of its Line Sharing requirements, including splitter placement elections and ordering preferences. These forecasts are in addition to projections provided for other stand-alone unbundled Loop types.

4.5 To the extent required by Applicable Law, US LEC shall provide Verizon with information regarding the type of xDSL technology that it deploys on each shared Loop. Where any proposed change in technology is planned on a shared Loop, US LEC must provide this information to Verizon in order for Verizon to update Loop records and anticipate effects that the change may have on the voice grade service and other Loops in the same or adjacent binder groups.

4.6 As described more fully in Verizon Technical Reference 72575, the xDSL technology used by US LEC for Line Share Arrangements shall operate within the Power Spectral Density (PSD) limits set forth in T1.413-1998 (ADSL),

T1.419-2000 (Splitterless ADSL), or TR59-1999 (RADSL), and MVL (a proprietary technology) shall operate within the 0 to 4 kHz PSD limits of T1.413-1998 and within the transmit PSD limits of T1.601-1998 for frequencies above 4 kHz, provided that the MVL PSD associated with audible frequencies above 4 kHz shall be sufficiently attenuated to preclude significantly degrading voice services. US LEC's deployment of additional Advanced Services shall be subject to the applicable FCC Rules.

4.7 US LEC may only access the high frequency portion of a Loop in a Line Sharing arrangement through an established Collocation arrangement at the Verizon Serving Wire Center that contains the End Office Switch through which voice grade service is provided to Verizon's Customer. US LEC is responsible for providing, through one of the splitter options described below, a splitter at that Wire Center that complies with ANSI specification T1.413, employs Direct Current (DC) blocking capacitors or equivalent technology to assist in isolating high bandwidth trouble resolution and maintenance to the high frequency portion of the frequency spectrum, and operates so that the analog voice "dial tone" stays active when the splitter card is removed for testing or maintenance. US LEC is also responsible for providing its own Digital Subscriber Line Access Multiplexer (DSLAM) equipment in the Collocation arrangement and any necessary Customer Provided Equipment (CPE) for the xDSL service it intends to provide (including CPE splitters, filters and/or other equipment necessary for the end user to receive separate voice and data services across the shared Loop).

Two splitter configurations are available. In both configurations, the splitter must be provided by US LEC and must satisfy the same NEBS requirements that Verizon imposes on its own splitter equipment or the splitter equipment of any Verizon Affiliate. US LEC must designate which splitter option it is choosing on the Collocation application or augment. Regardless of the option selected, the splitter arrangements must be installed before US LEC submits an order for Line Sharing.

Splitter Option A (Splitter Option 1): Splitter in US LEC Collocation Area

In this configuration, the US LEC-provided splitter (ANSI T1.413 or MVL compliant) is provided, installed and maintained by US LEC in its own Collocation space within the Customer's serving End Office. The Verizon-provided dial tone is routed through the splitter in the US LEC Collocation area. Any rearrangements will be the responsibility of US LEC.

Splitter Option C (Splitter Option 2): Splitter in Verizon Area

In this configuration, Verizon inventories and maintains a US LEC-provided splitter (ANSI T1.413 or MVL compliant) in Verizon space within the Customer's serving End Office. The splitters will be installed shelf-at-a-time.

In those serving End Offices where Verizon employs the use of a POT Bay for interconnection of US LEC's Collocation arrangement with Verizon's network, the splitter will be installed (mounted) in a relay rack between the POT Bay and the MDF. The demarcation point is at the splitter end of the cable connecting the POT Bay and the splitter. Installation of the splitter will be performed by Verizon or, at US LEC's election, by a Verizon-approved vendor designated by US LEC.

In those serving End Offices where Verizon does not employ a POT Bay for

interconnection of US LEC's Collocation arrangement with Verizon's network, the US LEC provided splitter will be installed (mounted) in a relay rack between the US LEC Collocation arrangement and the MDF. The demarcation point is at the splitter end of the cable connecting the US LEC Collocation arrangement and the splitter. Installation of the splitter will be performed by Verizon, or, at US LEC's election, by a Verizon-approved vendor designated by US LEC.

In either scenario, Verizon will control the splitter and will direct any required activity. Where a POT Bay is employed, Verizon will also perform all POT Bay work required in this configuration. Verizon will provide a splitter inventory to US LEC upon completion of the required work.

4.7.1 Where a new splitter is to be installed as part of an initial Collocation implementation, the splitter installation may be ordered as part of the initial Collocation application. Associated Collocation charges (application and engineering fees) apply. US LEC must submit a new Collocation application, with the application fee, to Verizon detailing its request. Except as otherwise required by Applicable Law, standard Collocation intervals will apply.

4.7.2 Where a new splitter is to be installed as part of an existing Collocation arrangement, or where the existing Collocation arrangement is to be augmented (e.g., with additional terminations at the POT Bay or US LEC's collocation arrangement to support Line Sharing), the splitter installation or augment may be ordered via an application for Collocation augment. Associated Collocation charges (application and engineering fees) apply. US LEC must submit the application for Collocation augment, with the application fee, to Verizon. Unless a longer interval is stated in Verizon's applicable Tariff, an interval of seventy-six (76) business days shall apply.

4.8 US LEC will have the following options for testing shared Loops:

4.8.1 In serving End Offices where Verizon employs a POT Bay for interconnection of US LEC Collocation arrangement with Verizon's network, the following options shall be available to US LEC.

4.8.1.1 Under Splitter Option A, US LEC may conduct its own physical tests of the shared Loop from US LEC's collocation area. If it chooses to do so, US LEC may supply and install a test head to facilitate such physical tests, provided that: (a) the test head satisfies the same NEBS requirements that Verizon imposes on its own test head equipment or the test head equipment of any Verizon Affiliate; and (b) the test head does not interrupt the voice circuit to any greater degree than a conventional MLT test. Specifically, the US LEC-provided test equipment may not interrupt an in-in-progress voice connection and must automatically restore any circuits tested in intervals comparable to MLT. This optional US LEC-provided test head will be installed in US LEC's Collocation area between the "line" port of the splitter and the POT Bay in order to conduct remote physical tests of the shared Loop.

4.8.1.2 Under Splitter Option C, upon request by US LEC, either Verizon or, at US LEC's election, a Verizon-approved

vendor selected by US LEC will install a US LEC-provided test head to enable US LEC to conduct remote physical tests of the shared Loop. This optional US LEC-provided test head will be installed at a point between the "line" port of the splitter and the Verizon-provided test head that is used by Verizon to conduct its own Loop testing. The US LEC-provided test head must satisfy the same NEBS requirements that Verizon imposes on its own test head equipment or the test head equipment of any Verizon Affiliate, and may not interrupt the voice circuit to any greater degree than a conventional MLT test. Specifically, the US LEC-provided test equipment may not interrupt an in-progress voice connection and must automatically restore any circuits tested in intervals comparable to MLT. Verizon will inventory, control and maintain the US LEC-provided test head, and will direct all required activity.

4.8.1.3 Under either Splitter Option, if Verizon has installed its own test head, Verizon will conduct tests of the shared Loop using a Verizon-provided test head, and, upon request, will provide these test results to US LEC during normal trouble isolation procedures in accordance with reasonable procedures.

4.8.1.4 Under either Splitter Option, upon request by US LEC, Verizon will make MLT access available to US LEC via RETAS after the service order has been completed. US LEC will utilize the circuit number to initiate a test.

4.8.2 In those serving End Offices where Verizon has not employed a POT Bay for interconnection of US LEC's Collocation arrangement with Verizon's network, US LEC will not be permitted to supply its own test head. Instead, Verizon will make a testing system available to US LEC through use of the on-line computer interface test system at www.verizon.com/wise.

4.8.3 The Parties will continue to work cooperatively on testing procedures. To this end, in situations where US LEC has attempted to use one or more of the foregoing testing options but is still unable to resolve the error or trouble on the shared Loop, Verizon and US LEC will each dispatch a technician to an agreed-upon point to conduct a joint meet test to identify and resolve the error or trouble. Verizon may assess a charge for a misdirected dispatch only if the error or trouble is determined to be one that US LEC should reasonably have been able to isolate and diagnose through one of the testing options available to US LEC above. The Parties will mutually agree upon the specific procedures for conducting joint meet tests.

4.8.4 Verizon and US LEC each have a responsibility to educate the Customer regarding which service provider should be called for problems with their respective service offerings. Verizon will retain primary responsibility for voice band trouble tickets, including repairing analog voice grade services and the physical line between the NID at the Customer premise and the point of demarcation in the Central Office. US LEC will be responsible for repairing services it offers over the Line Sharing arrangement. Each Party will be responsible for maintaining its own equipment. If a splitter or test head that US LEC

has provided to Verizon malfunctions, US LEC shall provide a replacement splitter or test head to Verizon. Before either Party initiates any activity on a shared Loop that may cause a disruption of the service of the other Party, that Party shall first make a good faith effort to notify the other Party of the possibility of a service disruption. Verizon and US LEC will work together to address Customer initiated repair requests and to prevent adverse impacts to the Customer.

4.8.5 When Verizon provides Inside Wire maintenance services to the Customer, Verizon will only be responsible for testing and repairing the Inside Wire for voice-grade services. Verizon will not test, dispatch a technician, repair, or upgrade Inside Wire to clear trouble calls associated with US LEC's Advanced Services. Verizon will not repair any CPE provided by US LEC. Before a trouble ticket is issued to Verizon, US LEC shall validate whether the Customer is experiencing a trouble that arises from US LEC's service. If the problem reported is isolated to the analog voice-grade service provided by Verizon, a trouble ticket may be issued to Verizon.

4.8.6 In the case of a trouble reported by the Customer on its voice-grade service, if Verizon determines the reported trouble arises from US LEC's equipment, splitter problems, or US LEC's activities, Verizon will:

4.8.6.1 Notify US LEC and request that US LEC immediately test the trouble on US LEC's service.

4.8.6.2 If the Customer's voice grade service is so degraded that the Customer cannot originate or receive voice grade calls, and US LEC has not cleared its trouble within a reasonable time frame, Verizon may take unilateral steps to temporarily restore the Customer's voice grade service if Verizon determines in good faith that the cause of the voice interruption is US LEC's service.

4.8.6.3 Upon completion of the steps in 4.8.6.1 and 4.8.6.2, above, Verizon may temporarily remove the US LEC-provided splitter from the Customer's Loop and switch port if Verizon determines in good faith that the cause of the voice interruption is US LEC's service.

4.8.6.4 Upon notification from US LEC that the malfunction in US LEC's service has been cleared, Verizon will restore US LEC's service by restoring the splitter on the Customer's Loop.

4.8.6.5 Upon completion of the above steps, US LEC will be charged a Trouble Isolation Charge (TIC) to recover Verizon's costs of isolating and temporarily removing the malfunctioning US LEC service from the Customer's line if the cause of the voice interruption was US LEC's service.

4.8.6.6 Verizon shall not be liable to US LEC, the Customer, or any other person, for damages of any kind for disruptions to US LEC's service that are the result of the above steps taken in good faith to restore the end user's voice-grade POTS

service, and US LEC shall indemnify Verizon from any Claims that result from such steps.

5. **Line Splitting**

CLECs may provide integrated voice and data services over the same Loop by engaging in "line splitting" as set forth in paragraph 18 of the FCC's Line Sharing Reconsideration Order (CC Docket Nos. 98-147, 96-98), released January 19, 2001. Any line splitting between two CLECs shall be accomplished by prior negotiated arrangement between those CLECs. To achieve a line splitting capability, CLECs may utilize existing supporting OSS to order and combine in a line splitting configuration an unbundled xDSL capable Loop terminated to a collocated splitter and DSLAM equipment provided by a participating CLEC, unbundled switching combined with shared transport, collocator-to-collocator connections, and available cross-connects, under the terms and conditions set forth in their Interconnection Agreement(s). The participating CLECs shall provide any splitters used in a line splitting configuration. CLECs seeking to migrate existing UNE platform configurations to a line splitting configuration using the same unbundled elements utilized in the pre-existing platform arrangement may do so consistent with such implementation schedules, terms, conditions and guidelines as are agreed upon for such migrations in the ongoing DSL Collaborative in the State of New York, NY PSC Case 00-C-0127, allowing for local jurisdictional and OSS differences.

6. **Sub-Loop**

6.1 Sub-Loop – Distribution (USLA).

Subject to the conditions set forth in Section 1 and upon request by US LEC, Verizon shall provide US LEC with access to a Sub-Loop Distribution Facility (as such term is hereinafter defined) in accordance with , and subject to, the terms and provisions of this Section 6, the rates set forth in the Pricing Attachment, and the rates, terms and conditions set forth in Verizon's applicable Tariffs. A "Distribution Sub-Loop" means a two-wire or four-wire metallic distribution facility in Verizon's network between a Verizon feeder distribution interface (an FDI) and the rate demarcation point for such facility (or network interface device (NID) if the NID is located at such rate demarcation point). Verizon shall provide US LEC with access to a Sub-Loop Distribution Facility in accordance with, but only to the extent required by, Applicable Law.

6.1.1 US LEC may request that Verizon reactivate (if available) an unused drop and NID or provide US LEC with access to a drop and NID that, at the time of US LEC's request, Verizon is using to provide service to the Customer (as such term is hereinafter defined.

6.1.2 US LEC may obtain access to a Sub-Loop Distribution Facility only at an FDI and only from a Telecommunications outside plant interconnection cabinet (TOPIC) or, if US LEC is collocated at a remote terminal equipment enclosure and the FDI for such Sub-Loop Distribution Facility is located in such enclosure, from the collocation arrangement of US LEC at such terminal. To obtain access to a Sub-Loop Distribution Facility, US LEC shall install a TOPIC on an easement or Right of Way obtained by US LEC within 100 feet of the Verizon FDI to which such Distribution Sub-Loop is connected. A TOPIC must comply with applicable industry standards. Subject to the terms of applicable Verizon easements, Verizon shall furnish and place an interconnecting cable between a Verizon FDI and a US LEC TOPIC and Verizon shall install a termination block within such

TOPIC. Verizon shall retain title to and maintain the interconnecting cable. Verizon shall not be responsible for building, maintaining or servicing the TOPIC and shall not provide any power that might be required by US LEC for any electronics in the TOPIC. US LEC shall provide any easement, Right of Way or trenching or supporting structure required for any portion of an interconnecting cable that runs beyond a Verizon easement.

6.1.3 US LEC may request from Verizon by submitting a loop make-up engineering query to Verizon, and Verizon shall provide to US LEC, the following information regarding a Sub-Loop Distribution Facility that serves an identified Customer: the Sub-Loop Distribution Facility's length and gauge; whether Sub-Loop Distribution Facility has loading and bridged tap; the amount of bridged tap (if any) on the Sub-Loop Distribution Facility; and, the location of the FDI to which the Sub-Loop Distribution Facility is connected.

6.1.4 To order access to a Sub-Loop Distribution Facility, US LEC must first request that Verizon connect the Verizon FDI to which the Sub-Loop Distribution Facility is connected to a US LEC TOPIC. To make such a request, US LEC must submit to Verizon an application (a "Sub-Loop Distribution Facility Interconnection Application") that identifies the FDI at which US LEC wishes to access the Sub-Loop Distribution Facility. A Sub-Loop Distribution Facility Interconnection Application shall state the location of the TOPIC, the size of the interconnecting cable and a description of the cable's supporting structure. A Sub-Loop Distribution Facility Interconnection Application shall also include a five-year forecast of US LEC's demand for access to Sub-Loop Distribution Facilities at the requested FDI. US LEC must submit the application fee set forth in the Pricing Attachment attached hereto and Verizon's applicable Tariffs (a "Sub-Loop Distribution Facility Application Fee") with Sub-Loop Distribution Facility Interconnection Application. US LEC must submit Sub-Loop Interconnection Applications to:

US LEC's Account Manager

6.1.5 Within sixty (60) days after it receives a complete Sub-Loop Distribution Facility Interconnection Application for access to a Sub-Loop Distribution Facility and the Sub-Loop Distribution Facility Application Fee for such application, Verizon shall provide to US LEC a work order that describes the work that Verizon must perform to provide such access (a "Sub-Loop Distribution Facility Work Order") and a statements of the cost of such work (a "Sub-Loop Distribution Facility Interconnection Cost Statement").

6.1.6 US LEC shall pay to Verizon fifty percent (50%) of the cost set forth in a Sub-Loop Distribution Facility Interconnection Cost Statement within sixty (60) days of US LEC's receipt of such statement and the associated Sub-Loop Distribution Facility Work Order, and Verizon shall not be obligated to perform any of the work set forth in such order until Verizon has received such payment. A Sub-Loop Distribution Facility Interconnection Application shall be deemed to have been withdrawn if US LEC breaches its payment obligation under this Section. Upon Verizon 's completion of the work that Verizon must perform to provide US LEC with access to a Distribution Sub-Loop,

Verizon shall bill US LEC, and US LEC shall pay to Verizon, the balance of the cost set forth in the Sub-Loop Distribution Facility Interconnection Cost Statement for such access.

6.1.7 After Verizon has completed the installation of the interconnecting cable to a US LEC TOPIC and US LEC has paid the full cost of such installation, US LEC can request the connection of Verizon Sub-Loop Distribution Facilities to the US LEC TOPIC. At the same time, US LEC shall advise Verizon of the services that US LEC plans to provide over the Sub-Loop Distribution Facility, request any conditioning of the Sub-Loop Distribution Facility and assign the pairs in the interconnecting cable. US LEC shall run any crosswires within the TOPIC.

6.1.8 If US LEC requests that Verizon reactivate an unused drop and NID, then US LEC shall provide dial tone (or its DSL equivalent) on the US LEC side of the applicable Verizon FDI at least twenty-four (24) hours before the due date. On the due date, a Verizon technician will run the appropriate cross connection to connect the Verizon Sub-Loop Distribution Facility to the US LEC dial tone or equivalent from the TOPIC. If US LEC requests that Verizon provide US LEC with access to a Sub-Loop Distribution Facility that, at the time of US LEC's request, Verizon is using to provide service to a Customer, then, after US LEC has looped two interconnecting pairs through the TOPIC and at least twenty four (24) hours before the due date, a Verizon technician shall crosswire the dial tone from the Verizon central office through the Verizon side of the TOPIC and back out again to the Verizon FDI and Verizon Sub-Loop Distribution Facility using the "loop through" approach. On the due date, US LEC shall disconnect Verizon's dial tone, crosswire its dial tone to the Sub-Loop Distribution Facility and submit US LEC's long-term number portability request.

6.1.9 Verizon will not provide access to a Sub-Loop Distribution Facility if Verizon is using the loop of which the Sub-Loop Distribution Facility is a part to provide line sharing service to another CLEC or a service that uses derived channel technology to a Customer unless such other CLEC first terminates the Verizon-provided line sharing or such Customer first disconnects the service that utilizes derived channel technology.

6.1.10 Verizon shall provide US LEC with access to a Sub-Loop Distribution Facility in accordance with negotiated intervals

6.1.11 Verizon shall repair and maintain a Sub-Loop Distribution Facility at the request of US LEC and subject to the time and material rates set forth in Pricing Attachment and the rates, terms and conditions of Verizon's applicable Tariffs. US LEC accepts responsibility for initial trouble isolation for Sub-Loop Distribution Facilities and providing Verizon with appropriate dispatch information based on its test results. If (a) US LEC reports to Verizon a Customer trouble, (b) US LEC requests a dispatch, (c) Verizon dispatches a technician, and (d) such trouble was not caused by Verizon Sub-Loop Distribution Facility facilities or equipment in whole or in part, US LEC shall pay Verizon the charges set forth in the Pricing Attachment and Verizon's applicable Tariffs for time associated with said dispatch. In addition, these charges also apply when the Customer contact as designated by US LEC is not available at the appointed time. If as the result of

US LEC instructions, Verizon is erroneously requested to dispatch to a site on Verizon company premises ("dispatch in"), the charges set forth in Pricing Attachment and Verizon's applicable Tariffs will be assessed per occurrence to US LEC by Verizon. If as the result of US LEC instructions, Verizon is erroneously requested to dispatch to a site outside of Verizon company premises ("dispatch out"), the charges set forth in Pricing Attachment and Verizon's applicable Tariffs will be assessed per occurrence to US LEC by Verizon.

6.2 Sub-Loop – Feeder (UFSE).

6.2.1 Subject to the conditions set forth in Section 1 of this agreement and upon request by US LEC, Verizon shall provide US LEC with access to a Feeder Sub-Loop (as such term is hereinafter defined) in accordance with, and subject to, the terms and provisions of this Section 6.2, the rates and charges provided in the Pricing Attachment and the rates, terms and conditions of Verizon's applicable Tariffs. A "Feeder Sub-Loop" means a DS1 or DS3 transmission path over a feeder facility in Verizon's network between a Verizon end office and either a Verizon remote terminal equipment enclosure (an "RTEE") that subtends such end office or a Verizon feeder distribution interface (such an interface, an "FDI") that subtends the end office.

6.2.2 US LEC may obtain access to a Feeder Sub-Loop only from a US LEC collocation arrangement in the Verizon end office where such Feeder Sub-Loop originates and Verizon shall terminate a Feeder Sub-Loop in an RTEE that subtends such end office only if US LEC has a collocation arrangement in such RTEE. Upon US LEC's request, Verizon will connect a Feeder Sub-Loop to a US LEC collocation arrangement in the Verizon end office where the Feeder Sub-Loop originates and to either a US LEC collocation arrangement in the Verizon RTEE that subtends such end office or a Telecommunications Carrier Outside Plant Cabinet (such a cabinet, a "TOPIC") located within 100 feet of the FDI that subtends the end office and that US LEC has established in accordance with, and subject to the terms and provisions of, an agreement between Verizon and US LEC that governs the establishment of such TOPIC. Verizon shall connect a Feeder Sub-Loop to the point of termination bay of a US LEC collocation arrangement in a Verizon Central Office or to a US LEC TOPIC, by installing appropriate cross connections and Verizon shall be solely responsible for installing such cross connections. US LEC may obtain access to a Feeder Sub-Loop between an end office and an RTEE or an FDI only if DS1 or DS3-capable transmission facilities are available and not in use between such office and RTEE or FDI.

6.2.3 US LEC shall run any crosswires within a US LEC physical collocation arrangement and a US LEC TOPIC and US LEC will have sole responsibility for identifying to Verizon where a Feeder Sub-Loop should be connected to a US LEC collocation arrangement. US LEC shall be solely responsible for providing power and space for any cross connects and other equipment that Verizon installs in a TOPIC, and US LEC shall not bill Verizon, and Verizon shall not pay US LEC, for providing such power and space.

6.2.4 Verizon shall not be obligated to provide to US LEC any multiplexing at an RTEE or at a TOPIC or to combine a Feeder Sub-Loop with a Distribution Sub-Loop. If US LEC requests access to a Feeder Sub-

Loop and a Distribution Sub-Loop that are already combined, such combination shall be deemed to be a loop and Verizon shall provide such loop to US LEC in accordance with, but only to the extent required by, the terms, provisions and rates in this Agreement that govern loops, if any.

6.2.5 Verizon shall provide US LEC with access to a Feeder Sub-Loop in accordance with negotiated intervals.

6.2.6 Verizon shall repair and maintain a Feeder Sub-Loop at the request of US LEC and subject to the time and material rates set forth in the Pricing Attachment and the rates, terms and conditions of Verizon's applicable Tariffs. US LEC may not rearrange, disconnect, remove or attempt to repair or maintain any Verizon equipment or facilities without the prior written consent of Verizon. US LEC accepts responsibility for initial trouble isolation for Feeder Sub-Loops and providing Verizon with appropriate dispatch information based on its test results. If (a) US LEC reports to Verizon a trouble, (b) US LEC requests a dispatch, (c) Verizon dispatches a technician, and (d) such trouble was not caused by Feeder Sub-Loop facilities or equipment in whole or in part, then US LEC shall pay Verizon the charges set forth in Pricing Attachment and Verizon's applicable Tariffs for time associated with said dispatch. In addition, these charges also apply when a US LEC contact as designated by US LEC is not available at the appointed time. If as the result of US LEC instructions, Verizon is erroneously requested to dispatch to a site on Verizon company premises ("dispatch in"), the charges set forth in Pricing Attachment and Verizon's applicable Tariffs will be assessed per occurrence to US LEC by Verizon. If as the result of US LEC instructions, Verizon is erroneously requested to dispatch to a site outside of Verizon company premises ("dispatch out"), the charges set forth in Pricing Attachment and Verizon's applicable Tariffs will be assessed per occurrence to US LEC by Verizon.

6.3 Collocation in Remote Terminals.

To the extent required by Applicable Law, Verizon shall allow US LEC to collocate equipment in a Verizon remote terminal equipment enclosure in accordance with, and subject to, the rates, terms and conditions set forth in the Collocation Attachment and the Pricing Attachment.

7. Inside Wire

7.1 House and Riser.

[This section intentionally left blank.]

8. Dark Fiber

8.1 Subject to the conditions set forth in Section 1 and upon request,, Verizon shall provide US LEC with access to unbundled Dark Fiber Loops, Dark Fiber Sub-loops and Dark Fiber IOF (as such terms are hereinafter defined) in accordance with, and subject to, the rates, terms and conditions provided in the Pricing Attachment and rates, terms and conditions of Verizon's applicable Tariffs. Access to unbundled Dark Fiber Loops, Dark Fiber Sub-Loops and Dark Fiber IOF will be provided by Verizon only where existing facilities are available at the requested availability date. Access to Dark Fiber Loops, Dark Fiber Sub-Loops

and Dark Fiber IOF will be provided in accordance with, but only to the extent required by, Applicable Law. Except as otherwise required by Applicable Law, the following terms and conditions apply to Verizon's Dark Fiber offerings.

8.1.1 A "Dark Fiber Loop" consists of continuous fiber optic strand(s) in a Verizon fiber optic cable between Verizon's Accessible Terminal, such as the fiber distribution frame, or its functional equivalent, located within a Verizon Wire Center, and Verizon's main termination point at a Customer premise, such as the fiber patch panel located within a Customer premise, and that has not been activated through connection to electronics that "light" it and render it capable of carrying Telecommunications Services.

8.1.2 A "Dark Fiber Sub Loop" consists of continuous fiber optic strand(s) in a Verizon fiber optic cable (a) between Verizon's Accessible Terminal located within a Verizon Wire Center, and Verizon's Accessible Terminal at a Verizon remote terminal equipment enclosure, (b) between Verizon's Accessible Terminal at a Verizon remote terminal equipment enclosure and Verizon's main termination point located within a Customer premise, or (c) between Verizon's Accessible Terminals at Verizon remote terminal equipment enclosures, and that in all cases has not been activated through connection to electronics that "light" it and render it capable of carrying Telecommunications Services.

8.1.3 A "Dark Fiber IOF" consists of continuous fiber strand(s) that are located within a fiber optic cable between either (a) Accessible Terminals in two Verizon Central Offices or (b) an Accessible Terminal in a Verizon Central Office and a US LEC Central Office, but, in either case, that has not been activated through connection to multiplexing, aggregation or other electronics that "light it" and thereby render it capable of carrying Telecommunications Services.

8.2 In addition to the other terms and conditions of this Agreement, the following terms and conditions shall apply to Dark Fiber Loops, Dark Fiber Sub-Loops and Dark Fiber IOF:

8.2.1 Verizon shall be required to provide a Dark Fiber Loop only where one end of the Dark Fiber Loop terminates at a Verizon Accessible Terminal in Verizon's Central Office that can be cross-connected to US LEC's collocation arrangement located in that same Verizon Central Office and the other end terminates at the Customer premise. Verizon shall be required to provide a Dark Fiber Sub-Loop only where (1) one end of the Dark Fiber Sub-Loop terminates at Verizon's Accessible Terminal in Verizon's Central Office that can be cross-connected to US LEC's collocation arrangement located in that same Verizon Central Office and the other end terminates at Verizon's Accessible Terminal at a Verizon remote terminal equipment enclosure that can be cross-connected to US LEC's collocation arrangement or adjacent structure, or (2) one end of the Dark Fiber Sub-Loop terminates at Verizon's main termination point located within the Customer premise and the other end terminates at Verizon's Accessible Terminal at a Verizon remote terminal equipment enclosure that can be cross-connected to US LEC's collocation arrangement or adjacent structure, or (3) one end of the Dark Fiber Sub-Loop terminates at Verizon's Accessible Terminal at a Verizon remote terminal equipment enclosure that can be cross-connected to US LEC's collocation

arrangement or adjacent structure and the other end terminates at Verizon's Accessible Terminal at another Verizon remote terminal equipment enclosure that can be cross-connected to US LEC's collocation arrangement or adjacent structure. A US LEC demarcation point at a Customer premise shall be established in the main telco room of the Customer premise if Verizon is located in that room or, if the building does not have a main telco room or if Verizon is not located in that room, then at a location to be determined by Verizon. A US LEC demarcation point at a Customer premise shall be established at a location that is no more than 30 feet from Verizon's Accessible Terminal on which the Dark Fiber Loop or Dark Fiber Sub-Loop terminates. Verizon shall connect a Dark Fiber Loop or Dark Fiber Sub-Loop to the US LEC demarcation point by installing a fiber jumper no greater than 30 feet in length

8.2.2 US LEC may access a Dark Fiber Loop, a Dark Fiber Sub-Loop, or Dark Fiber IOF only at a pre-existing Verizon Accessible Terminal of such Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF, and US LEC may not access a Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF at any other point, including, but not limited to, a splice point or case. Dark Fiber Loops, Dark Fiber Sub-Loops and Dark Fiber IOF are not available US LEC unless such Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF already are terminated on a Verizon Accessible Terminal. Except where required by Applicable Law, Verizon will not introduce additional splice points or open existing splice points or cases to accommodate US LEC's request. Unused fibers located in a cable vault or a controlled environment vault, manhole or other location outside the Verizon Wire Center, and not terminated to a fiber patch panel, are not available to US LEC.

8.2.3 A strand shall not be deemed to be continuous if splicing is required to provide fiber continuity between two locations. Dark Fiber Loops, Dark Fiber Sub-Loops and Dark Fiber IOF will only be offered on a route-direct basis where facilities exist (i.e., no intermediate offices).

8.2.4 Verizon shall perform all work necessary to install (1) a cross connect or a fiber jumper from a Verizon Accessible Terminal to a US LEC collocation arrangement or (2) from a Verizon Accessible Terminal to US LEC's demarcation point at a Customer premise or US LEC Central Office.

8.2.5 A Dark Fiber Inquiry must be submitted prior to submitting an ASR. Upon receipt of the completed Dark Fiber Inquiry, Verizon will initiate a review of its cable records to determine whether Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF may be available between the locations and in the quantities specified. Verizon will respond within fifteen (15) Business Days from receipt of the US LEC's request, indicating whether Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF may be available based on the records search except that for voluminous requests or large, complex projects, Verizon reserves the right to negotiate a different interval. The Dark Fiber Inquiry is a record search and does not guarantee the availability of Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF.

8.2.6 US LEC shall order Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF by sending to Verizon a separate ASR for each A to Z route.

8.2.7 Access to Dark Fiber Loops, Dark Fiber Sub-Loops and Dark Fiber IOF that terminate in a Verizon premise must be accomplished via a collocation arrangement in that premise. In circumstances where collocation cannot be accomplished in the premises, the Parties agree to negotiate for possible alternative arrangements.

8.2.8 A Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF will be offered to US LEC in the condition that it is available in Verizon's network at the time that US LEC submits its request (i.e., "as is"). In addition, Verizon shall not be required to convert lit fiber to a Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF for US LEC's use.

8.2.9 Spare wavelengths on fiber strands, where Wave Division Multiplexing (WDM) or Dense Wave Division Multiplexing (DWDM) equipment is deployed, are not considered to be Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF, and, therefore, will not be offered to US LEC as Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF.

8.2.10 Fiber that has been assigned to fulfill a Customer order or for maintenance purposes will not be offered to US LEC as Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF.

8.2.11 US LEC shall be responsible for providing all transmission, terminating and regeneration equipment necessary to light and use Dark Fiber Loops, Dark Fiber Sub-Loops, or Dark Fiber IOF.

8.2.12 US LEC may not resell Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF, purchased pursuant to this Agreement to third parties.

8.2.13 Except to the extent that Verizon is required by Applicable Law to provide Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF to US LEC for use for Special or Switched Exchange Access Services, US LEC shall not use Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF, for Special or Switched Exchange Access Services.

8.2.14 In order to preserve the efficiency of its network, Verizon will limit US LEC to leasing up to a maximum of twenty-five percent (25%) of the Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF in any given segment of Verizon's network. In addition, except as otherwise required by Applicable Law, Verizon may take any of the following actions, notwithstanding anything to the contrary in this Agreement:

8.2.14.1 Revoke Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF leased to US LEC upon a showing of need to the Commission and twelve (12) months' advance written notice to US LEC; and

8.2.14.2 Revoke Dark Fiber Loops, Dark Fiber Sub-Loops or Dark Fiber IOF leased to US LEC upon a showing to the Commission that US LEC underutilized fiber within any twelve (12) month period;

8.2.14.3 Verizon reserves and shall not waive, Verizon's right to claim before the Commission that Verizon should not have to fulfill a US LEC order for Dark Fiber Loops, Dark Fiber Sub-Loops, or Dark Fiber IOF because that request would strand an unreasonable amount of fiber capacity, disrupt or

degrade service to Customers or carriers other than US LEC, or impair Verizon's ability to meet a legal obligation.

8.2.15 US LEC may not reserve Dark Fiber Loops, Dark Fiber Sub-Loops, or Dark Fiber IOF.

8.2.16 US LEC shall be solely responsible for: (a) determining whether or not the transmission characteristics of the Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF accommodate the requirements of US LEC; (b) obtaining any Rights of Way, governmental or private property permit, easement or other authorization or approval required for access to the Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF; (c) installation of fiber optic transmission equipment needed to power the Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF to transmit Telecommunications Services traffic; (d) installation of a demarcation point in a building where a Customer is located; and (e) US LEC's collocation arrangements with any proper optical cross connects or other equipment that US LEC needs to access Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF before it submits an order for such access. US LEC hereby represents and warrants that it shall have all such rights of way, authorizations and the like applicable to the geographic location at which it wishes to establish a demarcation point for dark fiber, on or before the date that US LEC places an order for the applicable dark fiber, and that it shall maintain the same going forward.

8.2.17 US LEC is responsible for trouble isolation before reporting trouble to Verizon. Verizon will restore continuity to Dark Fiber Loops, Dark Fiber Sub-Loops and Dark Fiber IOF that have been broken. Verizon will not repair a Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF that is capable of transmitting light, even if the transmission characteristics of the Dark Fiber Loop, Dark Fiber Sub-Loop or Dark Fiber IOF have changed.

8.2.18 US LEC is responsible for all work activities at the Customer premises. Except as otherwise required by Applicable Law, all negotiations with the premises owner are solely the responsibility of US LEC.

9. Network Interface Device

9.1 Subject to the conditions set forth in Section 1, at US LEC's request, Verizon shall permit US LEC to connect a US LEC Loop to the Inside Wiring of a Customer through the use of a Verizon NID in accordance with this Section 9 and the rates and charges provided in the Pricing Attachment. Verizon shall provide US LEC with access to NIDs in accordance with, but only to the extent required by, Applicable Law. US LEC may access a Verizon NID either by means of a connection (but only if the use of such connection is technically feasible) from an adjoining US LEC NID deployed by US LEC or, if an entrance module is available in the Verizon NID, by connecting a US LEC Loop to the Verizon NID. In all cases, Verizon shall perform this connection. When necessary, Verizon will rearrange its facilities to provide access to an existing Customer's Inside Wire. An entrance module is available only if facilities are not connected to it.

9.2 In no case shall US LEC access, remove, disconnect or in any other way rearrange, Verizon's Loop facilities from Verizon's NIDs, enclosures, or protectors.

9.3 In no case shall US LEC access, remove, disconnect or in any other way rearrange, a Customer's Inside Wiring from Verizon's NIDs, enclosures, or protectors where such Customer Inside Wiring is used in the provision of ongoing Telecommunications Service to that Customer.

9.4 In no case shall US LEC remove or disconnect ground wires from Verizon's NIDs, enclosures, or protectors.

9.5 In no case shall US LEC remove or disconnect NID modules, protectors, or terminals from Verizon's NID enclosures.

9.6 Maintenance and control of premises Inside Wiring is the responsibility of the Customer. Any conflicts between service providers for access to the Customer's Inside Wiring must be resolved by the person who controls use of the wiring (e.g., the Customer).

9.7 When US LEC is connecting a US LEC-provided Loop to the Inside Wiring of a Customer's premises through the Customer's side of the Verizon NID, US LEC does not need to submit a request to Verizon and Verizon shall not charge US LEC for access to the Verizon NID. In such instances, US LEC shall comply with the provisions of Sections 9.2 through 9.7 of this Agreement and shall access the Customer's Inside Wire in the manner set forth in Section 9.8 of this Agreement.

9.8 Due to the wide variety of NIDs utilized by Verizon (based on Customer size and environmental considerations), US LEC may access the Customer's Inside Wiring, acting as the agent of the Customer by any of the following means:

9.8.1 Where an adequate length of Inside Wiring is present and environmental conditions permit, US LEC may remove the Inside Wiring from the Customer's side of the Verizon NID and connect that Inside Wiring to US LEC's NID.

9.8.2 Where an adequate length of Inside Wiring is not present or environmental conditions do not permit, US LEC may enter the Customer side of the Verizon NID enclosure for the purpose of removing the Inside Wiring from the terminals of Verizon's NID and connecting a connectorized or spliced jumper wire from a suitable "punch out" hole of such NID enclosure to the Inside Wiring within the space of the Customer side of the Verizon NID. Such connection shall be electrically insulated and shall not make any contact with the connection points or terminals within the Customer side of the Verizon NID.

9.8.3 US LEC may request Verizon to make other rearrangements to the Inside Wiring terminations or terminal enclosure on a time and materials cost basis to be charged to the requesting party (i.e. US LEC, its agent, the building owner or the Customer). If US LEC accesses the Customer's Inside Wiring as described in this Section 9.8.3, time and materials charges will be billed to the requesting party (i.e. US LEC, its agent, the building owner or the Customer).

10. Unbundled Switching Elements

10.1 Subject to the conditions set forth in Section 1, Verizon shall make available to US LEC the Local Switching Element and Tandem Switching Element unbundled from transport, local Loop transmission, or other services, in accordance with this Section 10 and the rates and charges provided in the Pricing Attachment.

Verizon shall provide US LEC with access to the Local Switching Element and the Tandem Switching Element in accordance with, but only to the extent required by, Applicable Law.

10.2 Local Switching.

10.2.1 The unbundled Local Switching Element includes line side and trunk side facilities (e.g. line and trunk side Ports such as analog and ISDN line side Ports and DS1 trunk side Ports), plus the features, functions, and capabilities of the switch. It consists of the line-side Port (including connection between a Loop termination and a switch line card, telephone number assignment, basic intercept, one primary directory listing, presubscription, and access to 911, operator services, and directory assistance), line and line group features (including all vertical features and line blocking options that the switch and its associated deployed switch software is capable of providing and are currently offered to Verizon's local exchange Customers), usage (including the connection of lines to lines, lines to trunks, trunks to lines, and trunks to trunks), and trunk features (including the connection between the trunk termination and a trunk card).

10.2.2 Verizon shall offer, as an optional chargeable feature, usage tapes in accordance with Section 8 of the Additional Services Attachment.

10.2.3 US LEC may request activation or deactivation of features on a per-port basis at any time, and shall compensate Verizon for the non-recurring charges associated with processing the order. US LEC may submit a Bona Fide Request in accordance with Section 14.3 for other switch features and functions that the switch is capable of providing, but which Verizon does not currently provide, or for customized routing of traffic other than operator services and/or directory assistance traffic. Verizon shall develop and provide these requested services where technically feasible with the agreement of US LEC to pay the recurring and non-recurring costs of developing, installing, updating, providing and maintaining these services.

10.3 Network Design Request (NDR).

Prior to submitting any order for unbundled Local Switching (as a UNE or in combination with other UNEs), US LEC shall complete the NDR process. As part of the NDR process, US LEC shall request standardized or customized routing of its Customer traffic in conjunction with the provision of unbundled Local Switching.

If US LEC selects customized routing, US LEC shall define the routing plan and Verizon shall implement such plan, subject to technical feasibility constraints. Time and Material Charges may apply.

10.4 Tandem Switching.

The unbundled Tandem Switching Element includes trunk-connect facilities, the basic switching function of connecting trunks to trunks, and the functions that are centralized in Tandem Switches. Unbundled Tandem switching creates a temporary transmission path between interoffice trunks that are interconnected at a Verizon access Tandem for the purpose of routing a call or calls.

11. Unbundled Interoffice Facilities

Subject to the conditions set forth in Section 1, where facilities are available, at US LEC's request, Verizon shall provide US LEC with IOF unbundled from other Network Elements at the rates set forth in the Pricing Attachment; provided, however, that Verizon shall offer unbundled shared IOF only to the extent that US LEC also purchases unbundled Local Switching capability from Verizon in accordance with Section 10 of this Attachment. Verizon shall provide US LEC with such IOF in accordance with, but only to the extent required by, Applicable Law.

12. Signaling Networks and Call-Related Databases

12.1 Subject to the conditions set forth in Section 1, Verizon shall provide US LEC with access to databases and associated signaling necessary for call routing and completion by providing SS7 Common Channel Signaling ("CCS") Interconnection, and Interconnection and access to toll free service access code (e.g., 800/888/877) databases, LIDB, and any other necessary databases, in accordance with this Section 12 and the rates and charges provided in the Pricing Attachment. Such access shall be provided by Verizon in accordance with, but only to the extent required by, Applicable Law.

12.2 US LEC shall provide Verizon with CCS Interconnection required for call routing and completion, and the billing of calls which involve US LEC's Customers, at non-discriminatory rates (subject to the provisions of the Pricing Attachment and applicable tariff(s)), terms and conditions, provided further that if the US LEC information Verizon requires to provide such call-related functionality is resident in a database operated by a third party, US LEC will provide Verizon with the authorization to query US LEC's information in the databases within which it is stored.

12.3 Alternatively, either Party ("Purchasing Party") may secure CCS Interconnection from a commercial SS7 hub provider (third party signaling provider) to transport signaling messages to and from the Verizon CCS network, and in that case the other Party will permit the Purchasing Party to access the same databases as would have been accessible if the Purchasing Party had connected directly to the other Party's CCS network. If a third party signaling provider is selected by US LEC to transport signaling messages, that third party provider must present a letter of agency to Verizon, prior to the testing of the interconnection, authorizing the third party to act on behalf of US LEC.

12.4 Regardless of the manner in which US LEC obtains CCS Interconnection, US LEC shall comply with Verizon's SS7 certification process prior to establishing CCS Interconnection with Verizon.

12.5 The Parties will provide CCS Signaling to each other, where and as available, in conjunction with all Reciprocal Compensation Traffic, Toll Traffic, Meet Point Billing Traffic, and Transit Traffic. The Parties will cooperate on the exchange of TCAP messages to facilitate interoperability of CCS-based features between their respective networks, including all CLASS Features and functions, to the extent each Party offers such features and functions to its Customers. All CCS Signaling parameters will be provided upon request (where available), including called party number, Calling Party Number, originating line information, calling party category, and charge number. All privacy indicators will be honored as required under applicable law.

12.6 The Parties will follow all OBF-adopted standards pertaining to CIC/OZZ codes.

12.7 Where CCS Signaling is not available, in-band multi-frequency ("MF") wink start signaling will be provided. Any such MF arrangement will require a separate

local trunk circuit between the Parties' respective switches in those instances where the Parties have established End Office to End Office high usage trunk groups. In such an arrangement, each Party will out pulse the full ten-digit telephone number of the called Party to the other Party.

12.8 The Parties acknowledge that there is a network security risk associated with interconnection with the public Internet Protocol network, including, but not limited to, the risk that interconnection of US LEC signaling systems to the public Internet Protocol network may expose US LEC and Verizon signaling systems and information to interference by third parties. US LEC shall notify Verizon in writing sixty (60) days in advance of installation of any network arrangement that may expose signaling systems or information to access through the public Internet Protocol network. US LEC shall take commercially reasonable efforts to protect its signaling systems and Verizon's signaling systems from interference by unauthorized persons.

12.9 Each Party shall provide trunk groups, where available and upon reasonable request, that are configured utilizing the B8ZS ESF protocol for 64 kbps clear channel transmission to allow for ISDN interoperability between the Parties' respective networks.

12.10 The following publications describe the practices, procedures and specifications generally utilized by Verizon for signaling purposes and are listed herein to assist the Parties in meeting their respective Interconnection responsibilities related to Signaling:

12.10.1 Telcordia Generic Requirements, GR-905-CORE, Issue 1, March, 1995, and subsequent issues and amendments; and

12.10.2 Where applicable, Verizon Supplement Common Channel Signaling Network Interface Specification (Verizon-905).

12.11 Each Party shall charge the other Party mutual and reciprocal rates for any usage-based charges for CCS Signaling, toll free service access code (e.g., 800/888/877) database access, LIDB access, and access to other necessary databases, as follows: Verizon shall charge US LEC in accordance with the Pricing Attachment and the terms and conditions in applicable Tariffs. US LEC shall charge Verizon rates equal to the rates Verizon charges US LEC, unless US LEC's Tariffs for CCS signaling provide for lower generally available rates, in which case US LEC shall charge Verizon such lower rates. Notwithstanding the foregoing, to the extent a Party uses a third party vendor for the provision of CCS Signaling, such charges shall apply only to the third party vendor.

13. Operations Support Systems

Subject to the conditions set forth in Section 1 above and in Section 8 of the Additional Services Attachment, Verizon shall provide US LEC with access via electronic inter faces to databases required for pre-ordering, ordering, provisioning, maintenance and repair, and billing. Verizon shall provide US LEC with such access in accordance with, but only to the extent required by, Applicable Law. All such transactions shall be submitted by US LEC through such electronic interfaces.

14. Availability of Other Network Elements on an Unbundled Basis

14.1 Any request by US LEC for access to a Verizon Network Element that is not already available and that Verizon is required by Applicable Law to provide on an unbundled basis shall be treated as a Network Element Bona Fide Request

pursuant to Section 14.3, below. US LEC shall provide Verizon access to its Network Elements as mutually agreed by the Parties or as required by Applicable Law.

14.2 Notwithstanding anything to the contrary in this Section 14, a Party shall not be required to provide a proprietary Network Element to the other Party under this Section 14 except as required by Applicable Law.

14.3 Network Element Bona Fide Request (BFR).

14.3.1 Each Party shall promptly consider and analyze access to a new unbundled Network Element in response to the submission of a Network Element Bona Fide Request by the other Party hereunder. The Network Element Bona Fide Request process set forth herein does not apply to those services requested pursuant to Report & Order and Notice of Proposed Rulemaking 91-141 (rel. Oct. 19, 1992) ¶ 259 and n.603 or subsequent orders.

14.3.2 A Network Element Bona Fide Request shall be submitted in writing and shall include a technical description of each requested Network Element.

14.3.3 The requesting Party may cancel a Network Element Bona Fide Request at any time, but shall pay the other Party's reasonable and demonstrable costs of processing and/or implementing the Network Element Bona Fide Request up to the date of cancellation.

14.3.4 Within ten (10) Business Days of its receipt, the receiving Party shall acknowledge receipt of the Network Element Bona Fide Request.

14.3.5 Except under extraordinary circumstances, within thirty (30) days of its receipt of a Network Element Bona Fide Request, the receiving Party shall provide to the requesting Party a preliminary analysis of such Network Element Bona Fide Request. The preliminary analysis shall confirm that the receiving Party will offer access to the Network Element or will provide a detailed explanation that access to the Network Element is not technically feasible and/or that the request does not qualify as a Network Element that is required to be provided by Applicable Law.

14.3.6 If the receiving Party determines that the Network Element Bona Fide Request is technically feasible and access to the Network Element is required to be provided by Applicable Law, it shall promptly proceed with developing the Network Element Bona Fide Request upon receipt of written authorization from the requesting Party. When it receives such authorization, the receiving Party shall promptly develop the requested services, determine their availability, calculate the applicable prices and establish installation intervals. Unless the Parties otherwise agree, the Network Element requested must be priced in accordance with Section 252(d)(1) of the Act.

14.3.7 As soon as feasible, but not more than ninety (90) days after its receipt of authorization to proceed with developing the Network Element Bona Fide Request, the receiving Party shall provide to the requesting Party a Network Element Bona Fide Request quote which will include, at a minimum, a description of each Network Element, the availability, the applicable rates, and the installation intervals.

14.3.8 Within thirty (30) days of its receipt of the Network Element Bona Fide Request quote, the requesting Party must either confirm its order for the Network Element Bona Fide Request pursuant to the Network Element Bona Fide Request quote or seek arbitration by the Commission pursuant to Section 252 of the Act.

14.3.9 If a Party to a Network Element Bona Fide Request believes that the other Party is not requesting, negotiating or processing the Network Element Bona Fide Request in good faith, or disputes a determination, or price or cost quote, or is failing to act in accordance with Section 251 of the Act, such Party may seek mediation or arbitration by the Commission pursuant to Section 252 of the Act.

15. Maintenance of Network Elements

If (a) US LEC reports to Verizon a Customer trouble, (b) US LEC requests a dispatch, (c) Verizon dispatches a technician, and (d) such trouble was not caused by Verizon's facilities or equipment in whole or in part, then US LEC shall pay Verizon a charge set forth in the Pricing Attachment for time associated with said dispatch. In addition, this charge also applies when the Customer contact as designated by US LEC is not available at the appointed time. US LEC accepts responsibility for initial trouble isolation and providing Verizon with appropriate dispatch information based on its test results. If, as the result of US LEC instructions, Verizon is erroneously requested to dispatch to a site on Verizon company premises ("dispatch in"), a charge set forth in the Pricing Attachment will be assessed per occurrence to US LEC by Verizon. If as the result of US LEC instructions, Verizon is erroneously requested to dispatch to a site outside of Verizon company premises ("dispatch out"), a charge set forth in the Pricing Attachment will be assessed per occurrence to US LEC by Verizon. Verizon agrees to respond to US LEC trouble reports on a non-discriminatory basis consistent with the manner in which it provides service to its own retail Customers or to any other similarly situated Telecommunications Carrier.

16. Combinations

16.1 Subject to the conditions set forth in Section 1, Verizon shall be obligated to provide a combination of Network Elements (a "Combination") only to the extent provision of such Combination is required by Applicable Law. To the extent Verizon is required by Applicable Law to provide a Combination to US LEC, Verizon shall provide such Combination in accordance with, and subject to, requirements established by Verizon that are consistent with Applicable Law (such requirements, the "Combo Requirements"). Verizon shall make the Combo Requirements publicly available in an electronic form.

17. Rates and Charges

The rates and charges for UNEs, Combinations and other services, facilities and arrangements, offered under this Attachment shall be as provided in this Attachment and the Pricing Attachment.

COLLOCATION ATTACHMENT

1. Verizon's Provision of Collocation

Verizon shall provide to US LEC, in accordance with this Agreement (including, but not limited to, Verizon's applicable Tariffs) and the requirements of Applicable Law, Collocation for the purpose of facilitating US LEC's interconnection with facilities or services of Verizon or access to Unbundled Network Elements of Verizon; provided, that notwithstanding any other provision of this Agreement, Verizon shall be obligated to provide Collocation to US LEC only to the extent required by Applicable Law and may decline to provide Collocation to US LEC to the extent that provision of Collocation is not required by Applicable Law. Subject to the foregoing, Verizon shall provide Collocation to US LEC in accordance with the rates, terms and conditions set forth in Verizon's Collocation tariff, and Verizon shall do so regardless of whether or not such rates, terms and conditions are effective.

2. US LEC's Provision of Collocation

Upon request by Verizon, US LEC shall provide to Verizon collocation of facilities and equipment for the purpose of facilitating Verizon's interconnection with facilities or services of US LEC. US LEC shall provide collocation on a non-discriminatory basis in accordance with US LEC's applicable Tariffs, or in the absence of applicable US LEC Tariffs, in accordance with terms, conditions and prices to be negotiated by the Parties. The terms, conditions and prices offered to Verizon by US LEC for collocation shall be no less favorable than the terms, conditions and prices offered to US LEC by Verizon for collocation.

911 ATTACHMENT

1. 911/E-911 Arrangements

1.1 US LEC may, at its option, interconnect to the Verizon 911/E-911 Selective Router or 911 Tandem Offices, as appropriate, that serve the areas in which US LEC provides Telephone Exchange Services, for the provision of 911/E-911 services and for access to all subtending Public Safety Answering Points (PSAP). In such situations, Verizon will provide US LEC with the appropriate CLLI codes and specifications of the Tandem Office serving area. In areas where E-911 is not available, US LEC and Verizon will negotiate arrangements to connect US LEC to the 911 service in accordance with applicable state law.

1.2 Path and route diverse Interconnections for 911/E-911 shall be made at the US LEC-IP, the Verizon-IP, or other points as necessary and mutually agreed, and as required by law or regulation.

1.3 Within thirty (30) days of its receipt of a complete and accurate request from US LEC, to include all required information and applicable forms, and to the extent authorized by the relevant federal, state, and local authorities, Verizon will provide US LEC, where Verizon offers 911 service, with the following at a reasonable fee, if applicable:

1.3.1 a file via electronic medium containing the Master Street Address Guide ("MSAG") for each county within the LATA(s) where US LEC is providing, or represents to Verizon that it intends to provide within sixty (60) days of US LEC's request, local exchange service, which MSAG shall be updated as the need arises and a complete copy of which shall be made available on an annual basis;

1.3.2 a list of the address and CLLI code of each 911/E-911 selective router or 911 Tandem office(s) in the area in which US LEC plans to offer Telephone Exchange Service;

1.3.3 a list of geographical areas, e.g., LATAs, counties or municipalities, with the associated 911 tandems, as applicable.

1.3.4 a list of Verizon personnel who currently have responsibility for 911/E-911 requirements, including a list of escalation contacts should the primary contacts be unavailable.

1.3.5 any special 911 trunking requirements for each 911/E-911 selective router or 911 Tandem Office, where available, and;

1.3.6 prompt return of any US LEC 911/E-911 data entry files containing errors, so that US LEC may ensure the accuracy of the Customer records.

2. Electronic Interface

US LEC shall use, where available, the appropriate Verizon electronic interface, through which US LEC shall input and provide a daily update of 911/E-911 database information related to appropriate US LEC Customers. In those areas where an electronic interface is not available, US LEC shall provide Verizon with all appropriate 911/E-911 information such as name, address, and telephone number via facsimile for Verizon's entry into the

911/E-911 database system. Any 911/E-911-related data exchanged between the Parties prior to the availability of an electronic interface shall conform to Verizon standards, whereas 911/E-911-related data exchanged electronically shall conform to the National Emergency Number Association standards (NENA). US LEC may also use the electronic interface, where available, to query the 911/E-911 database to verify the accuracy of US LEC Customer information.

3. **911 Interconnection**

Verizon and US LEC will use commercially reasonable efforts to facilitate the prompt, robust, reliable and efficient interconnection of US LEC systems to the 911/E-911 platforms and/or systems.

4. **911 Facilities**

US LEC shall be responsible for providing facilities from the US LEC End Office to the 911 Tandem or selective router. US LEC shall deploy diverse routing of 911 trunk pairs to the 911 tandem or selective router.

5. **Local Number Portability for use with 911**

The Parties acknowledge that until Local Number Portability (LNP) with full 911/E-911 compatibility is utilized for all ported telephone numbers, the use of Interim Number Portability ("INP") creates a special need to have the Automatic Location Identification (ALI) screen reflect two numbers: the "old" number and the "new" number assigned by US LEC. Therefore, for those ported telephone numbers using INP, US LEC will provide the 911/E-911 database with both the forwarded number and the directory number, as well as all other required information including the appropriate address information for the customer for entry into the 911/E-911 database system. Further, US LEC will outpulse the telephone number to which the call has been forwarded (that is, the Customer's ANI) to the 911 Tandem office or selective router. US LEC will include their NENA five character Company Identification ("COID") for inclusion in the ALI display.

5.1 US LEC is required to enter data into the 911/E-911 database under the NENA Standards for LNP. This includes, but is not limited to, using US LEC's NENA COID to lock and unlock records and the posting of US LEC's NENA COID to the ALI record where such locking and migrating feature for 911/E-911 records are available or as defined by local standards.

6. **PSAP Coordination**

Verizon and US LEC will work cooperatively to arrange meetings with PSAPs to answer any technical questions the PSAPs, or county or municipal coordinators may have regarding the 911/E-911 arrangements.

7. **911 Compensation**

US LEC will compensate Verizon for connections to its 911/E-911 platform and/or system pursuant to the rate schedule included in the Pricing Attachment.

8. **911 Rules and Regulations**

US LEC and Verizon will comply with all applicable rules and regulations (including 911 taxes and surcharges as defined by local requirements) pertaining to the provision of 911/E-911 services in Maryland.

PRICING ATTACHMENT

1. General

1.1 As used in this Attachment, the term "Charges" means the rates, fees, charges and prices for a Service.

1.2 Except as stated in Section 2 or Section 3, below, Charges for Services shall be as stated in this Section 1.

1.3 The Charges for a Service shall be the Charges for the Service stated in the Providing Party's applicable Tariff.

1.4 In the absence of Charges for a Service established pursuant to Section 1.3, the Charges shall be as stated in Appendix A of this Pricing Attachment.

1.5 **[DISPUTED ITEM]** The Tariff Charges stated in Appendix A of this Pricing Attachment shall be automatically superseded by any applicable Tariff Charges. The non-Tariff Charges stated in Appendix A of this Pricing Attachment also shall be automatically superseded by any new Charge(s) when such new Charge(s) are required by Applicable Law~~any order of the Commission or the FCC, approved by the Commission or the FCC, or otherwise allowed to go into effect by the Commission or the FCC (including, but not limited to, in a Tariff that has been filed with the Commission or the FCC)~~, provided such new Charge(s) are not subject to a stay issued by any court of competent jurisdiction.

1.6 In the absence of Charges for a Service established pursuant to Sections 1.3 through 1.5, if Charges for a Service are otherwise expressly provided for in this Agreement, such Charges shall apply.

1.7 In the absence of Charges for a Service established pursuant to Sections 1.3 through 1.6, the Charges for the Service shall be the Providing Party's FCC or Commission approved Charges.

1.8 In the absence of Charges for a Service established pursuant to Sections 1.3 through 1.7, the Charges for the Service shall be mutually agreed to by the Parties in writing.

2. Verizon Telecommunications Services Provided to US LEC for Resale Pursuant to the Resale Attachment

2.1 Verizon Telecommunications Services for which Verizon is Required to Provide a Wholesale Discount Pursuant to Section 251(c)(4) of the Act.

2.1.1 The Charges for a Verizon Telecommunications Service purchased by US LEC for resale for which Verizon is required to provide a wholesale discount pursuant to Section 251(c)(4) of the Act shall be the Retail Price for such Service set forth in Verizon's applicable Tariffs (or, if there is no Tariff Retail Price for such Service, Verizon's Retail Price for the Service that is generally offered to Verizon's Customers), less, to the extent required by Applicable Law: (a) the applicable wholesale discount stated in Verizon's Tariffs for Verizon Telecommunications Services purchased for resale pursuant to Section 251(c)(4) of the Act; or, (b) in the absence of an applicable Verizon Tariff wholesale discount for Verizon Telecommunications Services purchased for

resale pursuant to Section 251(c)(4) of the Act, the applicable wholesale discount stated in Appendix A for Verizon Telecommunications Services purchased for resale pursuant to Section 251(c)(4) of the Act.

2.1.2 The Charges for a Verizon Telecommunications Service Customer Specific Arrangement ("CSA") purchased by US LEC for resale pursuant to Section 3.3 of the Resale Attachment for which Verizon is required to provide a wholesale discount pursuant to Section 251(c)(4) of the Act, shall be the Retail Price for the CSA, less, to the extent required by Applicable Law: (a) the applicable wholesale discount stated in Verizon's Tariffs for Verizon Telecommunications Services purchased for resale pursuant to Section 251(c)(4) of the Act; or, (b) in the absence of an applicable Verizon Tariff wholesale discount for Verizon Telecommunications Services purchased for resale pursuant to Section 251(c)(4) of the Act, the applicable discount stated in Appendix A for Verizon Telecommunications Services purchased for resale pursuant to Section 251(c)(4) of the Act. Notwithstanding the foregoing, in accordance with, and to the extent permitted by Applicable Law, Verizon may establish a wholesale discount for a CSA that differs from the wholesale discount that is generally applicable to Telecommunications Services provided to US LEC for resale pursuant to Section 251(c)(4) of the Act.

2.1.3 Notwithstanding Sections 2.1 and 2.2, in accordance with, and to the extent permitted by Applicable Law, Verizon may at any time establish a wholesale discount for a Telecommunications Service (including, but not limited to, a CSA) that differs from the wholesale discount that is generally applicable to Telecommunications Services provided to US LEC for resale pursuant to Section 251(c)(4) of the Act.

2.1.4 The wholesale discount stated in Appendix A shall be automatically superseded by any new wholesale discount when such new wholesale discount is required by any order of the Commission or the FCC, approved by the Commission or the FCC, or otherwise allowed to go into effect by the Commission or the FCC, provided such new wholesale discount is not subject to a stay issued by any court of competent jurisdiction.

2.1.5 The wholesale discount provided for in Sections 2.1.1 through 2.1.3 shall not be applied to:

2.1.5.1 Short term promotions as defined in 47 CFR § 51.613;

2.1.5.2 Except as otherwise provided by Applicable Law, Exchange Access services;

2.1.5.3 Subscriber Line Charges, Federal Line Cost Charges, end user common line Charges, taxes, and government Charges and assessment (including, but not limited to, 9-1-1 Charges and Dual Party Relay Service Charges).

2.1.5.4 Any other service or Charge that the Commission, the FCC, or other governmental entity of appropriate jurisdiction determines is not subject to a wholesale rate discount under Section 251(c)(4) of the Act.

2.2 Verizon Telecommunications Services for which Verizon is Not Required to Provide a Wholesale Discount Pursuant to Section 251(c)(4) of the Act.

2.2.1 The Charges for a Verizon Telecommunications Service for which Verizon is not required to provide a wholesale discount pursuant to Section 251(c)(4) of the Act shall be the Charges stated in Verizon's Tariffs for such Verizon Telecommunications Service (or, if there are no Verizon Tariff Charges for such Service, Verizon's Charges for the Service that are generally offered by Verizon).

2.2.2 The Charges for a Verizon Telecommunications Service customer specific contract service arrangement ("CSA") purchased by US LEC pursuant to Section 3.3 of the Resale Attachment for which Verizon is not required to provide a wholesale discount pursuant to Section 251(c)(4) of the Act shall be the Charges provided for in the CSA and any other Charges that Verizon could bill the person to whom the CSA was originally provided (including, but not limited to, applicable Verizon Tariff Charges).

2.3 Other Charges.

2.3.1 US LEC shall pay, or collect and remit to Verizon, without discount, all Subscriber Line Charges, Federal Line Cost Charges, and end user common line Charges, associated with Verizon Telecommunications Services provided by Verizon to US LEC.

3. US LEC Prices

Notwithstanding any other provision of this Agreement, the Charges that US LEC bills Verizon for US LEC's Services shall not exceed the Charges for Verizon's comparable Services, except to the extent that US LEC's cost to provide such US LEC Services to Verizon exceeds the Charges for Verizon's comparable Services and US LEC has demonstrated such cost to Verizon, or to the Commission or the FCC.

4. Section 271

If Verizon is a Bell Operating Company (as defined in the Act) and in order to comply with Section 271(c)(2)(B) of the Act provides a Service under this Agreement that Verizon is not required to provide by Section 251 of the Act, Verizon shall have the right to establish Charges for such Service in a manner that differs from the manner in which under Applicable Law (including, but not limited to, Section 252(d) of the Act) Charges must be set for Services provided under Section 251; provided, however, that the Charges set for such services shall comply with Applicable Law; and, provided further, that this provision shall not remove any obligation on Verizon to provide a Service required by Section 251 of the Act at Charges set in the manner required for Services provided under Section 251 (including, but not limited to, Section 252(d)).

5. Regulatory Review of Prices

Notwithstanding any other provision of this Agreement, each Party reserves its respective rights to institute an appropriate proceeding with the FCC, the Commission or other governmental body of appropriate jurisdiction: (a) with regard to the Charges for its Services (including, but not limited to, a proceeding to change the Charges for its services, whether provided for in any of its Tariffs, in Appendix A, or otherwise); and (b) with regard to the Charges of the other Party (including, but not limited to, a proceeding in which the FCC, the Commission or other governmental body with appropriate jurisdiction

is asked to reduce such Charges and to order a refund of any amounts paid in excess of any Charges that are reduced).

APPENDIX A TO THE PRICING ATTACHMENT

VERIZON MARYLAND INC. and US LEC OF MARYLAND INC.

A. INTERCONNECTION[1] Service or Element Description[2]:	Recurring Charges:	Non-Recurring Charges:
I. Reciprocal Compensation Traffic Termination[3]		
Traffic Delivered at Verizon End Office	$.00225/MOU	Not Applicable
Traffic Delivered at Verizon Tandem	$.0033/MOU	Not Applicable
II. Entrance Facilities and Transport for Interconnection A. Entrance facilities, and transport, as appropriate, for Interconnection at Verizon End Office, Tandem Office, or other Point of Interconnection	Per interstate [Verizon FCC 1 Sec. 6 access tariff for Feature Group D service as amended from time to time	Per interstate [Verizon FCC 1 Sec. 6] access tariff for Feature Group D service as amended from time to time
	Per intrastate [Verizon MD S.C.C. – MD – No. 217 Sec. 6] access tariff for Feature Group D service as amended from time to time	Per intrastate [Verizon MD S.C.C. – MD. – No. 217 Sec. 6] access tariff for Feature Group D service as amended from time to time

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1 All rates and charges specified herein are pertaining to the Interconnection Attachment.

2 Unless a citation is provided to a generally applicable Verizon Tariff, all listed rates and services are available only to US LEC when purchasing these services for use in the provision of Telephone Exchange Service, and apply only to Reciprocal Compensation Traffic and local Ancillary Traffic. Verizon rates and services for use by US LEC in the carriage of Toll Traffic shall be subject to Verizon's Tariffs for Exchange Access Service. Adherence to these limitations is subject to a reasonable periodic audit by Verizon.

As applied to wholesale discount rates, unbundled Network Elements or call transport and/or termination of Reciprocal Compensation Traffic purchased for the provision of Telephone Exchange Service or Exchange Access, the rates and charges set forth in Appendix A shall apply until such time as they are replaced by new rates as may be approved or allowed into effect by the Commission from time to time pursuant to the FCC Regulations, subject to a stay or other order issued by any court of competent jurisdiction.

3 See the note on the last page of this price appendix regarding measurement and calculation of Reciprocal Compensation Traffic termination charges.

Service or Element Description:	Recurring Charges:	Non-Recurring Charges:
III. Exchange Access Service		
Interstate	Per Verizon FCC exchange access Tariff.	
Intrastate	Per Verizon MD exchange access Tariff.	
IV. End Point Fiber Meet	To be charged in accordance with the requirements of the Interconnection Attachment, Section 4	
V. Tandem Transit arrangements for Reciprocal Compensation Traffic between US LEC and carriers other than Verizon that subtend a Verizon Tandem Switch. (Not applicable to Toll Traffic or when Meet Point Billing Arrangement applies; Separate trunks required for IXC subtending trunks)		Separate trunks required for IXC subtending trunks
Tandem Switching	$.000695/MOU	Not Applicable
Tandem-Switched Transport	$.000353/MOU	Not Applicable

B. UNBUNDLED NETWORK ELEMENTS[4]

Service or Element Description	Recurring Charges:	Non-Recurring Charges:
I. Dedicated Transport[5]		
Voice Grade/DS-0	$8.54/Month & $.018/Mile/Month	All: $6.70 /Service Order plus installation charges for each initial and additional facility purchased at the time of order
DS-1	$30.61/Month & $.375/Mile/Month	
DS-3	$414.74/Month & $10.45/Mile/Month	$315.00/Initial Facility & $21.28/Additional Facility
DDS	$8.70/Mile & $.02/Mile/Month	

[4] All rates and charges specified herein are pertaining to the Network Elements Attachment.

[5] Verizon's proposed UNEs, UNE combinations, and UNE pricing methodology reflect the FCC's current rules. Verizon does not agree that UNE prices must be based solely on forward-looking costs, and Verizon reserves the right to seek to change its UNE offerings and UNE prices if the FCC's rules are vacated or modified by the FCC or by a final, non-appealable judicial decision.

Service or Element Description:	Recurring Charges:	Non-Recurring Charges:
STS-1	$334.36/Month/Mile & $5.00 Mileage charge/Facility/Mile/Month	$52.62 Service Order $176.19 Installation charge per facility $6.62 Manual Surcharge Expedite: $78.45 Service Order $252.80/Installation charge per facility $9.87/Manual Surcharge
OC-3	$1,009.52/Month/Mile & $15.29 Mileage charge/Facility/Mile/Month	$52.62 Service Order $213.23 Installation charge per facility $6.62 Manual Surcharge Expedite: $78.45 Service Order $306.38/Installation charge per facility $9.87/Manual Surcharge
OC-12	$2,700.17/Month/Mile & $36.31 Mileage charge/Facility/Mile/Month	$52.62 Service Order $213.23 Installation charge per facility $6.62 Manual Surcharge Expedite: $78.45 Service Order $306.38/Installation charge per facility $9.87/Manual Surcharge

Service or Element Description:	Recurring Charges:	Non-Recurring Charges:
II. Common Transport		
Tandem Switching	$.000695/MOU	Not Applicable
Tandem-Switched Transport	$.000353/MOU	Not Applicable
III. Digital Cross-Connect System		
Service Establishment	Not Applicable	$2,062.75/Request
Database Modification	Not Applicable	$159.75/Modification Request
Reconfiguration by Verizon Personnel	Not Applicable	$35.77/Programming Charge/Half Hour
DS-0 Cross-Connect	$17.03/Port/Month	$29.28/Port
DS-1 Cross-Connect	$59.54/Port/Month	$36.59/Port

Service or Element Description:	Recurring Charges:	Non-Recurring Charges:
IV. Entrance Facilities		
		All: $6.70/Service Order plus installation charges for each initial and additional facility purchased at the time of order:
2-Wire Voice Grade Channel Termination	$11.02/Month	$296.00/Initial & $171.44/Additional
4-Wire Voice Grade Channel Termination	$17.63/Month	$382.37/Initial & $221.67/Additional
DS-1 to Voice Grade Multiplexing	$63.20/Month	$366.56/Initial & $366.56/Additional
DS-1 Channel Termination	$125.32/Month	$422.32/Initial & $205.89/Additional
DS-3 to DS-1 Multiplexing	$216.05/Month	$366.56/Initial & $366.56/Additional
DS-3 Channel Termination	$918.37/Month	$422.32/Initial & $205.89/Additional
STS-1 OC-3 OC-12	$585.56/Month $771.47/Month $2,286.50/Month	All: $52.62 Service Order charge $175.68/Installation charge per facility $6.62/Manual Surcharge Expedite: $78.45 Service Order $252.06/Installation Charge/Facility $9.87/Manual Surcharge

Service or Element Description:	Recurring Charges:	Non-Recurring Charges:
V. Unbundled Switching[6]		
a. Local Switching Ports		
POTS/PBX/Centrex	$1.895/Port/Month	$6.70/Service Order $9.97/Installation /Port
ISDN (BRI)	$10.545/Port/Month	$6.70/Service Order $9.97/Installation /Port
ISDN (PRI)	$113.315/Port/Month	$6.70/Service Order $105.06/Installation /Port
Public/Semi-Public	$2.695/Port/Month	$6.70/Service Order $9.97/Installation /Port
DID	$5.325/Port/Month	$6.70/Service Order $631.03/Installation /Port
Coordinated Port Cutover SMDI Port	Not Applicable $204.53/Port/Month	$7.81/Port $7.69/Service Order $355.70/Installation/ Port $14.98/Manual Surcharge Expedite: $11.47/Service Order $508.19/Installation/ Port $22.34/Manual Surcharge

[6] In addition to the recurring and non-recurring rates set forth herein for unbundled switching elements, Verizon may levy upon a purchaser of such elements any access charges (or portion thereof) permitted by Applicable Laws.

Service or Element Description:	Recurring Charges:	Non-Recurring Charges:
Switched DS1 Port	$163.91/Port/Month	$52.62/Service Order $382.35/Installation/ Installation $253.13/Installation/ Each additional port (when ordered at the same time as the initial) Expedite: $78.45/Service Order $545.48/Installation/ Port $362.10/ Installation/Each additional port (when ordered at the same time as the initial) $9.87/Manual Surcharge

Service or Element Description:	Recurring Charges:	Non-Recurring Charges:
IDLC Interface Group (4 Ports)	$122.48/Month/Interface Group	$7.60/Service Port $420.04/Installation Charge/Interface Group $14.98/Manual Surcharge Expedite: $11.47/Service Order $599.99/Installation Charge/Interface Group $22.34/Manual Surcharge
Unbundled Public Access Line Port (UPALP)	$1.90/Month/Port	$7.69/Installation/Port $24.64/Installation/Port $17.00/Installation Charge/Each Additional Port (when ordered at the same time as the initial) $14.98/Manual Surcharge Expedite: $11.47/Service Order $35.68/ Installation Charge/Each Additional Port (when ordered at the same time as the initial) $24.58/Installation Charge/Each Additional Port (when ordered at the same time as the initial) $22.34/Manual Surcharge

Service or Element Description:	Recurring Charges:	Non-Recurring Charges:
Unbundled Coin Port (UCP)	$3.06/Month/Port	$7.69/Installation/Port $24.64/Installation/Port $17.00/Installation Charge/Each Additional Port (when ordered at the same time as the initial) $14.98/Manual Surcharge Expedite: $11.47/Service Order $35.68/ Installation $24.58/Installation Charge/Each Additional Port (when ordered at the same time as the initial) $22.34/Manual Surcharge
Ancillary Features (For UCP and/or UPALP)		
Line Side Answer Supervision (available only on UPALP)	$0.01/Month	
Call Type Blocking	$0.04/Month	
International Direct Dial Blocking (IDDB)	$0.01/Month	
One-Way Service (available only on UCP)	$0.01/Month	
b. Dedicated Trunk Ports		
End office Ports	$77.83/Month	$7.69/Installation/Port $461.79/Installation/ Port $212.01/Installation Charge/Each Additional Port (when ordered at the same time as the initial) $14.98/Manual Surcharge Expedite: $11.47/Service Order $664.08/ Installation $303.32/Installation Charge/Each Additional Port (when ordered at the same time as the initial) $22.34/Manual Surcharge

Service or Element Description:	Recurring Charges:	Non-Recurring Charges:
Tandem Port	$99.08/Month/Port	$7.69/Installation/Port $396.90/Installation/ Port $198.26/Installation Charge/Each Additional Port (when ordered at the same time as the initial) $14.98/Manual Surcharge Expedite: $11.47/Service Order $573.07/ Installation $282.76/Installation Charge/Each Additional Port (when ordered at the same time as the initial) $22.34/Manual Surcharge
c. Tandem Switching Usage	$.000695/MOU	Not Applicable
d. Local Switching Usage		
POTS Originating With Vertical Features	$.0038/MOU	Not Applicable
POTS Terminating With Vertical Features	$.0038/MOU	Not Applicable
ISDN Originating Digital Circuit Switched Voice	$.002670/MOU	Not Applicable
ISDN Terminating Digital Circuit Switched Voice	$.001532/MOU	Not Applicable
ISDN Originating Digital Circuit Switched Data	$.001664/MOU	Not Applicable
ISDN Terminating Digital Circuit Switched Data	$.001532/MOU	Not Applicable
d. POTS Features		
PBX	$.000918/MOU	Both: $4.24/Service Order $.10/Installation
Multi-Line Hunting	$.0000013/MOU	
e. Centrex Features		
UCD	$.001098/MOU	All: $4.24/Service Order $.10/Installation
Hunting	$.000123/MOU	
Queuing	$.000426/MOU	
Intercom & Features	$.018648/MOU	
Attendant	$.019499/MOU	

Service or Element Description:	Recurring Charges:	Non-Recurring Charges:
Attendant Console	$.021134/MOU	
Centralized Attendant Services	$.196392/MOU	
Attendant Access Code Dialing	$.044330/MOU	
Automatic Route Selection	$.000269/MOU	
Electronic Tandem Switching	$.000997/MOU	
f. ISDN Centrex Feature	$.007571/MOU	$4.24/Service Order $.10/Installation

Service or Element Description:	Recurring Charges:	Non-Recurring Charges:
VI. Unbundled Loops[7]		
2 Wire Analog Loops (POTS Loops)	Rate Group: A1 - $12.11/Month A2[8] - $12.85/Month B1 - $25.96/Month B2 - $18.40/Month	Service Order: $6.70 Installation: If a premises visit is not required, initial & each additional loop - $9.52 If a premises visit is required: initial loop installed on that visit: $67.72: Each additional loop installed on that visit: $29.96
4 Wire Loops	Rate Group: A1 - $24.74/Month A2[9] - $26.45/Month B1 - $52.45/Month B2 - $37.38/Month	Service Order: $6.70 Installation: If a premises visit is not required, initial & each additional loop - $48.41 If a premises visit is required: initial loop installed on that visit $117.21; Each additional loop installed on that visit $79.45

[7] In compliance with the FCC order approving the merger of GTE Corporation and Bell Atlantic (CC Docket No. 98-1840), Verizon will offer limited duration promotional discounts on residential UNE Loops and UNE Advance Services Loops. The terms and conditions on which these promotional discounts are being made available can be found on http://www.verizon.com/wise for former GTE service areas and former Bell Atlantic service areas.

[8] Rate Group A2 is modified to include the Hagerstown, Cumberland, and Salisbury exchanges.

[9] Rate Group A2 is modified to include the Hagerstown, Cumberland, and Salisbury exchanges.

Service or Element Description:	Recurring Charges:	Non-Recurring Charges:
ISDN Loops	Rate Group A1-$13.63/Month A2[10]-$14.37/Month B1-$27.40/Month B2-$19.90/Month	Service Order: $9.52 Installation: If a premises visit is not required, initial & each additional loop - $17.73 If a premises visit is required: initial loop installed on that visit $75.92; each additional loop installed on that visit: $38.16
DS-1 Loops	Rate Groups: A1-$113.03/Month A2[11]-$114.64/Month B1-$152.72/Month B2-$133.10/Month	Service Order: $6.70 Installation: If premises visit not required, initial & each additional loop - $48.41 If a premises visit is required: initial loop installed on that visit $117.21; each additional loop installed on that visit: $79.45
DS-3	Rate Groups: A1-$961.37/Month A2[12]-$961.37/Month B1-$961.37/Month B2-$961.37/Month	Service Order: $52.62 Provisioning (initial and each additional): $175.69 Installation Dispatch:$143.07 Expedite: Service Order: $78.45 Provisioning (initial and each additional): $252.07 Installation Dispatch: $192.93

[10] Rate Group A2 is modified to include the Hagerstown, Cumberland, and Salisbury exchanges.

[11] Rate Group A2 is modified to include the Hagerstown, Cumberland, and Salisbury exchanges.

[12] Rate Group A2 is modified to include the Hagerstown, Cumberland, and Salisbury exchanges.

Service or Element Description:	Recurring Charges:	Non-Recurring Charges:
Digital Four-Wire (56-KD)	Rate Groups: A1-$28.73/Month A2[13]-$30.44/Month B1-$56.49/Month B2-$41.39/Month	$7.69/Service Order $28.60/Installation Charge/Initial and each additional loop, no premises visit required $171.68/Installation Charge/initial loop, premise visit required
Customer Specified Signaling - 2-Wire	Rate Groups: A1-$12.11/Month A2[14]-$12.85/Month B1-$25.96/Month B2-$18.40/Month	Service Order: $6.70 Installation: If a premises visit is not required, initial & each additional loop - $48.41 If a premises visit is required: initial loop installed on that visit $117.21; each additional loop installed on that visit: $79.45
Customer Specified Signaling - 4-Wire	Rate Groups: A1-$24.74/Month A2[15]-$26.45/Month B1-$52.45/Month B2-$37.38/Month	Service Order: $6.70 Installation: If a premises visit is not required, initial & each additional loop - $48.41 If a premises visit is required: initial loop installed on that visit $117.21; each additional loop installed on that visit: $79.45
Coordinated Cutover[16]	Not Applicable	If premises visit not required, $7.80/Loop If premises visit required, $18.40/Loop

[13] Rate Group A2 is modified to include the Hagerstown, Cumberland, and Salisbury exchanges.

[14] Rate Group A2 is modified to include the Hagerstown, Cumberland, and Salisbury exchanges.

[15] Rate Group A2 is modified to include the Hagerstown, Cumberland, and Salisbury exchanges.

[16] Coordinated Cutover is not available with ADSL, HDSL,SDSL, IDSL Loops or Digital Designed Loops

Service or Element Description:	Recurring Charges:	Non-Recurring Charges:
2 Wire ADSL compatible Loops 2 Wire HDSL compatible Loops 2 Wire SDSL compatible Loops 2 Wire IDSL compatible Loops	Rate Group A1-$13.63/Month A2[17]-$14.37/Month B1-$27.40/Month B2-$19.90/Month	Service Order: $9.52 Installation: If a premises visit is not required, initial & each additional loop - $17.73 If a premises visit is required: initial loop installed on that visit $75.92; each additional loop installed on that visit: $38.16
4 Wire HDSL Loops	Rate Groups: A1-$113.03/Month A2[18]-$114.64/Month B1-$152.72/Month B2-$133.10/Month	Service Order: $6.70 Installation: If premises visit not required, initial & each additional loop - $48.41 If a premises visit is required: initial loop installed on that visit $117.21; each additional loop installed on that visit: $79.45
Standard Digital Loops	All: $.45/ Mechanized Loop Qualification per Provisioned Loop	All: $0.00/ Manual Loop Qualification per Loop Request
2 Wire ADSL compatible Loops (up to 12,000 feet)	See rates for 2 Wire ADSL and 2 Wire HDSL Loops as set forth above	
2 Wire ADSL compatible Loops (up to 18,000 feet)	See rates for 2 Wire ADSL and 2 Wire HDSL Loops as set forth above	
2 Wire HDSL compatible Loops (up to 12,000 feet)	See rates for 2 Wire ADSL and 2 Wire HDSL Loops as set forth above	

[17] Rate Group A2 is modified to include the Hagerstown, Cumberland, and Salisbury exchanges.

[18] Rate Group A2 is modified to include the Hagerstown, Cumberland, and Salisbury exchanges.

Service or Element Description:	Recurring Charges:	Non-Recurring Charges:
4 Wire HDSL compatible Loops (up to 12,000 feet)	See rates for 4 Wire HDSL Loops as set forth above	
2 Wire SDSL compatible Loops	See rates for 2 Wire SDSL Loops as set forth above	
2 Wire IDSL compatible Loops(up to 18,000 feet)	See rates for 2 Wire IDSL Loops as set forth above	
Digital Designed Loops		
2 Wire ADSL compatible Loop (up to 12,000 feet) with Bridged Tap Removal	See rates for 2 Wire ADSL Loops as set forth above	$180.30 Removal of one Bridged Tap per Request $435.86 Removal of Multiple Bridged Taps per Loop per Request $0.00 Engineering Query $80.89 Engineering Work Order Charge
2 Wire ADSL compatible Loop (up to 18,000 feet) with Bridged Tap Removal	See rates for 2 Wire ADSL Loops as set forth above	$180.30 Removal of one Bridged Tap per Request $435.86 Removal of Multiple Bridged Taps per Loop per Request $0.00 Engineering Query $80.89 Engineering Work Order Charge
2 Wire Digital Designed Metallic Loop (up to 30,000 Feet) Non-loaded with Bridged Tap options	See rates for 2 Wire ADSL and 2 Wire HDSL Loops as set forth above	

Service or Element Description:	Recurring Charges:	Non-Recurring Charges:
		$812.18 Required Removal of Load Coils (up to 21,000 feet)
		$1,079.53 Required Removal of Load Coils (up to 27,000 feet)
		$180.30 Removal of one Bridged Tap per Request
		$435.86 Removal of Multiple Bridged Taps per Loop per Request
		$0.00 Engineering Query
		$80.89 Engineering Work Order Charge
2 Wire Digital Designed Metallic Loop with ISDN Loop Extension Electronics	See rates for 2 Wire ISDN Loops as set forth above	
		$812.18 Required Removal of Load Coils (up to 21,000 feet)
		$1,079.53 Required Removal of Load Coils (up to 27,000 feet)
		$1,070.03 Addition of Range Electronics
		$0.00 Engineering Query
		$80.89 Engineering Work Order Charge
2 Wire HDSL compatible Loops (up to 12,000 feet) with Bridged Tap Removal	See rates for 2 Wire HDSL Loops as set forth above	

Service or Element Description:	Recurring Charges:	Non-Recurring Charges:
		$180.30 Removal of one Bridged Tap per Request $435.86 Removal of Multiple Bridged Taps per Loop per Request $0.00 Engineering Query $80.89 Engineering Work Order Charge
4 Wire HDSL compatible Loops (up to 12,000 feet) with Bridged Tap Removal	See rates for 4 Wire HDSL Loops as set forth above	$180.30 Removal of one Bridged Tap per Request $435.86 Removal of Multiple Bridged Taps per Loop per Request $0.00 Engineering Query $80.89 Engineering Work Order Charge
2 Wire SDSL compatible Loops with Bridged Tap Removal	See rates for 2 Wire SDSL Loops as set forth above	$180.30 Removal of one Bridged Tap per Request $435.86 Removal of Multiple Bridged Taps per Loop per Request $0.00 Engineering Query

Service or Element Description:	Recurring Charges:	Non-Recurring Charges:
		$80.89 Engineering Work Order Charge
2 Wire IDSL compatible Loops (up to 18,000 feet) with Bridged Tap Removal	See rates for 2 Wire IDSL Loops as set forth above	$180.30 Removal of one Bridged Tap per Request $435.86 Removal of Multiple Bridged Taps per Loop per Request $0.00 Engineering Query $80.89 Engineering Work Order Charge
VII. Intrastate Collocation	As Applicable Per Verizon MD PSC No. 218 as amended from time to time.	

VIII. Line Sharing Rate Element	$ Amount	Mo.	NRC	*Option A[19]	*Option C VERIZON installs/ CLEC vendor installs	
Application Fee - Augment	$2500		X	Not applicable unless adding line-sharing terminations	(1)	(1)
Engineering & Implementation Fee -Additional Cabling	$1066.94		X	Not applicable unless adding line-sharing terminations	(1)	(1)
Splitter Installation Cost	$937.72		X	Not applicable	(1)	
Collocation cross-connect perVG	$2.00 for virtual $0.69 for physical	X		(2) SAC[20]s	(2) SACs	(2) SACs

*Both Option A and Option C assume there is an existing Collocation Arrangement.
(1) = one required
(2) = two required

[19] Option A: A CLEC-provided splitter shall be provided, installed and maintained by the CLEC in their own Collocation space. Rearrangements are the responsibility of the CLEC. Verizon dial tone is routed through the splitter in the CLEC Collocation area.
Option C: Verizon will install, inventory and maintain CLEC provided splitter in Verizon space within the Serving Central Office of the lines being provided. Verizon will have control of the splitter and will direct any required activity.

[20] Service Access Charge (SAC) is the same as Interconnection Access Charge or a cross connect.

Rate Element	$ Amount	Mo.	NRC	*Option A	Option C VERIZON installs/ CLEC vendor installs	
**Verizon/Relay Rack for Splitters – Per Shelf	$1.23	X			(1)	(1)
**Splitter Land & Building – Per Shelf	$3.55	X			(1)	(1)
Maintenance of Splitter Equipment per splitter	$51.52	X		(1)	(1)	(1)
WideBand Test Access per line	$1.05 optional	X		(1)	(1)	(1)

**Although this rate assumes that each relay rack contains 14 splitter shelves, the rate applies only to the shelves that CLEC actually uses in a given relay rack.

Rate Element	$ Amount	Mo.	NRC	*Option A	Option C VERIZON installs/ CLEC vendor installs
Service Order	$ 9.59 $14.88		X	(1)	(1) (1)
Expedite Central Office Wiring Initial	$28.13		X	(1)	(1) (1)
Expedite Central Office Wiring Additional	$40.91 $13.84		X	(1)	(1) (1)
Expedite Provisioning	$20.13 $0.21		X	(1)	(1) (1)
Expedite Field Installation Dispatch	$0.30 $110.08		X	(1)	(1) (1)
Expedite Manual Intervention Surcharge	$148.45 $14.96		X	(1)	(1) (1)
Expedite Loop Qualification Data Base per link	$22.30 $0.45	X		(1)	(1) (1)
Manual Loop Qualification	$0.00		X	(1)	(1) (1)
Engineering Query	$0.00		X	(1)	(1) (1)
Engineering Work Order	$80.89		X	(1)	(1) (1)
OSS Charges per transaction	$0.00				
Unbundled Loop Conditioning charges	$0.00 Per interim State specific Conditioning Rates	X	X		
Trouble Dispatch Misdirects				(1)	(1) (1)
Dispatch In	$40.37		X		
Expedite Dispatch In	$58.47		X		
Dispatch Out	$118.59		X		
Expedite Dispatch Out	$162.83		X		

IX. Line Splitting	Per rates listed in Section VIII. above		
X. Unbundled Network Element Platform[21]	Rates		
	Monthly Recurring	Non-Recurring Normal	Non-Recurring Expedite
Analog Platform			
New - Initial			
Service Order	-	$0.83	$1.23
Service Connection Charge/Platform	-	$7.57	$10.78
Premises Visit Charge	-	$110.27	$148.70
Manual Surcharge	-	$9.42	$14.04
New – Additional (when ordered at the same time as the initial)			
Service Connection Charge/Platform	-	$7.40	$10.54
Premises Visit Charge	-	$37.46	$50.51
Migration - Initial			
Service Order	-	$0.83	$1.23
Service Connection Charge/Platform	-	$4.26	$6.07
Manual Surcharge	-	$9.42	$14.04
Migration - Additional (when ordered at the same time as the initial)			
Service Connection Charge/Platform	-	$4.09	$5.83
ISDN-BRI Platform			
New – Initial			
Service Order	-	$0.83	$1.23
Service Connection Charge/Platform	-	$7.57	$10.78
Premises Visit Charge	-	$110.27	$148.70
Manual Surcharge	-	$9.42	$14.04
New – Additional (when ordered at the same time as the initial)			
Service Connection Charge/Platform	-	$7.40	$10.54
Premises Visit Charge	-	$37.46	$50.51
Migration - Initial			
Service Order	-	$0.83	$1.23
Service Connection Charge/Platform	-	$4.26	$6.07
Manual Surcharge	-	$9.42	$14.04
Migration - Additional (when ordered at the same time as the initial)			
Service Connection Charge/Platform	-	$4.09	$5.83

[21] The monthly recurring and usage rates as set forth in this Agreement for the individual unbundled network elements or services that comprise the requested Unbundled Network Element Platform Combination are applicable.

X. Unbundled Network Element Platform (continued)	Rates		
	Monthly Recurring	Non-Recurring Normal	Non-Recurring Expedite
ISDN-PRI Platform			
New – Initial			
Service Order	-	$52.62	$78.45
Service Connection Charge/Platform	-	$270.53	$387.42
Premises Visit Charge	-	$143.07	$192.93
Manual Surcharge	-	$6.62	$9.87
New - Additional (when ordered at the same time as the initial)			
Service Connection Charge/Platform	-	$257.88	$369.02
Premises Visit Charge	-	$75.59	$101.93
Migration – Initial			
Service Order	-	$0.83	$1.23
Service Connection Charge/Platform	-	$4.26	$6.07
Manual Surcharge	-	$9.42	$14.04
Migration - Additional (when ordered at the same time as the initial)			
Service Connection Charge/Platform	-	$4.09	$5.83
Analog Centrex Platform			
New – Initial			
Service Order	-	$0.83	$1.23
Service Connection Charge/Platform	-	$7.57	$10.78
Premises Visit Charge	-	$110.27	$148.70
Manual Surcharge	-	$9.42	$14.04
New - Additional (when ordered at the same time as the initial)			
Service Connection Charge/Platform	-	$7.40	$10.54
Premises Visit Charge	-	$37.46	$50.51
Migration – Initial			
Service Order	-	$0.83	$1.23
Service Connection Charge/Platform	-	$4.26	$6.07
Manual Surcharge	-	$9.42	$14.04
Migration - Additional (when ordered at the same time as the initial)			
Service Connection Charge/Platform	-	$4.09	$5.83

X. Unbundled Network Element Platform (continued)	Rates		
	Monthly Recurring	Non-Recurring Normal	Non-Recurring Expedite
ISDN-BRI Centrex Platform			
New – Initial			
Service Order	-	$0.83	$1.23
Service Connection Charge/Platform	-	$7.57	$10.78
Premises Visit Charge	-	$110.27	$148.70
Manual Surcharge	-	$9.42	$14.04
New - Additional (when ordered at the same time as the initial)			
Service Connection Charge/Platform	-	$7.40	$10.54
Premises Visit Charge	-	$37.46	$50.51
Migration – Initial			
Service Order	-	$0.83	$1.23
Service Connection Charge/Platform	-	$4.26	$6.07
Manual Surcharge	-	$9.42	$14.04
Migration - Additional (when ordered at the same time as the initial)			
Service Connection Charge/Platform	-	$4.09	$5.83
Analog FX Platform			
New – Initial			
Service Order	-	$52.62	$78.45
Service Connection Charge/Platform	-	$170.63	$247.17
Premises Visit Charge	-	$110.27	$148.70
Manual Surcharge	-	$6.62	$9.87
New – Additional (when ordered at the same time as the initial)			
Service Connection Charge/Platform	-	$156.31	$226.35
Premises Visit Charge	-	$37.46	$50.51
Migration – Initial			
Service Order	-	$0.83	$1.23
Service Connection Charge/Platform	-	$4.26	$6.07
Manual Surcharge	-	$9.42	$14.04
Migration - Additional (when ordered at the same time as the initial)			
Service Connection Charge/Platform	-	$4.09	$5.83

X. Unbundled Network Element Platform (continued)	Rates		
	Monthly Recurring	Non-Recurring Normal	Non-Recurring Expedite
ISDN-BRI FX Platform			
New – Initial			
Service Order	-	$52.62	$78.45
Service Connection Charge/Platform	-	$170.63	$247.17
Premises Visit Charge	-	$110.27	$148.70
Manual Surcharge	-	$6.62	$9.87
New – Additional (when ordered at the same time as the initial)			
Service Connection Charge/Platform	-	$156.31	$226.35
Premises Visit Charge	-	$37.46	$50.51
Migration – Initial			
Service Order	-	$0.83	$1.23
Service Connection Charge/Platform	-	$4.26	$6.07
Manual Surcharge	-	$9.42	$14.04
Migration – Additional (when ordered at the same time as the initial)			
Service Connection Charge/Platform	-	$4.09	$5.83
DS1 DID/DOD/PBX Platform			
New – Initial			
Service Order	-	$52.62	$78.45
Service Connection Charge/Platform	-	$270.53	$387.42
Premises Visit Charge	-	$143.07	$192.93
Manual Surcharge	-	$6.62	$9.87
New – Additional (when ordered at the same time as the initial)			
Service Connection Charge/Platform	-	$257.88	$369.02
Premises Visit Charge	-	$75.59	$101.93
Migration – Initial			
Service Order	-	$0.83	$1.23
Service Connection Charge/Platform	-	$4.26	$6.07
Manual Surcharge	-	$9.42	$14.04
Migration - Additional (when ordered at the same time as the initial)			
Service Connection Charge/Platform	-	$4.09	$5.83

X. Unbundled Network Element Platform (continued)	Rates		
	Monthly Recurring	Non-Recurring Normal	Non-Recurring Expedite
DS1 DID/DOD/PBX FX Platform			
New – Initial			
Service Order	-	$52.62	$78.45
Service Connection Charge/Platform	-	$410.03	$589.46
Premises Visit Charge	-	$143.07	$192.93
Manual Surcharge	-	$6.62	$9.87
New - Additional (when ordered at the same time as the initial)			
Service Connection Charge/Platform	-	$397.38	$571.06
Premises Visit Charge	-	$75.59	$101.93
Migration – Initial			
Service Order	-	$0.83	$1.23
Service Connection Charge/Platform	-	$4.26	$6.07
Manual Surcharge	-	$9.42	$14.04
Migration - Additional (when ordered at the same time as the initial)			
Service Connection Charge/Platform	-	$4.09	$5.83
ISDN-PRI FX Platform			
New – Initial			
Service Order	-	$52.62	$78.45
Service Connection Charge/Platform	-	$410.03	$589.46
Premises Visit Charge	-	$143.07	$192.93
Manual Surcharge	-	$6.62	$9.87
New - Additional (when ordered at the same time as the initial)			
Service Connection Charge/Platform	-	$397.38	$571.06
Premises Visit Charge	-	$75.59	$101.93
Migration – Initial			
Service Order	-	$0.83	$1.23
Service Connection Charge/Platform	-	$4.26	$6.07
Manual Surcharge	-	$9.42	$14.04
Migration - Additional (when ordered at the same time as the initial)			
Service Connection Charge/Platform	-	$4.09	$5.83

X. Unbundled Network Element Platform (continued)	Rates		
	Monthly Recurring	Non-Recurring Normal	Non-Recurring Expedite
Coin Platform			
New – Initial			
Service Order	-	$0.83	$1.23
Service Connection Charge/Platform	-	$7.57	$10.78
Premises Visit Charge	-	$110.27	$148.70
Manual Surcharge	-	$9.42	$14.04
New - Additional (when ordered at the same time as the initial)			
Service Connection Charge/Platform	-	$7.40	$10.54
Premises Visit Charge	-	$37.46	$50.51
Migration – Initial			
Service Order	-	$0.83	$1.23
Service Connection Charge/Platform	-	$4.26	$6.07
Manual Surcharge	-	$9.42	$14.04
Migration - Additional (when ordered at the same time as the initial)			
Service Connection Charge/Platform	-	$4.09	$5.83
Public Access Line Platform			
New – Initial			
Service Order	-	$0.83	$1.23
Service Connection Charge/Platform	-	$7.57	$10.78
Premises Visit Charge	-	$110.27	$148.70
Manual Surcharge	-	$9.42	$14.04
New - Additional (when ordered at the same time as the initial)			
Service Connection Charge/Platform	-	$7.40	$10.54
Premises Visit Charge	-	$37.46	$50.51
Migration – Initial			
Service Order	-	$0.83	$1.23
Service Connection Charge/Platform	-	$4.26	$6.07
Manual Surcharge	-	$9.42	$14.04
Migration - Additional (when ordered at the same time as the initial)			
Service Connection Charge/Platform	-	$4.09	$5.83

XI. Expanded Extended Loop (EEL)	Rates		
	Monthly Recurring	Non-Recurring Normal	Non-Recurring Expedite
EEL Loop Test Charges			
DS0 Test Charges			
2-Wire Analog Loop	$0.08	-	-
2-Wire Digital Loop	$0.09	-	-
4-Wire Analog Loop	$0.16	-	-
DS1 Test Charge	$0.61	-	-
DS3 Test Charge	$102.22	-	-
4-Wire DS0 56/64 Kbps Loop Test Charge	$0.18	-	-

XII. Dark Fiber	Rates	
	Monthly Recurring	Non-Recurring
Dark Fiber - Records Review	-	$266.23
Dark Fiber – IOF		
Verizon C.O. to Verizon C.O.		
Service Order	-	$52.62
Serving Wire Center ("SWC") Charge/SWC/Pair	$6.71	$37.59
IOF Mileage/Pair/Mile	$85.22	-
IOF Mileage Installation Charge/Pair	-	$189.63
Expedited Handling Charge	-	$128.85
Verizon C.O. to CLEC C.O.		
Service Order	-	$52.62
SWC Charge/SWC/Pair	$6.71	$37.59
Channel Termination Charge/CLEC C.O.	$117.04	$332.71
Expedited Handling Charge	-	$178.71
Dark Fiber – Loop		
Service Order	-	$52.62
SWC Charge/SWC/Pair	$6.71	$34.00
Loop Charge/Pair:		
Rate Group A1	$156.91	$578.35
Rate Group A2[22]	$161.21	$578.35
Rate Group B1	$264.62	$578.35
Rate Group B2	$206.67	$578.35
Expedited Handling Charge	-	$259.89
Time and Materials Charges		
Network Transport Engineering ("NTE") Planning/Hour	-	$44.56
NTE Design/Hour	-	$44.56
NTE Technician/Hour	-	$34.54
CO Technician/Hour	-	$32.74
Dark Fiber Sub-loop	TBD	TBD

[22] Rate Group A2 is modified to include the Hagerstown, Cumberland, and Salisbury exchanges.

XIII. Sub-loop @ FDI	Rates		
	Monthly Recurring	Non-Recurring Normal	Non-Recurring Expedite
Sub-loop Two Wire			
New-Initial			
Service Order	-	$7.69	$11.47
Installation Charge per initial sub-loop	-	$119.98	$161.81
New-Additional (when ordered at same time as initial)			
Installation Charge per additional sub-loop	-	$47.07	$63.50
Loop Through-Initial			
Service Order	-	$7.69	$11.47
Installation Charge per initial sub-loop	-	$233.51	$324.35
Loop Through-Additional (when ordered at same time as initial)			
Installation Charge per additional sub-loop	-	$135.84	$190.25
Two Wire Sub-loop – Distribution			
Rate Group A1	$7.09	-	-
Rate Group A2[23]	$7.63	-	-
Rate Group B1	$21.61	-	-
Rate Group B2	$13.46	-	-
Sub-loop Four Wire			
New-Initial			
Service Order	-	$7.69	$11.47
Installation Charge per initial sub-loop	-	$150.79	$203.36
New-Additional (when ordered at same time as initial)			
Installation Charge per additional sub-loop	-	$59.93	$80.83
Loop Through-Initial			
Service Order	-	$7.69	$11.47
Installation Charge per initial sub-loop	-	$265.56	$367.61
Loop Through-Additional (when ordered at same time as initial)			
Installation Charge per additional sub-loop	-	$161.54	$226.18
Four Wire Sub-loop – Distribution			
Rate Group A1	$12.20	-	-
Rate Group A2[24]	$13.23	-	-
Rate Group B1	$41.15	-	-
Rate Group B2	$24.86	-	-

23 Rate Group A2 is modified to include the Hagerstown, Cumberland, and Salisbury exchanges.

24 Rate Group A2 is modified to include the Hagerstown, Cumberland, and Salisbury exchanges.

Service or Element Description:	Recurring Charges:	Non-Recurring Charges:
XIV. Signaling and Databases		
1. STP Port		
SS7 Interconnection	$0.75/Month	Normal: $52.62/Service Order $163.35/Installation Charge/Facility $6.62/Manual Surcharge Expedite: $78.45/Service Order $236.47/Installation Charge/Facility $9.87/Manual Surcharge
2. 800/888/877 Database		
Basic Query	$.00082/Query	Not Applicable
Vertical Query	$.000291/Query	Not Applicable
3. LIDB Validation		
LIDB Point Codes	Not Applicable	$88.46/Point Code
Calling Card	$.016352/Query	Not Applicable
Billed Number Screening	$.016352/Query	Not Applicable
Storage of CLEC's Data in LIDB Database	Not Applicable	$1,514.69 Service Establishment/Request

Service or Element Description:	Recurring Charges:	Non-Recurring Charges:
4. AIN Service Creation (ASC) Service		
Developmental Charges		
Service Establishment	Not Applicable	$911.12/Request
Service Creation Access Port	$105.78/Port/Month	Not Applicable
Service Creation Usage		
a. Remote Access	$1,148.50 /Day	Not Applicable
b. On-Premise	$1,148.50/Day	Not Applicable
Certification & Testing	$79.35/Hour	Not Applicable
Help Desk Support	$ 83.98/Hour	Not Applicable
Service Charges		
Subscription Charge	$3.29/Month	Not Applicable
Database Queries		
a. Network Query	$.0006/Query	Not Applicable
b. CLEC Network Query	$.0006/Query	Not Applicable
c. CLEC Switch Query	$.0006/Query	Not Applicable
Trigger Charge		
a. Line Based	$.00063/Query	Not Applicable
b. Office Based	$.00063/Query	Not Applicable
Utilization Element	$.00025/ACU	Not Applicable
Service Activation Charge		
a. Network Service Activation	Not Applicable	$13.19/Service Activated/Line
b. CLEC Network Service Activation	Not Applicable	$13.19/Service Activated/Line
c. CLEC Switch Service Activation	Not Applicable	$13.19/Service Activated /Line
Service Modification		
DTMF Update	$.07/Occurrence	Not Applicable
Switch Based Announcement	$.003/ Announcement	Not Applicable

Service or Element Description:	Recurring Charges:	Non-Recurring Charges:
XV. Network Interface Device		
2 Wire Stand Alone	$.56/mo	Not Applicable
4 Wire Stand Alone	$.56/mo	
Standalone DS1 NID	$5.80/Month	Normal: $7.69/Service Order $51.16/Installation $14.98/Manual Surcharge Expedite: $11.47/Service Order $68.99/Installation $22.34/Manual Surcharge
Shared NID	TBD	

C. RESALE[25]

I. Wholesale Discount for Resale of Retail Telecommunications Services[26]

Resale of retail telecommunications services as per Commission Order in case 8731, dated November 8, 1996. Assumes CLEC will provide own operator and directory assistance services.	19.87%

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[25] All rates and charges specified herein are pertaining to the Resale Attachment.

In compliance with the FCC Order approving the Merger of GTE Corporation and Bell Atlantic (CC Docket No. 98-1840), Verizon will offer limited duration promotional discounts on resold residential exchange access lines. The terms and conditions on which these promotional discounts are being made available can be found on Verizon's web site, at http://www.verizon.com/wise for former GTE service areas and former Bell Atlantic service areas.

[26] Excludes telecommunications services designed primarily for wholesale, such as switched and special exchange access service, and, subject to the Resale Attachment, the following additional arrangements that are not subject to resale: limited duration (90 days or less) promotional offerings, public coin telephone service, and technical and market trials. Taxes shall be collected and remitted by the reseller and Verizon in accordance with legal requirements and as agreed between the Parties. Surcharges (e.g., 911, telecommunications relay service, universal service fund) shall be collected by the reseller and either remitted to the recipient agency or NECA, or passed through to Verizon for remittance to the recipient agency or NECA, as appropriate and agreed between the Parties. End user common line charges shall be collected by the reseller and remitted to Verizon.

Service or Element Description:	Recurring Charges:	Non-Recurring Charges:
D. OPERATIONS SUPPORT SYSTEM		
1. Pre-Ordering	$.26/Query	Not Applicable
2. Ordering	$4.22/Transaction	Not Applicable
3. Provisioning	Included in Ordering	Not Applicable
4. Maintenance & Repair		
a. ECG Access	$.26/Query	Not Applicable
b. EB/OSI Access	$1.20/Trouble Ticket	Not Applicable
5. Billing		
a. CD-ROM	$254.11/CD-ROM /Month	Not Applicable
b. Daily Usage File		
b.1. Existing Message Recording	$.000267/Message	Not Applicable
b.2. Delivery of DUF		
Data Tape	$21.46/Tape	$63.27/Programming Hour
Network Data Mover	$.000096/Message	Not Applicable
CMDS	$.000096/Message	$63.27/Programming Hour
c. DUF Transport		
9.6 kb Communications Port	$10.56/Month	$7,416.65/Port
56 kb Communications Port	$29.15/Month	$30,717.61/Port
256 kb Communications Port	$29.15/Month	$51,094.01/Port
T1 Communications Port	$370.26/Month	$182,318.17/Port
Line Installation	Not Applicable	$63.27/Programming Hour
Port Set-up	Not Applicable	$10.16/Port
Network Control Programming Coding	Not Applicable	$63.27/Programming Hour
I. **E. 911/E911**		
Transport	Per section B above	
Data Entry and Maintenance	No Charge	

Service or Element Description:	Recurring Charges:	Non-Recurring Charges:
F. Time and Materials		
Service Technician (service work on unbundled loops outside of the Central Office)	Not Applicable	$1.20/Service Order $25.18/Premises Visit $10.61 Labor Charge/ Quarter Hour After First Quarter Hour
Special Construction	As applicable per Verizon-MD Tariff 203 sec. 2 as amended from time to time	
Central Office Technician	Not Applicable	$1.20/Service Order $25.18/Premises Visit $10.33 Labor Charge/ Quarter Hour After First Quarter Hour
G. Directory Listings & Books		
Primary Listings		
Additional Tariffed Listing Services	$.29/Month/primary listing or a $5.00 one time charge/primary listing, at US LEC's option	
Books & delivery (annual home area directories only)	Per applicable Tariff (including, but not limited to, Verizon-MD Tariff P.S.C-MD-No. 203 sec. 4 as amended from time to time. Retail rates less wholesale discount No charge for normal numbers of books delivered to end users; bulk deliveries to CLEC per separate arrangement	

RECIPROCAL COMPENSATION TRAFFIC TERMINATION RATES

A. Charges by Verizon

(a) Traffic delivered to Verizon Tandem: Tandem Rate.

(b) Traffic delivered directly to terminating Verizon End Office: End Office Rate.

B. Charges by US LEC

1. Single-tiered interconnection structure:

US LEC's rates for the termination of Verizon's Reciprocal Compensation Traffic under the single-tiered interconnection structure shall be recalculated once each year on each anniversary of the Effective Date (the "Rate Determination Date"). The methodology for recalculating the rates is as follows:

Tandem Minutes = Total minutes of use of Reciprocal Compensation Traffic delivered by US LEC to the Verizon Tandem for most recent billed quarter.

End Office Minutes = Total minutes of use Reciprocal Compensation Traffic delivered by US LEC directly to the terminating Verizon End Office for most recent billed quarter.

Total Minutes = Total minutes of use of Reciprocal Compensation Traffic delivered by US LEC to Verizon for most recent billed quarter.

US LEC Charge at the US LEC-IP =

$$\frac{(\textit{Tandem Minutes} \times \text{Tandem Rate}) + (\textit{End Office Minutes} \times \text{End Office Rate})}{\textit{Total Minutes}}$$

For the first year after the Effective Date, the US LEC charge shall be calculated based on the traffic data of the quarter immediately preceding such Effective Date, or if no such traffic exists, on the proportion of Reciprocal Compensation Traffic termination trunks to Verizon End Offices and to Verizon Tandems.

2. Multiple-tiered interconnection structure (if offered by US LEC to any carrier)

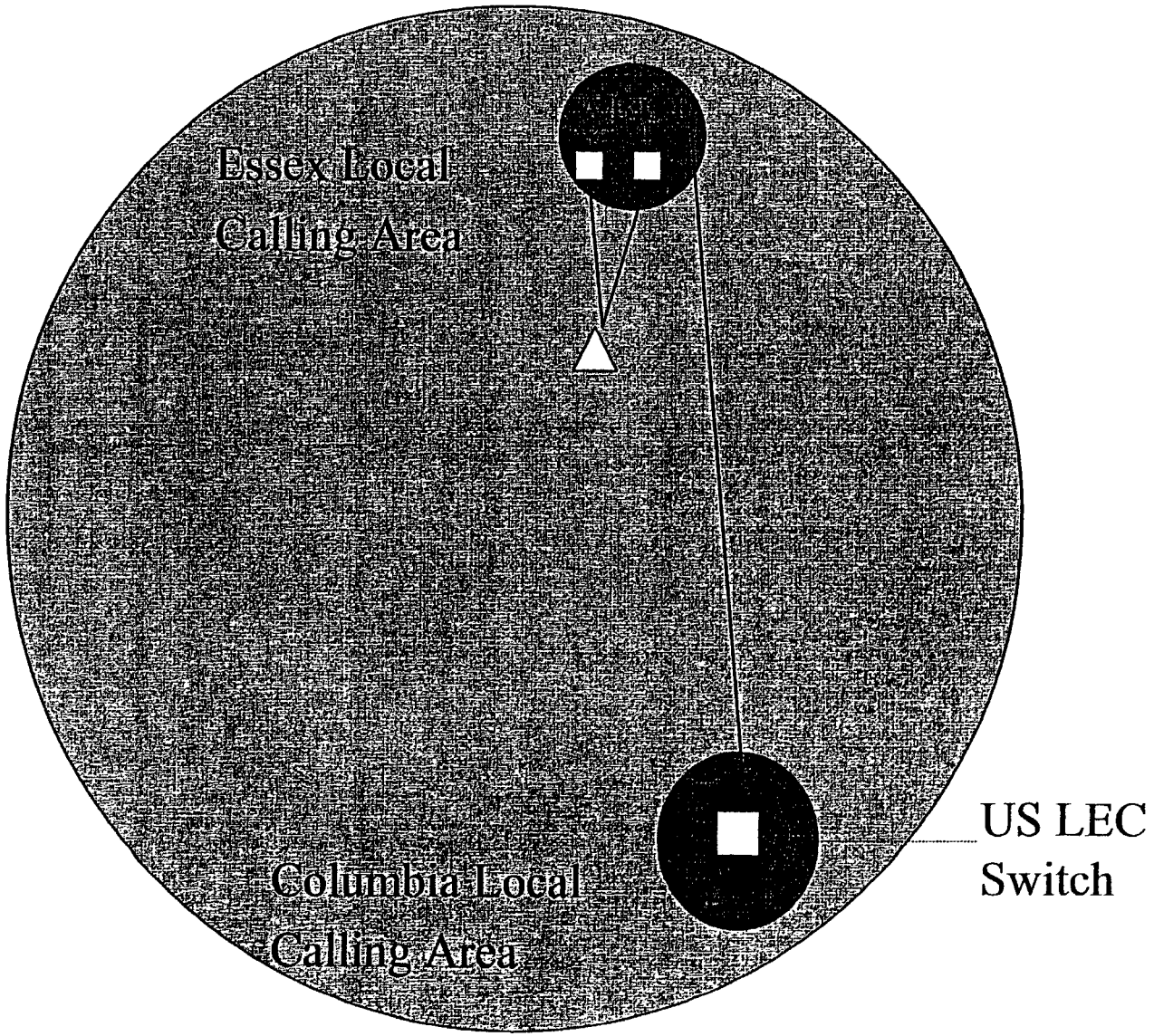
(a) Reciprocal Compensation Traffic delivered to US LEC Tandem: Tandem Rate

(b) Reciprocal Compensation Traffic delivered to terminating US LEC End Office/node: End Office Rate

C. Miscellaneous Notes

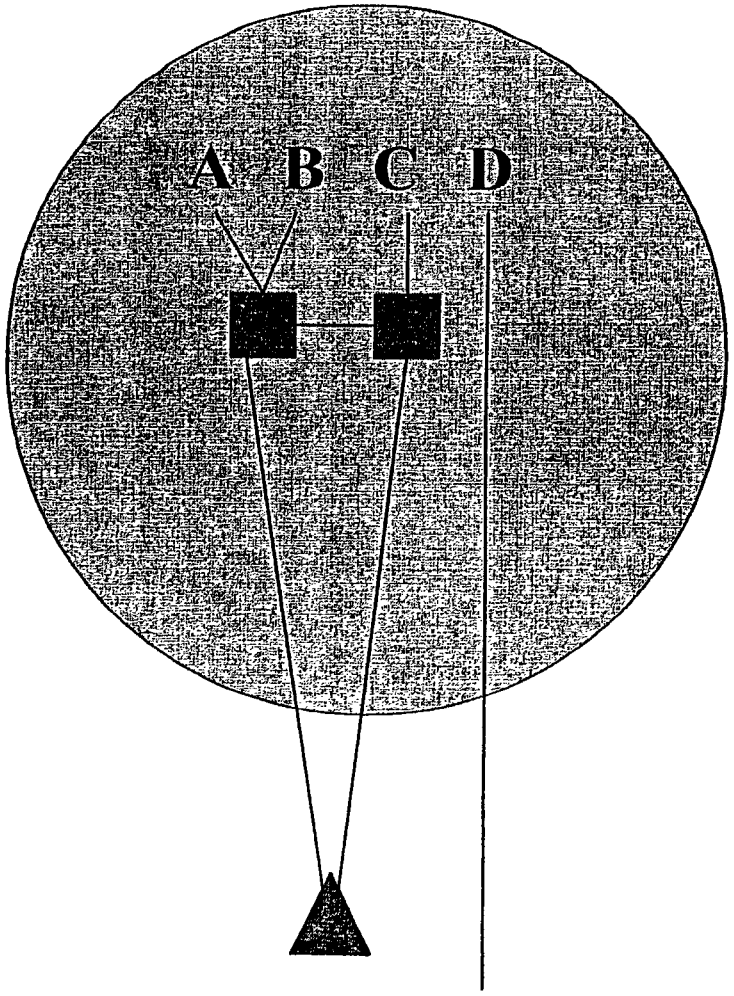
1. The US LEC termination rate under the single-tiered interconnection structure set forth above is intended to be a Reciprocal Compensation Traffic termination rate for Interconnection to the US LEC-IP within each LATA that is reciprocal and equal to the actual rates that will be charged by Verizon to US LEC under the two-tiered Reciprocal Compensation Traffic termination rate structure described above that will apply after the first anniversary of the Effective Date. The single US LEC termination rate is also intended to provide financial incentives to US LEC to deliver traffic directly to Verizon's terminating End Offices once US LEC's traffic volumes reach an appropriate threshold.

Baltimore LATA



VZ#2

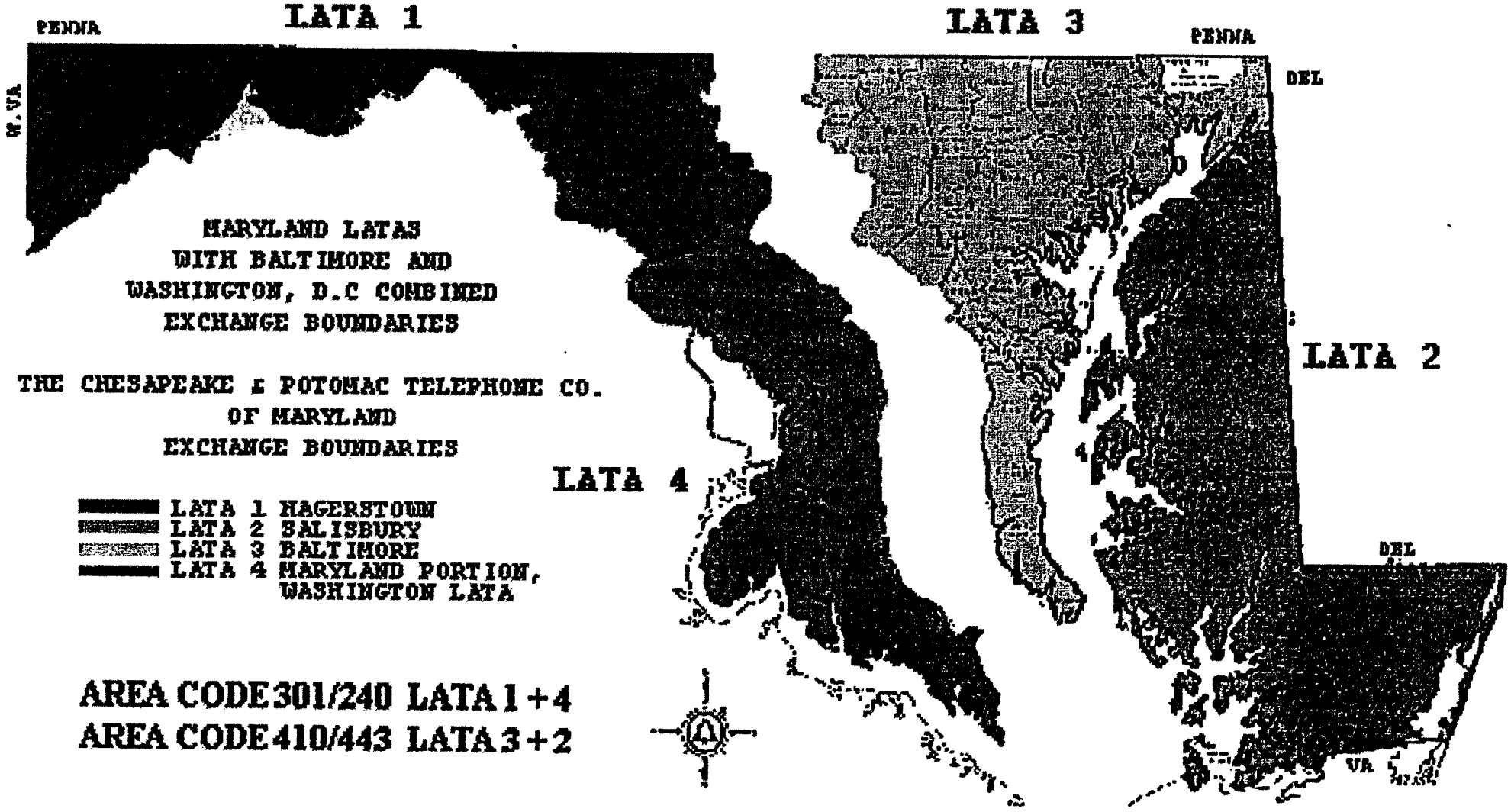
Essex Local Calling Area



VZ #3

301 AREA CODE/ 240 OVERLAY

410 AREA CODE/ 443 OVERLAY



VZ #4

COMMONWEALTH OF PENNSYLVANIA
PUBLIC UTILITY COMMISSION

Petition of USLEC of Pennsylvania, Inc., for Arbitration with Verizon Pennsylvania Inc., pursuant to Section 252(b) of the Telecommunications Act of 1996	:	Docket No. A-3108147000

Keystone Building
Plaza Level
400 North Street
Hearing Room 3
Harrisburg, PA

Wednesday, July 17, 2002
Commencing at 10:04 a.m.

BEFORE:
LOUIS COCHERES, Administrative Law Judge

REPORTER: MELISSA L. CHARLTON

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VZ #5

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PROCEEDINGS

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JUDGE LOUIS COCHERES:

Good morning, ladies and gentlemen. As you're well aware by now, my name is Louis Cocheres. And I'm an Administrative Law Judge appointed to be the Arbitrator in the petition of USLEC of Pennsylvania, Incorporated, for arbitration with Verizon Pennsylvania, Incorporated, pursuant to Section 252 of the Telecommunications Act of 1996, at Commission Docket Number A-3108147000.

We're here today for what I believe will be our initial and only hearing in this matter. I do want to take a few moments to spread a few minor procedural things on the record. I always like to put on the record that I do, in fact, live in an area that is served by major utilities and that I have Verizon as my local exchange carrier. Currently I have MCI as my long distance carrier. I may want to rethink that. And I have AT&T as a cell phone carrier. I like to tell people that up front. If anyone has a problem with it, they should speak up now or forever hold their peace. Thank you.

As I indicated on the record at our prehearing conference and in my prehearing order,

I want very much to have a fairly uniform and orderly proceeding today in terms of issue presentation. I had hoped that we would be able to retain exactly the same numbering system that USLEC used in its numbering of issues in it's petition. However, I was somewhat chagrined to notice that that wasn't quite followed. But I don't think that's irretrievable. But I do want to go through this hearing issue by issue, hearing from each party for each issue before we move on to the next one. I do that for three reasons. One, it creates an orderly record; two, it means that your briefs can follow the same format; and three, it means my decision can follow the same format. And when that is all taken up as a unit to be reviewed by the Commission, hopefully the orderly record and the wisdom of it all being so organized will be evident to them.

Because the witnesses did not all testify in numerical sequence in the sense some witnesses covered some issues and some others, I will swear all of the witnesses at the beginning of this proceeding, because I expect that we are going to be jumping back and forth somewhat between the witnesses. And rather than interrupt the proceeding, I'll just have everybody stand and issue the oath that

way.

The other thing that I noticed, and I already sent an e-mail notice to all of you was that I reviewed the settlement agreement that you had submitted --- USLEC had submitted with the arbitration petition. And when I reviewed it, since it was the only copy of the agreement that I had, these little white tags indicate things that you indicated were disputed issues. Now, I know you have, in fact, settled many of these little white tags but I don't know which ones, other than to know that your testimony covered a limited number. So before we leave the room today, and I will wait until after the hearing probably, at least until after we hear from the witnesses, I will go through these, as I've highlighted them in my copy, and just touch base with you to make sure that I have covered each and every issue that needed to be disputed. And for those that are no longer disputed, you have an obligation to furnish me with a copy of the language that you have agreed to because I'm supposed to review it. I didn't review everything that's in this particular book. And but I do need to know what's already settled.

Now, in terms of already settled, the parties have advised me that at least one of the

issues is currently settled that was on the table today. And I've lost track right now off the top of my head of which witness that was, but one of the Bell witnesses, I believe it was issue number 11. Ms. Fleming's issue has been completely settled, as I understand it.

ATTORNEY PANNER:

That is correct, Your Honor.

JUDGE:

Fine. I have no problem with that. Again, that's just an example of settlement language that I will need to see as part of this proceedings. Are there any procedural issues use that I need to go on before we move on hearing witnesses testimony?

Hearing none, by my count I have four witnesses, two from each side. If you folks would please stand and raise your right hands.

WITNESSES SWORN EN MASSE

JUDGE:

All right. Now, for the purposes of the record, I'm just going to start on my left with the lady wearing the green outfit and ask her to tell me her name.

MS. MONTANO:

Wanda G. Montano.

JUDGE:

And the gentleman next to her?

MR. HOFFMANN:

My name is Frank R. Hoffmann, Jr.

JUDGE:

Moving around the table.

MR. HAYNES

Terry A. Haynes.

MR. D'AMICO:

Pete D'Amico.

JUDGE:

Fine. All right.

ATTORNEY SHOR:

I don't recall if during our prehearing conference we had already addressed and identified that we had settled issues seven and ten.

JUDGE:

Yes. I reviewed that transcript this morning. Interestingly, you did tell me that you had settled two issues but I don't think it was perfectly clear which ones they were. And I just said, fine, which was no more illuminating on the record than you were. So that would be issues seven and ten in the USLEC.

ATTORNEY SHOR:

And issue 11 as well.

JUDGE:

Okay. So we're now --- I do have a real basic question and it stems from having reviewed the agreement. The agreement that was provided to me, and I can understand why there was no effective date, because obviously it hasn't been approved but also on page one there was no date for the initial term, were you contemplating an one year, two year, 16 month? How many car payments were you expecting in this agreement? Did you have some term in mind.

MR. HOFFMANN:

It's my understanding the term of the agreement was to be two years.

JUDGE:

Mr. Hoffmann, thank you very.

ATTORNEY PANNER:

I would have to get back to you, Your Honor, on that question. And I can check it in the agreement language, but I don't know the answer.

JUDGE:

I didn't see anything in the agreement, as I read through it over the last several

days, to indicate that there was a particular time frame that the parties have in mind.

ATTORNEY SHOR:

I think because of the way that it's done is it's pegged to a specific date that once you get --- know what the effective date is, then you know what the termination date is. But you're correct, it doesn't say for a term of X years and beyond Y date if it does not do that.

ATTORNEY SHOR:

And section two, term and termination, page one, there is a date that needs to be filled in there and I appreciate that you don't have the effective date yet. But I assumed that you had at least a given amount of time available.

JUDGE:

All right. I have a procedural question for the parties to tell me about, since it's been awhile. Who goes first? The Petitioner?

ATTORNEY SHOR:

The Petitioner goes first.

JUDGE:

All right. Then as I recall you have a choice between Ms. Montano and Mr. Hoffmann.

ATTORNEY SHOR:

Your Honor, USLEC will put Mr. Hoffmann on the stand to address issues one and two collectively. And Ms. Montano, after the Cross Examination of Mr. Hoffmann, Ms. Montano will be placed on the stand just for her testimony with respect to those two issues as well.

JUDGE:

Yes. That leads to a question that I had already written down and that's that the parties seem to be treating one and two as a unit.

ATTORNEY SHOR:

That's correct.

JUDGE:

All right. Fine then Mr. Shor will you finish presenting Mr. Hoffmann.

ATTORNEY SHOR:

USLEC calls Frank R. Hoffmann.

JUDGE:

Mr. Hoffman, you've been previously sworn.

FRANK HOFFMAN, PREVIOUSLY SWORN, CALLED TO TESTIFY

DIRECT EXAMINATION.

BY ATTORNEY SHOR:

Q. Mr. Hoffmann, would you state your name and business address for the record, please?

A. My name is Frank Hoffmann. I'm located at 6801 Morrison Boulevard in Charlotte, North Carolina.

Q. By whom are you employed?

A. I'm employed by USLEC.

Q. And what is your title?

A. I'm senior interconnection manager.

Q. Did you cause to have prepared, I believe it was 21 pages of Direct testimony filed in this matter on May 31, 2002?

A. Yes, I did.

Q. If I asked you those questions today, would your answers be the same?

A. I would have one revision.

Q. What revision that is?

A. That is to change my relative to nine trunks to nine T-1s.

Q. And what page is that on; do you know?

ATTORNEY PANNER:

Frank, I think it's on page 20.

A. Thank you. Yes, you're absolutely correct, line nine, page 20, continuing onto ten. Nine trunks per day it should be changed to nine T-1s per day.

BY ATTORNEY SHOR:

Q. Other than that correction, do you have any other changes, edits or corrections to your direct

testimony?

A. No, I do not.

Q. Did you cause to have prepared seven pages --- six pages of rebuttal testimony filed in this matter on July 9, 2002?

A. Yes, I did.

Q. Do you have any changes, corrections or additions to that testimony?

A. No, I don't.

Q. If I ask you those questions today, would your answer be the same?

A. Yes, I did.

ATTORNEY SHOR:

Your Honor, USLEC respectfully moves the admission of the direct and rebuttal testimony of Mr. Frank Hoffmann into the record, subject to Cross Examine.

JUDGE:

It is the testimonies are admitted, subject to Cross Examine, and in a timely motion. Mr. Panner?

ATTORNEY PANNER:

Thank you, Judge.

CROSS EXAMINATION

BY ATTORNEY PANNER:

Q. Good morning. I'd like to start by getting your help in explaining to the Commission and Judge Cocheres USLEC's position on issues one and two. And I have here a schematic diagram of the Philadelphia LATA, the Pennsylvania portion of it, which I'll just label in a pen on the bottom VZ-1.

ATTORNEY PANNER:

If that is all right with you.

JUDGE:

That is fine, as long as you don't have a VZ-1 as part of your presentation.

(Exhibit VZ-1 marked for identification.)

BY ATTORNEY PANNER:

Q. Now, in this diagram, I have a circled towards the --- I have a large circle to represent the Philadelphia LATA; do you see that?

A. Yes.

Q. And I have a small circle at the top of the big circle that's labeled the Allentown local calling areas; do you see that?

A. Yes, I do.

Q. And I also have a slightly larger circle down at the bottom right. It's labeled Philadelphia local calling area; do you see that?

A. Yes.
Q. And I have a box inside that's Philadelphia local calling area, that's labeled the USLEC switch. Do you see that?
A. Correct, yes.
Q. Now, is it accurate to say that the USLEC switch is inside the Philadelphia local calling area?
A. I believe so.
Q. Was it your testimony that it was located --- that your switch is located in Philadelphia local calling area?
A. Could you direct me to that portion of the testimony?
Q. I'll cover that later. But you'll take it subject to check that you at least believe that the USLEC switch is inside the Philadelphia local calling area?
A. Yes.
Q. Now, in this diagram, let's suppose that the capital letters A, B, C, D represent customers. Are you with me so far?
A. Yes.
Q. Now, let's suppose that capital letter A is a Verizon customer and that capital letter D is a USLEC customer. First of all, is it accurate to say that

Verizon would have an end office within the local calling area serving that customer A?

A. I cannot respond to that. I will assume that we did.

Q. Okay. In fact, you testified, did you not, that Verizon's network uses a large number switches, each serving a relatively small area?

A. Yes.

Q. So it's likely that there would be a switch within the local calling area serving that customer?

A. It's possible, yes.

Q. If it were --- if it were not within the local calling area, it would be very close by?

A. That is also possible.

Q. Would you agree at that there are calling areas in Pennsylvania where Verizon has end offices serving customers.

ATTORNEY SHOR:

I'm going object only to the extent that he's an USLEC witness. I don't know what he knows about Verizon's network. So foundation.

BY ATTORNEY PANNER:

Q. Mr. Hoffmann, have you ever worked for Verizon?

A. Yes, I have.

Q. Okay. Do you, in fact, know whether Verizon has

any end offices in local calling areas in Philadelphia LATA?

A. Not specifically what calling area or what switch is located where, but simply by the fact that you have switches in the LATA and you have local calling areas in the LATA. I must assume that your switches are in local calling areas. Whether you have a switch in every local calling area, I do not know.

Q. Fair enough. It's at least possible then that there would be a would be a switch in that Allentown, local Allentown calling area. Do you agree with that?

A. Yes.

Q. Now, if Verizon customer A --- well, let me ask one further question before I pose my hypothetical. Is it also correct that USLEC does not have a switch in the Allentown local calling area?

A. We do not.

Q. In fact, you have only the one switch in the Philadelphia LATA, which is, subject to check, inside the Philadelphia local calling area?

A. That is correct.

Q. Now, so there would be some sort of a long line or loop or some kind of a transport facility that, if you have a customer inside the local calling area in Allentown, there would be some kind of long facility

connecting your customer to that switch?
A. We would have a facility that would connect our customer with our switch, yes.
Q. Now, suppose that a Verizon customer A were to call that USLEC's customer D inside the Allentown local calling area, first of all, A and D could be quite close together; is that correct?
A. Yes.
Q. Okay. They could be next door neighbors?
A. Correct.
Q. Okay. And if that Verizon customer A placed a call to the USLEC customer D, is it correct that somehow that call would have to be transported from the Verizon originating end office to the USLEC switch?
A. Yes. I believe Verizon would transport that call to the point of interface at Verizon's access tandem and then hand that call off to USLEC switch for termination to our customer D within the Allentown local calling area.
Q. Okay. So just to clarify that, you say Verizon would transport the call to its local access tandem and your testimony was what?
A. No. I'm sorry. You missunderstood. I stated that Verizon would route that call to the point of

interface, which USLEC has established that's your access tandem, not your local tan number.

Q. Thank you for that clarification. So it's your testimony that USLEC's point --- when you say point of interface, what do you mean?

A. I mean the physical point where our networks interconnect.

Q. And it's your testimony that that physical point is the USLEC in the Verizon access tandem?

A. Both Verizon access tandem within the Philadelphia line, yes.

Q. Now, the call would then have to be transported from the access tandem to the Philadelphia local calling area; is that correct, to USLEC switch?

A. It is my understanding that Verizon's access tandem is located within the Philadelphia local calling area, as I'm one mile away from the market tandem.

Q. Okay. Do you know if the market tandem is serving --- would be serving the call --- that Allentown local calling area call?

A. No, I do not.

Q. You've testified that the point of interface between the networks is at the Verizon access tandem?

A. Right.

Q. Is it, therefore, your testimony that the traffic from the access tandem is transported over USLEC's network from the access tandem to the USLEC switch?

A. I'm sorry. Could you repeat that again?

Q. Was it your testimony that the traffic is transported over USLEC's network to USLEC switch?

A. Initially in the Philadelphia LATA, USLEC purchased an OC-12 fiber ring, which was used to transport both parties' traffic between our IPs from my switch to your network and, conversely, from your network through the port to my IP. USLEC outgrew the capacity on that OC-12 and abandoned that facility and purchased an OC-48 from Verizon. It is my understanding Verizon currently uses the abandoned OC-12 to terminate its traffic to USLEC.

Q. Okay. Let me clarify. When you say it uses the abandoned OC-12 to terminate the traffic to USLEC, you mean to deliver it to USLEC's switch?

A. Correct.

Q. And that OC-12 is Verizon's facility or USLEC's facility?

A. That facility is Verizon.

Q. Okay. So in fact, Verizon is transporting its originating over Verizon's network to USLEC switch; is that correct?

A. Yes Verizon is using a facility which USLEC paid non-recurring charges to have installed and paid the monthly recurring charges for a 12-month period while it was in our use.

Q. But you're not paying for that facility any longer?

A. No, I don't believe.

Q. Now, does Verizon receive any compensation from USLEC for transporting a call from Verizon caller A to USLEC switch in the scenario I described?

A. I do not believe so.

Q. So your answer is no?

A. Correct.

Q. In fact, in the scenario that we're talking about here there would be no --- well, in the scenario we're talking about here, would Verizon receive any additional compensation from its caller for transporting the call to the USLEC switch in Philadelphia?

A. I do not know. That would depend on the calling plan that caller A has purchased from Verizon.

Q. So you don't know? Well, let me go back to that. Why would it depend on the calling plan?

A. I'm not sure if caller A has a flat rated service or a message rated service or some other type of

plan. I'm not familiar with Verizon's calling plans but I do know they we have several.

Q. Let me rephrase the question. Would Verizon receive any additional compensation for the call from caller A to caller D because Verizon has transferred the call to another carrier's network --- and transported the call to another carrier's network or would the charge be the same, as if the caller were served by Verizon itself?

A. I'm sorry. I'm at a loss. I do not know what Verizon charges customer A, if you have a policy of charging something if it's intranetwork versus handing it off to another carrier.

Q. Okay. Now, in your view, in the scenario that I just described where caller A places a call to caller D, would USLEC be entitled to a payment of reciprocal compensation for terminating that call D as an end user?

A. Yes.

Q. So you would actually require Verizon to pay you despite the fact that Verizon is bearing all of the cost to transport that call to the USLEC switch; is that correct?

A. Yes, that is my understanding of what federal rules require.

Q. Okay. Are you a lawyer?
A. No, sir.
Q. Okay. Now, let's suppose that instead of this set that USLEC's switch were in Allentown --- or not USLEC, but CLEC has a switch in Allentown, a single switch. Are you with me so far?
A. Yes.
Q. Okay. And suppose that most of the calls that are made between the two networks are originated and terminated to numbers associated with the Philadelphia local calling areas. Are you with me?
A. Yes.
Q. And suppose further that --- so that would mean that there would be a very large volume of traffic that Verizon would have to transport all the way up to Allentown without any compensation from USLEC; is that correct?
A. I can't comment as to the volume. But yes, you would have to transport traffic between those two areas.
Q. In my hypothetical, if it is a large volume of traffic, Verizon would be responsible for transporting all of that traffic; is that correct?
A. If the traffic were one way, yes, but if the traffic traveled in both directions, I believe that

both carriers would be carrying the calls a similar distances.

Q. And if it were Verizon's customer A calling USLEC's customer D, it would be Verizon carrying the call; correct? I guess I shouldn't have used those letters because I'm no longer referring to the diagram, but it's a hypothetical. But if it were Verizon's customer calling USLEC's customer, Verizon would be responsible for the transport to USLEC's switch bearing the cost in your view?

A. I'm sorry. What local calling area would be originating the call?

Q. If the call originated in Philadelphia and were terminated to a number in Philadelphia, associated with the Philadelphia local calling area, is it your position that Verizon would bear the cost of transporting that call all the way up to Allentown?

A. I'm sorry. I must have missunderstood your question. I thought you just stated that the call area, local calling area for Philadelphia, customer A, made a call to another Philadelphia number, which I would assume would be in the Philadelphia local calling --- I'm confused with your reference to Allentown here.

Q. I'm still working on the hypothetical where USLEC

has or a switch in Allentown --- I'm sorry, CLEC has a switch in Allentown then Verizon would be responsible for transporting that call up to the CLEC switch; is that right?

A. Yes, it is my understanding that it is the incumbent LEC's responsibility to transport that call that originates on their network ---

Q. And indeed ---?

A. --- to the CLEC switch in Allentown.

Q. And under the contract language that you have proposed, are you familiar with the contract terms that you proposed?

A. Yes.

Q. You have been involved with the negotiations; is that right?

A. Yes, I have.

Q. And under the language that you've proposed, a CLEC could put its switch anywhere at all within the Philadelphia LATA; is that correct?

A. Yes.

Q. And no matter where the CLEC chose to put its switch, Verizon would be responsible for bearing the cost of transporting its originating locally rating traffic to that switch without compensation; is that your position?

A. Yes. As our current arrangements dictate, Verizon is charged a non-distance sensitive entrance facility, which is flat rated.

Q. I'm not ---.

A. To go from your tandem to my switch.

Q. Just to be clear, I'm discussing now USLEC's current proposal?

A. Yes.

Q. Your proposed language?

A. Yes.

Q. And that would permit any CLEC, because it's correct that any CLEC would be able to adopt the terms of the agreement that is adopted through this proceeding; is that correct?

A. It's my understanding that that is Verizon's obligation. But it's also my understanding that I'm here today to arbitrate an agreement between Verizon and USLEC only.

Q. I understand. But thank you for that. I'm going to introduce a second little diagram which I will label VZ-2.

(Exhibit VZ-2 marked for identification.)

ATTORNEY PANNER:

And I'm sorry for not having these

pre-labeled. But since I wasn't sure of the order of the witnesses ---.

BY ATTORNEY PANNER:

Q. I have here a schematic of a local calling area that I've labeled the Allentown local calling area. And are you familiar, as a general matter with Verizon's network architecture?

A. On a high level, yes.

Q. Okay. And in fact, you testified as to what Verizon's network architecture is; haven't you?

A. Yes. I've explained that the access network is somewhat of a hub and spoke type architecture, whereas the local network is a spider web, each point connected to every other point, as I understand Verizon.

Q. What I've represented here is A, B and C are Verizon customers. Do you understand that?

A. Yes.

Q. And D is that USLEC or CLEC customer in this diagram. Do you understand the diagram generally?

A. Yes.

Q. Now, I'd like to walk through with you the functions that would be performed if caller A, Verizon customer A called Verizon customer B and both were served out of the same end offices I've represented in

this diagram. Can you tell me what function Verizon would perform --- let me back up.

Do you agree that Verizon would switch that call within its end office to deliver it from customer A to customer B?

A. That is possible, yes.

Q. What is the other possibility?

A. Again, not being an expert on Verizon routing, I would assume you could possibly, given some sort of traffic congestion you might experience, send that call to another office and back.

Q. Do you know whether typically a call that was rather from --- routed from one customer to another customer off the same end office would typically be switched within the end office.

ATTORNEY SHOR:

I'm just going to object to the extent it's continuing to call for speculation by this witness on the functions of Verizon's switches.

ATTORNEY PANNER:

I'm sure if he doesn't know, he'll inform the Court he doesn't know. He's testified to Verizon's network architecture and how that architecture is set up. If he doesn't know, he'll say he doesn't know.

JUDGE:

Objection overruled.

A. I do not know if you would typically or always switch that call within the office.

BY ATTORNEY PANNER:

Q. Well, would you agree with me that it is at least possible that it would typically or, indeed, always be switched within the end office?

A. It is a possibility that it would be, yes.

Q. And then suppose that Verizon customer A would call Verizon customer C, which is being in this diagram served out of different end offices. Are you with me?

A. Yes.

Q. And is it possible that when Verizon customer A calls customer C, that there would be originating switching out of that end office or to customer A; is that possible?

A. Yes.

Q. And then it would be transported over the trunk between the end officer and customer A and the end office serving customer C. Is that possible that it would be transported over a trunk between those two end offices?

A. Yes, it appears so.

Q. You testified that Verizon has a spider web network. Does that mean that in many cases there would be a direct trunk between end offices over which calls are transported between the two end offices?
A. Yes.
Q. And then Verizon would perform terminating switching in that end office to deliver the call to customer C?
A. Yes.
Q. Is it also possible in some circumstances that congestion over that trunk would cause the call to overflow flow through Verizon's tandem?
A. Yes, I believe it is possible. If you're experiencing congestion between the end offices which customers A and C work out of, that you would possibly route that call to, I believe, a local network.
Q. And, in fact, you testified that Verizon's local network is comprised of multiple end office connections between each and every end office and may also cause one or more local tandems used to control traffic connection; correct?

ATTORNEY SHOR:

On what page?

A. Page five, lines 19 through 21.
BY ATTORNEY PANNER:

Q. Would you agree that I've represented that your testimony there in the schematic here in this diagram?

A. Yes.

Q. Now, do you know whether --- let me go back to VZ-1, if you would, Mr. Hoffmann.

Now, just to review, if there is a call from Verizon customer A to Verizon customer D, is it correct that Verizon would be responsible, first of all for originating --- doing originating switching out of end office A?

ATTORNEY SHOR:

Excuse me. Do you mean USLEC customer D?

ATTORNEY PANNER:

Yes, I'm sorry. Let me start again since I misspoke.

BY ATTORNEY PANNER:

Q. If Verizon customer A were to call USLEC customer D, is it correct that Verizon would perform originating switching out of end office serving customer A?

A. Yes, if that was the switch where customer A received dial tone, I would agree.

Q. And then Verizon would perform transport between that end office A to USLEC's switch possibly through

one or even more tandem switches; is that correct?

A. Correct.

Q. Okay. And then assuming that D is an end user customer, USLEC would perform terminating switching; is that correct?

A. Yes.

Q. And USLEC would be compensated for that terminating switching through reciprocal compensation; is that correct?

A. Yes.

Q. So to the extent that Verizon didn't have to do the terminating switching anymore, it would be paying USLEC to perform that function; is that correct?

A. Yes.

Q. Now, do you know whether the Pennsylvania Commission has performed cost studies to determine the cost of performing various functions that you have described?

A. No, I'm not aware of the Pennsylvania Utility Commission performing cost studies.

Q. Okay. Are you familiar with --- in general with the fact that public utility commissions, state public utility commissions have held proceedings in which they have determined the cost of performing the various network functions that we've been talking

about?

A. No. It is my understanding that the Commission reviews cost studies submitted by Verizon relative to Verizon's costs.

Q. Do you agree --- let me try to repeat the question because I don't think you quite answered it. Do you agree that state public utility commissions have proceedings in which they determine the costs associated with the various network functions that you and I have been talking about?

A. I am familiar with proceedings where the Commission will set rates, but not that they necessarily establish costs.

Q. Okay. But you would agree that the Commissions have established rates based on pricing standards in the 1996 Act and FCC regulations?

A. Yes, it is my understanding that the Commission approves Verizon rates subject to those orders and rules and regulations.

Q. Okay. So it would be correct then that one could using those Commission established rates determine the difference in costs to Verizon of delivering a call from, say, caller A to caller B in the example on VZ-2 and the cost to Verizon of transporting a call from Verizon customer A to USLEC

switch in Philadelphia; is that correct?
A. Yes, I would assume that one could use the rates and underlying costs to compare those types of scenarios. But it is my understanding Verizon is responsible to transport the traffic that originates on the network to the point of interface selected by the ---.
Q. When you say they're responsible, that is a legal conclusion?
A. I did not intend it to be.
Q. What did you mean by it?
A. I mean that it is my understanding that Verizon must bear the costs associated with that traffic that is originated on their network.
Q. Again, is that a legal conclusion?
A. I do not intend it to be.
Q. Okay. Is it possible that USLEC could compensate Verizon, say to Verizon, we'd actually be happy to pay those costs and we'll compensate you? Is that theoretically possible?
A. Yes, negotiations allow for parties to agree to waive certain rules that are forwarded to them under the Act. So yes, to the extent that Verizon were to offer me something that I would feel would be worth my paying for traffic, which I do not feel that I'm

obligated, then I might consider that.

Q. Mr. Hoffmann, I just want to try to clarify for the record, when you say that Verizon must bear costs or is obligated to bear costs, is that a legal conclusion or is it something else?

ATTORNEY SHOR:

Asked and answered.

ATTORNEY PANNER:

I don't believe he's responded directly to my question. He said that he did not intend it to be. I've asked him for clarification. I don't think that he satisfactory responded to the question.

JUDGE:

Mr. Panner, even if it is a legal conclusion, it's not binding on me or the Commission.

ATTORNEY PANNER:

Thank you, Your Honor.

JUDGE:

That certainly sounds like his understanding of what your company's obligations are. It doesn't have to be mine.

ATTORNEY PANNER:

Right. Thank you, Your Honor, I guess what I wanted to clarify is he's testified to or

--- he said that he's testifying to certain network and engineering considerations. I wanted to make clear there is no engineering or technical reason that Verizon must bear this cost that this is an allocation of responsibility.

ATTORNEY SHOR:

Can I object to his speech on the record here? We've got questions and answers.

ATTORNEY PANNER:

Mr. Shor, you had an objection ---.

JUDGE:

Let me make this easy. When I'm having a discussion on the record with counsel, that is either side, we'll have a discussion, he wasn't asking the witness a question. He was talking to me and you're certainly welcome to chime in with your side. Mr. Panner, you didn't ask him that question, whether it was a technical engineering reason that there was an obligation there. You seem to be focused on legal issue. I want you to resolve that and move on.

ATTORNEY PANNER:

Okay.

BY ATTORNEY PANNER:

Q. Is there any technical offer engineering reason why Verizon must bear that obligation?
A. I would say yes.
Q. Can you tell me what it is?
A. USLEC has chosen its point of interface at the access tandem. And it is my understanding that that is USLEC's choice, and not Verizon's.
Q. Mr. Hoffmann, in the testimony we've used two terms, points of interconnection and interconnection point. You're now using a different term, point of interface. Can you explain what you mean by that?
A. By point of interface, I mean point of interconnection. I use those terms interchangeably.
Q. And your testimony now is that the point of interconnection between the parties and Philadelphia is at the Verizon access tandem?
A. Yes.
Q. Okay. I believe that --- well, I think you'll find that it's your testimony and the testimony of Ms. Montano in this proceeding that the point of interconnection is the USLEC switch. Would you agree with that subject to check?
A. If you could direct me to it, I would like to check now.
Q. Well, I guess I'll --- well, this is actually ---

there's a reference to --- I believe, there are clearer references elsewhere. Ms. Montano's testimony hasn't been admitted yet. It may be clearer in her's. But in your testimony on page ten at lines 18 to 19, it says it makes reference to Verizon's proposing to move USLEC's IP from its switch to a co-location arrangement. That suggested that it's the current IP is USLEC's switch. Would you agree?

JUDGE:

Which testimony are you in?

ATTORNEY PANNER:

This is in Mr. Hoffman's testimony on page ten.

JUDGE:

Is it in rebuttal or direct.

ATTORNEY PANNER:

His direct. I can read the sentence. I may have confused the matter by paraphrasing.

BY ATTORNEY PANNER:

Q. It says, this 76-day deadline is well beyond the 30-day transition period Verizon proposing for moving USLEC's IP from its switch to a co-location arrangement, that's at lines 17 to 19.

A. Yes, USLEC's IP is at its switch. I'm sorry, I

thought you had asked me about the point of interconnection.

Q. So are you saying that the part of point of interconnection and interconnection point are different under the current agreement?

A. For traffic delivered from Verizon to USLEC, I would answer yes.

Q. In fact, you testified that Verizon delivers traffic to USLEC switch over Verizon's facilities?

A. In Philadelphia, yes. In Pittsburgh, Verizon continues to use the OC-12, as we have not yet outgrown that facility. We purchased an OC-12 fiber ring from Verizon. And then Verizon leases transport back from USLEC to carrier traffic to our IP.

Q. Now --- but then you said that we ---.

ATTORNEY PANNER:

Can I have the Reporter read something back? Would that be all right?

JUDGE:

Yes, if she can find it.

ATTORNEY PANNER:

If you could go back to where I asked the question, is there any technical or engineering reason why Verizon should bear that cost, if you could read back his answer to that question.

OFF RECORD DISCUSSION

COURT REPORTER READS BACK PREVIOUS QUESTIONS AND ANSWERS

BY ATTORNEY PANNER:

Q. And you've testified that although it's Verizon's responsible to --- although you've chosen --- let's take the Pittsburgh LATA for a moment, you've testified that, although it's Verizon's responsibility to transport the traffic to Verizon access tandem on the point of interface, that nonetheless, Verizon bears the financial responsibility for carrying it even further from the access tandem to USLEC's switch; is that correct?

A. No. It's my understanding in Verizon terms is that it is responsible to transport your originated traffic to USLEC's IP. The point of interconnection is simply the point at which the networks are interconnected.

Q. Is it your testimony that USLEC is bearing the cost of trans --- under current arrangements, is it your testimony that USLEC is bearing the cost of transporting traffic from Verizon's access tandem to USLEC's switch, that USLEC is bearing that cost?

A. No. I would say that that cost is bearing borne by Verizon over facilities that Verizon leases from

USLEC.

Q. Okay. But you have testified that Verizon is carrying the traffic to the interconnection point at the access --- excuse me, that Verizon is transporting the traffic to the point of interconnection at the access tandem; is that correct?

A. Yes, the traffic is transported to that point.

Q. But it bears the cost for transporting it, not only to the access tandem, but even further to the USLEC switch; is that correct?

A. Yes.

Q. Is there a technical or engineering reason why Verizon should bear that cost?

A. It is my understanding that Verizon's definition of the IP is the financial point, at which Verizon must bring their traffic, just as USLEC must bring their traffic to your IPs.

Q. In your view, that is a technical or engineering reason?

A. I'm sorry. Could you re-ask the question?

Q. I've asked you about technical or engineering reasons?

A. Yes.

Q. And then I'll drop this. I've asked you about technical or engineering reasons why Verizon should

bear this cost. And you've stated that under the terms of the agreement, Verizon has to bear the cost; is that correct?

A. Correct.

Q. Okay. Are there any other technical or engineering reasons?

A. Not that I can think of.

Q. You've testified that under the terms of the agreement proposed by Verizon that Verizon is trying to dictate the physical manner in which USLEC establishes its chosen IP; is that your testimony?

A. Yes.

Q. Is it correct that under Verizon's proposed contract language that, USLEC may chose any technically feasible point of interconnection?

A. Yes, that is my understanding.

Q. So, in fact, USLEC may chose whatever physical point interconnection it wishes to under the terms proposed by Verizon?

A. Yes.

Q. You've also testified that not only that Verizon is trying to dictate the physical point, but also the manner in which USLEC testified it interconnects; is that your testimony?

A. Yes.

Q. Okay. Is it correct that under the terms proposed by Verizon that USLEC may select from several different interconnection methods?

A. Yes.

Q. Including, for example, co-location or using an entrance facility or a mid-stand meet, those different methods?

A. Yes.

Q. Are you aware of any different methods that USLEC might want to use?

A. No, I'm not.

Q. Okay. You testified in your direct testimony that under Verizon proposal USLEC would be required --- could be required to establish co-location arrangements within 30 days of a Verizon's request. Is that your testimony?

A. Yes.

ATTORNEY PANNER:

I have here, and I don't know, Your Honor, if you want this marked. It's in the records already. It's a portion of the interconnection as marked up by USLEC and submitted with their petition. I could mark it as a separate exhibit if that would be more convenient for the record.

JUDGE:

I think what you're trying to tell me is that the interconnection agreement, the proposed one was attached to the USLEC position?

ATTORNEY PANNER:

That's correct.

JUDGE:

And what you have is an excerpt from it?

ATTORNEY PANNER:

That's correct.

JUDGE:

Well, we use the word record somewhat generically around here. If you're talking about the evidentiary proceeding that you're participating in now, it is not part of the record. So I think it would be a good idea for you to make that an exhibit. We can incorporate the document, which probably based on the questions that I have about its content will ultimately be done. But at least in this proceeding thus far, go ahead and make it VZ-3.

ATTORNEY PANNER:

Thank you, Your Honor.

(Exhibit VZ-3 marked

for identification.).

BY ATTORNEY PANNER:

Q. Do you recognize this exhibit, Mr. Hoffmann?

A. Yes.

Q. Can you tell me what it is?

A. It appears to be the interconnection attachment from the interconnection agreement that Verizon and USLEC are currently negotiating.

Q. Can you turn with me to the page that has page number 63 on it?

A. Yes.

Q. And when you say that Verizon could require USLEC to establish a co-location arrangement within 30 days of Verizon's request, are you referring to section 7.1.1.3 of Verizon's proposed language, much of which has strike-throughs on it in this copy?

A. Yes.

Q. Now, I'm going to read from this, and tell me if I've read accurately. It says USLEC may maintain existing CLEC IPs, except that Verizon may request in writing to transition such to USLEC IPs to the USLEC IP described in subsection 7.1.1.1 and 7.1.1.2 above. Have I read that sentence accurately?

A. Yes, you have.

Q. Then it says, upon such request, the parties

shall negotiate mutually satisfactory arrangements for the transition to CLEC IPs that conform to subsections 7.1.1.1 and 7.1.1.2 above. Have I read that accurately?

A. Yes, you have.

Q. And then it says, if the parties have not reached agreement on such arrangements within 30 days, then some consequences follow, which I can go over in a minute. Have I read those portions of those proposed findings accurately?

A. Yes.

Q. So what is it under this agreement that the parties need to do within 30 days before other consequences are triggered?

A. Reach agreement.

Q. Okay. Reach agreement. And if they do not reach agreement, there are two options here. A, either party may pursue available dispute resolutions mechanisms initials --- excuse me, two consequences that follow. A, either party may pursue available dispute resolution mechanisms. Is that accurately read?

A. Yes.

Q. And B, USLEC shall bill and Verizon shall pay only the lesser of the negotiated intercarrier

compensation rate or the end office reciprocal compensation rate for the relevant traffic, less Verizon's transport rate, tandem switching rate to the extent that traffic is tandem switched and other costs to the extent that Verizon purchased such transport from USLEC or a third party from Verizon's originating ends office to the USLEC IP; is that correct?

A. Yes.

Q. Did you see any language in there that, in your opinion, requires USLEC to establish a co-location arrangement within 30 days?

A. Subsection B, because it is my understanding and experience in negotiating with Verizon that, number one, I will more than likely not be able to reach an agreement with you in 30 days. And number two, absent an agreement within 30 days Verizon will begin offsetting the reciprocal compensation rate that Verizon pays USLEC in the absence of a co-located point of interconnection.

Q. So your testimony is that the parties would be unlikely to agree and so the consequences outlined here, the dispute resolution mechanisms could be invoked and the transport offset would kick in? That would be likely to occur?

A. Yes.

Q. So USLEC would have to bear some of the transport costs from Verizon's end office to the USLEC switch; is that your testimony?

A. Yes. It's my understanding that I would bear all of the costs from the end office to my IP.

Q. So there is nothing in this agreement that compels you to establish a co-location arrangement within 30 days; is that right?

A. Not if I'm willing to accept a lower compensation rate than has been agreed to in the interconnection agreement; correct.

Q. Okay. And just to follow up on that a bit, in your testimony --- in your testimony, you've testified that there were a number of problems that might result if USLEC were to change its current interconnection architecture; is that correct?

A. Yes.

Q. And is it also right that those consequences would only ensue if USLEC chose to change its current interconnection architecture; correct?

A. Correct.

Q. And in fact, USLEC could maintain its current interconnection architecture under the agreement as proposed by Verizon; is that correct?

A. Yes, if we were willing to transport Verizon's

traffic from the originating end office, which my understanding is not our obligation.

Q. When you say transport the traffic, you mean --- what do you mean by that?

A. Compensate Verizon.

Q. Okay. In your testimony on page 12 at line 26, 25 to 26, you've testified that under the Verizon proposal, if USLEC does not establish a co-located IP --- this results in USLEC paying for all, emphasized, of Verizon's transport costs within the local calling areas, the words within the local calling area are in italics. Can you explain why you emphasized those words?

A. Because I think it's important to note that Verizon is asking me to carry their traffic outside of the local calling area.

Q. Can you --- Verizon --- what you've emphasized is that you would bear USLEC would bear Verizon transport calls within the local calling area. And you've just stated that that's because you think it's important to emphasize that we're asking you to bear the costs of transporting it outside the local calling area?

A. I'm sorry. I must have misspoke. I wanted to emphasize that not only are we responsible or being asked by Verizon to carry out traffic outside the

local calling area, we're also being asked to carry the traffic within the local calling area.

Q. Okay. Now, if we can go back to Exhibit Verizon One, and this is admittedly a schematic, but when you're talking about transport within the local calling area, you're talking about the portion of the line between the end office and the edge of the circle; is that correct?

A. Yes, within that darkly shaded circle that you have indicated is the Allentown local calling area.

Q. And would you, in a call from Allentown --- you may not be familiar enough with the local calling areas, but would you be willing to stipulate to the fact that the mileage of transport within the local calling area is a very small fraction of the total transport mileage involved in transporting a call from the Allentown end office to the USLEC switch?

A. I do not know that.

Q. This is a map that, unfortunately, is not so easy to read but we'll work on it together. Do you see the this is a map of the Philadelphia and Delaware exchanges. Do you know what an exchange is?

A. No. Can you define it for me?

Q. Sure. I believe an exchange is another way of referring to a local calling area.

A. Okay. I thought they were multiple exchanges within a multiple calling area.

JUDGE:

You have to speak louder. You're a very soft-spoken but I can't hear you at all when you face away from me and the Court Reporter is having difficulty as well.

ATTORNEY PANNER:

I'm sorry about the setup, Your Honor, that I've made the witness --- it's due to the setup, I'm sorry about that.

BY ATTORNEY PANNER:

Q. You're quite correct. A local calling area might include many exchanges. For the purposes of the hearing, I've pointed to Allentown, which is located towards the --- it's certainly in the northern quarter, the northern eighth of the LATA; is that correct?

A. Yes, it appears to be.

Q. Okay. And Philadelphia is the located down in this portion, Delaware, so it's down in the lower right hand portion of the Philadelphia portion of the LATA; is that correct?

A. Yes.

Q. Okay. And would you agree with me that one

could easily calculate the portion of the transport that was within the local calling area versus the portion of the transport that was outside the local calling area?

A. Yes.

Q. And would you be willing to pay for the transport from the edge of the local calling area to USLEC switch?

A. No.

Q. Okay. So, in fact, you're not willing to pay any transport at all; is that correct?

A. USLEC is willing to pay for the transport that federal rules and regulations obligate me to pay. And it is my understanding that it is not my responsible to pay for Verizon's originated traffic until it gets to my IP.

Q. I'd like to direct you to your direct testimony, page 16. And in that portion of the testimony, you quote from an FCC notice of proposed rule making; is that correct?

A. Are you referring to the top of page 16?

Q. Yes.

A. Yes. I believe that actually begins on the previous page, but I agree.

Q. Now, in the last sentence of the FCC report that

--- or notice that you've quoted there, it says, is the efficiency concern limited to those instances in which traffic between two networks is unbalanced and/or transport is required beyond a certain distance. Did I read that correctly?

A. Yes, you have.

Q. Do you believe that effect says concerns are limited to those instances where traffic between two networks is unbalanced and/or transport is required beyond certain distances?

A. I think those are at least two of the factors.

Q. Okay. What sort of a traffic imbalance would be required before you would have efficiency concerns?

A. Given the absence of federal regulations, I'm not aware that there is a traffic balance issue which would trigger USLEC's responsible to move from the current points that they are today.

Q. Well, I'm not asking you about what federal regulations require. You've made it a point that you say you've testified, that a single IP does not automatically expenses; is that your testimony?

A. Correct.

Q. But it is your testimony that it may be expensive; is that correct?

A. Yes, it's possible.

Q. And one of the factors that would affected is whether there was a traffic imbalance; is that correct?

A. Yes. That, I assume, could be one of the factors that, as stated here, the FCC is considering.

Q. And has USLEC made a proposal that would limit Verizon's obligations based on the traffic remaining imbalance or uncertain imbalance?

A. Yes. I believe that during negotiations we tried to contain or alleviate Verizon's concerns that USLEC would locate its IP. I think the term was used 80 miles away.

Q. That actually goes to my next question, which is if the interconnection point were at great distance from the location from traffic being originated, that also might be inefficient; is that right?

A. Yes, that is possible.

Q. So given that --- so you agree that there might be situations where traffic imbalance and/or distance that traffic had to be carried would cause a CLEC selection of point of interconnection to be inefficient?

A. Yes, along with other things such as technology employed, facilities availability.

Q. You've testified that it is less expensive for

Verizon to transport traffic to your chosen point of interconnection than it is for USLEC to perform that function itself; is that correct?

A. Could you direct me to my testimony, please?

Q. Sure. On page 20, lines 19 through 21, it says if the volume of traffic originated from and/or terminated to an additional Verizon tandem or end office is low, it is more efficient for such traffic to be carried on Verizon's network capacity.

A. Yes, that is my testimony. I was confused when you used the term less expensive.

Q. Okay. Why is that significant?

A. The significance is that if the traffic volume is low, it would be more efficient possibly for Verizon to combine that with other traffic on a common transport facility, as opposed to placing it on a dedicated facility, which would be underutilized.

Q. And under VGRIPS (phonetic), would Verizon perform the function that you've suggested would be more efficient for Verizon to perform?

A. I'm sorry. Under what scenario with VGRIPS.

Q. Well, under Verizon proposal, would Verizon be willing to perform the function of carrying the traffic to the point of interconnection?

A. No, I do not believe Verizon is willing to carry

the traffic to the point of interconnection, unless it is established via co-location. I believe you're only willing to carry the traffic today if you're compensated by USLEC.

Q. But Verizon would be willing to perform the function if it were compensated?

A. That is my understanding, yes.

Q. Now, from the point of view of efficiency, does it matter --- would the arrangement be more efficient if --- first of all, what do you mean by efficiency?

A. By efficiency, I would mean that a facility is being used at least at its minimum capacity. In other words, I believe we have language contained in the interconnection agreement which states that DS-1 utilization should not fall below 60 percent.

Q. And do you agree that under Verizon proposal or USLEC's proposal, that that efficiency could be gained?

A. If traffic volumes were low, yes.

Q. So in fact, the efficiency of carrying that traffic over Verizon time and transport doesn't actually say anything about who should ideally bear that cost from an engineering standpoint; is that correct?

A. No, from an efficiency standpoint, no. But it is

my understanding that it is not USLEC's obligation.

Q. So just to clarify, from an efficiency standpoint, it the doesn't matter who bears the cost. Verizon is equally consistent with efficiency, in your view, or at least as consistent with efficiency as USLEC's proposal?

A. Again, I believe that would depend on traffic volumes.

Q. How would it depend on traffic volumes?

A. It would depend on traffic volumes going to and from that end office.

Q. Can you explain what you mean?

A. Under your VGRIPS proposal, if I were to establish an end office co-location arrangement, Verizon requests the ability that that be turned into USLEC's IP, and that USLEC would then bear the responsibility of transporting that traffic. Verizon could be originating minimum traffic from that office.

Q. But to be clear, USLEC refused to perform that function or declined to perform that function; is that right?

A. Yes.

Q. And then it would bear --- it would have to compensate Verizon on an a use basis for that transport; is that right?

A. Under Verizon's current proposal, yes.
Q. And if it was a minimal amount of traffic, that compensation would be minimal; is that correct?
A. The dollar figure would probably be minimal. But the percentage of offset to the recip (phonetic) comp rate would be the same, whether there was one minute or a million.
Q. Correct. But if it's a percentage of a minimal amount, would that --- okay. Just to, again, clarify, your point is that the offset would be the same as a percentage. But if it was a minimal amount of traffic, the dollar figure at stake would be minimal; is that correct?
A. The dollar figure, yes, could be small.
Q. Okay. You've also testified that if Verizon cannot demonstrate the costs that it incurs in transporting traffic to USLEC's point of interconnection, that it should not be able to recover; is that correct?
A. I do not believe those are my exact words. But it is my understanding or belief that it is Verizon's responsible to prove if a form of interconnection is expensive.
Q. And in your testimony, I'll direct you to your testimony at page 16, there is a paragraph that be

begins line 16. I'm going to ask you some questions about it.

ATTORNEY SHOR:

What page?

ATTORNEY PANNER:

Page 16 of the testimony, beginning at line 16.

BY ATTORNEY PANNER:

Q. You've offered three reasons why Verizon's costs may be minimal. It says, it may have facilities already available. Is that what --- to carry the originating traffic. Is that your testimony?

A. Yes.

Q. It's also correct that Verizon may not have facilities available; is that correct?

A. Yes.

Q. And you have some experience with rate setting, is that correct, in your background?

A. Many years ago, yes.

Q. And was it your experience that when a new service was offered over an existing facility, that it was offered for free?

A. Local services.

Q. What was your experience in rate setting?

A. My experience was in access-based services.

Q. So if an access service was provided over an existing service, was it provided for free?
A. If by free you mean below costs, I do not believe so.
Q. By free I mean free of costs.
A. I do not believe so, no. I do not believe that a service would be offered for free where Verizon incurred the costs.
Q. So Verizon could incur a costs, even if there was an existing facility; is that your testimony?
A. Yes, that's possible.
Q. And you also testified that there may be only a deminimous traffic volume exchange for that local calling area; is that your correct?
A. Yes.
Q. It's true that there may be a very large traffic area; is that not correct?
A. Yes, that is possible.
Q. And it's also true that if there were deminimous traffic volume, the amount of compensation which USLEC would be required to pay for transport under Verizon's proposal would be very deminimous; is that correct?
A. Yes. But USLEC's position on this, as I've stated is not related to whether the costs is deminimous or rather large, that USLEC was not

believe it is our obligation to compensate Verizon for transporting that traffic.

Q. Okay. So in fact, even if Verizon bore extremely high cost, you would require --- you would say that Verizon would have to bear that cost?

A. It is my understanding that that is Federal regulations.

Q. Also to close the loop, you also say that the distance between the local calling and the CLEC IP may be minimum?

A. Yes.

Q. But it may not; is that correct?

A. Yes.

Q. And in fact, you could chose any location under your proposal within LATA; is that correct?

A. Yes, I can.

Q. And that cost may be very high; is that correct?

A. No.

Q. Why not?

A. Because as we currently do today, and as USLEC has proposed, the distance would be mitigated by the fact that USLEC charges no more than a non-distance flat rated entrance facility. So that charge would be the same if I was five miles or 80 miles.

Q. But wouldn't Verizon bear the cost of

transporting the traffic over that 80 miles?
A. It would not be a mileage sensitive cost.
Q. Is that your testimony, that USLEC would not charge mileage sensitive costs for a facility used to transport traffic from any point 80 miles away to the USLEC switch, is that correct, if it were a USLEC facility?
A. From the point of interface to USLEC's IP, yes.
Q. But you've testified the point of interface is the access tandem; correct?
A. Yes. I'm sorry. But you had mentioned any facility. I didn't want to answer based on something else that Verizon might purchase from USLEC, other than an interconnection facility.
Q. I'm just trying to clarify. You've testified that Verizon's cost depended, in part, upon the local calling area and the USLEC IP?
A. Yes. I've testified that that might be one of the factors, yes.
Q. And so wouldn't you agree that that suggests a rate if that would add costs?
A. In conjunction with the other factors, yes, I would agree.

ATTORNEY PANNER:

I have no further questions at

this time, Mr. Hoffmann. Thank you.

A. Thank you.

JUDGE:

Let's go off the record for a moment.

OFF RECORD DISCUSSION

JUDGE:

Mr. Shor?

ATTORNEY SHOR:

Yes, thank you, Your Honor.

REDIRECT EXAMINATION

BY ATTORNEY SHOR:

Q. Just a few questions, Mr. Hoffmann. Do you recall Mr. Panner asking you initially with reference to VZ Exhibit One, that USLEC would be connected to its customer D in the Allentown calling area by some sort of facility? Do you recall that?

A. Yes.

Q. How would, in fact, USLEC be connected to its customer, and let's assume from the Allentown calling area?

A. USLEC would use an a combination of the OC-48 that USLEC purchases from Verizon out of their intrastate access tariff, in conjunction with a DS-1 or DS-3 facility. More than likely purchase the FCC

tariff from the Verizon office within the Allentown local calling area.

Q. And who would be responsible for the financial costs of those facilities?

A. USLEC.

Q. And now, just let me see if you understand this. Mr. Panner has drawn a diagram which he states represents the Allentown calling area. Do you see that? It's VZ-1 and also in VZ-2?

A. Yes.

Q. And he's identify two boxes in this diagram in the Allentown calling area, which you have represented are end offices serving Allentown. Do you see those?

A. Yes.

Q. Do you know for a fact how many end offices serve the Allentown local calling office?

A. No, I do not.

Q. It could be one?

A. Yes, that's possible.

Q. And do you recall Mr. Panner asking you some questions about the transport of the call when Verizon customer A and Allentown called USLEC customer D located in Allentown; do you recall that?

A. No.

Q. And he asked you to explain how the call would go

from the Allentown calling area to USLEC switch; is that right?

A. Yes.

Q. And he discussed the transport that Verizon would incur in carrying that call to the USLEC switch; is that right?

A. Yes.

Q. How did USLEC get the call to its customer, call customer D in Allentown?

A. USLEC transports that call over the facilities that we lease from Verizon and third parties from USLEC switch to caller D in the Allentown local calling area.

Q. And who bears the cost of transporting the call to caller D?

A. USLEC.

Q. Let's reverse the situation for a minute, if you let's have USLEC caller D in Allentown call Verizon caller A in Allentown. How does USLEC get the call from caller D to Verizon?

A. USLEC would carry that call from caller D in the Allentown local calling area over the DS-1 or DS-3 loop, which USLEC purchases from Verizon and would then place that on the facility, either fiber ring or transport that we may purchase from a third party to

USLEC switch. And they transport that to Verizon's IP.

Q. Which is where, as you understand it?

A. In the Philadelphia local calling area.

Q. At its tandem?

A. Yes.

Q. So as I understand it, the call goes --- USLEC carries the call from USLEC customer D to its switch, which we agree is somewhere in Philadelphia, and then take it is to Verizon's IP and its access channel; is that right?

A. Yes.

Q. Who pays the transports cost for USLEC's transport of that call?

A. USLEC.

Q. Does Verizon pay USLEC for transporting that call?

A. They pay reciprocal compensation to terminate the call.

Q. They pay reciprocal ---?

A. I'm sorry. I got the directions confused no, USLEC pays for that. We pay for the facility that carries the call from caller D to USLEC's switch over to Verizon's IP, and then we pay Verizon reciprocal compensation to terminate that call.

Q. So not only do you incur the transport cost of taking the call from Allentown to Philadelphia and handing it to Verizon's access tandem, you also have to pay Verizon the terminating function?

A. Correct.

Q. And do you have any idea in Pennsylvania whether the traffic between USLEC and Verizon is balanced?

A. It's my understanding that the traffic is roughly in balance.

Q. So roughly the same number of calls are going from USLEC to Verizon as are coming from Verizon to USLEC?

A. That is my understanding.

Q. So roughly the transport costs that Verizon incurs are roughly the same as the transport costs that USLEC incurs?

A. That would be correct.

Q. Now, I think Mr. Panner also used the same example but kind of reversed it and had customers in Philadelphia and a switch in Allentown. I think that was a hypothetical that was used. Would there be any difference in the way the call is transported in that scenario, if a USLEC customer in Philadelphia is calling a Verizon customer in Philadelphia with the switch in Allentown?

A. My understanding, it would be the reverse of the situation you just discussed.

Q. And again, USLEC would bear the cost of transporting the call from its customers to Verizon's IP?

A. Correct.

Q. And would pay Verizon termination function for taking the calls to its customer?

A. Yes, we would.

Q. Now, at several times there was some discussions about a point of interconnection, which I think may have also been referred to as a point of interface, and an interconnection point. What is your understanding of the point of interconnection? What is it?

A. The point of interconnection, as I understand it, is the physical point at which networks interconnect.

Q. And what --- and just so I understand, your use to the phrase point of interface means the same thing?

A. Yes.

Q. And what do you understand the phrase interconnection point to mean?

A. The interconnection point is the point on the respective parties' networks wherein financial responsibility to terminate the call begins. And that

has always been Verizon's access tandems for termination of numbers or their end office for numbers that subtandem end office and, conversely, USLEC's IP has been USLEC's switch.

Q. So as you understand the traffic that USLEC originates, where does it hand that traffic off to Verizon?

A. We hand that off to Verizon at Verizon's IP.

Q. And USLEC is responsible for taking the traffic to Verizon's IP; is that correct?

A. Correct.

Q. And how many different locations has USLEC established points of interconnection or IPs with Verizon for delivery of its traffic?

A. In Pennsylvania, I believe that number would be four.

Q. And where are they?

A. In the Philadelphia LATA, that would be the market access tandem and the Fort Washington access tandem. And in Pittsburgh that would be the downtown access tandem and the Oakland access tandem.

Q. Now, I believe Mr. Panner was discussing with you some of the factors in determining the costs of transporting traffic from the local boundary to the switch; do you recall that?

A. Yes.
Q. And he discussed with you traffic volume?
A. Yes.
Q. And balance?
A. I believe so.
Q. Traffic balance. What other factors enter into the equation of determining the costs of transporting traffic?
A. The other factors, as I believe I've testified, are facilities availability, the engineering type of the facility, traffic volumes, distance. There's is a number of factors involved.
Q. Would any of those factors alone be the determining factor?
A. No, I do not believe so.
Q. And in any different situation, it could be a combination of those factors that would impact the costs?
A. Yes, that would be possible.
Q. And those factors are also in play in the concept of efficiency; is that right?
A. Yes.
Q. Do any one of those factors alone determine whether a particular method or particular route is effective or not?

A. No, I do not believe so.
Q. And so again, it's a combination of factors?
A. Yes.
Q. Now, you've talked and Mr. Panner asked you some questions about methods of interconnection. Do you recall that?
A. Yes.
Q. And he suggested that USLEC had the ability to choose several different methods of interconnection. Do you recall that?
A. Yes.
Q. And do you recall what those methods of interconnection are?
A. Yes, I believe so. I believe the three options available are to purchase an entrance type facility from Verizon, to purchase facilities from a third party or to co-locate.
Q. Now, Verizon also has a proposal that was either known as GRIPS or VGRIPS. Are you familiar with that?
A. GRIPS, yes.
Q. And under GRIPS, what does that mean?
A. The GRIPS proposal, as I understand it, requires USLEC to establish an IP in every local calling area.
Q. And VGRIPS, what does that mean?
A. Virtual geographically relative interconnection

points requires USLEC to establish its point of interface, via co-location and allow Verizon to declare any end office co-location which USLEC establishes to also be declared as an IP.

Q. And if USLEC declines to co-locate, what other option is available?

A. If we decline to relocate, there really is no option for USLEC. We are forced at that point to compensate Verizon for traffic they originate from their end office to USLEC's IP.

Q. Does USLEC co-location as a method of interconnection?

A. No, we don't.

Q. Why is that?

A. Basically, it's not part of our business plan.

Q. Are there any economic reasons?

A. Yes. Co-location is extremely expensive.

Q. And so since USLEC does not now co-locate in Pennsylvania under VGRIPS, USLEC would have to establish expensive co-location sites at any number of points selected by Verizon?

A. Yes.

Q. Alternatively, if USLEC declines, then what would happen?

A. Under the current proposal, USLEC would have to

compensate Verizon for its originated traffic from their originating end office to USLEC's IP.

Q. So if we go back to the scenario in VZ-1 where Verizon customer A is calling USLEC customer D and Verizon is carrying the traffic to USLEC's IP at its switch, currently Verizon pays for that transport; is that correct?

A. Yes.

Q. And under VGRIPS, is it your testimony that USLEC would now have to bear that cost?

A. Yes.

Q. So that in addition to paying for the transport cost when its customer D calls Verizon customer A, which you already bear; is that right?

A. Yes.

Q. You would also have to bear the cost of Verizon transport when its customer calls USLEC's customer; is that correct?

A. Yes.

Q. So USLEC, in essence, would be bearing the entire cost of transporting Verizon's traffic and USLEC's traffic; is that correct?

A. Yes.

ATTORNEY SHOR:

I have no further questions.

JUDGE:

Any Redirect?

ATTORNEY PANNER:

Just a little bit. Sorry.

JUDGE:

No need to apologize. You have the right.

REDIRECT EXAMINATION

BY ATTORNEY PANNER:

Q. You've testified that traffic between the two networks is roughly in balance; is that right?

A. Yes.

Q. What do you mean by that?

A. Roughly in balance, it's my understanding that current traffic is approximately two to three to one in the State of Pennsylvania. And for a network that's been out for basically about three years, that's about as close to balance as you can get at this point.

Q. So you're saying that USLEC receives two to three times as much traffic as it originates?

A. Correct.

Q. Do you know if USLEC actually serves any customers in Allentown?

A. I do not know. You would have to look to the

discovery responses we provided based on the rate centers where we've been assigned NXXs and have customers. I do not recall if Allentown is one of them.

Q. In your discovery responses which were not marked confidential you stated that you had an NXX code in Allentown. Does that mean that you have customers in Allentown?

A. Yes.

Q. Have you testified that you have virtual NXX arrangements in Pennsylvania?

ATTORNEY SHOR:

Objection. That's not this witness.

BY ATTORNEY PANNER:

Q. Have you reviewed USLEC's discovery responses and have you reviewed the testimony of Ms. Montano? I know those are two questions. But you can answer both, if you can,?

A. Yes, I have.

Q. Are you familiar, either of your own knowledge or from documents in this case, that USLEC provides a virtual FX service in Pennsylvania?

ATTORNEY SHOR:

Object to the extent that this

goes beyond the scope of Redirect.

ATTORNEY PANNER:

I don't think it goes beyond the scope of Redirect. He was asking about the cost that would be incurred in transporting traffic to Allentown. It is important to establish whether that is a hypothetical or whether costs are incurred.

JUDGE:

I'll allow it.

A. I'm sorry, repeat the question.

BY ATTORNEY PANNER:

Q. The question is, do you offer virtual FX service in Pennsylvania? Do you provide virtual FX service in Pennsylvania?

A. USLEC provides foreign exchange service. We do not have a service called virtual NXX. But, yes, we provide foreign exchange service in the State of Pennsylvania.

Q. So in fact, the fact that you have numbers in Allentown does not mean necessarily that you have any customers in Allentown; is that correct.

ATTORNEY SHOR:

Objection, mischaracterizes his testimony.

ATTORNEY PANNER:

I asked him if it is correct.

ATTORNEY SHOR:

He testified that he does.

ATTORNEY PANNER:

I asked him if it is correct, the fact that you --- okay. I'll allow the Judge to rule on the objection before I talk on.

JUDGE:

Thank you. Would there be a problem with him answering that question.

ATTORNEY SHOR:

Go ahead.

JUDGE:

He asked if it's correct. It seems to me there are two possible answers. One, it is correct or, two, it is not correct.

ATTORNEY SHOR:

Fine.

JUDGE:

Okay.

A. I have reviewed the discovery responses and Wanda Montano's testimony. And the manor in which the information that was provided to me for the discovery responses indicate that that NXS in Allentown is being used to provide service to customers in Allentown. My

recollection is that the six foreign exchange customers that USLEC has in Pennsylvania, none of them are in that rate center.

Q. You've said that none of the customer are in the rate center. But that doesn't mean that some of those customers might not have been assigned Allentown numbers?

A. I do not know.

Q. Are you familiar with USLEC's rate structure in Pennsylvania?

A. No, I'm not.

Q. Okay. Does USLEC --- are you familiar with --- I'll ask you a question. If you know the answer obviously you'll answer. If you don't know, you don't know you don't.

Is USLEC free to charge more to provide service to customers in Allentown than it is --- than it charges to customers who are located in Philadelphia?

A. I do not know.

Q. Is USLEC complaint with VGRIPS in --- does USLEC have arrangements with other incumbent local exchange carriers in other states that comply with your understanding of Verizon's VGRIPS proposal?

ATTORNEY SHOR:

Objection as to relevance. It

goes beyond the scope of Redirect.

ATTORNEY PANNER:

I'll withdraw the question.

BY ATTORNEY PANNER:

Q. In your understanding of VGRIPS, would a third party co-location satisfy the requirement for co-location?

A. Yes.

Q. Can you explain what a third party co-location arrangement is?

A. A third party co-location, as I understand it from the aspect of complying with VGRIPS is where USLEC uses a third party's co-location arrangement and transport to transport our traffic from our IP to the point of interface with Verizon and, conversely, Verizon hands off their traffic at that point of interface via a facility provided by that third party co-locator.

Q. So USLEC would comply with VGRIPS without establishing any co-location arrangement in Pennsylvania; isn't that correct?

A. We would have to establish arrangements with third-party co-locators, which is completely different from the interconnection architecture I've established over the last three years with Verizon.

ATTORNEY PANNER:

I have no further questions.

JUDGE:

Are we finished with this witness? Mr. Shor? Let's go off the record for a moment.

OFF RECORD DISCUSSION

ATTORNEY SHOR:

I think I just have one two follow ups to the Recross.

RECROSS EXAMINATION

BY ATTORNEY SHOR:

Q. You recall Mr. Panner asking you about the assignment and usage of NXX codes?

A. Yes.

Q. And he asked you whether the NXX assignment to Allentown was being utilized by customers physically located in Allentown?

A. Yes.

Q. Now, USLEC provided Verizon with a list of NXX codes that it utilizes throughout Pennsylvania. Do you recall that?

A. Yes.

Q. To your knowledge, does USLEC have customers physically located in the local calling areas where

those rate centers are?

A. Yes.

Q. Each and every one of them?

A. Yes.

ATTORNEY SHOR:

I have no further questions.

ATTORNEY PANNER:

No further questions.

JUDGE:

Fine. The witness is excused. Thank you for coming, sir.

A. Thank you.

JUDGE:

I can't see any point in starting the next witness before going to lunch. And my assumption is that we will come back from lunch and do Mrs. Montano's testimony on issues one and two only before we switch over to the Verizon side. Recognizing that she does go beyond one and two, I only find that interesting, but I do not want to build the record differently. So if you could all be back in your seats by about 1:30, that would probably work very well.

ATTORNEY SHOR:

In terms of timing, how long do

you intend to go today?

JUDGE:

Until we are finished.

ATTORNEY SHOR:

Thank you. I will be brief.

LUNCH BREAK TAKEN

JUDGE:

Good afternoon, ladies and gentleman. I see we have Mrs. Montano in the witness seat. Mr. Shor?

ATTORNEY SHOR:

Yes, USLEC calls Wanda Montano to the behalf of USLEC.

WANDA MONTANO, PREVIOUSLY SWORN, CALLED TO TESTIFY

JUDGE:

Ms. Montano, I know you've already taken the oath as a witness. So it's up to you and your counsel to proceed.

A. Thank you.

DIRECT EXAMINATION

BY ATTORNEY SHOR:

Q. Ms. Montano, would you please state your full name and business address for the record?

A. Wanda G. Montano, 6801 Morrison Boulevard, Charlotte, North Carolina, 28311.

Q. By whom are you employed?

A. USLEC Corp.

Q. What is your title?

A. Vice president, regulatory and industry affairs.

Q. Did you cause to be prepared 34 pages of direct testimony that were filed this proceeding on May 31, 2002?

A. Yes, I did.

Q. Do you have any changes or corrections to that testimony?

A. Yes. On page 21 at line four, the answer was that we do not currently utilize service. And we have done additional research to determine that, in fact, we do have six customers in Pennsylvania that purchase foreign exchange services from USLEC.

Q. Do you have any other changes or corrections to your testimony?

A. No, I do not.

Q. If I would ask you those questions today, your answers be the same?

A. Yes, they would.

Q. And did you cause to have prepared 14 pages of rebuttal pages that were filed in this proceeding on July 9, 2002?

A. Yes, I did.

Q. Do you have any changes or corrections to this testimony?

A. No, I do not.

Q. If I were to ask you these questions today, would your answers be the same?

A. Yes.

ATTORNEY SHOR:

Your Honor, on behalf of USLEC I respectfully move the admission of the direct and rebuttal testimony of Wanda G. Montano into the record, subject to Cross Examine.

JUDGE:

USLEC statement 2.0 and 2.1 are admitted, subject to Cross Examine and any timely motions. Mr. Panner?

ATTORNEY PANNER:

Thank you, Your Honor. Before I begin my cross examination, I'd like to clear up one matter. I'd like to move the admission of the exhibits marked VZ-1, VZ-2 and VZ-3.

JUDGE:

They're admitted without objection.

ATTORNEY PANNER:

Thank you, Your Honor.

CROSS EXAMINATION

BY ATTORNEY PANNER:

Q. Good morning, Ms. Montano.

A. Hi.

Q. You testified in your testimony that under FCC decisions, the default rule is the physical connection of the party's network and the demarcation mark indication of financial responsibility are at the same point that's in your direct testimony at page 45, line 22 to page five, line one; is that correct?

A. Yes, it is.

Q. To be clear, that's a legal conclusion; is that correct?

A. Yes, it is.

Q. And also to be clear, did you understand Mr. Hoffmann to testify that under the parties current arrangement the point of physical demarcation and the point of --- excuse me, the point of physical connection and the demarcation of financial responsibility is not the same?

A. I believe that's what Mr. Hoffmann said, but I'd like to clarify that. USLEC's position is that for traffic that Verizon terminates to USLEC, both the POI and the IP are at our switch. Traffic in the opposite direction, we deliver that traffic to you at your

tandem. The term IP is something that Verizon has created for the context of this agreement and does not exist in any legal or regulatory documentation.

Q. Okay. That is fine. But it is certainly possible to talk about a different physical connection from the demarcation of financial responsible, that is certainly possible to talk about?

A. Certainly.

Q. In your testimony on page six, at lines five to six, you say that the Act and the FCC recognize that new entrances such as USLEC must be able to determine the most efficient location for the exchange of traffic. Is that your testimony?

A. Yes, it is.

Q. Is that a legal conclusion?

A. I would consider it both a legal and a business conclusion as well, because those are the rules that are set in place under which we operate.

Q. So it would be correct to say it's a legal conclusion?

A. I answered it. I said it was both a legal and a business conclusion.

Q. In what way is it a business conclusion and not a legal conclusion?

A. Because the industry in which both of our

companies operate is regulated by state utility commissions as well as it's FCC. And their decisions are interpreted by the courts. Those becomes the rules of the road for any company that chooses to operate in this environment and offer services. Therefore, it becomes the frame work for our business plan.

Q. Is that framework a legal framework or is it something else?

A. I consider it to be both.

Q. You say that USLEC must be able to determine the most efficient location for the exchange of traffic. What do you mean by the most efficient location?

A. The location at which point we will exchange traffic with our partners, such as Verizon.

Q. What does the term most efficient location mean?

A. I think it is a technical description in terms of what technically works.

Q. Can you be more specific? So any arrangement that technically works is the most efficient?

A. Not necessarily.

Q. How would you distinguish a more efficient from a less efficient technically possible arrangement?

A. I think we would look at the network design of what we are purchasing from Verizon and other vendors,

the vendor which we are providing service to our customers to determine, based on that, what works in terms of the closest or point of interconnection to a network.

Q. The closest point of interconnection to what?

A. Your network.

Q. To our network?

A. To our partner's network.

Q. So I just want to --- you've testified --- you've chosen the words that are the most efficient location.

A. Uh-huh (yes).

Q. You're testifying that the most efficient location is the location --- well, let me back up. You've testified that Verizon has a ubiquitous network in the Philadelphia LATA; didn't you?

A. Yes, I have.

Q. Just to clarify that, do you know if Verizon provides services to all areas in the Philadelphia LATA?

A. It is my understanding that Verizon is the incumbent LEC in that territory, yes.

Q. Subject to check, is it possible that there are actually independents who also provide services?

A. Yes, I believe Commonwealth Telephone also

provides service in that LATA as well.
Q. So it would actually be --- there are some portions of the LATA where Verizon provides services? Do you believe that that's correct?
A. Yes.
Q. So when you say that a place is closer to Verizon network, what do you mean?
A. Based on the services that we are purchasing from Verizon in order to service our customers, which as Mr. Hoffmann has described, is an OC-48 ring, and we purchase that out of your special access tariff from the wholesale part of your business, then we will interconnect with you at some point off of that ring network. And so we look at that ring design and where it goes. We typically run it through your tandem offices so we can make sure that we have done an efficient design of our network to efficiently exchange change traffic between the two companies.
Q. So for traffic originated by Verizon, you would pick up the traffic at various points on Verizon's network where it was most efficient?
A. It is not our responsible to pick up Verizon's traffic, it is your responsibility to deliver traffic to me at my point of interconnection.
Q. I'm not asking you about what our responsibility

is. I'm asking about what the current arrangements are. You testified that you would have a point of interconnection in various places on Verizon's network?

A. The points of interconnection that you're describing are for the traffic that I originate that I deliver to Verizon.

Q. And now I'm asking you about the traffic that Verizon customers originate. How would you decide what the most --- how would you decide what the most efficient place is to pick up that traffic?

A. We determine what the IP is and we have selected our switch at the IP.

Q. And why is that the most efficient point?

A. Because we believe that that is our legal right to make that decision.

Q. Okay. Do you doubt that Verizon --- strike that.

You've testified that the requirement that USLEC designate an end office co-location as an interconnection point would require USLEC to mirror Verizon's architecture; is that your testimony?

A. Yes, it is.

Q. First of all, does USLEC have any co-location or anything in the Philadelphia LATA?

A. No, we don't.
Q. Now, if you were co-located in a particular end office, would you by definition already have facilities in place in that location?
A. I don't understand your question.
Q. Okay. What don't you understand?
A. What you mean by facilities.
Q. Would you have some kind of facility, any kind of equipment in place at that co-location rate?
A. Typically when a CLEC built the co-location cage at a CO, there is some equipment that they install there.
Q. Okay. And would that equipment be connected to your network in some way by some kind of transport facility?
A. If USLEC's business plan included co-location, then, yes. But since our business plan does not include co-location, you know, it's a theoretical question.
Q. Okay. So the dispute over section 7.1.1.3 is purely theoretical?
A. I couldn't consider that to be theoretical because you're asking us to include language in the interconnection agreement that would allow you to force us to change the way that we do business by

requiring us to co-locate.

Q. Under 7.1.1.3, under your understanding?

A. Would you give me a copy, please? I'm not going to ---.

Q. Certainly. This has been previously entered as Verizon Exhibit Three. Excuse me, I may have confused you because I referred to the wrong section. I'm glad you brought the agreement in front --- so I can put the agreement in front of us so we can correct the record. I'm really referring to 7.1.1.2,, which is the provision that refers to a situation where USLEC had a co-location site.

A. Okay.

Q. And it says here that the beginning of the section is at anytime that USLEC establishes the co-location site at a Verizon end office. Have I read that correct?

A. Yes.

Q. So this would only apply in a situation where USLEC establishes an end office co-location arrangements?

A. If you take it out of context, yes. If you leave it in context to 7.1.1.3, our concern is that Verizon could force us to do this.

Q. Okay. Is that your concern is that Verizon

could force you to do that, even if you didn't chose to establish an end office co-location arrangement?

A. Absolutely.

Q. And that's your main concern?

A. I wouldn't characterize it as a main concern. It's one of our concerns.

Q. What are your other concerns?

A. There is the issue with the 30 days in terms of negotiating things. And if you look at the track record we have with negotiating anything with Verizon, it's nothing that can be done in 30 days. And secondly, we have an existing architecture for which we are paying you special access retail rates. And I'm sure that the wholesale side of your business would not be pleased to leave that business. And we do not want to disrupt our network and our customers. And again, the track record that we had with Verizon, anytime we've tried to re-groom our network or move customers is that customers go out of service. You guys do not do a very good job of moving customers around for us.

Q. Again, getting back to the language of 7.1.1.2, it begins --- it says at any time that USLEC establishes a co-location site at a Verizon end office. Is that what that language says?

A. Yes.
Q. Okay. Now, would this provision apply in any circumstance, in your understanding, with this provision 7.1.1.2 apply in any circumstance where USLEC did not establish a co-location or site at a Verizon end office?
A. I believe my earlier answer was that if you take that paragraph out of context, no. But if you leave it in connection to the agreement, yes.
Q. And can you explain to me how that paragraph would apply in context?
A. If you read the next paragraph, the concern that we have is that --- except that Verizon may request in writing to transition such USLEC IPs. You can request it in writing, I can say no. Then we go into dispute resolution. And we continue to have this issue. I have an existing network architecture. It works. It is not broken. Why do I need to change?
Q. Okay. Just to be very clear, if I were to say to you that provision 7.1.1.2 applies only in a circumstance where USLEC establishes a co-location site at a Verizon end office, either standing alone or in context, would that eliminate your objections to 7.1.1.2?
A. Based on the track record of six years that I've

been dealing with Verizon, no, I have no level of confidence.

Q. Thank you. But if I were to say that aside from the fact that you might not take it as true, if it were true, would you have any other objection to that provision?

A. Well, our objection would be the language at the end of the paragraph that says that Verizon will pay us last year transport rate, tandem switching rate and those issues. We would not agree to that rating schedule.

Q. Do you have any --- and I apologize if this is asked and answered. I want to make sure it's clear on the record. But do you have any plans to establish an end office co-location site during the term of this agreement in Philadelphia or Pittsburgh LATA?

A. Not at this time.

Q. Okay. Do you agree that there are some circumstances where an incumbent LEC may require a separate point of demarcation or where it would be appropriate for the state Commission to require a CLEC to establish a point of financial do mark indication different from the physical point of interconnection in the LATA.

ATTORNEY SHOR:

Objection as to form. It's a compound question.

ATTORNEY PANNER:

I'll try to rephrase it.

BY ATTORNEY PANNER:

Q. Do you agree that there are circumstances where a state commission could require a CLEC to establish a point of financial demarcation, as you've referred to it in your testimony, different from the physical point of interconnection of the two networks?

A. I don't think it's my right to speculate on what any state commission might or might not do. That's within their purview, within the frame work of their statute and their rules.

Q. Have you testified that there are circumstances where it would be appropriate for a state commission to establish a separate IP where CLEC requires an extensive form of interconnection?

A. Is there something in my testimony that you would like me to look at?

Q. Well, it's on page two. There's a question and answer that begins on line 12. And then there was an answer at line 16 to 18?

A. Is this rebuttal or direct?

Q. I'm sorry. It's in your rebuttal. I apologize.

A. Okay.
Q. So we're discussing the bottom of page two. I've referred you to the question and then the answer at line 16 to 18. You testified that there are circumstances where a state commission may require a CLEC to establish a separate IP from it's point of interconnection?
A. Yes.
Q. Did you sponsor a question in discovery concerning the location, the NXX codes that USLEC has in service in the Philadelphia LATA?
A. Yes, I did.
Q. Do you know if USLEC is able to charge more when it serves a customer that is located further from its switch for providing a local service?
A. USLEC is a non-dominant carrier and, as such, has no market power. We use market-based pricing and we have to charge our customers in accordance with what the market will bear. I doubt they would let me charge them more than you would charge them.
Q. I'll ask it again. Do you charge your customers more, depending on how far they are located from your switch in the Philadelphia LATA?
A. We do market-base price. Assuming that Verizon, and I am speaking solely from memory, that Verizon has

zoned pricing, based on how far customers are in density zones. If we are pricing against those density zones then, yes, we may charge differently based on those zones. It may also be a function of what Verizon charges us for the underlying facility. However, I am not the marketing person for USLEC.

Q. Let me try to establish --- you've made a statement about what Verizon charges. Are you familiar with Verizon local exchange rates in Pennsylvania?

ATTORNEY SHOR:

Objection. I believe that mischaracterizes the witness' testimony.

ATTORNEY PANNER:

You can --- if you'd like to read back the answer, you can decide whether you want to maintain the objection. I would say she that she did talk about the Verizon charge to the customer.

ATTORNEY SHOR:

The last answer was what Verizon charges her.

A. I general know about the tariffs. I am not an expert on them.

BY ATTORNEY PANNER:

Q. Do you know if Verizon charges a greater rate for

basic local service based on the customer's distance from the end office serving the customer?

A. No, I do not.

Q. Do you know if Verizon can charge more when a customer makes a call that is delivered to a USLEC customer, Verizon has to route that call over a distance USLEC switch?

A. I have no idea what your pricing policies are.

Q. So you don't know whether, in fact, Verizon has any mechanism to recover the increased cost of delivering a call to the USLEC switch?

ATTORNEY SHOR:

Objection, assumes facts not in evidence.

BY ATTORNEY PANNER:

Q. Mr. Hoffmann testified, did he not, that he wanted to calculate the difference in costs between delivering a call within the local calling area for Verizon and the cost of transporting a call to the USLEC switch, less the termination compensation payments that Verizon would have to make; did he not?

A. I believe so.

Q. And it's at least theoretically possible that that amount might be --- that that might result in the fact that it is more expensive for Verizon to

transport the traffic.

ATTORNEY SHOR:

Objection. Speculation.

ATTORNEY PANNER:

I think it's a legitimate question. Could it be more expensive?

JUDGE:

I'll allow it. Overruled.

A. Anything is possible.

ATTORNEY PANNER:

I'm going to mark this VZ-4. I should note that it's a portion of USLEC's Pennsylvania local tariff. I believe that file tariffs are judicially noticeable. And this is a portion of the tariff only. It's not the complete tariff. And the tariff was --- so this is a portion of the tariff, not the complete tariff.

(Exhibit VZ-4 marked for identification.)

BY ATTORNEY PANNER:

Q. First of all, do you recognize this document?

A. Yes, I do.

Q. Can you tell me what it is?

A. It is the tariff that we had filed with the Pennsylvania Public Utility Commission.

Q. Can you please turn to --- as I say, it's an excerpt from the tariff but it should be in order. Could you turn to section four, original page two? You'll see that the section numbers in the original page numbers are at the top right. And this is entitled section four, exchange access service; is that correct?

A. Yes, it is.

Q. And it says 4.2 explanation of rate schedules; is that correct?

A. Yes, it is.

Q. Now, is it correct that your rate schedule is dependent on the distance of the customer's serving wire center from the USLEC switch?

ATTORNEY SHOR:

Your Honor, I'd like to object at this point to this document because Counsel has told me that it's a portion of a tariff. Counsel has told me what he thinks it is. But there are obviously pages that are missing here that this witness does not have an opportunity to refer to, does not have an opportunity to direct her attention to. And I think that asking this witness to draw conclusions based on this document that he has proffered is inappropriate.

JUDGE:

Mr. Panner, do you have the whole document present?

ATTORNEY PANNER:

I do, although I'm afraid there are pieces pulled out of it. I should note that this is --- actually, this document is available on USLEC's website.

JUDGE:

Well, we don't have this available in this hearing room right now. Mr. Shor, the normal remedy that we impose for this kind of objection is to put the whole tariff in. I would prefer not to do that just because, undoubtedly, it's just going to clutter the record. But what I'm going to do is I'm going to allow, based on Mr. Panner's representations the questioning to continue. During the break, I will rely on you and Mr. Panner to get together, to review the entire document. And if you have some problem with any portion of the document which is missing and that is not part of the excerpt, you will certainly be permitted during Redirect to introduce whatever you think is necessary.

ATTORNEY SHOR:

Thank you.

ATTORNEY PANNER:

Madam Court Reporter, could you read back the last question?

COURT REPORTER READS BACK PREVIOUS QUESTION

A. It appears from the tariff that it is.

ATTORNEY PANNER:

I have nothing further as to these issues, I should say.

ATTORNEY SHOR:

Your Honor, just in light of your request earlier regarding the procedure and the order for witnesses, the testimony that we submitted from Ms. Montano addressed all of her witnesses. And we felt it would be more appropriate just to submit it all at once.

JUDGE:

Yes. And I do understand that and I appreciate that she addressed all of the issues that were the forthcoming from your side of the fence, and I have no problem with that. It's just a situation where I'd like to hear Verizon's side of the story on issues one and two next. I also appreciate that --- did you say you finished Cross Examine.

ATTORNEY PANNER:

Yes.

JUDGE:

Fine. I think it would be appropriate now to take a break, for you and Mr. Panner to discuss that tariff, and if you have Redirect for Ms. Montano --- wait a minute. I'm sorry before we go there, sometimes I have questions for witnesses. And I do. Would you turn to page nine of the testimony.

ATTORNEY SHOR:

Direct?

JUDGE:

Direct. And I would like you to focus on lines 20 and 21. Do you see that?

A. Yes, sir.

JUDGE:

On lines 20 and 21 you are suggesting that the Verizon proposal is inconsistent with both FCC rules and Commission precedent. Do you see that?

A. Yes.

JUDGE:

And when you speak of the Commission, what commission are you talking about?

A. The Pennsylvania Commission.

JUDGE:

And when you speak of Commission

precedent, what precedent are you talking about?

A. It's my understanding that we relied upon Sprint, the focal and the third circuit decisions.

JUDGE:

Fine. Move on to page 29, please.

A. I'm sorry?

JUDGE:

Page 29.

A. Thank you.

JUDGE:

And this is more of a question in lieu of resolving some confusion that I have. Because you did not quite number your issues the same way you did in your petition. I lost track of which issues were settled and which weren't.

A. Okay.

JUDGE:

On page 29, line 13 is that issue which you have marked as issue number seven settled on advice of counsel? The answer is yes.

ATTORNEY SHOR:

Yes.

JUDGE:

Fine. , that's what I needed to

---.

A. That's not right.

ATTORNEY PANNER:

That's not right.

ATTORNEY PANNER:

It should be issue eight. It should be issue eight subject to Mr. Shor's agreement.

ATTORNEY SHOR:

That is correct.

JUDGE:

Okay. So it is issue number eight because that's when I read it, I labeled it --- I noticed it was labeled issue seven. I labeled it eight and then I couldn't figure out whether it was settled or not.

ATTORNEY SHOR:

I'd like to tell you that it was settled, but it wouldn't be in a way that was favorable, I'm sure.

JUDGE:

Well, that's what I needed to know. Is it settled? And the answer is no. And it was issue eight. That's what I really needed to know. Fine. Now, having finished that examination, is there any continued Cross Examination.

ATTORNEY PANNER:

No, Your Honor.

JUDGE:

Fine. Now, let's take that break. And I'll let you and Mr. Panner signal when you're ready and Redirect can continue.

ATTORNEY SHOR:

I'd just like to see what he has for the whole tariff.

ATTORNEY PANNER:

Sure.

ATTORNEY SHOR:

And ask only if the portions that are missing are the portions that are included here in Exhibit VZ-4 or whether there are other aspects or portions of the tariff that are not here at all.

ATTORNEY PANNER:

The only portion of the tariff that, I'm not sure it exists because it's not included here, is on your website the table of contents indicate that there is a section 11 which is maps. And that was not on the website.

JUDGE:

Let's go off the record for this discussion.

OFF RECORD DISCUSSION

ATTORNEY SHOR:

USLEC is satisfied with the portion of the tariff that is identified as VZ-4 and we'll withdraw the objection. With that tariff, we have a very short Redirect.

REDIRECT EXAMINATION

BY ATTORNEY SHOR:

Q. Ms. Montano, do you recall a question from Mr. Panner concerning the ability of a state commission to accept a separation from the point of interconnection or point of financial demarcation in a network?

A. Yes, I do.

Q. What do you understand to be the factors involved in making that decision?

A. The preparation and submission of cost studies by the incumbent.

Q. To your understanding, is there a standard that must be met in order for that separation to be met?

A. There has to be a proof that there is a difference in the cost structure.

Q. That it's the same, more or less?

A. It is more expensive.

Q. To your knowledge, have you seen any evidence in this record from Verizon that USLEC's choice of

interconnection is expensive?

A. No, I have not.

ATTORNEY SHOR:

I have nothing further.

JUDGE:

Mr. Panner?

RECROSS EXAMINATION

BY ATTORNEY PANNER:

Q. Just one thing, Ms. Montano, if I may. Your statement as to what Verizon is required to show, is that your understanding of what the legal requirements are?

A. Yes, it is.

ATTORNEY PANNER:

I have nothing further.

JUDGE:

If there is nothing additional for the witness, the witness is excused at this time with the idea that she will be returning to the witness stand to testify on the remaining issues.

ATTORNEY SHOR:

Your Honor, with respect to issue one and two, USLEC rests its case.

JUDGE:

Fine, thank you.

ATTORNEY PANNER:

Your Honor, if I could just clean up one thing on the record, I'll try not to do this again, I'd like it move the admission of --- there being no objection, I'd like to move the admission of Exhibit VZ-4.

JUDGE:

It's admitted without objection.

JUDGE:

All right. Mr. Panner, do you have a witness for me on issues one an two?

ATTORNEY PANNER:

Verizon would like to call Mr. Pete D'Amico on issues one and two, Your Honor.

PETE D'AMICO, PREVIOUSLY SWORN, CALLED TO TESTIFY

JUDGE:

Mr. D'Amico, I would only remind you that I administered the witness oath to you earlier. You continue to be bound by that oath?

A. Okay.

JUDGE:

Mr. Panner?

ATTORNEY PANNER:

Thank you

DIRECT EXAMINATION

BY ATTORNEY PANNER:

Q. Would you please state your name and business address?

A. My name is Pete D'Amico. My business address is 417 Seventh Avenue, Pittsburgh, Pennsylvania.

Q. And who employs you?

A. Verizon.

Q. And what is your title?

A. I'm a senior specialist in the interconnection product management group.

Q. And did you cause to be prepared 18 pages of direct testimony that was filed in this matter on May 31st, 2002?

A. Yes.

Q. Do you have any corrections that you wish to make to your testimony that was submitted on May 31st?

A. No.

Q. If these same questions were asked of you today, would your answers be the same?

A. Yes.

Q. Did you also cause to be prepared ten pages of rebuttal testimony?

A. Yes.

Q. And it was filed on July 9th, 2002?

A. Correct.

Q. Do you have any correction to make to that testimony?
A. No.
Q. If those same questions were asked of you today, would your answers be the same?
A. Yes.

ATTORNEY PANNER:

We offer the direct and rebuttal testimony of Pete D'Amico, subject to Cross.

JUDGE:

The direct and rebuttal testimony of Mr. D'Amico is admitted subject to Cross Examination and any timely motions. Mr. Shor?

ATTORNEY SHOR:

Your Honor, the Cross Examination will be handled my colleague, Ms. Finn.

JUDGE:

All right. Thank you?

CROSS EXAMINATION

BY ATTORNEY FINN:

Q. Mr. D'Amico, as I understand your testimony, you believe that Verizon's proposal complies with FCC rules; is that correct?
A. Yes. I believe I mentioned that in my direct testimony.

Q. And so it would be fair to state that you are generally familiar with the FCC's rules?

A. Yes, high level, very high level.

Q. Now, would you agree with me that the FCC has rules that an ILEC must offer the CLEC the opportunity to interconnect at one technically feasible point per LATA?

A. Yes.

Q. And in that regard, you have testified that VGRIPS gives USLEC the right to chose a single physical connection to Verizon network in each LATA; correct?

A. Correct.

Q. And so in this manner you think that VGRIPS complies with the single technically feasible POI per LATA?

A. Yes, because VGRIPS actually addresses the financial responsibility of the transport, when Verizon delivers calls to the USLEC in this case outside of the local calling area.

Q. And to address the transport responsibility by establishing separate points that you're calling the interconnection point or IP; correct?

A. Correct.

Q. And you testified that USLEC, under VGRIPS, has

the option to chose its IP; is that correct?
A. There is language in the VGRIP proposal that address where the USLEC IP is. And depending on where it is, there is also language that states whether or not it's geographically relevant or not. So in answer to your question, yes, USLEC has options under Verizon's VGRIP proposal that impact their interconnection point.
Q. And as I understand it, the first such option as defined by Verizon's VGRIPS proposal is that USLEC may establish an IP via co-location at each Verizon tandem where USLEC assigns numbers?
A. Yes, that's Verizon's proposal. And the design of that was to address a central point where the parties could agree on the financial responsibility for the exchange of the traffic.
Q. And would you agree --- I can't remember which one testified, Mr. Hoffmann or Ms. Montano talked about the fact that Verizon has two access tandems in both the Philadelphia and the Pittsburgh LATAs?
A. I would --- I'm not sure. I'm sure that there's two in Pittsburgh, since that's where I'm from. Philadelphia, I believe, that's the case as well.
Q. Okay. Let's take Pittsburgh, since you're familiar with Pittsburgh. So you're saying that the

physical IP after two Verizon tandems is a north central location. Is that your testimony?

A. Yes.

Q. And you understand that today Verizon delivers its traffic to an IP at USLEC's switch?

A. Yes. That is the way I understand.

Q. And that is one location within the LATA; correct?

A. I believe it's in downtown Pittsburgh.

Q. So by central location, you're not saying to what point?

A. No, when I say central location, in looking at the LATA as a whole, there are numerous local calling areas. And a CLEC is able to have NXX codes or prefixes that have those rates assigned to them throughout the LATA. And so what VGRIP is trying to address is the situation where traffic would be coming in from all points within the LATA, that we would be billing or charging our end user a local haul. But yet we would be hauling it as though it were a toll call. And so the tandems are central locations where Verizon has facilities coming in and out of them that in our proposal we are willing to transport outside the calling area to that point.

Q. So you're talking about central locations on

Verizon?

A. Yes.

Q. And as part of preparing --- in your testimony, did you ever testify to the distance that USLEC switch is from the Verizon tandems?

A. I don't think so. I may have heard or read somewhere that it was fairly close. But I wasn't sure if that was Philly or the Pittsburgh scenario.

Q. So you didn't actually go and look at part of that structure and determine what the distance is that you're transporting traffic from the tandem to the USLEC switch today?

A. Again, the issue isn't the distance from the tandem. The issue is the distance from the originating local calling area into the USLEC switch.

Q. But your tandem is a central location, according to your testimony?

A. Our tandem is a central location, yes.

Q. And it's possible that USLEC switch can be located within a mile of your central location?

A. Sure. It could be further than that as well.

Q. And so that's the first option. Can we call that --- it's a co-location tandem; correct?

A. Yes.

Q. So can we call that a physical IP?

A. Sure.
Q. Okay. I want to call it physical IP because we also have this concept of a virtual IP. That's the second option, the virtual IP?
A. Somehow they've gotten numbered. But you know, we'll call them the second option.
Q. Let's call it the physical IP option versus the virtual IP option and then I won't screw up the numbers. How about that?
A. That's fine.
Q. So the physical IP option is a physical connection between type of networks; correct?
A. Yes.
Q. Now, I believe Mr. Panner discussed with Mr. Hoffmann USLEC has a number of methods of interconnection it can choose from under this contract?
A. Yes, I remember that.
Q. But you just testified that the physical IP has to be co-location; isn't that correct?
A. Again, that's part of the VGRIP proposal. One of the arrangements that a CLEC could enter into under this proposal is to have a physical co-location arrangement where Verizon would drop off the charge, yes.

Q. But in order to establish a physical IP under VGRIPS, USLEC cannot use an entrance facility?

A. I'm not sure what an entrance facility is. I mean, I know what an entrance facility is, but it means different things to different people. So could you clarify what you mean by entrance facilities?

ATTORNEY SHOR:

Was the contract Verizon ---?

ATTORNEY PANNER:

The interconnection is Verizon Three.

ATTORNEY FINN:

Would you mind sharing that with the witness?

BY ATTORNEY FINN:

Q. Could you please turn to page 52?

A. I'm there.

Q. Section 2.1.3.

A. Okay.

Q. USLEC may use any of the following methods for interconnection with Verizon. Do you see that?

A. Yes.

Q. And it lists three things there doesn't it?

A. No.

Q. Co-location facility established by USLEC?

A. Correct.
Q. Co-location or entrance facility established by a third party that is used by USLEC?
A. Correct.
Q. And the third option here is entrance facility and transport obtained by Verizon?
A. Okay.
Q. So those are the options I'm talking about.
A. Okay.
Q. So is it your testimony that USLEC can use co-location to establish the physical IP?
A. Use co-location, yes.
Q. And I understand from the discussion earlier that USLEC can also use third party co-location to establish in physical IP; correct?
A. Yes.
Q. But this third option, this entrance facility option, under the VGRIPS proposal, as you've written it in the contract, USLEC may not use this option to establish physical IP?
A. Not the way that this proposal is drafted at this point, correct.
Q. Okay. Now, are you familiar with the FCC rules that requires Verizon to offer CLEC any technically able method of interconnection?

A. Yeah, I've heard it.
Q. Okay. So in defining the physical IP under VGRIPS and limiting that physical IP to co-location, isn't it true that Verizon was not complying with this ---?
A. No. Again, the IP deals with the financial aspects of it. So either Verizon would physically take the traffic to USLEC's switch or point of interconnection and then you get into, well, how can Verizon be compensated for the transport when it hauls it outside of a calling area. As far as your question about, are there other ways that we could physically meet at the tandem, I suppose there are, we haven't drafted language that would address another physical IP at the tandem, other than the co-location regimen.
Q. But you've drafted language that addresses another method of interconnection in section 2.1.3?
A. Yes.
Q. Another physical method of interconnection?
A. Which address the point of interconnection, as opposed to the VGRIP section which addresses the financial aspect of the transport.
Q. Right, but didn't you also agree with me that the physical IP is also a physical demarcation between the networks? Isn't that what a POI is?

A. A POI is a physical point where the networks twist the wires. If you will.

Q. Okay. And is there a physical POI at a co-location cage where the networks twist the wires?

A. Sure. If that is where, in that example, the POI and the IP would be in the same location. You could also have a situation where the POI, a point of interconnection, and the IP, the interconnecting point are in two different locations.

Q. And did you hear USLEC's witness' testimony earlier today that they do not co-locate in Verizon in the State of Pennsylvania today?

A. Yes, I did hear that.

Q. So would it be safe to say that the current network architecture does not comply with the physical IP option of the VGRIPS; isn't that correct?

A. Correct.

Q. Can you turn to page six of your testimony, please?

A. Sure.

JUDGE:

I'm assuming the direct?

ATTORNEY FINN:

Direct, thank you.

BY ATTORNEY FINN:

Q. Starting around line 12, you discuss your interpretation of the Commission's ruling in the Verizon/Sprint arbitration; right?
A. Yes.
Q. Based on your testimony, isn't it your understanding that the Sprint IPs do not actually have to be at Verizon tandems?
A. Under the Sprint arbitration decision, no, they do not have to be tandem.
Q. So in fact, if they're not at the tandems, the Spring IPs could be at the Sprint switch; correct?
A. Yes, based on this result.
Q. Move to the virtual IP option?
A. Okay.
Q. The virtual IP option can only be established at a Verizon end office; correct?
A. What would happen is when Verizon transports the traffic from a local calling area to a distant point, and the example that we like to use a lot, even though we're in Harrisburg is from Allentown to Philadelphia which is, I believe, 40 or 50 miles between the two. So in that case, Verizon would be carrying that traffic outside of a calling area to Philadelphia. And then the compensation arrangement would kick in, I guess.

Q. Mr. D'Amico, I think I asked you if the virtual IP is only the Verizon end office. Is the virtual IP at the Verizon end office?

A. Yes.

Q. It's not at the Verizon tandem?

A. No.

Q. So we could have a physical IP at the tandem but we can't have a virtual IP at the tandem?

A. Yes.

JUDGE:

I'm sorry. What was the question there? You can have a physical IP at the tandem but not a ---?

ATTORNEY FINN:

Virtual IP.

JUDGE:

All right.

BY ATTORNEY FINN:

Q. Can you turn to page ten of your testimony, direct, please?

A. Okay.

Q. This was actually your Philadelphia/Allentown example we're discussing here?

A. Here we go.

Q. So just walking through, you say here, if USLEC

agrees to pick up traffic at Verizon tandem, if it locates case its POI there --- well, let's stop there for a second. USLEC has a POI with Verizon tandem today; correct?

A. Which LATA? In Philly?

Q. In Philly. We'll use Philly.

A. It's my understanding that the POI is at USLEC switch. Verizon has built facilities all the way to the USLEC switch in Philadelphia. So I would say that the POI is at the USLEC switch.

Q. So that's the delivery of Verizon's originated traffic to USLEC?

A. Yes.

Q. But USLEC also has a POI at the Verizon tandem for the delivery of USLEC's originated traffic to Verizon?

A. Actually, I would say that the POI in that scenario is also the USLEC switch because USLEC is purchasing or leasing facilities from Verizon.

Q. So by leasing the facilities, USLEC doesn't become the owner of those facilities for purposes of network demarcation?

A. I'm not sure if you're getting into semantics on that. I would still look at it as the POI is at the switch, even though USLEC is paying for those

facilities or leasing those facilities, those are still Verizon --- part of Verizon's network.

Q. Okay. Turning back to your testimony here on the bottom of page ten?

A. Okay.

Q. If USLEC agrees to pick up traffic at Verizon tandems, by pick up here, do you mean financially pickup?

A. Can you help me with the line number?

Q. I'm sorry, line 20.

A. Okay. Yes.

Q. Now, starting the very last sentence, line 23.

A. Okay.

Q. If USLEC chose to place its POIs in places that were not at the VGRIP location, Verizon would deliver its traffic to USLEC's chosen POI location, but would recover the additional transport and other costs for delivering the traffic to that location. I read that correctly?

A. Yes, that was good.

Q. I'd like to focus on additional transport?

A. Okay.

Q. So on the prior page, you said if USLEC agrees to pick up financially traffic at Verizon tandems but now you're saying if they don't agree to pick them up at

the tandems, you're going to move the financial demarcation point and recover your additional transport costs?

A. Yeah. Again, it's part of the compromise proposal. Under the one scenario, Verizon is hauling traffic outside of local calling area. But it's willing to do that to meet at a central location, in particular the location arrangement at the tandem. If that doesn't occur, then Verizon is still hauling traffic from the originating point to the POI that is outside of the local calling area. And so the language then talks about, well, how can Verizon be compensated as far as costs? And that's where you get into that financial piece of it.

Q. But so you're willing to haul the traffic to the tandem, the central location only if USLEC is co-located there?

A. That is the proposal, yes.

Q. And if they refuse co-location, if they want to use an entrance facility as their physical method of interconnection, you are not willing to haul the traffic to the tandem?

A. Again, that option hasn't been, I guess, kicked around very much. It may have come up in a lot of talks. But at this point, this is our proposal.

Q. Okay. Understood. Under the physical IP, you've stated that you'll be paying for a portion of transport outside of the local calling area; correct?
A. Yes.
Q. Under the virtual IP, I think you've also stated that USLEC would be paying for a portion of the transport inside the local calling area; correct?
A. Right. Right now, the language states that that measurement, if you will, for the transport recovery is based on the than the originating end office.
Q. Okay. So can we turn back to page ten?
A. Sure.
Q. And look at the sentence that be begins on line 13?
A. Okay.
Q. And can you just read that sentence, please, into the record?
A. It starts if the CLEC elects not to?
Q. Yes.
A. If the CLEC elects not to establish a POI at the VGRIP locations, then Verizon will deliver its traffic to another CLEC designated location and the CLEC will be financially responsible for the transport outside of the local calling area.
Q. So those last couple of words outside the local

calling area, that's not exactly correct; is it?
A. No. Well, I guess you're trying to break that apart to say that that's implied with only outside of the local calling area?
Q. Yes.
A. I think what I meant there was the measurement as defined in our proposal which would be between the originating end office and the and the USLEC point of interconnection.
Q. I'm sorry. Can you say that again?
A. If you read this in the purest sense, you may be inclined to think that it is from the border, the boundary the USLEC point of interconnection. And I apologize if that is what misleading. But in reality, the proposal in the language is from the originating end office, which may or may not be at the edge of that local calling area.
Q. Right, okay. I just wanted to clarify that. Thank you.
A. Okay.
Q. And we talked about the central location earlier?
A. Yes.
Q. So you were asking for the opportunity under VGRIPS to kind of aggregate Verizon traffic and pick a central location on the Verizon network. And at that

Verizon network you'll deliver the traffic; correct?
A. Yes.
Q. And am I correct in stating that under VGRIPS, USLEC is not permitted to pick a central location on USLEC's network to aggregate traffic and ask Verizon to pick it up there?
A. Could you run that question by me? I got my ---.
Q. Under VGRIPS, if the USLEC customers are originating the call, is USLEC permitted to ask Verizon to come to a central location on USLEC's network to pick up USLEC's traffic?
A. So you're talking about traffic in the other direction.
Q. Correct.
A. Actually, VGRIP address the delivery of Verizon's traffic to a CLEC. So I kind of put that in a little box, if you will. However, in the other direction, Verizon has established its tandems and its end offices to serve that call party as its interconnection point throughout the LATA.
Q. So USLEC has to both pick up Verizon traffic on Verizon's network and deliver USLEC traffic to Verizon network; is that correct?
A. Well, they have to deliver it to Verizon's IP, yes, that is correct. USLEC doesn't have to pick up

the traffic. Again, Verizon would deliver it but then you get into the financial aspect of it.

Q. So financially, they have to pick it up?

A. Yes.

Q. They have to pickup the tab?

A. There is some financial obligation under certain arrangements.

Q. And the Verizon IPs where USLEC delivers its traffic, they are at the Verizon tandems?

A. For traffic that is tandem routed, if you will. There is two ways that traffic can be delivered on Verizon's network. One is if it goes to the tandem, Verizon will then take it from the tandem and deliver to the end office that subtandems that tandem. Just maybe to give a high level, in case people aren't familiar with tandems. Think of a tandem as a hub or the middle of the spoke and then the middle of the wheel. And all of these spokes go out with end offices around them?

A. So that would be one option where the traffic could get delivered to the tandem. The second option would be a direct end office trunk to that Verizon end office that serves the subscribers from that end office.

Q. So in that case --- in a direct trunking

environment, the Verizon IPs would be that end office serving those calling parties?

A. Yes.

Q. Okay. And today, is it your understanding that USLEC bears financial responsibility for delivering its originating traffic to the Verizon IP, whether it be located at the tandem or the end office?

A. Yes. That's the arrangement. And then they are charged the appropriate reciprocal compensation rate based on tandem or end office route.

Q. And it is also your understanding that USLEC bears that responsibility even if it's call originates --- if it switches in another local calling area?

A. Yes. What happens is USLEC decides --- first they decide where they want their switch to be and then they also decide where they want to deliver the traffic and how they want to deliver the traffic to Verizon.

Q. And today under the parties' current arrangement, Verizon delivers its originating traffic to USLEC's switch; correct?

A. I believe that is the case in Philadelphia. I'm not sure about the Pittsburgh, based on what Mr. Hoffmann said this morning. I know there are plans to install a direct facility into --- or there may be

plans to install a direct facility into the USLEC switch or we may be riding the USLEC facility, in which case I believe we may be getting billed for some transport charges.

Q. So maybe just to put it more simply, right now Verizon is financially responsible for delivering its originating traffic to USLEC's switch?

A. Yeah, because the current agreement doesn't really have any framework around where the USLEC IP is, designated as their switch.

Q. And today, Verizon bears that responsibility whether or not the switch is in the local calling area where the Verizon call originated?

A. Yeah, that's why we're here. That's been going on, not only with USLEC, but with other CLECs. And we're bringing it up as an issue and a concern and we're trying to come up with proposals such as VGRIP that can address how Verizon can recover its costs.

Q. And as I understand your testimony, the basis, the reason why you think you have the right to move the IP is that a single point per LATA is expensive?

A. It is expensive in situations where Verizon is hauling traffic from local calling areas outside of that location, yes.

Q. So your definition of expensive is as soon as it

leaves the local calling area?

A. I guess my definition of expensive is Verizon hauling traffic outside of the local calling area to a distant point of interconnection into the CLEC establishes as their interconnection point and yet we're charging our end users a local call. So there is kind of a disconnect there. It looks like it's one thing but in reality it's being called 50 or 60 miles away.

Q. Where in your testimony can I find an explanation of what costs your local rates cover?

A. I don't think I get into that depth, mainly because I'm not sure all of the ins and outs of how the local exchange tariffs are derived. But I do know that when Verizon customer A calls Verizon customer B in the local calling area, the call originates or terminates within that local calling area. When Verizon customer A calls Verizon customer B in, you know, Allentown to Philadelphia, then that would be an inter-LATA call.

Q. It would be an inter-LATA toll call if they're both Verizon customers?

A. Yes. Sure.

Q. Okay. But does the routing of the call, that doesn't necessarily change the jurisdiction of the

call; does it?
A. Well, again I wasn't trying to change the jurisdiction. I was just trying to point out that Verizon is charging this call, as though it's a local call, but hauling this call to a distant point. And that transport piece is a cost and Verizon is not recovering that cost.
Q. But you have nothing in your testimony that says --- strike that.
Isn't there a difference between a local rate and what it costs Verizon to provide that local service?
A. I'm not sure I know the answer to that, because I just don't know that much about local rates.
Q. Okay. But you submitted cost studies in this Docket?
A. No, we haven't submitted any cost studies. What we've tried to do is, in the situation where there is transport, we've pointed to the union tariff, the unbundled network element tariff in Pennsylvania. And we've looked at the interoffice costs for interoffice unbundled dedicated transport, I believe.
Q. But you don't have figures on the amount of traffic that's exchanged between USLEC and Verizon in your estimate; do you?
A. No, I don't.

Q. And you don't have figures on the amount of that traffic that's exchanged, that never leaves the local calling area; do you?

A. No, no. The language that we've tried to put together was designed to address the situation, both for USLEC and other carriers into this particular agreement. And if there isn't a problem, then there isn't anything that's needed to be done. So looking at specific, you know, minutes and other aspects, we're looking at this more at a higher level.

Q. But you've testified that you have an interconnection area where you're hauling your traffic outside the local calling area to USLEC?

A. Correct.

Q. And you've testified that that's a problem?

A. Correct.

Q. But you haven't quantified that problem; is that correct?

A. No, I have not.

Q. And Mr. D'Amico, in order for a form of interconnection to be expensive, doesn't there have to be a benchmark to which to compare it to measure what is expensive?

A. I'm not sure. I mean, I guess any point where Verizon is incurring these costs outside of the local

calling area, that is a situation that we're trying to address. There are some cases where the magnitude is very high with other CLECs are cumulative with all CLECs. And there may be situations where it's relatively low. So I'm not sure that I answered your question. But that was the best job I can.

Q. Just to make sure I understand, it's your testimony that as soon as it leaves the local calling area, it's is an expensive cost that you think Verizon should be able to recover?

A. Yes. And also, there is language that talks about, you know, USLEC can keep its existing interconnection points, however, Verizon can ask for blah, blah, blah. I understand USLEC saying, you know, I'm not sure I trust you because as soon as we sign this, you're going to ask for that. But I mean, there could be situations where we look at the existing IPs or the existing arrangements. And it stays the same. We've tried to draft this language so that, here are some guidelines and then the operation folks who look at the network workings can decide if the problem is there and if they need to correct it.

Q. So Mr. D'Amico, if you know what the typical Verizon local calling area distance is?

A. No. I would imagine it varies.

Q. Okay. But whether the calling area is ten miles wide or 50 miles wide, it's not expensive until it crosses that boundary; is that correct?

A. There could be other reasons where it's expensive within that local calling area. In other words, it still could be within this local calling area but you know, there is a mountain and we have to go to the top of the mountain or something odd. But looking specifically at this scenario without any extreme circumstances, VGRIP is designed to address that expense --- that expensive arrangement when it's hauled outside of a calling area.

Q. Did you just say that it might be more expensive to haul a local call inside of a local calling area because of terrain or distance or something maybe that it would be better to haul it long distance?

A. No. I think what I wanted to say was, you can't assume, just because the interconnection was within the local calling area, that there couldn't be other circumstances that would make it expensive as well.

Q. But Verizon is willing --- let me ask it this way under FCC rules, do you think Verizon has an obligation to bear the costs of delivering the traffic to a CLEC if that delivery point is within the local calling area?

A. I think you're asking me an interpretation of the FCC rules. And I kind of like to stay away from that. I mean, I'd like to --- it's my understanding that would satisfy the FCC rules. But again, that's me as a product manager as opposed to me as a fine attorney.

Q. Understood. Well, if Verizon bearing the transport cost within the local calling area, is consistent with FCC rules? Is it your testimony that Verizon can also refuse to bear those costs within the local calling area?

A. No.

Q. Actually, under the virtual IP option, aren't you shifting calls within the local calling to USLEC or are you refusing to ---?

ATTORNEY PANNER:

Asked and answered.

ATTORNEY FINN:

Okay. I'll withdraw.

BY ATTORNEY FINN:

Q. Mr. D'Amico, let's turn to rebuttal page eight, please?

A. Okay.

Q. On this page at the bottom, you're citing to the FCC Intercarrer Compensation rule making; correct?

A. Like line 18, starting there?
Q. Right.
A. Yes, I mentioned this NPRM thing.
Q. So you've read the NPRM?
A. Not the whole thing.
Q. So you've read the NPRM?
A. Not the whole thing. But I've dabbled on parts of it. It's been a while. I'm sure there's going to be a ruling on it soon.

ATTORNEY FINN:

Your Honor, I'd like to introduce USLEC Exhibit Number One.

JUDGE:

So marked.

(USLEC Exhibit One marked for identification.)

BY ATTORNEY FINN:
Q. Mr. D'Amico, does this document look familiar?
A. Yeah.
Q. Does it look like it's the NPRM that you cite on page eight of your testimony?
A. Yeah.
Q. I should have mentioned, these are just excerpts. Can you please turn to, I'm sorry, paragraph 114?

A. Okay.
Q. And you see about halfway through that paragraph where it starts, assuming?
A. Uh-huh (yes). Yes.
Q. Can you read from there to the end of the paragraph, please?
A. Assuming that the ILEC receives reciprocal compensation for transporting terminating traffic, how precisely does the distant POI unfairly burden the LEC? Is the efficiency concern limited to those instances in which traffic between two networks is unbalanced and/or where traffic is required beyond a certain distance? We seek comment on these questions and any other issues related to the interplay between our single POI rules and our reciprocal compensation rules.
Q. Mr. D'Amico, is it your understanding that these questions in this paragraph are part of the FCC's efforts to investigate allocation of transport responsible between.

ATTORNEY PANNER:

I object. I think it goes beyond the scope of his Direct.

ATTORNEY FINN:

Well, I think he's sitting this

NPRM as supports that Verizon can allocate the transport under its ---.

ATTORNEY PANNER:

I didn't understand your question maybe.

JUDGE:

Let me simply overrule your objection, okay.

ATTORNEY FINN:

I'm sorry. Can you read the question back.

COURT REPORTER READS BACK PREVIOUS QUESTION.

BY ATTORNEY FINN:

Q. Between LEC, interconnect LEC.

A. It appears that they are asking for questions --- they're asking for comments on some of these questions and other issues related to this.

Q. So the FCC has asked about the distance, traffic balance ---

A. Uh-huh (yes), yes.

Q. --- and other issues; correct?

A. In this paragraph, yes.

Q. Okay. And yet you've testified that it's Verizon's position that, as soon as it leaves the local calling area, Verizon shouldn't have to pay,

unless it agrees to pay if we establish a physical IP?
A. Yes. Again, we're trying to address the situation where Verizon is hauling traffic outside local calling area, to a point of interjection where the CLEC is determined.
Q. And so the FCC appears to be examing a number of factors to determine how to allocate transport responsibility; correct?
A. Yes, it looks like based on some of these questions, sure.
Q. So in other words the FCC is not examining solely the question of whether ILECs transporting the call outside of the local calling area?
A. In this paragraph, I don't see the match to that specific question, although again they say any other issues related to the interplay.
Q. So presumably this is an issue that Verizon raised before the FCC?

ATTORNEY PANNER:

Objection.

JUDGE:

And the basis is?

ATTORNEY PANNER:

Foundation.

JUDGE:

Thank you.

ATTORNEY FINN:

The foundation is he said any other issues that parties may want to raise before the FCC.

JUDGE:

I didn't hear him testify at all about what Verizon's position in front of the FCC was going to be on this. So I'm going to agree with Mr. Panner and sustain the objection.

ATTORNEY FINN:

Okay.

BY ATTORNEY FINN:

Q. Mr. D'Amico, are you aware what Verizon's position on this NPRM is?

A. I don't know all of the --- I wasn't part of the drafting for who our response was to this NPRM or if we're involved.

Q. Mr. D'Amico, would you expect Verizon to take inconsistent positions before a State Public utility Commission the FCC.

ATTORNEY PANNER:

Objection, argumentative.

ATTORNEY FINN:

I'm just asking what he thinks

Verizon might do. I don't think it was argumentative. I'm sorry.

JUDGE:

I don't think it's argumentative either. But there isn't too far you can go in this direction.

ATTORNEY FINN:

Understood.

JUDGE:

He can answer this if he knows the answer.

A. I would think that would raise questions. But I don't know how they set the policy, state versus regulatory FCC issues.

BY ATTORNEY FINN:

Q. Okay. Thank you. I'll stop. Mr. D'Amico, are you familiar with the FCC file reports?

A. Less than --- not very much, no.

Q. Are you familiar with the concept that the rates ILEC charge CLECs are subject to the '96 Act standards?

A. Again, it seems like there's a lot of activity. There has always been a lot of activity when I hear the word tolerate. And I don't know what the latest impact is on that. I believe I read somewhere, maybe

in our discovery or something, or somewhere else, that when Verizon files its union rates in, I guess, Pennsylvania and other states, I think it said they're telecompliant. But again, I'm not really the expert on that.

ATTORNEY FINN:

I'd like to mark another exhibit, USLEC Number Two.

(USLEC Exhibit Two marked for identification.)

JUDGE:

So marked. Tell us what it is.

ATTORNEY FINN:

Well, this is an excerpt of the FCC rules, 47 CFR.

JUDGE:

Let me make it perfectly clear that I only want an excerpt of the rules. I don't want all of them in the record.

BY ATTORNEY FINN:

Q. Mr. D'Amico, what I've handed you is an excerpt of the Federal Communications Commissions Rules, which are found in 47 CFR?

A. Okay.

Q. Are you familiar with these rules?

A. Yeah. It's been awhile since I've studied them but, yes, I've seen these before.

Q. Okay. Can you turn to subpart F, pricing of elements, please?

A. What does that mean?

Q. I'm sorry. It's at the top of the page, it says subpart F.

JUDGE:

It's about the second or third page back.

A. I got you.

BY ATTORNEY FINN:

Q. Okay. 51.501, scope A, can you read that, please.

ATTORNEY PANNER:

Your Honor, I'm going to object to this line. I'm not aware of anything in Mr. D'Amico's testimony that addresses the application of --- if I'm mistaken about that then I'll stand corrected, but I don't believe that he's testified to that application.

ATTORNEY FINN:

Well, I think he's testified to costs. He talked about Verizon's costs and how Verizon should be able to recover its transport costs. And in order for Verizon to recover its

transport costs, I think they have to comply with FCC rules in order to recover the costs. And so I wanted to explore whether or not Mr. D'Amico has adequately testified to costs in his testimony.

ATTORNEY PANNER:

I don't understand how his understanding of the FCC's telrate (phonetic) rules would be relevant to that.

JUDGE:

Do you want to explain how you think it's relevant.

ATTORNEY FINN:

Well, I think he's testified that it costs Verizon more to transport the costs of local calling air and they want to recover that.

JUDGE:

He certainly testified repeatedly that they want reimbursed for that cost.

A. I mentioned it a couple of times.

ATTORNEY FINN:

And he's also testified that additional transports cost more. I guess I'm looking for the cost basis and I'm trying to explore it through the FCC rules.

JUDGE:

Did he provide a cost basis that you were able to find in his testimony.

ATTORNEY FINN:

No, he did not.

JUDGE:

Well, if he didn't provide one, then the issue is the legal one; isn't it? If he provided no factual basis in your estimation as Counsel for USLEC, then didn't he reduce the issue to being a legal one, if at all?

ATTORNEY FINN:

Okay. I'll withdraw the question. Thank you.

JUDGE:

Thank you.

A. Do I still need this?

BY ATTORNEY FINN:

Q. No. Okay. Can we please turn to page two of your rebuttal testimony?

A. Yes.

Q. Beginning on line six, are you with me?

A. I'm with you. Line six, page two.

Q. You state, if, as is the case with many state LECs, these six customers are internet service providers, then it is likely that they have been

assigned numbers in all or nearly all of the NSX codes that USLEC has obtained; correct?

A. That's what it says, yes.

Q. Mr. D'Amico, what is the basis for that statement?

A. Well, it's been my experience as a product manager, that we have situations with CLECs that serve ISP providers. And that what they do is there will be 40 or 50 NXS codes and then they'll have individual numbers within those 40 or 50 codes. And folks will dial into the internet and Verizon will transport that traffic to that point of interconnection and then they'll hand it off to the ISP that a lot of times is very close to where that U.S. --- where that CLEC is located.

Q. So as to USLEC, you do not have any facts to support this statement?

A. No, that's why I started with if, a little word.

Q. And are you aware that USLEC has submitted supplemental discovery responses to Verizon verifying that its six foreign exchange customers are not ISP?

A. Ask me that again.

Q. Are you aware that USLEC has submitted supplemental discovery responses to Verizon verifying that USLEC's six foreign exchange customers are not

ISPs?

A. I think I heard that, but I didn't store it because that gets more into the FX issue. The point here I was trying to make was about the situation. But subject to check, I would agree with that.

Q. Okay. But you were using this example to make a point on issues one and two; correct?

A. Sure. Yeah.

Q. And now, this example is false as to USLEC?

A. Again, assuming that that supplemental thing came in, yes, at this time that would not be the case for USLEC, however, that could change in the future, I guess.

Q. Okay. Let's see. The next sentence, moreover, it is likely that these six customers are located at or only a very short distance from USLEC switches and account for the vast majority of the traffic that Verizon sends to USLEC. Do you see that statement?

A. I see that.

Q. And again, that statement, because you're using it is likely, that was not based on facts about USLEC's network?

A. Correct.

Q. And, in fact, are you aware that as part of those supplemental discovery responses, USLEC has verified

that none of its customers are collocated at the switches in Pennsylvania?

A. Should I look at those responses or just say subject to check? Yes.

Q. Okay.

JUDGE COCHERE:

Take your time.

A. Thank you.

BY ATTORNEY FINN:

Q. So if that is the case then this statement with respect to USLEC is false?

A. At this time, yes.

Q. All right. Let's turn to page six of your rebuttal, please.

A. Okay.

Q. Line 12.

A. Line 12.

Q. Thus, it is clear that under USLEC's proposal Verizon would, and this is in quotes, incur specific costs for which it is not already compensated by the services it provides its customers that originate its traffic, closed quotes.

A. Yes.

Q. What is the basis for this statement?

A. The basis being an example or basis being how

many situations do I know of that this is occurring in?

Q. Well, you're talking about specific costs here?

A. Right. I think what I'm saying is that --- and it gets back to that --- it's a local call, we're getting local rates from our end user and the piece that's going outside is the piece that I'm addressing.

Q. But you have haven't addressed --- you haven't put a dollar figure on the records?

A. No. Gosh, no.

Q. And also --- I'm sorry if we discussed this earlier, but we discussed the relationship between your customers rates and Verizon's costs. And you're not clear what that relationship is?

A. Right.

ATTORNEY FINN:

Just a moment, Your Honor. I'm sorry.

JUDGE:

Certainly.

SHORT BREAK TAKEN

BY ATTORNEY FINN:

Q. Mr. D'Amico, on pages nine and ten of your rebuttal testimony you say TSR Wireless order?

A. Yes, but can I go back just to clear up the

record for a second on that previous question you just asked me?

Q. I think that's your Counsel's job on Redirect.

A. Okay. All right. Page ten?

Q. Page nine and ten, you said the TSR Wireless order; correct?

A. Okay.

Q. Are you generally familiar with that order?

A. Again, they all start to bleed together after a while, but, yes.

Q. So it's your testimony that in TSR the FCC held that the recip comp rules apply to traffic exchange between LEC and paging carriers?

A. Yeah, this particular one addressed TSR Wireless, which is, I believe, a pager carrier, or was. It probably still is.

Q. And you state that the FCC did not address the issue of whether CLEC must be financially responsible, but TSR is about a paging carrier, not a CLEC; right?

A. Right.

Q. And do you know if TSR addressed the issue of when a paging carrier must be financially responsible?

A. I can't recall the whole aspects of it.

Q. Do you know if the FCC's rules, reciprocal compensation rules apply to both CLEC and to paging

carriers?

A. Yes, but I believe they may have kind of carved them out a little differently with something about MTA.

Q. Right. Are you aware that in a LEC, the paging carrier scenario, that MTA is the equivalent of a local calling area?

ATTORNEY PANNER:

Objection, calls for a legal conclusion to which he hasn't testified.

ATTORNEY FINN:

Well, he testified about some differences and that difference being the MTA and so I'm trying to clarify the difference.

JUDGE:

You did open the door. Objection overruled.

A. Again, I know there is the term MTA in the MTC order and it applies to wireless. As far as all of the nuances about that and why the MTC stated what they stated, I'm not sure?

ATTORNEY FINN:

Can we have a moment?

JUDGE:

Certainly.

OFF RECORD DISCUSSION

BY ATTORNEY FINN:

Q. I'm sorry to jump around here. Can we go back to page eight of your Direct testimony?

A. As soon as I find it. Yes, page eight. Okay.

Q. Beginning at line four, you stated that under USLEC's suggested approach Verizon would be required to carry the call many miles through multiple switches on its way to USLEC's POI; correct?

A. Yes.

Q. And the reason Verizon has to carry the call through multiple switches because that is how Verizon designed its network; correct?

A. Actually when I say multiple switches, it could either mean switched, physically switched through the switch or is passing through that wire center. But, yes, based on Verizon's network, that's the way it would be run.

Q. And USLEC had nothing to do with Verizon's network design; correct?

A. Correct.

ATTORNEY FINN:

Okay. I'm done with Cross. Thank you.

JUDGE:

All right. Are you sure you're done now?

ATTORNEY FINN:

Nothing further, Your Honor.

JUDGE:

Thank you. I think Verizon should have a couple minutes to discuss its witness. And I need one or two minutes off the record with Ms. Finn and Ms. Smith.

OFF RECORD DISCUSSION

JUDGE:

Go back on the record. Before I let you do that, I actually have a question, if I can find it. Mr. D'Amico, would you turn to page two of your rebuttal testimony, please.

A. Okay.

JUDGE:

Looking at the bottom of the page, your question beginning on line 16 and your answer beginning on line 19, do you need a minute to take a look at that?

A. Hold on a second.

JUDGE:

I'll take that to be a yes.

A. Yes. Okay. I'm ready.

JUDGE:

If I understand your point for that question and answer, it is to emphasize that USLEC is handing traffic to Verizon at more than one POI; is that right?

A. Yes.

JUDGE:

However, it is accepting Verizon originated traffic only at its switch in each LATA; is that right?

A. Yes.

JUDGE:

And my question for you then is sort of almost a double negative, but do I understand you correctly that you are not suggesting that it is not technically feasible for USLEC to receive Verizon originated traffic at those particular POIs?

A. Correct, it is technically feasible.

JUDGE:

Fine. That's all I needed to know. Thank you. Now, Counselor.

REDIRECT EXAMINATION

BY ATTORNEY PANNER:

Q. Mr. D'Amico, you'll recall that Ms. Finn asked you if a USLEC customer in Allentown called a Verizon

town customer in Allentown, who would bear the cost of transporting that call from Allentown to the Verizon POI connection?

A. Yes, I recall that.

Q. And you testified, did you not, that USLEC, if the USLEC customer originated the call, would carry the call to the Verizon tandem or the Verizon end offices, as the case may be?

A. Correct.

Q. Now, if a call is going from a USLEC customer in Allentown to a Verizon customer in Allentown, how far is that call going end to end?

A. What's happening is because USLEC has decided to locate their switch in Philadelphia, even though the parties may be across the street, USLEC has to carry that call to their switch in Philadelphia and then carry it back. So it's really --- you know, the reason that situation is occurring is because of the location of where USLEC has put its switch.

Q. So it's really the location of USLEC's switch that has caused those costs?

A. Yes.

Q. And did you understand Ms. Montano to testify this morning that if USLEC has higher costs for serving a customer far from its switch, that it's free

to charge more for that service?
A. Yes, I do remember that was the tariff thing. And my listening to that was that it sounds like if a USLEC customer --- you know, the distance that it's located from the USLEC switch impacts what they pay.
Q. And in the case of a Verizon customer, does Verizon receive greater compensation for carrying that call or if it has to go all the way to ---.

ATTORNEY FINN:

Objection.

JUDGE:

Let him finish the question.

ATTORNEY FINN:

Sorry.

ATTORNEY PANNER:

A little bird tells me what the objection is going to be.

BY ATTORNEY PANNER:

Q. Let me start the question over again.
A. Yeah. Start over.
Q. Can Verizon charge more for a call that must be transported to the USLEC switch than it does if the call is carried and delivered entirely on Verizon's network within the local calling area?

ATTORNEY FINN:

Objection.

JUDGE:

Now, what's the ground?

ATTORNEY FINN:

Leading.

ATTORNEY PANNER:

Actually, Your Honor, I don't think it was leading. I posed a hypothetical question and I asked him whether there would be an additional charge posed. It's an open-ended question. He can answer yes or no. I understand how it's leading. I didn't suggest facts that are not in evidence or anything else.

JUDGE:

I agree. Objection overruled.

BY ATTORNEY PANNER:

Q. I'll say it again.

A. No, I got it.

JUDGE:

Please don't.

A. I was just trying to figure out if I should say something or not. I usually write one on my left hand and one on my right. Again, although I'm not a local exchange tariff whiz, I believe the way it works is if a Verizon customer calls a Verizon customer in that

local calling area, you know, that's the rate.

If the Verizon customer calls a USLEC customer, because the rates that are associated with USLEC NSX is Allentown, then the same rates would apply.

BY ATTORNEY PANNER:

Q. If Verizon agrees to a particular term with USLEC, as an interconnection product manager, are you familiar with whether other CLECs could adopt those same terms?

A. Yes. Without getting into all of the rules of what they call MFNing, they are opting into a contract, other carriers are able to opt into or take advantage of those same terms or conditions is my understanding.

Q. And in your experience as a product manager in Pennsylvania, are there CLECs who serve mostly or many ISP customers?

A. Yes.

Q. And then I want to also, just to clarify something that Ms. Finn was asking you about and my Co-Counsel helpfully handed to me and then I promptly turned away from it, on page two of your rebuttal testimony, okay, at line six, are you asserting there that USLEC does, in fact, have six customers who are internet service providers?

A. No. Again, the word if creates a hypothetical and, you know, it also addresses, where I say that is the case --- that is the case with many other LECs, that this situation based on my experience occurs and if it isn't occurring today with Picker (phonetic) CLEC, it could occur tomorrow just because of the way the contract language is written. It kind of opens up a loophole, if you will, or maybe encourages that type of activity.

Q. And also another CLEC could opt into that agreement, is that your understanding?

A. Yes, correct.

Q. Okay. And just to clarify also, when you say, moreover, it is likely that these six customers are located at USLEC switches, were you speaking there as a factual assertion or as a hypothetical?

A. That was tied to the first spot of the if. It was just a continuation.

ATTORNEY PANNER:

I have nothing further, Your Honor.

ATTORNEY FINN:

Can I have a moment, please?

JUDGE:

Certainly.

ATTORNEY FINN:

I think I have just one or two questions, Your Honor.

JUDGE:

I normally don't impose limits.

ATTORNEY FINN:

Understood.

RECROSS EXAMINATION

BY ATTORNEY FINN:

Q. Mr. D'Amico, you and Mr. Panner were just talking about Verizon's rates and what Verizon can charge its customers; correct?

A. Yes.

Q. And I think you were talking about whether or not Verizon could vary that rate based on the distance it has to carry the traffic? Did I understand that correctly?

ATTORNEY PANNER:

I object on the basis it mischaracterizes prior testimony.

JUDGE:

I disagree. The objection is overruled.

A. Do you want to ask that again or do you want me to say something?

BY ATTORNEY FINN:

Q. Do you remember what the question was or do you want it read back?

A. Would you read it back?

COURT REPORTER READS BACK PREVIOUS QUESTION

A. What we were discussing was two scenarios, one Verizon's situation and that's governed by our local exchange tariff, and Verizon to USLEC situation and that too is governed by Verizon's local exchange tariff. So I think the point that I was trying to make was that I'm not sure of what the rates are and how they're developed and all of that, but they would treat that call the same way as far as billing the end user, the Verizon end user.

Q. Okay. So are you familiar with Verizon's rate structure, local calling rate structure?

A. No, other than to the billing system when it bills that end user, it looks at the --- that that call to Allentown looks like a call to Allentown. I guess it doesn't know that it's going to a USLEC, wherever it's going to.

Q. Are you familiar with Verizon's extended area service?

A. No.

ATTORNEY PANNER:

Objection.

ATTORNEY FINN:

I'm done. Thank you. Nothing further. I'm sorry, just a moment. Your Honor, I think since Mr. Panner asked about the location of USLEC customers and whether or not they were ISPs, we'd like to introduce as an exhibit to get it into the record the supplemental discovery response that we talked about earlier.

ATTORNEY PANNER:

I object, Your Honor, we haven't --- well, they haven't laid a foundation for it. They --- there is nothing in there --- I mean, there has been no --- there has been no foundation for this response and it hasn't been properly introduced by a witness.

ATTORNEY SHOR:

Can I respond to that?

ATTORNEY PANNER:

They've had control of the information from the beginning. They could have put it in their testimony from beginning.

JUDGE:

Now do you have a response?

ATTORNEY SHOR:

Can I please respond?

JUDGE:

Yes.

ATTORNEY SHOR:

The parties had various discovery disputes that we attempted to resolve and we ultimately didn't resolve that.

JUDGE:

Yes, and I appreciate that.

ATTORNEY SHOR:

And we did it in a way that provided more information for both of us. There have been questions that Mr. D'Amico has been asked and answered by both USX Counsel and his Counsel concerning virtual and foreign exchange customers, the location of those customers and the types of customers and that was followed up on Redirect. And in Recross we are simply introducing as an exhibit marking and showing, if he wants to say he's never seen it or whatever and we have to deal with it separately, we'll deal with it separately. But I think an appropriate foundation has been laid.

JUDGE:

Well, you may be right that an appropriate foundation has been laid, but more

importantly than that, you already have the information of record in this proceeding, because during Cross Examination by Ms. Finn, Mr. D'Amico accepted subject to check all of her representations about the contents of the supplemental discovery, therefore, it is on the record. I don't see that Verizon could have any grounds for disputing it unless they are about to examine that supplemental discovery and say, no, it doesn't say that. I somehow am inclined to believe that Ms. Finn had no reason to misrepresent her own discovery to the opposite side.

So with that in mind, I find that it is immaterial that you've offered that particular exhibit and it's not necessary to put it in the record. Is there anything else for this witness?

ATTORNEY FINN:

Nothing further.

JUDGE:

Fine. This witness having testified only on issues one and two is excused.

ATTORNEY PANNER:

Your Honor, is it all right if Mr. D'Amico now leaves and goes to the airport?

JUDGE:

Yes, certainly.

OFF RECORD DISCUSSION

ATTORNEY SHOR:

Your Honor, as a matter of cleanup, you had asked earlier regarding the numbering in Ms. Montano's testimony and I double checked and I think the item on page 31 that is identified as issue eight should now be remarked as issue nine.

JUDGE:

And that's in her Direct testimony?

ATTORNEY SHOR:

Yes. I think it's 31 at the bottom or it may be --- depending on how it got marked is the issue --- the identification of the issue at the very bottom.

JUDGE:

Yes, I had already marked it issue number nine.

ATTORNEY SHOR:

Are you ready for the next witness?

JUDGE:

No, actually we have one more bit of old business with Ms. Finn.

ATTORNEY FINN:

Yes. I can't find the one I wrote on, but I think I just found another one, so we'll write on it again.

JUDGE:

And now that you've written on it would you like to move it into evidence?

ATTORNEY FINN:

Yes, Your Honor. USLEC would like to move USLEC Exhibit One into evidence.

JUDGE:

Admitted without objection. Is USLEC Exhibit Number Two identified and withdrawn?

ATTORNEY FINN:

Yes, USLEC Exhibit Number Two is identified and withdrawn.

JUDGE:

Fine. All right. Now, I believe we are back to Ms. Montano, who by virtue of her prior appearance continues to be under oath and is now responsible for the remainder and numerical order of the issues that are left in this proceeding. And Mr. Shor, I find it hard to be believe you would need to do much introduction, but whatever you think is necessary.

ATTORNEY SHOR:

Ms. Montano is available for Cross Examination on issues three, four, five, six, eight and nine.

JUDGE:

Yes. And I quite agree. Mr. Panner.

ATTORNEY PANNER:

Thank you.

WANDA MONTANO, PREVIOUSLY SWORN, RECALLED TO TESTIFY

RECROSS EXAMINATION

BY ATTORNEY PANNER:

Q. Ms. Montano, on issues three and four, you've testified that Voice Information Services traffic --- and this is your Direct testimony, on page --- I apologize. On page 12, line 22 and then going over to page 13, line one, you've testified that Voice Information Services traffic, as defined in the agreement, quote, cannot be characterized as interstate or intrastate exchange access, information access or exchange services for exchange access or information access, is that your testimony?

A. Yes, it is.

Q. Is that a legal conclusion?

A. It is my understanding of the issue.

Q. Is it a legal conclusion?

A. I think the legal conclusions are for the Judge to draw, not for me.

Q. Is it a legal conclusion?

ATTORNEY SHOR:

Asked and answered.

ATTORNEY PANNER:

I disagree. It hasn't been answered.

BY ATTORNEY PANNER:

Q. It's a simple yes or no. Is it a legal conclusion or is it not a legal conclusion?

ATTORNEY SHOR:

Asked and answered.

JUDGE:

I'm at the point in the day where I don't particularly care. If it's a legal conclusion, I'll deal with it any way I want. If it's not a legal conclusion, I'll regard it as factual text.

BY ATTORNEY PANNER:

Q. I'll pass on now to issue five. Ms. Montano, do you know what it means for USLEC to receive traffic from Verizon's network?

A. Are you talking about the testimony that begins on page 16?

Q. I'm simply asking the question, do you know what it means for USLEC to receive traffic from Verizon's network?

A. Based on the definition that you guys have proposed in the interconnection agreement?

Q. If I say to you that USLEC has received traffic from Verizon'S network, do you know what I mean?

A. No, because we don't use that word. We use originating and terminating.

Q. So your testimony is that you do not know what it means?

A. Not in terms of an industry standard term, in terms of how traffic flows.

Q. Okay. I'd like to go on to issue six. Does USLEC --- first of all, can you describe for me what a traditional FX service is?

A. My understanding of foreign exchange service is that a customer has a location in one calling area and would like for customers of their business in a calling area to be able to make a local call to them rather than a toll call.

Q. And do you know how Verizon provisions a traditional FX service?

A. No, I do not.

Q. Okay. Now, does USLEC offer FX service?

A. Yes, we do.
Q. Now, would you agree that it's possible to provision FX service by offering switching service out of an end office and then provisioning a dedicated line from that end office to a customer location in a different local exchange? Would that be possible?
A. Can you break that into smaller pieces?
Q. Sure. In a traditional --- have you read the testimony of Mr. Haynes?
A. Yes, I have.
Q. In that testimony, I believe he describes a traditional FX service as one in which --- and I'll try to break it down for you, one in which a customer purchases service in a foreign end office and then purchases transport from that end office to the customer location in a different exchange. Do you understand that?
A. Yes, I do.
Q. Okay. Does USLEC offer FX service in this fashion?
A. Yes, we do.
Q. So you offer service in a fashion where you have --- you have a customer who is located in --- okay. Let me break that down. When you offer FX service, is your switch --- do you require --- is your switch

always in the exchange area associated with the NXX code assigned to the customer?

A. No, it is not.

Q. So it might well be true that the switch is quite distant from the local exchange area associated with the assigned NXX code; is that correct?

A. Yes.

Q. And, in fact, you would offer FX service, offering NXX codes associated with any NXX code in the LATA where you have assigned numbers out of one switch in the LATA; is this correct?

A. That's correct.

Q. Now, compared to offering --- if you offer FX service, do you impose an additional charge?

A. Yes, we do.

Q. Do you know how much that charge is?

A. I believe it's $1,000 a month, plus $500 non-referring charge, plus hunting fees. There are antilog trunk fees as well, I believe of $12 a month.

Q. Okay. Now, what additional costs do you have when you're --- I'll withdraw that question.

I'm going to go to the board here and I'll try to ---.

OFF RECORD DISCUSSION

BY ATTORNEY PANNER:

Q. I'm going to draw a schematic here. I'm going to call this exchange area A. And I'm going to call this exchange area B. And we're going to have a customer here, we'll call him customer X. I'm going to have a customer here, we'll call her customer Y. Now, can you tell me is the call from X to Y a local call?

A. That would depend on what Verizon's tariff says is the calling area between A and B.

Q. But as I've described this, this is outside the exchange area for the subscriber X. So it's in a different exchange area, no EAS, nothing fancy. It's just there is a local exchange area here, a local exchange area here, a call connect, a call Y, is that a local call?

A. Could you define exchange area for me because we've talked about local calling areas and serving wire centers, that's a term that I don't understand.

Q. Okay. A local exchange area is an area in which calls between customer stations are considered local ---

A. Okay.

Q. --- where the stations are located within the exchange area. Is the call from X to Y --- and I believe that's paraphrasing the way that's defined in the tariff subject to check. But is a call from X to

Y a local call?

A. As you've defined it, yes.

Q. X is in exchange area A?

A. Uh-huh (yes).

Q. Y is in exchange area B, a different exchange area?

A. Yes.

Q. Is a call from X to Y a local call?

A. I don't believe so.

Q. Okay. So the answer is no?

A. That's correct.

Q. Okay. Well, what if the NPA/NXX of the X customer and the Y customer are, in fact, associated with the same local calling area? In other words, you could have a customer here, Y, right, who has an NPA, an assigned NPA/NXX associated with the local calling area A, ---

A. Okay.

Q. --- would it still be an interexchanged call?

A. No, that would be a foreign exchange call.

Q. It can be a local call?

A. It would be a local call because the customer has purchased foreign exchange.

Q. So in your view that would be defined as a local call?

A. Yes.
Q. Would the reciprocal compensation apply to that call?
A. Yes.
Q. Okay. In fact, so X --- let me just clarify one thing. Even if USLEC's switch is here and Verizon is the one transporting the traffic all the way to here, not only in your view is Verizon not entitled to any compensation for this transport, Verizon must pay USLEC to deliver that call to Y; is that correct?
A. I believe that that pricing structure would apply regardless of whether your company is offering the foreign exchange or mine. The traffic flows in both directions, so, yes.
Q. Okay. So the answer is, yes, we would have to pay you in that circumstance?
A. Yes. And you would have to pay me in the opposite direction.
Q. Okay. That's fine.
A. I'm sorry. Let me correct that. I would have to pay you in the opposite direction.
Q. That's fine. That's what you think we're entitled to?
A. That is the way the networks work today and that is the way the rules are today.

Q. Okay. And you're charging an extra, you said I think it was, 500 ticks and $1,000 a month or 1,000 ticks, $500 a month, to deliver the call from this customer Y for this FX service; is that correct?
A. The charges that we apply to the customer have to do with the facility that the customer purchases from us to get from one calling area to the other.
Q. But, in fact, the customer in my example is located right next to your switch, isn't he, or she? Y is she. So Y is located right next to your switch in my example; isn't she?
A. Yes.
Q. And yet you're charging her extra to provide this FX service; is that correct?
A. That's the nature of the service, yes.
Q. Thank you. Now, let me ask you one more question. You've testified, have you not, --- let me ask you one further question. You've testified, have you not, that the NPA/NXXs of these two customers is the same, that it's a local call but it's reciprocal compensation; is that correct?
A. I'm sorry. Could you restate that?
Q. You've testified that --- and I didn't really say that exactly right, so thanks. If the NPA/NXXs of the two customers are associated with the same local

calling area, that it's a local call but it's reciprocal compensation, is that your testimony?

A. Yes, it is.

Q. Now, suppose that I told you that customer Y was located in South Carolina and customer X was located in Pennsylvania, would your conclusion change that it's a local call?

A. Yes, my conclusion would change, but USLEC wouldn't offer that service to its subscribers.

ATTORNEY PANNER:

Your Honor, I'd like to mark Exhibit VZ-5.

JUDGE:

So marked.

(Exhibit VZ-5 marked for identification.)

JUDGE:

What is it?

ATTORNEY PANNER:

It is a printout of a page from the USLEC website describing the long distance and toll free services that USLEC offers.

ATTORNEY SHOR:

Do you have one more?

ATTORNEY PANNER:

Sure.

ATTORNEY SHOR:

Thank you.

BY ATTORNEY PANNER:

Q. Okay. Can you turn to page two and go down to the third bolded heading. And I'm going to read that. It says, local toll free trademark service, is that correct, is that the heading?

A. Yes.

Q. It says local toll free service allows your customers in another city to make a local call to you, is that correctly read?

A. Yes.

Q. And it says USLEC's local toll free service lets you establish local phone number across the USLEC footprint, is that what it says?

A. Yes.

Q. What is the USLEC footprint?

A. I did not write this so I have no idea who the author is or what was meant. I can speculate that in --- when we, within the company talk about footprint, it's the 14 states that we provide service in.

Q. Then it says this unique inbound calling service allows anyone to place a, quote, free, end quote, local call to you from anywhere within USLEC's

territory with you picking up the charges at a lower cost; is that correct?

A. Yes.

ATTORNEY PANNER:

I have no further questions.

ATTORNEY SHOR:

Just a minute.

REDIRECT EXAMINATION

BY ATTORNEY SHOR:

Q. Just a couple of questions on Redirect, Ms. Montano. In the diagram that was drawn, Mr. Panner was asking you about the charges that USLEC assesses on to its FX customers for service; do you recall that?

A. Yes.

Q. And he proposited (phonetic) to you the situation where the FX customer is located, I think he put it, near the USLEC switch; do you recall that?

A. Yes, sir.

Q. Do you know whether any of USLEC's FX customers in Pennsylvania are located near the USLEC switch?

A. Yes, I believe they are.

Q. What's that distance?

A. I believe it is less than five miles.

Q. And are there others that are located at greater

distances?

A. Yes, there are.

Q. What are those distances?

A. I think there is one at 12 miles.

Q. And do you have any recollection what the average distance is?

A. No, I don't, but I believe it's in the discovery that we submitted.

Q. And with respect to the information from the website that you were just asked about, do you know how that service is provisioned?

A. I believe it is provisioned as an enhancement to our toll free service, inbound 800 service.

Q. So that it could, in fact, be a corollary to the 800 service that USLEC also offers?

A. Yes.

Q. Are you aware of any customers in the Pennsylvania area who utilize this service to permit customers to call them outside of the State of Pennsylvania?

A. No, I'm not.

ATTORNEY SHOR:

I have nothing further.

ATTORNEY PANNER:

Just one thing.

RECROSS EXAMINATION

BY ATTORNEY PANNER:

Q. You said it's a corollary to your 800 service?

A. Uh-huh (yes).

Q. But the switch would nonetheless recognize it --- Verizon's switch would nonetheless route it and rate it as a local call; is that correct?

A. From the ---.

ATTORNEY SHOR:

Objection, calls for speculation by the witness as to how Verizon's switch would read it. She says she is guessing as to how it's provisioned.

ATTORNEY PANNER:

Your Honor, she has testified extensively about how in the industry calls are rated and routed.

JUDGE:

Ms. Montano, try to answer the question to the best of your ability.

A. Yes, sir. My speculation on how we provide this service is that the customer would have an 800 number or an 8XX number. Your switch would see that, it would do the appropriate dip into the impact database and determine whether or not that call would get

routed either to the customer's interexchange pick or would get routed to us over USLEC Net, which is our long distance service.

BY ATTORNEY PANNER:

Q. When you hear the phrase local phone numbers, do you think that that phrase includes 800 numbers?

A. It could.

Q. Okay. And would you have to pay access charges on such calls?

A. It depends on how it's routed. If this particular customer --- because we also have a long distance product, if they were pic'd, P-I-C apostrophe D, they pic'd us to be their long distance service, then we would carry that traffic on our network because we have a backbone network that connects our switches and deliver it to the customer on the other end, in which case no access charges would apply because I would be the sole carrier of the call.

If the customer is pic'd to Verizon for a long distance service or AT&T or anyone else, then, yes, access charges would apply.

COURT REPORTER READS BACK PREVIOUS ANSWER

BY ATTORNEY PANNER:

Q. Just to clean up the record. Do you know if USLEC pic'd an interexchange carrier for a Verizon

local customer if USLEC has to pay access charges on long distance traffic that that customer originates?

A. Let me see if I can restate your question because I'm not sure I understand it. Are you asking whether a Verizon local customer could pick USLEC as their long distance carrier?

Q. Okay. Well, that's part of it.

JUDGE:

That's the first part.

A. The answer is yes.

BY ATTORNEY PANNER:

Q. Okay. And if that were the case, would USLEC have to pay access charges to Verizon on long distance calls made by that customer?

A. Yes.

Q. Okay. So, in fact, access charges --- whether access charges are due doesn't depend on whether USLEC is pic'd by XC or not?

A. It depends on the call routing.

ATTORNEY PANNER:

Okay. I have nothing further.

JUDGE:

Any Redirect on that basis?

ATTORNEY SHOR:

No.

JUDGE:

The witness is excused and thank you for coming.

OFF RECORD DISCUSSION

JUDGE:

And do you want to introduce this witness to us?

ATTORNEY PANNER:

Sure.

TERRY HAYNES, PREVIOUSLY SWORN, CALLED TO TESTIFY

DIRECT EXAMINATION

BY ATTORNEY PANNER:

Q. Can you state your name and business address?

A. Yes. I'm Terry Haynes, 600 Hidden Ridge, Irving, Texas and the ZIP is 75038.

Q. Who is your employer?

A. I'm employed by Verizon as a manager and the regulator person.

JUDGE:

And Mr. Haynes, I want to welcome you to the hearing this morning and also remind you that early this morning you took your oath as a witness?

A. Yes, sir.

JUDGE:

And you continue to be in that position now.

A. I understand.

JUDGE:

Thank you. Could you give your title, please?

A. Manager of the state regulatory.

BY ATTORNEY PANNER:

Q. Did you cause to have prepare for this proceeding this 20 --- well, 20 pages of Direct testimony?

A. Yes, I did.

Q. Dated May 31st, 2002?

A. Yes.

Q. Do you have any corrections to make to that testimony?

A. No.

Q. If those same questions were asked of you today would you give the same answers?

A. Yes, I would.

Q. Did you cause to have prepared 14 pages of rebuttal testimony that was filed on July 9th, 2000?

A. Yes, I did.

Q. Do you have any corrections to make to that?

A. None to that.

Q. If you were asked the same questions today would

you give the same answers?

A. Yes, I would.

ATTORNEY PANNER:

I offer his testimony subject to Cross Examination.

JUDGE:

The Direct testimony of Mr. Haynes and the rebuttal testimony of Mr. Haynes are admitted subject to Cross Examination and any timely motion. And we have one small old business thing to clean up and that is VZ Exhibit Five.

ATTORNEY PANNER:

Thank you, Your Honor. I'd like to move admission of Verizon Exhibit Five.

JUDGE:

Admitted without objection.

Mr. Shor.

ATTORNEY SHOR:

Thank you, Your Honor.

CROSS EXAMINATION

BY ATTORNEY SHOR:

Q. Mr. Haynes, my name is Michael Shor. I'm here as Counsel for USLEC of Pennsylvania. I'd like to ask you a few questions this afternoon, please.

Mr. Haynes, to your knowledge does Verizon offer a

service known as foreign exchange in Pennsylvania?

A. Yes, they do.

Q. And how does that work?

A. It's my understanding that it is provisioned in a manner --- I'll try to use some examples. Let's use the Allentown, Philadelphia example. They seem popular today. If I had an Allentown customer that wanted to have a virtual or foreign exchange presence in the Philadelphia location, that customer would negotiate with Verizon for that service. As part of that service they would lease a loop (phonetic) that would connect the location in Allentown with the location in Philadelphia. And they would have a virtual presence, if you will, from the Philadelphia location back to Allentown or you could turn it around and use it the other way. So it would involve having a lease to loop plus a local service number type of service.

Q. So as I understand it, Verizon would assign a telephone number to a customer who is physically located in Allentown?

A. Yes.

Q. And has an NPA/NXX that is associated with the Philadelphia local calling area?

A. That's correct.

Q. Okay. And in essence, that gives that Allentown customer what we called a virtual presence in the Philadelphia calling area?

A. Yes. Their physical location would still be in Allentown, but the loop that they would pay for that connects the two towns together would be the compensation Verizon would get in lieu of what would normally be toll calls.

Q. And that arrangement allows customers in Philadelphia to call the Allentown customer without incurring a toll charge; is that correct?

A. That's correct. We get our compensation and that loss that we experience is recovery for the cost for that loop that's leased between the two points.

Q. Do you have any idea approximately how many customers in Pennsylvania utilize Verizon's foreign exchange service?

A. I don't know. We were trying to find an easy way to get that information in our system. I understood that was a data request. I don't think we got it, but we were looking for it.

Q. Do you generally have an idea across Verizon's footprint how many people utilize foreign exchange service?

A. Percentage-wise it's extremely small. I had a

chance to look into it awhile back for another situation and it turned out to be much less than one percent of our total customers.

Q. But that could still be a fairly substantial number of customers even though it's a small percentage of Verizon's total customer base?

A. Yes. If you have a base of 70 million nationally, it would be a big number. If you have a base of whatever it is locally --- I don't know the exact numbers.

Q. Do you have any idea what the Verizon customer base is in Pennsylvania?

A. I think I remember reading somewhere around six million customers. I don't know that to be --- I wouldn't swear to that, but it's just a rough number.

Q. Math has never been one of my strong points, but one percent of six million is 1,000.

ATTORNEY PANNER:

It would be something with a six in it.

BY ATTORNEY SHOR:

Q. So it's something less than 6,000?

A. I would probably agree it's something less than 6,000.

Q. So it's within the range of maybe 4,000 to 6,000

customer utilize it?

A. Again, I just remember the number in Florida being much less than one percent. I don't remember if it's .8, .5. I don't recall.

Q. Now, to your knowledge, is Verizon's foreign exchange legal in Pennsylvania?

A. It's my understanding that it's a tariff service that we express to the Commission and the Commission approved it.

Q. Okay. And as I understand it, Verizon has been billing and collecting reciprocal compensation from CLEC whose customer have been calling Verizon's FX customers?

A. That is an understanding that I would agree with and I want to elaborate on that understanding. The system that we have in place was built --- and I'd have to get some information, historical information to confirm how it is here in Pennsylvania, but I know from my experience, which is more former GT than former Bell Atlantic, we have had a system in place for a very long time that was built from the idea that a call that originated at one NPA/NXX and terminated another NPA/NXX compared those two to determine if it was going to be treated as a local or if it was going to be treated as an access call. And that was based

on the premise that we didn't have other providers like CLEC. We had us, then ILEC, another ILEC which we principally exchanged traffic with and that was generally balanced, roughly 50 percent one way, 50 percent the other so there wasn't an issue, concerned on our part.

So our billing system wasn't built to take into consideration the possibility that we might have a lot of traffic going one way. And elaborating on that, I guess what I'm trying to say is that if we had a literal comparison of the termination and origination point, by our definition a call that originates in one place and terminates in another that's not local at that point should be entitled to access.

So I believe I expressed in my testimony that has been submitted that we would be willing to work with a CLEC. And we, in fact, offered to do that, as an example. We said we realized we have traffic that's coming from you to us and vice versa. In those situations where we've been treating that as recip comp, we'd be willing to work to get a measurement established to put in a tool that would allow us to compensate with access rather than recip comp.

Q. Thanks. But I just want to see if I can do a short form summary. The answer is that, yes, Verizon

has been billing and collecting recip comp from CLEC for calls to Verizon's FX customers?

A. Yeah, just based on the fact that the system doesn't have a way to differentiate at this point.

Q. And, in fact, because the billing system and the routing system can't distinguish?

A. It doesn't have a tool built into it, that's correct.

Q. Okay. It looks at the NPA/NXXs and if they're associated with the same local calling area it's rated to the originating caller as a local call?

A. That's correct.

Q. And if the NPA/NXX is assigned in one instance to --- if the NPA/NXX as the calling party is associated with the CLEC and the NPA/NXX of the call party is associated with Verizon foreign exchange customer, Verizon will bill that CLEC recip comp?

A. Right. Once again, because the system has no intelligence to do otherwise.

Q. Now, does Verizon offer a service known as Enhanced Intellilink, PRI hub service in Pennsylvania?

A. Yes, they do, that's my understanding.

Q. Can you tell me how that service works?

A. I can give a broad description. I'm not a literal expert but I've had the experts tell me a

little bit about it. As I understand, we have two services that are very similar in terms of --- not only that and something else called IPRS. So you've got the service you just described and another one. In both cases, as I understand, the service is a local customer is trying to reach lease services by the ISP termination. So they try to get ahold of the internet service provider.

So we have an end user that dials into the switch and that switch recognizes the number being dialed as one that's part of the service that an ISP has paid for. And it routes that call or that communication to a hub and the hub then hands off via the dedicated loop that the ISP pays for, the traffic that's destine for the internet. And the compensation we receive in that case, I know there is a state tariff for the service you described and there is a federal tariff for the other services, but both services we receive compensation. The transport portion of that based on the monthly rates that the customer for the service would pay --- so we got a rate that's including that transport ---.

Q. Now, to your knowledge, does the customer who purchased the service, are they given NPA/NXXs that are associated with local calling areas?

A. Yes, they are.
Q. So it's not a 1-800 or a 1-500 type service ---
A. As I understand ---.
Q. --- in this particular one?
A. In the example I just described, I believe it has an add-on if they want to use it, that being the customer, of having 1-500 options, it's my understanding generally they chose the local numbers, but it does have an option.
Q. And to your knowledge, do any of the ISPs that that service is sold to, co-locate with Verizon in any of its switches?
A. Honest to goodness, my understanding of the general arrangement of it, I don't know. I know we have the hubs, but I'm not sure how far they are located away from those hubs, where it passes off. I do know they have a link, but I don't know how far those links run before it reaches the ISP. I don't know.
Q. Is it possible that some of those customers are co-located with ---?
A. It's certainly possible, yes.
Q. Let me finish the question.
A. I'm sorry.
Q. It's possible that some of those customers are

co-located within Verizon switches?

A. It's certainly possible. If they've leased space from us I would think it's an arrangement they can secure.

Q. To your knowledge, is it possible for the ISP customer, the end user customer, to be located outside of the LATA within which the local calling numbers are assigned?

A. As I understand the infrastructure that's in place, let me use Pennsylvania since it's what we're addressing, for the structure here we have 30 some hubs deployed across the state and they have links in from the various local central offices to those hubs. Once it reaches those hubs, I believe the ISP provider can order its dedicated loop and it can be any length it wants to be at that point because they're buying a loop, not necessarily from us. They can buy it from anybody. And we simply took it to that loop and sent it to wherever it terminated.

Q. So you don't necessarily know where it terminates?

A. No, I don't, honestly. Somebody that's a product expert may have some idea, but I don't.

Q. So to your knowledge could it possibly terminate outside of the LATA where the local calling numbers

are assigned?

A. In my understanding of it, theoretically it could. I don't have the precise knowledge about any perimeters that might have been established to prevent that. I just don't know the details.

Q. Thank you. And like Verizon's foreign exchange service, in essence, this gives the Enhanced Intellilink customer a virtual presence in a calling area where it has no physical locations?

A. Well, the similiatries between the two that I find significant to me is that in both cases Verizon is compensated for the transport that it's provided across the distance because our concern has been around the issue of whether or not transports are going to be provided free of charge and several CLECs have asked us to provide it versus being compensated to be transported to go some distance.

Q. But focusing on the service that's provided to the ISPs --- and let's stick with our Allentown and Philadelphia example. We can have an ISP that's located in this instance in Philadelphia.

A. Right.

Q. And maybe they're located in Allentown because the real estate costs are cheaper. But let's put them in Allentown and they want a Philadelphia number and

they choose, for whatever reason, to utilize this service, it gives that ISP in Allentown a virtual presence, if you will, in Philadelphia?

A. Yeah. Physically speaking, the way I'd understand that example, we have a hub somewhere close to Allentown. It may not be in Philadelphia. It may be fairly close to Allentown. It's based on quantity of hauls coming into the hub. And they would have an arrangement where the end user that's using an ISP would call into our switch and the switch would then hand off to the hub, however close it might be, it could be as far away as Philadelphia but my guess is based on having, I think 38 hubs in the state, it would be fairly close to Allentown.

Q. But the question is it gives the ISP located in Allentown a virtual presence in Philadelphia? People can call that number in Philadelphia and think that the ISP is located there?

A. Let me back up and be sure I'm understanding you. Because maybe what you just said and what I'm saying are at odds with each other. If we have an Allentown end user trying to reach somebody subscribing to this service, they're going to have a number that appears to be local to Allentown. And when it connects it's going to hand off to hub fairly

close to Allentown based on the number of products we have in the state. And then from that hub it will go over to a dedicated loop somewhere. It may go to Philadelphia if that's where your device is located. It may stay in Allentown as you indicated if they have cheap real estate.

Q. We're not necessarily looking at how it's routed or routed rather, but it gives --- the end user, in essence, gets a presence in a calling area where it does not have a physical facility?

A. Well, it would have a one-way presence there, that would be similar --- one way when you compare it to FX. FX that we provide, forces two ways, it works both directions and it's voice service where this is focused on ISP only.

Q. And it's a data service?

A. Yes, strictly focused on data service.

Q. And it allows customers in Philadelphia to call an ISP located in Allentown without incurring the cost of a toll charge?

A. Yes, if you turn the situation around it would be possible to do that.

Q. To your knowledge, is Verizon's Enhanced Intellilink PRI hub service legal in Pennsylvania?

A. It's my understanding it's a service that's been

approved.

Q. And without getting into numbers, is it your understanding that there are some customers in Pennsylvania who utilize that service?

A. I think we did some discovery on that and I understood that we got data from Pittsburgh, which was like five or six customers and there is just a handful around Philadelphia.

ATTORNEY SHOR:

Would you mind marking that portion of that answer as confidential? I did not ask for ---.

JUDGE:

Go off the record.

OFF RECORD DISCUSSION

JUDGE:

Our off the record discussion reflected that Counsel for USLEC was trying earnestly to honor his commitment to treat confidential information as confidential, however, Verizon has kindly waived it for that brief answer.

ATTORNEY SHOR:

Thank you.

BY ATTORNEY SHOR:

Q. And as I understand it, Mr. Haynes, Verizon has

billed and collected reciprocal compensation from CLEC whose customers may have called Enhanced Intellilink customers served by Verizon?

A. To the degree that it's occurred, I have to deal in theory rather than practices, I don't know if there have been any actual costs terminated. But in theory, it could have been.

Q. Were you involved in the preparation of Verizon's supplemental responses to USLEC's discovery?

A. I reviewed the answers, in some cases I contributed.

ATTORNEY SHOR:

Okay. Let me mark as USLEC --- we marked Two and withdrew it, so USLEC Three. And I regret to tell you that I'm not competent enough to have the proper number of copies. So if we could share some. This is one for you.

BY ATTORNEY SHOR:

Q. Have you had a chance to look at this document before?

A. Yes, I have. In fact, I brought a copy with me. I think I've got one if we need an extra.

Q. If you would turn to page 12, please.

A. Yes.

Q. Interrogatory Number 74, do you see that?

A. Yes, I do.
Q. Let me just read this into the record and let you tell me if I did it correctly. Have you ever billed or received reciprocal compensation for calls received from customers of CLEC or other LEC for termination to your customers who have purchased or subscribed to FX-like services, do you see that, please explain your answer?
A. Yes, I do.
Q. And I will represent to you subject to reviewing the document, that Enhanced Intellilink was identified as an FX-like service.
A. Yes.
Q. Do you see the Answers to see response to Interrogatory Number 59?
A. Yes, I do.
Q. If you go back to page ten, do you see the response to Interrogatory 59?
A. Yes.
Q. Let me read that into the record, please. If a CLEC customer originated a call to a Verizon FX customer with an assigned NXX code associated with the same local calling area as the NXX code of the originating CLEC customer, Verizon would ordinarily bill, paren, and therefore, also receive, closed

paren, reciprocal compensation on such a call, do you see that?

A. Yes.

Q. Now, that answer has been incorporated into the Answer to Interrogatory Number 74.

A. Yes.

Q. So would you agree with me then that Verizon has billed and received reciprocal compensation for calls from CLEC to Enhanced Intellilink customers?

A. I think we're both saying the same thing, meaning that actually if it's happened --- I would agree that if that would have been billed --- but I don't know if it has happened.

Q. I was interpreting this as saying that it has happened?

A. No. In this case, I think the way this is worded, I think I had a hand in wording it, because none of us knew for sure if it had taken place. So if it occurred this way, then it would be handled that way.

Q. That's fair. Now, I think you mentioned this earlier, does Verizon offer internet protocol routing service in Pennsylvania?

A. It's my understanding they do.

Q. And for simplicity sake we will refer to that as

IPRS?

A. Yes.

Q. And how does that service work?

A. In essence, what we've just described is very similar, the differences with IPRS is that it has additional functionality built into the service. It's a federally tariffed rather than state tariffed product. And they actually do management of the system. As a contrast to the other service, it's my understanding talking to the product manager, that if --- IPRS not only get this inactivity into the hub, they also do network managing in the process. So they get a higher level of access to their internet service provider and internet service provider benefit from that enhanced management. They have somebody watching the network at all times to make sure if there is an outage or a blockage starting to occur that they can take care of that. The other service, that's not the case. They have the delivery, but they don't have this other enhancement management of the process.

JUDGE:

Excuse me. Just for my neophyte understanding, enhanced management is the watching the line?

A. Yes. That's the part that I understand about.

There may be more features that I'm not an expert on, but that was a significant feature, the product manager ---.

JUDGE:

Your level of expertise is far above mine, please continue, Counsel.

ATTORNEY SHOR:

Thank you.

BY ATTORNEY SHOR:

Q. And with IPRS, again, Verizon assigns a telephone number to a customer in Allentown, ---

A. Yes.

Q. --- who may be physically located in Philadelphia?

A. Yes.

Q. And allows individuals in Philadelphia to call that number, ---

A. Yes.

Q. --- as if it was a local call?

A. That is correct.

Q. Okay. And to your knowledge, is that service legal in Pennsylvania?

A. To my understanding, it's a federally tariffed product, but I'm not aware of any issues that have grown up in Pennsylvania.

Q. Okay. And to your knowledge, are there some customers in Pennsylvania who utilize that service?
A. Once again, this is probably the secret number we had awhile ago, but there is a small number of customers, I understand, in the Pennsylvania area.
Q. And again, Verizon has billed and collected reciprocal compensation for calls from CLEC customers to Verizon's IPRS customer?
A. And this would be the same theoretical answer I gave a minute ago. To the degree that it's occurred, the system would have handled it that way. There are many sections I believe it would have been held with a recip comp type charge applied to it, because that's how the system is designed.
Q. Now, with your FX service, foreign exchange, your Enhanced Intellilink, your IPRS service, in each of those services you have Verizon assigning --- and telephone numbers with NPA/NXXs that are not physically --- that do not correspond with the location where the customer is located?
A. That is correct.
Q. Now, I'd appreciate if you could clarify an aspect of your testimony, if you would, please.
A. Yes.
Q. And let me direct you to some statements that you

made. First on page 15 of your Direct testimony, and I'm hoping I've got this right, at lines one to three, you state, in essence, that USLEC will remain free to market its virtual NXX service?

A. I'm sorry. Bear with me. Apparently I picked the wrong one or I printed out something different than yours. Page 15, lines one through three?

Q. Where it says at the end USLEC will remain free to market its virtual NXX service and receive whatever compensation for that service its end users are willing to pay, do you see that?

A. Yes, I do.

Q. And now on that same page at lines 10 to 12, you state that USLEC could offer the service, referring to the foreign exchange service, and it will continue to provide the same benefits to USLEC's customers, do you see that?

A. Yes, I do.

Q. Now, on page seven of your Direct testimony, at lines 12 to 13, you state that, quote, such virtual NXX assignments are not permitted in Pennsylvania, but they do occur in other states, do you see that?

A. Yes, I do.

Q. And on page ten of your Direct testimony, at line 15, you state that it is improper for USLEC to assign

virtual NXX codes --- is it ten.

ATTORNEY SHOR:

I'm reading the question.

BY ATTORNEY SHOR:

Q. You were asked whether it is improper for USLEC to assign virtual NXX codes to its customers and you say yes?

A. Based on my understanding of an order ---.

Q. And then finally, on page ten of your rebuttal, at lines nine to ten, you state that if virtual FX arrangements are consistent with other regulatory requirements, and you note parenthetically, in Pennsylvania they are not, do you see that?

A. Yes, I do.

Q. Okay. Now, please clarify for me your understanding, can USLEC market an FX service similar to the services that we've just described that are offered by Verizon and assign telephone numbers to a customer who is physically located in a calling area that is different than the calling area where the NPA/NXX is assigned?

A. My understanding, based on the Focal order (phonetic) decision is that, in the Focal decision the company was instructed not to assign numbers that were not geographically relevant to the customers.

ATTORNEY SHOR:

Now, Your Honor, Mr. Haynes has referred to the MFS-2 order and the Focal order in his testimony and we would like to refer to the transcript of that in our briefing. I believe that the Commission's rules typically require me to submit a certified copy, which we are happy to do. I believe Verizon probably already has a copy. If you would like me to submit a certified copy I will do that. If there is one available already, that's fine. If not, we'll submit it in accordance with our briefing.

JUDGE:

Tell me what you mean by is there one available.

ATTORNEY SHOR:

I believe the Commission probably already has one in its files.

JUDGE:

Yes.

ATTORNEY SHOR:

Your Honor, we will provide a certified copy for you. It's amazing how I pick these things up.

JUDGE:

I might add that if it is

available in the files, and it normally is, it may well be on microfiche by now and I'm not going to the movies.

ATTORNEY SHOR:

I'd be happy to get it for you.

JUDGE:

Thank you.

BY ATTORNEY SHOR:

Q. You refer to the Focal decision?

A. Yes.

Q. And you also note that that cites the MFS-2 order?

A. Right. I think the MFS-2 order kind of started with --- and my reading, very quickly, a few weeks back, and then updating, there were three different orders that I understood, the Focal One and Two and the MFS-2. And I understand the MFS-2 kind of brought the issue up and the Focal One and Two orders actually clarified some of the intentions of the MFS-2 order, as I understood them already.

Q. Did you participate in the Focal proceeding?

A. Not at all, had nothing to do with it. All I did was read the orders very quickly.

Q. And did you participate in the MFS-2 proceeding?

A. No, I did not.

Q. Did you read the transcript of the Focal proceeding?
A. No, all I read was the order.
Q. Did you read the transcript of the MFS-2 proceeding?
A. No, I did not.
Q. Did you read any of the pleadings that were filed in connection with either of those two proceedings?
A. No, I did not. All I read were the orders.
Q. So you have no idea how the issues in those proceedings were actually framed; do you?
A. No, I do not.
Q. Okay. Now, is it your understanding the MFS-2 order applies to all carriers?
A. My understanding is very limited in that regard. I'd have to go back and refresh myself to the order as far as the details of it.
Q. Well, the question I have is that you've said to me that you believe that your foreign exchange service and your Enhanced Intellilink service and IPRS service, which are all similar FX services, which involve the assignment of NXX codes, are legal in Pennsylvania, but I'm getting the sense from you that it is not legal for USLEC to do the same thing, is that your testimony?

A. I think we're probably distinguishing something that maybe we haven't clearly distinguished. What I described in my written testimony and verbally now, has to do with virtual FX assignment. If there were what I would call an equivalent FX assignment provided by any CLEC, which means they would come to the environment or the loop that connects point A to point B, from a Verizon perspective, subject to the agreement by the State Commission, because the Commission's order relative to the Focal decision, I'm sure would supersede anything I would suggest, but our concern has been over the compensation, not over the assignment of the numbers themselves.

Q. Well, that's what I'm not sure on, because I get the sense from you that it's your testimony that USLEC is doing something improper?

A. That's my understanding reading the orders.

Q. Please let me finish the question.

A. I'm sorry.

Q. It's my understanding that on the one hand you believe that USLEC is doing something improper, although when Verizon does the same thing it is proper. And at the same time you're saying USLEC can continue to offer the service and I don't quite understand that contrast.

A. And I'm not equating them to be exactly identical based on how I define them.

Q. Are you saying that only if USLEC provisions of foreign exchange service in precisely the same way that Verizon does then USLEC is entitled to do it?

A. I'm saying that if they provision in a similar manner, where identical would suggest they use the same facilities. But if they're provisioning in a similar manner, I would submit that they would have an equivalent FX service being provided.

Q. So in bottom, you don't really know whether the way USLEC provisions its service is improper or not; do you?

A. I applied my comments to virtual FX or the way it was defined in the Focal orders. So if your company that you're representing is not provisioned in that manner, then I would withdraw the comments. If they're provisioned in that matter then that could still apply.

Q. When you say in that manner, what does that mean?

A. Meaning virtual NXX assignment, where there is no facility actually leased or obtaining point A to point B.

Q. So if USLEC has customers, not necessarily FX customers, but has customers in every rate center

where it has been assigned an NXX code, okay, ---

A. I'm following.

Q. --- and is serving physical customers all of those rate centers, ---

A. Yes.

Q. --- then if by chance USLEC has a customer, an FX customer who is assigned an NXX code in one of those rate centers, this provisioning of service is in your mind proper?

A. If it goes over a lease arrangement, either that we provided or a third party provides, I would see that as equivalent. Let me add to that, too. The concern I'm expressing was not directed specifically to just the environment we're discussing with USLEC. I'm concerned about the broader application of this, as Mr. D'Amico mentioned a minute ago, to the degree that a certain decision is made in this proceeding, even if USLEC is using legitimate facilities they're leasing or purchasing from somebody, the way the current write-up is written in my mind opens the door for somebody else to come in and use it, in what I would determine to be an improper manner, more like the Focal decision alluded to.

Q. Now, this arbitration, though, is between Verizon and USLEC; is it not?

A. Yes, but the concern I share with Mr. D'Amico is that it could be adopted by somebody else depending on the outcome.

Q. But this proceeding is not between Verizon and all other CLECs; is it?

A. It's not between Verizon and all other CLECs. But the decisions made can be adopted by any other CLEC.

Q. And if Verizon believes that a CLEC adopts an agreement from USLEC is doing something improper it has appropriate legal remedies to deal with that; doesn't it?

A. I would think they could approach it.

Q. Let's talk about intercarrier compensation for FX services in general.

A. Yes.

Q. As a general proposition would you agree with me that when it comes to intercarrier compensation there should be some relationship between the compensation a carrier charges and the services, functions or facilities that it actually provides?

A. Maybe we can have some specifics and I'll either agree or disagree. Generally speaking it sounds okay, but I would like to see clearer examples.

Q. We'll go through there, but as a general

proposition, there should be a relationship between ---?

A. I would think there would be generally, yes. But the exception I would probably identify is, from a Verizon perspective, we have local rates that generally, from my experience nationally, are below costs. So sometimes we make above cost margins and things that we have to offset that.

Q. Now, we may cover some ground here that we talked about at the very beginning, if we do, I'm sorry. I just want to try to move quickly. The services at issue here today, when --- as I understand your testimony, when a Verizon customer today calls another Verizon customer today, Verizon's billing systems compare the NPA/NXXs of the originating and terminating callers to determine whether the call will be rated as local or toll?

A. That is correct.

Q. And so in the retail environment, Verizon classifies a call as local or toll based upon the originating and terminating NXX ---?

ATTORNEY PANNER:

Objection, mischaracterizes prior testimony.

ATTORNEY SHOR:

I'm asking a separate question, not based on prior testimony.

ATTORNEY PANNER:

I withdraw the objection.

JUDGE:

Fine.

BY ATTORNEY SHOR:

Q. Would you like the question repeated?

A. Yes.

Q. In the retail environment, Verizon classifies a call as local or toll based upon the originating and terminating NXX codes; is that right?

A. That's my understanding of the retail environment. That's my understanding how the system works.

Q. And as we said earlier, I think, when the NPA/NXX code of the calling party is associated with the --- and the NPA/NXX code of the call party are associated with the same local calling area, Verizon rates and bills that call as if it was local?

A. From the local user perspective, yes, they could look at that as a local call for the person initiating the call.

Q. Let's kind of get into some of the specifics here. And I tend to like to use the example of a

Verizon customer in Allentown, the Allentown calling area, who is calling a customer in Philadelphia, and the FX customer in Philadelphia is a florist?

A. So we've got a Verizon end user in Allentown calling a Philadelphia florist.

Q. And the Philadelphia florist has an FX number assigned to Allentown; okay?

A. Okay.

Q. And so a Verizon customer in Allentown is attempting to reach the other Verizon customer, the florist, who has been assigned the telephone number used in the FX service that is local to the Allentown calling area; okay?

A. I understand the example.

Q. And as I understand it, Verizon provides a dedicated connection to the FX customer?

A. Yes, they charge the person receiving that service and actually charge for that transport.

Q. Okay. So in this situation, the Verizon customer who calls the florist in Philadelphia is rated and billed for a local call ---

A. That's correct.

Q. --- as if the florist was actually located in Allentown?

A. That's correct.

Q. And if USLEC's customer in Allentown called Verizon's FX customer, the florist in Philadelphia, using the Allentown NPA/NXX, then Verizon billed and received reciprocal compensation for the calls?

ATTORNEY PANNER:

Objection, foundation. You asked if an USLEC customer made the call.

ATTORNEY SHOR:

I'm sorry. Yes, that's correct, Verizon would bill and receive reciprocal compensation for the call.

ATTORNEY PANNER:

I'm sorry. Withdraw.

OFF RECORD DISCUSSION

ATTORNEY PANNER:

I did resolve it. I understood his question and I believe the witness did, too. Please respond.

A. My response would be that the system that we have in place today would treat that as a recip comp call. But I think in my written testimony that has been provided, that Verizon would agree that that --- from our perspective if the USLEC or another CLEC initiated that call to the florist, assuming that Verizon is involved in that process, would be willing to change

that to an access arrangement rather than recip comp, it's simply a function of our billing system. It doesn't have a way to distinguish.

BY ATTORNEY SHOR:

Q. And I appreciate your explanation. We're just focusing on what happens today, not --- we'll get to the future, I promise you.

A. I just wanted to clarify.

Q. Okay. Now, let's turn to the FX service that USLEC offers and let's stick with the florist example. Now, we have a USLEC florist in Philadelphia who is assigned a telephone number with an NXX code associated with Allentown; okay?

A. Okay.

Q. And that foreign exchange service offered by USLEC allows the florist physically located in Philadelphia to have a presence in the Allentown calling area, just the same as Verizon's FX service, foreign exchange service does; is that right?

A. From the customer perspective of it, Verizon or other persons located in Allentown, they would have the same functionality. The concern that I continually express is how it gets from Allentown to Philadelphia and that's the part that I'm exploring and distinguishing potentially.

Q. I appreciate that. And like Verizon's FX service, USLEC's FX service, the florist in Philadelphia, can receive calls from customers in the Allentown local calling area without those customers incurring local charges?
A. That's right, because the customer in Philadelphia that's USLEC'S FX customer in the example, is paying a differential of that service.
Q. And just like Verizon's FX service, USLEC's FX service permits the florist in Philadelphia to reach a broader customer base without having to put a greenhouse in the store in Allentown; is that right?
A. Let me be careful. You used the term reach a broader customer base. Do you mean that they can reach out and touch on the other end, meaning they have a two-way connection?
Q. They have the ability with a local number in Allentown, the whole Allentown population now has the ability to call the florist in Philadelphia without incurring --- without the florist having to put a facility and whatever else he would do in Allentown?
A. Well, here is where --- once again, I'm distinguishing potentially between what you're describing as FX and what I'm describing as FX. The FX service we provided in all instances, and I am

aware of a two-way service, if the florist in Philadelphia that we're using as an example, wanted to call an Allentown customer they could pick up the FX line and reach through that connection over to Allentown and reach one of those customers as a local call. The experience that I've had with other CLECs, I don't know how USLEC provisions, because other CLECs I found that that's not possible. It's not an equivalent FX service.

Q. Now, if you assume with me for these purposes --- I'm not saying USLEC does or doesn't.

A. I'm just stating that distinction.

Q. And I'm just saying assume with me that it does.

A. Assuming.

Q. For these purposes, the florist in Philadelphia has the ability to be called by all of Allentown within that local calling area for a local call.

A. We're still not agreeing with the distinction I just made. I'm understanding you to say there's one way that people in Allentown can call the florist.

Q. That's all I'm focusing on right now.

A. But you're using the same term and I'm trying to be very, very careful to distinguish what you're calling FX and saying it's equivalent to what I'm calling FX. I'm not saying that it's equivalent.

Q. I'm asking you to assume that it is.
A. Well, I'm saying it's part of the assumption. And I have to assume that the florist in Philadelphia can call back to that same connection and reach out on a local basis to people in Allentown.
Q. I'm asking you to make that assumption.
A. Okay. Under that assumption then I would describe those as being local.
Q. And in both instances with two-way ability, the florist in Philadelphia now has the ability --- when I say reach, have a larger --- have the population of Allentown call him or her without incurring toll charges?
A. That's correct. I would agree to that.
Q. I think you would agree that that service benefits the florist, whether it's offered by USLEC or Verizon, by permitting that florist a larger customer base to sell his products to?
A. I think that's consistent with my testimony. I suggested that somebody being offered FX services is getting a valuable service from the company offering that service.
Q. Okay. And then also the other people who benefit are the people in Allentown who now have another florist they can call?

A. Right. They have a chance to make local calls.
Q. Now, assume with me that USLEC provides local service in Allentown, ---
A. Okay.
Q. --- okay, and has customers in Allentown, so that in that circumstance when a Verizon customer in Allentown calls a USLEC customer physically located in Allentown, okay, the call is transported, as we discussed earlier, by Verizon to the USLEC IP switch and USLEC takes the call back and terminates it to its customer; is that right?
A. That's my understanding of call routing, yes.
Q. Okay. And in this scenario, USLEC has been billing Verizon reciprocal compensation for the services it renders in terminating that call; is that right?
A. That would be my understanding of how --- with respect to it. But I don't know for sure that that's what's taking place, but that that would be normal.
Q. Now, going back to the example of the florist in Philadelphia with the NPA/NXX, when the Verizon customer calls that Philadelphia customer with the Allentown NPA/NXX Verizon still takes the call to the USLEC IP and hands it off to USLEC, who then terminates it to the FX customer; correct?

A. Based on it being the florist using FX provided to USLEC, yes.

Q. And I believe that's the case that USLEC --- that USLEC billed Verizon for reciprocal compensation for this call and Verizon has been paying reciprocal of these amounts, is that your understanding?

A. Well, the second part I don't know what we have or have not been paying. And I actually don't know exactly what's been billed either. So you're in areas that I haven't been exposed to the details. I can't affirm or deny them.

Q. Okay. Subject to check, and I think we could do that, USLEC has billed Verizon for that call and since there is no ISP involved, subject to check I believe that Verizon has been paying those reciprocal compensation invoices; okay?

A. Subject to check, you accept that that's what happened.

Q. Now, in both scenarios where the USLEC customer is physically located in Allentown as is the Verizon customer and where the USLEC customer is in Philadelphia with the Allentown NPA/NXX, Verizon has performed exactly the same functions; has it not?

A. From a network routing perspective, yes, it is deposited, they call it the same on the USLEC network.

Q. That's right. It has taken the call and delivered it to the USLEC IP?
A. Yes, that's what I understand.
Q. And as we discussed, Verizon's responsibilities don't change depending on the physical location of USLEC's customers; do they?
A. The distinction I make is related to the origination and termination of the call. My understanding of our arrangements in the State of Pennsylvania is if a call originates in one local calling area and terminates in another, unless there are special circumstances that's a toll call, where inter-LATA toll ---.
Q. I'm asking you to focus on the services that Verizon performs in both of those situations.
A. Well, I'm focusing on the service, but I'm trying to distinguish that the functionality versus the handling of it from an income versus outflow of revenue is different.
Q. From a simple engineering technical perspective, network perspective, the call is handled in exactly the same manner?
A. Exactly the same manner from a functionality perspective, yes.
Q. Okay. Thank you. But as I understand your

testimony, Verizon now believes that it should not pay USLEC reciprocal compensation for the call because, as you're indicating you believe the call originates in one local calling area and terminates in another local calling area?

A. That's correct.

Q. Have I accurately stated your position?

A. That is correct.

Q. Okay, Verizon now believes that in this situation it is no longer appropriate to determine whether the call is local or toll for intercarrier compensation purposes by referring to the NPA/NXXs of the numbers; is that right?

A. I need to be careful how I answer that because truthfully, to the best of my understanding of our processes, we've never depended on the numbers to make that determination. We simply found in years gone by that the numbers accurately reflected the physical location. So it was a good type of approach from a billing system perspective. If you understand that the numbers and the people go together, you can build it to the billing system and assessment that said if this number and this number appear to be local to one another, bill it that way. But that doesn't mean that we assumed in all cases that that was the right way to

bill it simply based on the numbers. It's based on the physical termination point all along.

Q. But from the advent of local competition in Pennsylvania and the advent of FX services by competing carriers up until some point in time, Verizon did, in fact, --- Verizon's billing system did, in fact, continue to look at the NPA/NXXs of the calling and called parties to determine whether a call should be rated as local or toll?

A. That is certainly true.

Q. And when it came to intercarrier compensation, up until some point in time, Verizon had still --- Verizon's billing system had still looked to the NPA/NXXs of the originating and terminating number to determine whether reciprocal compensation or access charges were due; is that correct?

A. That's my understanding.

Q. And to the extent that a CLEC was utilizing foreign exchange service, Verizon's billing system looked at the call, looked at the NPA/NXX of the originating and terminating party and if it was associated with the same local calling area where the Verizon customer originated the call, Verizon would pay reciprocal compensation and where Verizon terminated the call, Verizon would be paid reciprocal

compensation for that call?

A. Based on the existing system that's in place, that's correct.

Q. That is correct. I'm not asking you whether you think it's right or not, that's what was done?

A. Yes, I agree that that is what physically took place.

Q. But now Verizon is saying, in the context of this agreement, that they don't want to do that anymore, that Verizon, in the context of an FX environment, no longer wants to just simply rely on the originating and terminating NPA/NXXs to determine whether a call is eligible for reciprocal compensation or access charges; is that correct?

A. The answer I provide is a little broader. I would reaffirm what I said a minute ago. We have learned that the assumption that we made here dealing with the billing system, meaning that the number and the physical location of the customer coincide 100 percent of the time, for the most part. That was our experience. We built a billing system around that. We're finding with more recent experience with CLECs, that that's oftentimes not the case. So we can't assume that the number that we're comparing it to is actually physically in the same local calling area.

So we're having to adopt our debt to that situation.

Q. Are you going to be changing your billing systems to pull out traffic that is going to FX customers?

ATTORNEY PANNER:

Objection, foundation. I withdraw. Go ahead.

A. I have a response to it. We have offered ---.

BY ATTORNEY SHOR:

Q. Sometimes that doesn't matter.

A. We have offered on a special study basis the study, the results --- we've done that recently. I keep using Florida as an example because I've recently been down this path. In Florida we offered to study on a periodic basis the traffic by which we can do --- and then settle up with the CLECs involved, saying this much traffic is here, we've measured it, we've got a study that produces it and reimburse them for that traffic.

Q. So it would not be done based on the specific telephone numbers, but it would be based on --- estimates based on some statistical survey of traffic?

A. No. In the case of Florida, we actually identified all of our FX numbers and were able to identify all of the traffic originated by CLECs to those FX numbers.

Q. Would you expect CLEC to develop that same database in terms of how they would bill you?
A. In terms of my understanding, ---.

ATTORNEY PANNER:

Objection. Has he testified to what a CLEC would do about its billing system?

ATTORNEY SHOR:

That's what I'm asking. It's Cross Examination.

ATTORNEY PANNER:

I object. You haven't established he has any foundation how the CLEC billing systems are set up.

ATTORNEY SHOR:

We have established that reciprocal compensation will not be based on --- will not be paid based on NPA/NXXs. And he has said that Verizon has changed his billing system to pull it out and I'm asking him whether he now believes that CLEC will have to do the same thing. That's the foundation.

A. Well, I can provide a ---.

ATTORNEY SHOR:

You have to wait for the Judge.

A. I'm sorry. Excuse me.

JUDGE:

The objection is overruled. Now you can answer.

A. I can provide a partial answer. I don't think I can address what system requirements, if any, will be required by CLEC. But for us to accurately handle it from our perspective, in other words, if we were delivering traffic to USLEC'S FX number, as an example, we would need to have a data dump, saying here are the numbers that are FX numbers, so we would know when traffic delivered to them were FX or outside of the local calling area. We'd have to have that information provided to us so we would know at that time that's what's happening.

Q. Do you intend to charge your originating callers, callers who call CLEC FX numbers, originating for toll calls?

A. In my understanding of how the service would be offered, and this is my speculation and I'm going to classify it as speculation, if USLEC, for example, in the Philadelphia, Allentown example, the florist --- is receiving $1,000 a month from the florist to terminate that service, that FX service, then I would understand that to be the compensation they're getting for the service and I would expect them to pay us

access for originating the call through the process and terminating it.

Q. Are you going to charge your customers toll charges?

A. No, it would not make sense because the access charge would be our compensation.

Q. Would you be willing at the same time to pay access charges to CLEC, to the extent that CLEC customers call Verizon FX customers?

A. Yes. To build on that, that's exactly what we offered to do recently.

Q. Do you know when the decision was made to stop paying reciprocal compensation for FX service calls?

A. I don't know, no. As far as if you're asking, do I know when Verizon made the decision to stop?

Q. Yes.

A. No, I don't know.

Q. Do you know who made the decision?

A. No, I don't.

Q. Do you know why they made it?

A. I don't know the history behind it. I know it was stopped, I've heard that, but I wasn't involved in the discussion that built up to that decision so I really don't know.

Q. Did you know who was involved in making that

determination.

ATTORNEY PANNER:

Objection. It's been asked and answered.

ATTORNEY SHOR:

I asked him who was involved.

A. No, and I don't ---.

ATTORNEY PANNER:

Wait. There is an objection pending.

JUDGE:

And this one is sustained and you don't have to answer that question.

BY ATTORNEY SHOR:

Q. If I already asked it, I'm not trying to be difficult. So your plan relies on developing a database of FX customers that you can utilize to pull traffic out as it's going through the switch; is that right?

A. If we had a list of all of the FX numbers that all of the CLEC had, or what I call virtual FX numbers because it's really more of what I've seen rather than true FX service, but if I had a list of that I could bill that into our billing system and have it accommodate that.

Q. But you have to develop a database of your own FX customers; don't you?

A. Yes, and that's easy to do truthfully. And we have to go in and do a data dump, which normally involves an assist. You can't just pick a number up and call somebody and say I need it in 30 seconds, it's a little more involved than that. But it's not a lengthy process. We did it with a few weeks notice in Florida.

Q. But you have to update it, too; don't you?

A. Oh, yes, it would have to be kept current.

Q. Do you have any idea how much it costs to establish such a system?

A. We checked in Florida and doing the data assist like I'm describing, which is more or less an ad hoc system, it's not a full system enhancement, it's fairly inexpensive.

Q. You're going to have to update it regularly; right?

A. What we proposed in Florida is to do annual look-up of the situation once a year and pay based on that.

Q. And you also have to change your billing system to accommodate, not just the switch data system, but also the billing system itself to account for that;

don't you?

A. I don't think we do in the case of what I understood took place in Florida. I think all we did was offered to do an annual assist, which means pull all of the data out, look at it, figure what the dollar then is and then offer to pay the CLECs for that.

Q. So you're only talking about doing an annual true-up (phonetic), not reflecting it the monthly billings?

A. Well, we said that we'd be willing in that situation once we did an annual assessment, to pay out a prorated amount per month based on the look-up.

Q. And when you say fairly inexpensive to do it, what does that mean?

A. Well, in the case of Florida, it was in the thousands of dollars range. It wasn't hundreds of thousands or ---.

Q. For the entire state?

A. Yes.

Q. But what's the customer database in Florida?

A. In Florida the customer amount is around $3 million as I recall.

Q. So it's conceivable that it would be double the amount in Pennsylvania or more ---?

A. It probably won't be depending on how the system is it prepared because when you do a data system, the data system runs ---.

Q. So is it your understanding that if the Commission adopts your proposal, a CLEC like USLEC would have to implement some kind of system as well to identify that database of customers?

A. Well, going down the path of what I'm proposing is adopted, then what I would expect to happen is --- true FX numbers are assigned by USLEC or other CLEC, that we would be provided a list of those numbers, just the physical numbers so we could properly adjust our billing system.

Q. And you would supply the CLEC with your list of numbers?

A. We provide a --- if we needed to, I guess we could. What we also do in the case of Florida is simply to do the assist for them.

Q. So in essence, it adds another step to the billing process because you have to identify customers to pull out traffic that are directed to them; is that right?

A. Well, once again, in the case of how we often do it, we do an annual assessment so it doesn't involve a moment-by-moment and day-by-day kind of thing. We

accumulate the records and run a ---.

Q. And the other part of your proposed language is that to the extent the FX calls cross local calling areas, they would be classified as inter-LATA toll calls and you would claim an entitlement to impose originating access charges when a Verizon customer calls an USLEC FX customer; is that right?

A. That's correct.

Q. Now, you don't actually provide access service in the traditional sense in that situation; do you?

A. Help elaborate on that.

Q. How is access service typically provided inter-LATA?

A. Inter-LATA using Allentown and Philadelphia example, the Allentown customer calls Philadelphia, they incur a toll charge for that call if it's a typical inter-LATA toll call. And depending on who carries the call, let's say it's all Verizon just for the sake of discussion, the Allentown customer would pay the toll charge. Verizon would get compensation for the transport determination from the toll charge inter-LATA.

Q. How is it routed?

A. It would route --- I'm guessing because I'm not an infrastructure expert in this area, but I would

imagine it would go to a tandem located somewhere close to the Allentown area, depending how many --- they may transport to another tandem close to Philadelphia that would ---.

Q. But it goes across Verizon's access network, not its local network; is that right?

A. Right. It would pass through the access network, yes.

Q. But in the FX scenario, the calls are passed through the local network; is that right?

A. Well, actually they're passed --- in our FX decision they're passed through dedicated facilities so they bypass the normal access arrangement through a dedicated facility.

Q. They are on the local network until they reach the end office where the network with a dedicated facility is --- I don't think honed is the word?

A. Yeah. I think we're not quite saying the same thing. Using the FX example between Allentown and Philadelphia, the customer would initiate what appears to be a local call to the customer that's actually physically located in Philadelphia. It could go to the switch and from the switch it would actually be going over a dedicated facility all the way up to Philadelphia.

Q. But it has to get to the switch that serves that first local calling area; doesn't it?

A. What I'm saying is it doesn't go to the tandem environment. It goes for a dedicated loop. It has to go to the tandem to get there.

Q. But in the FX environment that CLECs typically utilize, the calls are all handled over the local network; aren't they?

A. Well, what I think happens, and I'm not familiar with the USLEC example, but I've seen other providers, CLEC equivalent providers, they normally give us a switch location in the local exchange. That's physically close to their FX customers, what we've seen time and time again. I'm not saying that USLEC's situation, but that's what I've seen with other CLEC providers frequently.

Q. But the call goes from the Verizon customer to the end office, is handled by Verizon, perhaps through a tandem, delivered to USLEC switch?

A. That's I think more typical, yes.

Q. Okay. And again, that routing is the same whether the USLEC customer is in Philadelphia or is physically located back in Allentown?

ATTORNEY PANNER:

Asked and answered.

ATTORNEY SHOR:

We have summarized the testimony that witnesses give in the context of helping them ask questions. If he's answered it once before, fine. If not, a simple yes or no is not going to hurt.

JUDGE:

Frankly, I have forgotten whether it's been asked or answered. You may answer. Please answer it.

A. I was going to answer yes.

BY ATTORNEY SHOR:

Q. Okay. So even though you technically are not providing access service for an inter-LATA toll call, the way you typically route an inter-LATA toll call, you still contend you were entitled to charge originating access?

A. Based on the fact that it originates and terminates to distinct non-local areas, yes.

Q. Is part of your rational for this approach that you feel that you're losing inter-LATA toll revenue for these calls?

A. In terms of the other CLECs that I've worked with, yes.

Q. But here you've got a situation where USLEC has six customers, using FX services, none of them are

ISPs, okay, you believe you're losing inter-LATA toll revenue based on USLEC service and that's one reason why you want to do this?

A. Well, it gets back to our discussion a little bit earlier. If I were of the understanding that USLEC is only going to have six customers and none of those are going to use the approach I've seen other providers use, then I would be less concerned about the environment. But the fact that if the approach as I've see it offered is adopted and other providers opt into that provision, it would open up the door for providers basically to have a funnel of traffic that would route from the Allentown example from Allentown to Philadelphia, it would be --- it could tend to encourage that type of construction of traffic.

Q. And the concern is a loss of inter-LATA toll revenue?

A. It's a loss of inter-LATA toll revenue and an over-utilization of a route. It artificially, from what I've observed builds up use for a route that currently wasn't being used at that level. It was actually cost increase, building a facility to accommodate an arrangement whereby we're transporting under other suggestions free of charge from point A to point B, and we also have to pay recip comp has been

the approach that was suggested.

Q. But for the loss revenue argument to have any significant impact, doesn't it assume that the caller in Allentown will call the florist in Philadelphia if she knew it was going to be a toll call, even if she knew it was going to be a toll call?

A. The loss revenue has a degree --- if it was a situation, for example, where it's going to always go to an ISP, I would suggest to myself, if it were me I probably wouldn't make the call. But if it's going to another type of entity, for example, let's say it's going to an insurance company that would have purchased a 1-800 number but instead they decide to use one of these arrangements, we would lose out on the access that would have been associated with the 1-800 number.

Q. So just let me summarize, and it may have been asked and answered ---.

ATTORNEY SHOR:

I have no further questions.

ATTORNEY PANNER:

Can you just give me one minute? I'll try not to have a full break.

SHORT BREAK TAKEN

ATTORNEY PANNER:

I'd like to introduce Verizon Exhibit Six, VZ-6, which is also a printout from the USLEC website describing USLEC's local services products.

JUDGE:

So marked.

(Exhibit VZ-6 marked for identification.)

REDIRECT EXAMINATION

BY ATTORNEY PANNER:

Q. Do you recognize this as a printout of a website?

A. That's what it appears to be, yes.

Q. Do you see at the bottom left it says, http://www.uslec.com/local_service.htm?

A. Yes, I do.

Q. Can you turn to page two of this exhibit?

A. Yes.

Q. Can you go down under the bold where it says enhanced local services?

A. I see that part.

Q. And do you see the fourth bullet point, it says, foreign exchange?

A. Yes, I do.

Q. Can you read that?

A. Foreign exchange service involves the inbound

only call toll free to the calling party, which is paid for by the calling party. It desired --- the service includes a listing of the foreign white and yellow pages of the ILEC directory.

Q. So just to emphasize, it says, it's an inbound only service from USLEC; is that right?

A. That's what I understand this offering describes, yes.

Q. So in this arrangement, as described here on USLEC's website, they would only receive traffic but they wouldn't allow their customers to make any call?

A. That's what it indicates to me.

Q. And they say it's toll free to the calling party, what does that mean to you?

A. They means that if I were --- using the Allentown example, if the Allentown customer would call one of these numbers it would be toll free to the Allentown customer.

Q. But toll free, does that suggest --- what does that suggest, in the absence of this service would be imposed on the party?

A. Well, when I see the words toll free I think of 1-800 like services is what I normally associate with it. So I was going to simply say, that that would to say to me that if I was getting a service like this, I

would expect it to be handled very much like a 1-800 service, so the person originating the call would not pay a toll. The person receiving the call would pay for that extra service being provided because they would be getting a benefit from it.

Q. Okay. And in those times of toll free arrangements, how is the originating carrier usually compensated?

A. The originating carrier generally gets access payments for being the party that starts the call.

Q. And, in fact, USLEC has --- we've seen evidence here today that USLEC gets a great deal of additional revenue from USLEC FX customers for providing internet service; is that correct.

ATTORNEY SHOR:

Objection to the to the characterization great deal.

JUDGE:

The numbers are on the record and they speak for themselves, Counsel.

ATTORNEY PANNER:

I'll rephrase, so it will make my opposing Counsel more comfortable.

BY ATTORNEY PANNER:

Q. There has been introduced today that USLEC is

receiving hundreds of dollars a month for providing FX service in Pennsylvania?

A. That was my understanding of the testimony.

Q. Okay. And yet USLEC's position is that they should nonetheless be paid by Verizon for sending this traffic to USLEC; is that correct?

A. That was my understanding.

Q. And indeed, USLEC --- is it correct that --- that Ms. Montano testified that many of USLEC's FX customers are located close to USLEC's switch?

ATTORNEY SHOR:

Objection, mischaracterizes her testimony.

BY ATTORNEY PANNER:

Q. Did she testify that some of them are located close to the switch?

A. That was my understanding of the testimony.

Q. Less than five miles she said?

A. Yes.

Q. So it might be --- let me ask you, if I can, do you know whether --- now, let me strike that last ---.

The loop that would be connecting the switch to the USLEC customer in that circumstance would actually be --- sure, it would be less than five miles, if the customer would have been less than five miles of the

USLEC switch; is that correct?
A. Based on the testimony, that would have to be less than five miles, yes.
Q. Okay. But if USLEC had a customer in Allentown, there would be a whole lot more transport from --- back to Allentown; is that correct?
A. I need to be sure I understand what you mean. I'm not sure I understand.
Q. If USLEC were serving --- I interrupted you and I apologize.
A. I'm just saying I didn't understand the example clearly, so I want to make sure I understand it clearly.
Q. Actually, I'll withdraw the question.

ATTORNEY PANNER:

I have nothing further for this witness, Your Honor.

ATTORNEY SHOR:

Just a very short few.

RECROSS EXAMINATION

BY ATTORNEY SHOR:

Q. Does Verizon charge its FX customers an additional for the FX service they buy?
A. Yes, that's my understanding. They charge for the carrying of the call from point A to point B that

transport ---.

Q. And for the facility itself?

A. Right.

Q. And how much do they charge?

A. I don't know the local rates, but it's a mileage based charge, I don't know what the rate is per mile.

Q. Is there a non-return charge for the facility?

A. I'm not an expert on this part, so I don't know all of the things --- I can't tell you without going back to the tariff.

Q. Do you know if there are monthly charges for the facility?

A. It's my understanding that they are monthly charges, yes.

Q. And they're also mileage sensitive?

A. That's my understanding.

Q. Do you have any understanding whether any of Verizon's FX customers are located within five miles of the serving switch?

A. I don't know the makeup of the FX customers. I know generally how they approach the request but I don't know physically how they're located with respect to the switch.

Q. Would you agree with me that it would be possible for a Verizon FX customer to be located within five

miles of the end office it serves in?

A. I would agree that theoretically it's possible, but practically speaking what I'm seeing has been that the customer in practical terms is in a community some distance from the community they want to have a presence in. So it's usually whatever the distance between those two local calling areas is is the distance to the switch.

Q. So it would be five miles?

A. It could theoretically be. I'd say generally it's probably further than that.

Q. It could be ten miles?

A. Ten, 15, 20.

Q. And Verizon has been collecting reciprocal compensation from CLECs for calls that CLEC customers make to Verizon's FX customers?

A. That's my testimony, that we've been doing it --- basically the system doesn't have a way to differentiate.

ATTORNEY SHOR:

I have nothing further. I'd like to move the admission of USLEC Exhibit Three into the record.

JUDGE:

Admitted, without objection.

ATTORNEY PANNER:

And, Your Honor, I'd like to move the admission of Exhibit VZ-6.

JUDGE:

Admitted without objection. Have we finished with this witness?

ATTORNEY SHOR:

We have.

ATTORNEY PANNER:

I have, Your Honor. Thank you.

JUDGE:

Then fine, the witness is excused and thank you for coming, sir. Now, is there anything else that the parties need to present to me? Good.

ATTORNEY SHOR:

You had asked to go through the agreement, would it be at all possible for Counsel to do that another time and place and come back and tell you instead of doing it now?

JUDGE:

Well, that is about what I was --- I was about to launch into that. I do have some procedural issues to go through with the parties with respect to the briefing schedule and the final and best offer and I was going to launch into the

questions I had about the agreement. Let's go off the record for a few minutes.

OFF RECORD DISCUSSION

JUDGE:

Let's go back on the record. In the interest of your personal schedules, I'll try to make this as brief as possible. First of all, my prehearing order number two sets forth the briefing schedule, that your final and best offers are due July 25th, that the main briefs are due August 1st and the reply briefs are due August 9th. And when I say due, I mean due in hand on or before four o'clock in the afternoon.

Now, during the course of your witnesses' testimony they have referred and you as lawyers have referred to a variety of Commission precedents and FCC precedents and FCC regulations and court decisions. And my access --- it is my understanding, that I am to expedite these proceeding even though the parties have graciously waived the statutory deadlines. So that I must inform you that my access to finding some of these decisions is limited.

ATTORNEY SHOR:

We'll make copies.

JUDGE:

Right. I don't need court decisions. I'm sure there are court reporters that are published that I can find without a problem. When it comes to finding historic Pennsylvania Public Utility Commission information, I do have some difficulties. I have the global order as it's called and I have the implementation order readily available in my own office. But beyond that, for example, the MFS-2 and 3 decisions are not readily available. And the same thing is true --- I'm sure somewhere in the building I can find FCC regulations, full text of FCC decisions, which tend to be extremely lengthy. I would prefer that you two agree on the excerpts that you need to provide to me. I don't want to put anybody to the expense of killing all of those trees just to make copies of material that I'm not going to use.

I have reserved as per the request of USLEC, the opportunity to file a late filed exhibit, that USLEC Exhibit Number Four, which is to be a certified copy of the MFS phase two transcript. And, again, I would urge you to agree with Mr. Panner on what excerpts you need to identify. I remember that proceeding went on for quite awhile. While I

probably don't and cannot get easily access to the orders, the Commission may --- the transcripts would even be worse. And I'm not encouraging you to do give me that.

All right. I would like you and Mr. Panner to review the agreement that was filed as part of the petition, which is the only copy of the agreement that I have. And I will tell you, for your ease of your operation, where I found things and look at page 25, look at page 31, 33, 35, 43, 52, 61, 64, 65, 66, 71, 115. On all of those identified pages, you have identified disagreements and disputed issues.

I have a variety of questions, some of them very simple, some of them very stupid. For example, on page 114, it appears that there is a typographical error in one of the rates quoted by Verizon. Oh, I beg your pardon, I've got the wrong page number. On page 134, if you look there at engineering quarry is listed at $122.34. On the immediately proceeding and the immediately following pages the same engineering quarry is listed as $123.24. There has been a transposition, I believe, with numbers. It's just one of those crazy things I picked up while I was reading through this thing and thought, well, gee, those numbers are different and

sure enough, they were.

Decide what you want is right, because I'm supposed to take a look at this agreement and approve the whole thing, what's settled and what's not. I have questions on pages one, which is that term of how long this agreement is supposed to last. Thirty-seven (37), 38, 57, 58, and there is nothing on page 114 but my own written question. And I'm sure it's an easy one to answer. I will tell you what the question is because it's a blank page, otherwise you'll think I'm really crazy and maybe I am. But my question is are all of the prices quoted for USLEC and for Verizon on the following pages tariff rates as set forth and a currently approved Pennsylvania Public Utility Commission or FCC final order.

And the reason I ask that question is that I was the Judge who handled Verizon's first uni-rate case, but not the second. And I know that the loose ends from the first one may not yet be cleared up.

Now, I will --- it currently appears on my schedule that I have an open day tomorrow and that I have a consumer complaint-type case on Friday and a prehearing conference that should not last very long on Monday. And Tuesday is also

completely open. I would appreciate it if you, meaning Mr. Panner and Mr. Shor, would contact me to set up a conference call, given the availability so that we can go through some of the things that I'm not discussing now. All right? And the reason I suggest in the immediate future is that will get us under the window of the availability of the transcript so that you will not be of two minds as to whether to telephone right ---. I urge both parties to continue negotiating, to notify me promptly if you're able to reach settlement. I had promised today that I would give you an overview of my view of how I would decide issues. I will substantially abbreviate that for you right now. My first question will be, what does the Act say. Does it require the result that a party is asking about and then in no secret fashion --- I worked backwards to, does FCC require it, does my Commission require it, do the court cases require it.

The other thing is is that when we started this case you informed me that you were essentially litigating on a multiple front basis throughout the Verizon footprint. It sure would be nice to be told that some other state had decided some of these issues ahead of me. But at the time you told me I was out there on the bleeding edge. There is a

possibility because you have not talked to me since then that that may have changed.

ATTORNEY PANNER:

The edge is only bleeding all the harder.

ATTORNEY SHOR:

You were the first.

JUDGE:

Some people get all of the luck. Okay. It will be up to you, Mr. Shor, to supply the copies, the appropriate number of copies to the Court Reporter, as well as me. What is a reasonable amount of time for you to accomplish the certified copy of the transcript?

ATTORNEY SHOR:

I have no idea. My local Counsel is not here. I just don't know.

JUDGE:

Well, let me put it ---.

ATTORNEY SHOR:

Excuse me. Since we're not going to do the whole thing, I need to work with Mr. Panner so I just don't know.

JUDGE:

Okay. Since the Court Reporter is

under the obligation to provide the transcript in three business days, I'm going to assume that that's too short a time period for you. And we can discuss a conference call much longer than those three days you need, that will require you to be --- to take the Court Reporter out of the loop and deal with me in terms of sending it to me and/or to the secretary's office. I will require you to agree on a matrix for the brief in terms of issues. In other words, make sure that each of you has a matching issue number one, a matching issue number two. If you want to combine them, that's fine. I understand that. But you have about eight issues total. Make your numbers match so that your briefs are head to head on the same number all the way through. My decision will be written that way and the Commission will understand it that way.

We will discuss later the format for providing the finalized language that you have but I haven't seen yet. Does anybody else have anything else that we're aware that I need to deal with, because this is --- as far as I'm concerned this is the last opportunity to put something on the Court Reporter's record. The conference call will not be reported unless you specifically request it and then we will jump through hoops to make that happen. And I

have no problem with doing that. I just have to know about it in advance.

ATTORNEY SHOR:

I think we're set.

JUDGE:

Okay. In this case, I want to thank you, both sides for their cooperation. It's very easy to slip into a litigated unprofessional posture. I did not see that today and I always appreciate that in my courtroom. I don't tell everybody in my courtroom that, unless it actually occurs. And I really do appreciate the cooperation that you've shown so far. I think we've made pretty good progress today. I wish you all a safe trip home.

* * * * * * *

HEARING CONCLUDED AT 6:00 P.M.

* * * * * * *

US LEC of Maryland Inc.

Morrocroft III
6801 Morrison Boulevard
Charlotte, North Carolina 28211

Tariff Schedule Applicable to Intrastate Charges

Applying To Local Exchange Services

Telecommunications Services Between Points Within

The State Of Maryland

VZ #0

TARIFF FORMAT

A. Sheet Numbering - Sheet numbers appear in the upper right corner of the page. Sheets are numbered sequentially. However, new sheets are occasionally added to the tariff. When a new sheet is added between sheets already in effect, a decimal is added. For example, a new sheet added between sheets 14 and 15 would be 14.1.

B. Sheet Revision Numbers - Revision numbers also appear in the upper right corner of each page. These numbers are used to determine the most current sheet version on file with the P.S.C. For example, the 4th revised Sheet 14 cancels the 3rd revised Sheet 14. Because of various suspension periods, deferrals, etc. the P.S.C. follows in their tariff approval process, the most current sheet number on file with the P.S.C. is not always the tariff page in effect.

C. Paragraph Numbering Sequence - There are nine levels of paragraph coding. Each level of coding is subservient to its next higher level:

2.
2.1.
2.1.1.
2.1.1.A.
2.1.1.A.1.
2.1.1.A.1.(a).
2.1.1.A.1.(a).I.
2.1.1.A.1.(a).I.(i).
2.1.1.A.1.(a).I.(i).(1).

D. Check Sheets - When a tariff filing is made with the Commission, an updated check sheet accompanies the tariff filing. The check sheet lists the sheets contained in the tariff, with a cross reference to the current revision number. When new pages are added, the check sheet is changed to reflect the revision. An asterisk designates all revisions made in a given filing (*). There will be no other symbols used on the check sheet if these are the only changes made to it (*i.e.*, the format, etc. remains the same, just revised revision levels on some pages). The tariff user should refer to the latest check sheet to find out if a particular sheet is the most current on file with the P.S.C.

CHECK SHEET

Sheets 1 through 88 inclusive of this tariff are effective as of the date shown at the bottom of the respective sheet(s). Original and revised sheets as named below comprise all changes from the original tariff and are currently in effect as of the date on the bottom of this sheet.

PAGE	REVISION	PAGE	REVISION
1	Original	26	Original
2	Original	27	Original
3	First*	28	Original
4	First*	29	Original
5	Original	30	Original
6	Original	31	Original
7	Original	32	Original
8	Original	33	Original
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CHECK SHEET

Sheets 1 through 88 inclusive of this tariff are effective as of the date shown at the bottom of the respective sheet(s). Original and revised sheets as named below comprise all changes from the original tariff and are currently in effect as of the date on the bottom of this sheet.

PAGE	REVISION	PAGE	REVISION
51	Original	65	Original
52	Original	66	Original
53	Original	67	Original
53.1	Original	68	Original
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53.3	Original	70	Original
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53.7	Original	74	Original
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53.9	Original	76	Original
53.10	Original	77	Original
53.11	Original	78	First*
53.12	Original	79	Original
53.13	Original	80	Original
53.14	Original	81	Original
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SECTION 1 – GENERAL

1.1 Explanation of Symbols

The following symbols shall be used in this tariff for the purpose indicated below:

C	To signify changed regulation.
D	To signify discontinued rate or regulation.
I	To signify increased rate.
M	To signify a move in the location of text.
N	To signify new rate or regulation.
R	To signify reduced rate.
S	To signify reissued matter.
T	To signify a change in text but no change in rate or regulation.
Z	To signify a correction

1.2 Application of Tariff

This tariff governs the Carrier's services that originate and terminate in Maryland. Specific services and rates are described elsewhere in this tariff. US LEC of Maryland Inc. includes all the exchanges in Maryland as the potential areas where alternative local exchange service is planned, where facilities are available and pending appropriate interconnection agreements.

1.2.2 The Company's services are available to business customers.

1.2.3 The Company's service territory and calling areas are consistent Verizon Maryland Inc.'s tariff.

SECTION 1 – GENERAL

1.3 Definitions

Certain terms used generally throughout this tariff are defined below.

Account Codes: Permits Centrex Stations and attendants to dial an account code numbe of up to eight digits. For use when placing calls over facilities arranged for Automatic Message Accounting (AMA) recording. The account or project number must be input prior to dialing the called number.

Advance Payment: Part or all of a payment required before the start of service.

Automatic Number Identification (ANI): Allows the automatic transmission of a caller's billing account telephone number to a local exchange company, interexchange carrier or a third party subscriber. The primary purpose of ANI is to allow for billing of toll calls.

Bit: The smallest unit of information in the binary system of notation.

Call Back/Camp On: Permits a station line encountering an all-trunk-busy condition the option of being notified when a trunk becomes idle.

Call Forwarding Station: Allows calls directed to a station line to be routed to a user defined line inside or outside the customer's telephone system.

Call Forwarding System: Permits calls attempting to terminate to a busy station line to be re-directed to a predetermined line inside or outside the customer's telephone system.

Call Forwarding Remote: This optional feature allows a user to activate/deactivate the Call Forwarding - All Calls feature or change the forwarded to telephone number from a remote location.

Call Forwarding Busy: Allows incoming calls to a busy station to be routed to a preselected station line or attendant within the same system or outside the system. Intercom calls can be forwarded to a number different from DID calls.

SECTION 1 – DEFINITIONS

1.3 Definitions

Call Forwarding Variable Limited: When this feature is activated by a station line user or the attendant, incoming calls to the activated station line or attendant position will be automatically routed to any other selected station line, within the same Centrex system, or to the attendant position. The attendant may also activate this feature for a station line user.

Call Forwarding Variable Unlimited: The same as Call Forwarding Variable Limited except that incoming calls may be automatically routed to a telephone number outside the Centrex system or to station lines within the same Centrex system. The attendant may not activate this feature to a telephone number outside the Centrex system for a station line use. Calls forwarded outside the Centrex system are subject to the appropriate charges for local and toll messages.

Call Hold: Allows the user to hold one call for any length of time provided that neither party goes on-hook.

Call Park: Allows a station line to park a call against its own line number. The parked call can be retrieved from any station line by dialing a feature code and the line number against which the call is parked.

Call Pickup: Allows a station line to answer incoming calls to another station line within a defined call pickup group. Call pickup is provided on individual station lines within a customer group.

Call Transfer: Allows a station line user to transfer any established call to another station inside or outside the customer group without the assistance of the attendant.

Call Waiting: Permits a line in the talking state to be alerted by a tone when another call is attempting to complete to the line. Audible ringing is returned to the originating line. The Service also provides a hold feature that is activated by a switchhook flash.

SECTION 1 - DEFINITIONS

1.3 Definitions

Commission: The Maryland Public Service Commission.

Company: US LEC of Maryland Inc., the issuer of this tariff.

Completed Call: A call which the Company's network has determined has been answered by a person, answering machine, fax machine, computer modem device, or other answering device.

Customer or Subscriber: Any person, firm, corporation, or governmental entity who has applied for and is granted service, or who is responsible for payment of service and compliance with the Company's regulations.

Dial Pulse (or "DP"): The pulse type employed by rotary dial station sets.

Direct Inward Dial (or "DID"): A service attribute that routes incoming calls directly to stations, by-passing a central answering point.

Direct Outward Dial (or "DOD"): A service attribute that allows individual station users to access and dial outside numbers directly.

Do Not Disturb: Permits the attendant to cut off a single station line and selected groups of station lines from receiving incoming and station-to-station calls.

DSX-1 Panel: Distribution equipment used to terminate and administer DS1 (1.544 Mbps) circuits.

Dual Tone Multi-Frequency (or "DTMF"): The pulse type employed by tone dial station sets.

Duplex Service: Service which provides for simultaneous transmission in both directions.

Federal Communications Commission (or "FCC"): Independent government agency that develops and implements policy concerning interstate and international communications.

SECTION 1 – DEFINITIONS

1.3 Definitions

Fiber Optic Cable: A thin filament of glass with a protective outer coating through which a light beam carrying communications signals may be transmitted by means of multiple internal reflections to a receiver, which translates the message.

Hunting: Routes a call to an idle station line in a prearranged group when the called station line is busy.

In-Only: A service attribute that restricts outward dial access and routes incoming calls to a designated answer point.

Joint User: A person, firm or corporation which is designated by the Customer as a user of services furnished to the Customer by the Company and to whom a portion of the charges for the service will be billed under a joint user arrangement as specified herein.

Kbps: Kilobits per second, denotes thousands of bits per second.

Last Number Redial: Enables a station line user to redial the last called number by use of an access code rather than dialing the entire number.

LATA: A Local Access and Transport Area established pursuant to the Modification of Final Judgment entered by the United States District Court for the District of Columbia in Civil Action No. 82-0192; or any other geographic area designated as a LATA in the National Exchange Carrier Association, Inc. Tariff F.C.C. No. 4.

Local Exchange Carrier or ("LEC"): Denotes any individual, partnership, association, joint-stock company, trust or corporation engaged in providing switched communication within an exchange.

Mbps: Megabits, denotes millions of bits per second.

Multi-Frequency or ("MF"): An inter-machine pulse-type used for signaling between telephone switches, or between telephone switches and PBX/key systems.

SECTION 1 - DEFINITIONS

1.3 Definitions

Recurring Charges: The monthly charges to the Customer for services, facilities and equipment, which continue for the agreed upon duration of the service.

Service Commencement Date: The first day following the date on which the Company notifies the Customer that the requested service or facility is available for use, unless extended by the Customer's refusal to accept service which does not conform to standards set forth in the Service Order or this tariff, in which case the Service Commencement Date is the date of the Customer's acceptance. The Company and Customer may mutually agree on a substitute Service Commencement Date.

Service: Any telecommunications service(s) provided by the Company under this tariff.

Service Order: The written request for Network Services executed by the Customer and the Company in the format devised by the Company. The signing of a Service Order by the Customer and acceptance by the Company initiates the respective obligations of the parties as set forth therein and pursuant to this tariff, but the duration of the service is calculated from the Service Commencement Date.

Shared: A facility or equipment system or subsystem that can be used simultaneously by several Customers.

Speed Calling: Permits a station line user to dial selected numbers by using fewer digits than normally required. This is accomplished through the assignment of abbreviated codes to frequently called numbers. The speed calling list is customer changeable.

System: Allows shared use of speed calling list. A control station will add, change or delete telephone numbers from the list for the group.

Station: A telephone instrument consisting of a connected transmitter, receiver, and associated apparatus to permit sending or receiving telephone messages.

Three-Way Calling: Allows a station line user to add a third party to an existing conversation.

SECTION 1 - DEFINITIONS

1.3 Definitions

Time Periods

Unless otherwise indicated herein:

All rate plans:

A) Day: 8:00 a.m. - 5:00 p.m. - Mon-Fri

B) Evening: 5:00 - 11:00 p.m. - Sun-Fri

C) Night/Weekend: 11:00 p.m. - 8:00 a.m. - All days
8:00 a.m. - 11:00 p.m. - Saturday
8:00 a.m. - 5:00 p.m. – Sunday

D) Holiday: For the following Holidays, the Evening Time Period rates are used, unless a lower rate would normally apply:

Christmas Day**	New Year's Day**
Martin Luther King Day*	Presidents Day*
Memorial Day*	Columbus Day*
Veterans Day**	Thanksgiving Day
Independence Day**	Labor Day

* Applies to Federally observed day only.

** When this Holiday falls on a Sunday, the Holiday calling rate applies to calls placed on the following Monday. When this Holiday falls on a Saturday, the Holiday calling rate applies to calls placed on the preceding Friday.

SECTION 2 – RULES & REGULATIONS

2.1 Undertaking of the Company

2.1.1 The Company undertakes to furnish facilities-based communications service pursuant to the terms of this tariff in connection with one-way and/or two-way information transmission between points within the State of Maryland.

Customers and users may use services and facilities provided under this tariff to obtain access to services offered by other service providers. The Company is responsible under this tariff only for the services and facilities provided hereunder, and it assumes no responsibility for any service provided by any other entity that purchases access to the Company network in order to originate or terminate its own services, or to communicate with its own customers.

SECTION 2 – RULES & REGULATIONS

2.2 Obligations of the Customer

2.2.1 The customer shall be responsible for:

2.2.1.1 The payment of all applicable charges pursuant to this tariff;

2.2.1.2 Reimbursing the Company for damage to, or loss of, the Company's facilities or equipment caused by the acts or omissions of the customer; or the noncompliance by the customer, with these regulations, or by fire or theft or other casualty on the customer's premises unless caused by the negligence or willful misconduct of the employees or agents of the Company.

2.2.1.3 Providing at no charge, as specified from time to time by the Company, any needed space and power to operate the Company's facilities and equipment installed on the customer's premises.

2.2.1.4 Complying with all laws and regulations regarding the working conditions on the premises at which the Company's employees and agents shall be installing or maintaining the Company's facilities and equipment. The customer may be required to install and maintain the Company's facilities and equipment within a hazardous area if, in the Company's opinion, injury or damage to the Company's employees or property might result from installation or maintenance by the Company. The customer shall be responsible for identifying, monitoring, removing and disposing of any hazardous material prior to any construction or installation work.

SECTION 2 – RULES & REGULATIONS

2.2 Obligations of the Customer

2.2.1 The customer shall be responsible for: (cont'd)

2.2.1.5 Complying with all laws and regulations applicable to, and obtaining all consents, approvals, licenses and permits as may be required with respect to, the location of the Company's facilities and equipment in any customer premises for the purpose of installing, inspecting, maintaining, repairing, or upon termination of service as stated herein, removing the facilities or equipment of the Company.

2.2.1.6 Making Company facilities and equipment available periodically for maintenance purposes at a time agreeable to both the Company and the customer. No allowance for interruptions in service will be made for the period during which service is interrupted for such purposes.

2.2.2 With respect to any service or facility provided by the Company, the customer shall indemnify, defend and hold harmless the Company from all claims, actions, damages, liabilities, costs and expenses for:

2.2.2.1 Any loss, destruction or damage to property of the Company or any third party, or injury to persons, including, but not limited to, employees or invitees of either the Company or the customer, to the extent caused by or resulting from the negligent or intentional act or omission of the customer, its employees, agents, representatives or invitees; or

2.2.2.2 Any claim, loss, damage, expense or liability for infringement of any copyright, patent, trade secret, or any proprietary infringement of any copyright, patent, trade secret, or any proprietary or intellectual property right of any third party, arising from any act or omission by the customer.

SECTION 2 – RULES & REGULATIONS

2.2 Obligations of the Customer

2.2.3 The customer is responsible for ensuring that customer-provided equipment connected to Company equipment and facilities is compatible with such equipment and facilities. The connection, operation, testing, or maintenance of such equipment shall be such as not to cause damage to the Company–provided equipment and facilities or injury to the Company's employees or other persons. Any additional protective equipment required to prevent such damage or injury shall be provided by the Company at the customer's expense.

2.2.4 The Company's services (as detailed in this tariff) may be connected to the services or facilities or other communications carriers only when authorized by, and in accordance with, the terms and conditions of the tariffs or contracts which are applicable to such connections.

2.2.5 Upon reasonable notification to the customer, and at a reasonable time, the Company may make such tests and inspections as may be necessary to determine that the customer is complying with the requirements set forth in this tariff for the installation, operation, and maintenance of customer-provided facilities and equipment that is connected to Company-owned facilities and equipment.

2.3 Liability of the Company

2.3.1 In view of the fact that the customer has exclusive control over the use of service and facilities furnished by the Company, and because certain errors incident to the services and to the use of such facilities of the Company are unavoidable, services and facilities are furnished by the Company subject to the terms, conditions and limitations herein specified:

SECTION 2 – RULES & REGULATIONS

2.3 Liability of the Company

2.3.2 Service Irregularities

2.3.2.1 The liability of the Company for damages arising out of mistakes, omissions, interruptions, delays, errors or defects in transmission, or failures or defects in facilities furnished by the Company, occurring in the course of furnishing service or other facilities and not caused by the negligence of the customer, shall in no event exceed an amount equivalent to the proportionate charge to the customer for the service or facilities affected during the period such mistake, omission, interruption, delay, error or defect in transmission, or failure or defect in facilities continues after notice and demand to Company.

2.3.2.2 The Company shall not be liable for any act or omission of any connecting carrier, underlying carrier or local exchange Company except where Company contracts the other carrier; for acts or omission of any other providers of connections, facilities, or service; or for culpable conduct of the customer or failure of equipment, facilities or connection provided by the customer.

SECTION 2 – RULES & REGULATIONS

2.3 Liability of the Company

2.3.3 Claims of Misuse of Service

2.3.3.1 The Company shall be indemnified and saved harmless by the customer against claims for libel, slander, fraudulent or misleading advertisements or infringement of copyright arising directly or indirectly from material transmitted over its facilities or the use thereof; against claims for infringement of patents arising from combining or using apparatus and systems of the customer with facilities of the Company; and against all other claims arising out of any act or omission of the customer in connection with the services and facilities provided by the Company.

2.3.4 Defacement of Premises

2.3.4.1 The Company is not liable for any defacement of, or damage to, the customer's premises resulting from the furnishing of service or the attachment of equipment and facilities furnished by the Company on such premises or by the installation or removal thereof, when such defacement or damage is not the result of negligence of the Company. For the purpose of this paragraph, no agents or employees of the other participating carriers shall be deemed to be agents or employees of the Company except where contracted by the Company.

SECTION 2 – RULES & REGULATIONS

2.3 Liability of the Company

2.3.5 Facilities and Equipment in Explosive Atmosphere, Hazardous or Inaccessible Locations

2.3.5.1 The Company does not guarantee nor make any warranty with respect to installations provided by it for use in an explosive atmosphere. Company shall be indemnified, defended and held harmless by the customer from and against any and all claims, loss, demands, suits, or other action, or any liability whatsoever, whether suffered, made, instituted or asserted by the customer or by any other party, for any personal injury to or death of any person or persons, and for any loss, damage or destruction of any property, including environmental contamination, whether owned by the customer or by any other party, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, presence, condition, location, use or removal of any equipment or facilities or the service and not due to the gross negligence or willful misconduct of the Company.

2.3.6 Service at Outdoor Locations

2.3.6.1 The Company reserves the right to refuse to provide, maintain or restore service at outdoor locations unless the customer agrees in writing to indemnify and save the Company harmless from and against any and all loss or damage that may result to equipment and facilities furnished by the Company at such locations. The customer shall likewise indemnify and save the Company harmless from and against injury to or death of any person which may result from the location and use of such equipment and facilities.

SECTION 2 – RULES & REGULATIONS

2.3 Liability of the Company

2.3.7 Warranties

2.3.7.1 THE COMPANY MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED EITHER IN FACT OR BY OPERATON OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE, EXCEPT THOSE EXPRESSLY SET FORTH HEREIN.

2.3.7.2 Acceptance of the provisions of Section 2.3 by the Commission does not constitute its determination that any disclaimer of warrantees or representations imposed by the Company should be upheld in a court of law.

2.3.8 Limitation of Liability

2.3.8.1 Nothing in this tariff shall be construed to limit the Company's liability in cases of gross negligence or willful misconduct.

SECTION 2 – RULES & REGULATIONS

2.4 Application for Service

2.4.1 Minimum Contract Period:

2.4.1.1 Except as otherwise provided, the minimum contract period is one year for all services furnished. However, if a new residential or single line business customer notifies the Company within twenty days after receipt of the first bill that certain services or equipment are not desired, the Company will delete such services or equipment from the customer's account without a record keeping or service ordering charge. The customer nonetheless shall be responsible for all monthly usage and installation charges incurred for the use of such service and equipment.

2.4.1.2 Except as provided in 2.4.2.1, the length of minimum contract period for directory listings, and for joint user service where the listing actually appears in the directory, is the directory period. The directory period is from the day on which the directory is first distributed to customers to the day the succeeding directory is first distributed to customers.

2.4.1.3 The Company may require a minimum contract period longer than one month in connection with special, non-standard types or arrangements of equipment, or for unusual construction, necessary to meet special demands for service.

2.4.1.4 The Company will provide at least 60 days notice in the event of a termination of any contracted service or contract renewal in which a termination penalty may apply.

SECTION 2 – RULES & REGULATIONS

2.4 Application for Service

2.4.2 Cancellation of Service

2.4.2.1 Where the applicant cancels an order for service prior to the start of the installation or special construction of facilities, no charge shall apply, except to the extent the Company incurs a service order or similar charge from a supplying carrier, if any, prior to the construction.

2.4.2.2 Where the installation of facilities, other than those provided by special construction, has been started prior to cancellation, the lower of the following charge applies;

2.4.2.2.A The total costs of installing and removing such facilities; or

2.4.2.2.B The monthly charges for the entire initial contract period of the service ordered by the customer as provided in this tariff plus the full amount of any applicable installation and termination charges.

2.4.2.3 Where special construction of facilities has been started prior to the cancellation, and the Company has another requirement for the specially constructed facilities, no charge applies.

SECTION 2 – RULES & REGULATIONS

2.5 Payment for Service

2.5.1 The Company shall present invoices for Recurring Charges monthly to the Customer in advance of the month in which service is provided. When billing is based on customer usage, charges will be billed monthly for the preceding billing periods. Service will be billed on a monthly basis and is due and payable upon receipt or as specified on the customer's bill. Service will continue to be provided until canceled by the customer or discontinued by the Company as set forth in Section 2.14 of this tariff.

2.5.2 The customer is responsible for payment of all charges for service furnished to the customer. Charges based on actual usage during a month will be billed monthly in the month following the month in which the service was used. All fixed monthly and nonrecurring charges for services ordered will be billed monthly in advance.

SECTION 2 – RULES & REGULATIONS

2.6 Customer Deposits

2.6.1 The Carrier agrees to abide by the regulations associated with nonresidential customer deposits as specified by Code of Maryland Regulations 20.30.01. as amended from time to time.

2.6.2 In order to establish credit, the carrier may require an applicant for nonresidential service to demonstrate good paying habits by showing that the applicant:

2.6.2.1 Was a customer of a Maryland utility for at least 12 months within the preceding 2 years;

2.6.2.2 Does not currently owe any outstanding bills for utility service to a utility doing business in Maryland;

2.6.2.3 Did not have service discontinued for nonpayment of a utility bill during the last 12 months that service was provided; and

2.6.2.4 Did not fail, on more than two occasions during the last 12 months that service was provided, to pay a utility bill when it became due.

SECTION 2 – RULES & REGULATIONS

2.6 Customer Deposits (cont'd)

2.6.3 The Carrier agrees to abide by the regulations associated with residential customer deposits as specified by Code of Maryland Regulations 20.30.02. as amended from time to time.

2.6.4 In order to establish credit, a utility may require an applicant for residential service to demonstrate good paying habits by showing that the applicant:

2.6.4.1 Was a customer of a Maryland utility within the preceding 2 years;

2.6.4.2 Does not currently owe any outstanding bills for utility service to a utility doing business in Maryland;

2.6.4.3 Did not have service discontinued for non-payment of a utility bill during the last 12 months that service was provided; and

2.6.4.4 Did not on more than two occasions during the last 12 months that service was provided, fail to pay a utility bill when it became due.

SECTION 2 – RULES & REGULATIONS

2.6 Customer Deposits (cont'd)

2.6.5 Deposits for establishment or reestablishment of credit will not be more than the estimated charge for service for 2 consecutive billing periods or 90 days, whichever is less.

2.6.6 The Company reserves the right to require from an applicant for service advance payments of fixed charges and nonrecurring charges. The advance payment will not exceed an amount equal to the nonrecurring charge(s) and one month's charges for the service or facility. In addition, where special construction is involved, the advance payment may also include an amount equal to the estimated nonrecurring charges for the special construction. The advance payment will be applied to any indebtedness for the service and facilities for which the advance payment is made on the customer's initial bill.

Advanced payments for installation costs or special construction will be credited on the first bill in their entirety.

2.6.7 Customer deposits shall be maintained in a bank located in Maryland. Customers who make a deposit for service will receive interest, at a rate set on such deposit not less than the rate calculated by the method set forth in COMAR 20.30.01.04 (for non-residential customers) or COMAR 20.30.02.04 (for residential customers) as appropriate.

SECTION 2 – RULES & REGULATIONS

2.7 Late Payment Charges

2.7.1 The Carrier agrees to abide by the regulations governing late payment charges as specified by COMAR 20.30.03. as amended from time to time.

2.7.2 Any charges that are disputed by a customer shall not be subject to late payment charges regardless of the outcome of the dispute.

2.7.3 The Company will consider delinquent and apply late payment charges on bills not paid within 20 days of the billing invoice date in the case of residential customers and within 15 days of the billing invoice date in the case of all non-residential customers in accordance with COMAR Sections 20.30.03.01A and 20.30.03.01B, respectively.

2.7.4 Late payment fees will be computed at a rate not to exceed 1.5% per month, for the two nominal billing intervals and may not exceed 5% of the total original unpaid charges in compliance with COMAR 20.30.03.01.A(1).

SECTION 2 – RULES & REGULATIONS

2.8 Customer Complaints and Billing Disputes

2.8.1 Customers may notify the carrier of billing or other disputes either orally or in writing. There is no time limit for submitting disputes.

2.8.2 Customer complaints and billing disputes that are not satisfactorily resolved may be presented by the customer to:

Office of External Relations
Maryland Public Service Commission
6 St. Paul Street
Baltimore, MD 21202

410-767-8028 (Office of External Relations)
410-767-8000 (Main PSC number)
1-800-492-0474 (Toll-free PSC number)

2.8.3 The Company provides the following toll free number (1-800-978-7532) for customers to contact the carrier in accordance with COMAR 20.45.04.02.B.

2.8.4 The Company will not collect attorney fees or court costs from customers.

SECTION 2 – RULES & REGULATIONS

2.9 Allowance for Interruptions in Service

2.9.1 Credit for failure of service or equipment will be allowed only when failure is caused by or occurs in equipment owned, provided, and billed for, by the Company. The Carrier agrees to abide by the regulations associated with interruptions in service as specified by Code of Maryland Regulations 20.45.05.09 as amended from time to time.

2.9.2 Interruptions in service, which are not due to the negligence of, or noncompliance with the provisions of this tariff by, the Customer or the operation or malfunction of the facilities, power or equipment provided by the Customer, will be credited to the Customer as set forth in 2.9.3 for the part of the service that the interruption affects.

2.9.3 When service is interrupted for a period of at least 24 hours after notice by the customer to the Carrier, an allowance equal to 1/30 of fixed billing cycle charges for services and facilities furnished by the Carrier rendered useless or substantially impaired shall apply to each 24 hours during which the interruption continues after notice by the customer to the Carrier. Credit in any billing period shall not exceed the total non-usage charges for that period for the services and facilities furnished by the Carrier rendered useless or substantially impaired.

A. The word "interruption" shall mean the inability to complete calls due to equipment malfunctions or human errors. "Interruption" does not include, and no allowance shall be given for, service difficulties such as slow dial tone, circuits, busy or other network and/or switching capacity shortages. Nor shall "interruption" include the failure of any service or facilities provided by a common carrier or other entity other than the Carrier. Nor shall the interruption allowance apply where service is interrupted by the negligence or willful act of the customer, or where the Carrier, pursuant to the terms of this tariff, terminates service because of non-payment of bills or deposits due to the Carrier, unlawful or improper use of the Carrier's facilities or service, or any other reason covered by this tariff or by applicable law.

B. No allowance shall apply to any non-recurring or usage charges.

SECTION 2 – RULES & REGULATIONS

2.9 Allowances for Interruptions in Service (Cont'd)

2.9.4 No credit allowance will be made for:

A) interruptions due to the negligence of, or noncompliance with the provisions of this tariff by, the Customer, authorized user, joint user, or other common carrier providing service connected to the service of the Company;

B) interruptions due to the negligence of any person other than the Company, including but not limited to the Customer or other common carriers connected to the Company's facilities;

C) interruptions due to the failure or malfunction of non-Company equipment;

D) interruptions of service during any period in which the Company is not given full and free access to its facilities and equipment for the purpose of investigating and correcting interruptions;

E) interruptions of service during a period in which the Customer continues to use the service on an impaired basis;

F) interruptions of service during any period when the Customer has released service to the Company for maintenance purposes or for implementation of a Customer order for a change in service arrangements; and

G) interruption of service due to circumstances or causes beyond the control of Company.

SECTION 2 – RULES & REGULATIONS

2.9 Allowances for Interruptions in Service (Cont'd)

2.9.5 Cancellation For Service Interruption

Cancellation or termination for service interruption is permitted only if any circuit experiences a single continuous outage of 8 hours or more or cumulative service credits equalling 16 hours in a continuous 12-month period. The right to cancel service under this provision applies only to the single circuit which has been subject to the outage or cumulative service credits.

2.10 Taxes and Fees

2.10.1 All state and local taxes and fees shall be listed as separate line items on the customer's bill.

2.10.2 If a municipality, other political subdivision or local agency of government, or the Commission imposes and collects from the Company a gross receipts tax, occupation tax, license tax, permit fee, franchise fee, or regulatory fee, such taxes and fees shall, as allowed by law, be billed pro rata to the customer receiving service from the Company within the territorial limits of such municipality, other political subdivision or local agency of government.

2.10.3 Service shall not be subject to taxes for a given taxing jurisdiction if the customer provides the Company with written verification, acceptable to the Company and to the relevant taxing jurisdiction, that the customer has been granted a tax exemption.

SECTION 2 – RULES & REGULATIONS

2.11 Returned Check Charge

The charge for a returned check is $25.

2.12 Directory Assistance Call Allowance

Residential customers shall receive six free directory assistance calls per month with two requests per call. Charges will not be levied for Directory Assistance on an individual who suffers from a physical or visual disability that precludes the use of a telephone directory.

2.13 Special Customer Arrangements

In cases where a customer requests special or unique arrangements which may include but are not limited to engineering, conditioning, installation, construction, facilities, assembly, purchase or lease of facilities and/or other special services not offered under this tariff, the Company, may provide the requested services. Appropriate recurring charges and/or nonrecurring charges and other terms and conditions will be developed for the customer for the provisioning of such arrangements.

SECTION 2 – RULES & REGULATIONS

2.14 Termination of Service:

2.14.1 Denial of Service Without Notice

The Company may discontinue service without notice for any of the following reasons:

2.14.1.1 Hazardous Condition. For a condition on the customer's premises determined by the Company to be hazardous.

2.14.1.2 Adverse Effect on Service. Customer's use of equipment in such a manner as to adversely affect the Company's equipment or the Company's service to others.

2.14.1.3 Tampering With Company Property. Customer's tampering with equipment furnished and owned by the Company.

2.14.1.4 Unauthorized Use of Service. Customer's unauthorized use of service by any method which causes hazardous signals over the Company's network.

2.15.1.5 Illegal use of Service. Customer's use of service or equipment in a manner to violate the law.

SECTION 2 – RULES & REGULATIONS

2.14 Termination of Service (cont'd)

2.14.2. Denial of Service Requiring Notice (cont'd)

2.14.2.1 The Company may deny service for any of the following reasons provided it has notified the customer of its intent, in writing, to deny service and has allowed the customer a reasonable time of not less than 10 days in which to remove the cause for denial:

2.14.2.1.A Non-compliance with Regulations. For violation of or non-compliance with regulations contained in Code of Maryland Regulations 20.45.04, or for violation of or non-compliance with the Company's tariffs on file with the Commission.

2.14.2.1.B Failure on Contractual Obligations. For failure of the customer to fulfill his contractual obligations for service or facilities subject to regulation by the Maryland Public Service Commission.

2.14.2.1.C Refusal of Access. For failure of the customer to permit the Company to have reasonable access to its equipment.

SECTION 2 – RULES & REGULATIONS

2.14 Termination of Service(cont'd)

2.14.2. Denial of Service Requiring Notice (cont'd)

2.14.2.1.D Non-payment of Bill.

2.14.2.1.D.1 For non-payment of a bill for service, provided that the Company has made a reasonable attempt to effect collection and has given the customer written notice of its intent to deny service if settlement of his account is not made and provided the customer has at least 5 days, excluding Sundays and holidays in which to make settlement before his service is denied.

2.14.2.1.D.2 In cases of bankruptcy, receivership, abandonment of service, or abnormal toll usage not covered adequately by a security deposit, less than 5 days notice may be given if necessary to protect the Company's revenues.

2.14.2.1.D.3 Except in cases where a prior promise to pay has not been kept or bankruptcy, receivership, abandoned service, or abnormal toll usage is involved, the Company may not deny service on the day preceding any day on which it is not prepared to accept payment of the amount due and to reconnect service.

SECTION 2 – RULES & REGULATIONS

2.14 Termination of Service (cont'd)

2.14.2. Denial of Service Requiring Notice (cont'd)

2.14.2.1.D Non-payment of Bill (cont'd)

2.14.2.1.D.4 Failure to Comply with Service Conditions. For failure of the customer to furnish the service equipment, permits, certificates, or rights-of-way, specified by the Company as a condition to obtaining service, or if the equipment or permissions are withdrawn or terminated.

2.14.2.1.D.5 Failure to Comply with Municipal Ordinances. For failure to comply with municipal ordinances or other laws pertaining to telephone service.

2.14.2.1.D.6 Failure to Pay Increased Deposit Required. For failure of the customer to pay an increased security deposit when warranted by the Company to protect its revenue in accordance with Code of Maryland Regulations 20.45.04.

SECTION 2 – RULES & REGULATIONS

2.14 Termination of Service (cont'd)

2.14.3. Insufficient Reasons for Denial of Service

2.14.3.1 The following may not constitute cause for refusal of service to a present or prospective customer:

2.14.3.1.A Failure of a prior customer to pay for service at the premises to be serviced;

2.14.3.1.B Failure to pay for a different class of service for a different entity;

2.14.3.1.C Failure to pay the bill of another customer as guarantor of that bill;

2.14.3.1.D Failure to pay directory advertising charges;

2.14.3.1.E Failure to pay an undercharge as described in the Code of Maryland Regulations 20.45.04.01.D.(2); or

SECTION 2 – RULES & REGULATIONS

2.14 Termination of Service (cont'd)

2.14.3. Insufficient Reasons for Denial of Service (cont'd)

2.14.3.1 The following may not constitute cause for refusal of service to a present or prospective customer:

2.14.3.1.F Failure to pay an outstanding bill that is over 7 years old, unless the:

2.14.3.1.F.1 Customer signed an agreement to pay the outstanding bill before the expiration of this period;

2.14.3.1.F.2 Outstanding bill is for service obtained by the customer by means of tampering with equipment furnished and owned by the Company or by unauthorized use of service by any method; or

2.14.3.1.F.3 Outstanding bill is for service obtained by the customer by means of an application made:

(i) In a fictitious name,

(ii) In the name of an individual who is not an occupant of the dwelling unit, without disclosure of the individual's actual address,

(iii) In the name of a third party without disclosing that fact or without bonafide authority from the third party, or

(iv) Without disclosure of a material fact or by misrepresentations of a material fact.

SECTION 2 – RULES & REGULATIONS

2.14 Termination of Service (cont'd)

2.14.3. Insufficient Reasons for Denial of Service (cont'd)

2.14.3.2 This regulation applies to both residential and nonresidential classes of service.

2.15 Unlawful Use of Service

2.15.1 Service shall not be used for any purpose in violation of law or for any use as to which the customer has not obtained all required governmental approvals, authorizations, licenses, consents, and permits. The Company shall refuse to furnish service to an applicant or shall disconnect the service without notice of a customer when:

2.15.1.1 An order shall be issued, signed by a judge finding that probable cause exists to believe that the use made or to be made of the service is prohibited by law, or

2.15.1.2 The Company is notified in writing by a law enforcement agency acting within its jurisdiction that any facility furnished by the Company is being used or will be used for the purpose of transmitting or receiving gambling information in interstate or foreign commerce in violation of the law.

2.15.2 If service has been physically disconnected by law enforcement officials at the customer's premises and if there is not presented to the Company the written finding of a judge, then upon written or verbal request of the subscriber, and agreement to pay restoral of service charges and other applicable service charges, the Company shall promptly restore such service.

SECTION 2 – RULES & REGULATIONS

2.16 Interference with or Impairment of Service

Service shall not be used in any manner that interferes with other persons in the use of their service, prevents other persons from using their service, or otherwise impairs the quality of service to other customers. The Company may require a customer to immediately shut down its transmission of signals if said transmission is causing interference to others or impairing the service of others.

2.17 Telephone Solicitation by Use of Recorded Messages

2.17.1 Service shall not be used for the purpose of solicitation by recorded messages when such solicitation occurs as a result of unrequested or unsolicited calls initiated by the solicitor by means of automatic dialing devices. Such devices, with storage capability of numbers to be called or a random or sequential number generator that produces numbers to be called and having the capability, working alone or in conjunction with other equipment, of disseminating a prerecorded message to the number called and which are calling party or called party controlled, are expressly prohibited.

2.18 Incomplete Calls

2.18.1 There shall be no charge for incomplete calls. No charge will be levied for unanswered calls. Customers will receive credit for calls placed to a wrong number if the customer notifies the Company of the error.

2.19 Overcharge/Undercharge

2.19.1 Overcharge/undercharge provisions will be in accordance with COMAR 20.45.04.01.

2.19.2 When a customer has been overcharged, the amount shall be refunded or credited to the customer.

SECTION 3 - DESCRIPTION OF SERVICES

3.1 Trial Services

3.1.1 The Company may offer new services, not otherwise tariffed, from time to time on a trial basis subject to Commission approval. Such trials are limited to a maximum of six months at which time the trial offering must be either withdrawn or made available on permanent basis.

3.2 Promotional Offerings

3.2.1 The Company may offer existing services on a promotional basis, subject to Commission approval, that provides special rates, terms, or conditions of service. Promotional offerings are limited to a maximum of six months at which time the promotional offering must be either withdrawn or made available on a permanent basis. All promotions, regardless of whether services are given away for free, are subject to Commission approval.

3.3 Individual Case Basis ("ICB") Offerings

3.3.1 The tariff may specify "ICB pricing" for a service. The Company may or may not be an equivalent service in the tariff for which there is a tariffed rate, and the quoted ICB rates may be different than the tariffed rates. An ICB must be provided under contract to a customer and the contract filed (can be under seal) with the Commission. All customers have non-discriminatory access to requesting the service under an ICB rate.

SECTION 3 - DESCRIPTION OF SERVICES

3.4 Message Rate Exchange Service

3.4.1 Message Rate Exchange Service offers unlimited calling within the local calling area for one monthly recurring charge, plus a per message charge for each call placed.

3.5 Measured Rate Exchange Service

3.5.1 Measured Rate Exchange Service offers unlimited calling within the local calling area for a monthly recurring charge, plus a per minute charge for each minute of local calling service used.

3.6 ISDN PRI Measured Rate Service

3.6.1 ISDN PRI Measured Rate Service offers a Digital T1 Facility channelized for data use only (not voice ready). Calls within the predefined local calling area are subject to usage based charges. Up to 24 B-channels may be used from a single T1 facility. Each T1 for this service comes with a minimum of 14 B-channels and 1 D-channel. More bandwidth may be channelized at the request of the customer, for which services rates and surcharges apply in accordance with this tariff.

3.7 Digital Data Service

3.7.1 Digital Data Service provides a dedicated point to point digital circuit, with bandwidth ranging from 56Kbs to 1.544 Mbs, that does not provide dial tone service. Digital Service T-1 required for ciruits of 512K or less. Data Only T-1 required for circuits greater than 512K or an endpoint with multiple circuits whose total bandwidth sum to greater than 512K. The circuit is used to enable communications transport between two or more points. Digital Data Service is available to Customers in selected US LEC served LATA.

SECTION 3 - DESCRIPTION OF SERVICES

3.8 Frame Relay Service

3.8.1 Frame Relay Service (FRS) is a data communications service that provides for data connectivity between/among widely distributed locations. FRS routes Frame Relay Data Units between a customer's premises, using assigned Permanent Virtual Circuits (PVCs) provided via a dedicated Frame Relay Subscriber Network Access Line and a switch dedicated to FRS and other high-speed data services.

A Frame Relay Subscriber Network Access Line (NAL) is a dedicated digital line, utilizing the Frame Relay User to Network Interface standards. A Frame Relay Subscriber NAL provides connectivity from the customer's premises to the telephone company hub or serving wire center. The effective data rate of the line is 56/64 kbps for narrowband connectivity and 1.536 Mbps for wideband connectivity.

Each Frame Relay Data Unit is routed through the Frame Relay Network with an address that specifies the PVC connection. A PVC connection is a virtual connection between two Frame Relay Subscriber NALs, e.g. customer's premises.

Each Frame Relay Subscriber NAL is assigned at least one PVC. However, a customer may elect to subscribe to multiple PVCs. Additional PVCs are provisioned over the Frame Relay Subscriber NAL via address mapping, which enable the customer to route Frame Relay Data Units via virtual connections to multiple locations.

Frame Relay Service is available only where technically feasible and where US LEC has adequate facilities in place to provision it.

SECTION 3 - DESCRIPTION OF SERVICES

3.9 Connectivity and Co-location Service (CCS)

3.9.1 The Company offers physical rack space and high bandwidth connection for a customer-owned router to communicate to a server farm or server rack offsite. Subscription to this service requires subscription to T-1 or PRI service to the router or routers, as well as applicable entrance facility charges. This gives the customer the security of a US LEC-maintained high bandwidth connection, and local exchange service. Zone A denotes location of customer-owned equipment within the Company's wire center, while Zone B denotes location of customer-owned equipment on the Company's network, but outside of the Company's wire center.

3.10 Digital Subscriber Line (DSL)

3.10.1 Digital Subscriber Line Service (DSL) is a data communications service that provides for high-speed connectivity using Symmetric Digital Subscriber Line (SDSL) and ISDN Digital Subscriber Line (IDSL) technology. SDSL provides the customer the ability to transmit data to (upstream rate) and receive data from (downstream rate) a DSL Access Service Connection Point at the same speed using existing copper facilities. A DSL Access Service Connection Point is an interconnection point designated by the company that aggregates data traffic from and to Company SDSL-equipped serving wire centers. SDSL service may be used for simultaneous voice and data communications.

Five types of DSL service are available based on the synchronous speeds chosen by the customer. Peak speeds are not guaranteed by the Company due to factors that may effect the actual speeds delivered, including the SDSL Access Service customer's distance from the company's serving wire center, condition of the existing copper facilities, and the limitations in the telecommunications service provider's network design.

DSL Service will be provided over existing local exchange service facilities. When the customer orders DSL Service, the rates and charges are in addition to any rates and regulations that apply for the associated local service line provided under the terms and conditions of this tariff.

SECTION 3 - DESCRIPTION OF SERVICES

3.11 Asynchronous Transfer Mode (ATM) Service

3.11.1 US LEC's Asynchronous Transfer Mode (ATM) Service is a data transport and traffic prioritization technology that can integrate data, voice, and video over the same communications channel. Uniquely, ATM enables the transmission of multiple kinds of data at different speeds and with different prioritizations over a single User Network Interface (UNI = ATM Port). With US LEC's ATM service, users of local ATM Customer Premises Equipment (CPE) switches can connect to other ATM switches over a wide area *without* protocol conversions. Additionally, US LEC ATM services are mileage independent and offer significant network redundancy and resiliency.

ATM is a technology based upon international standards for cell-switched, connection-oriented data transmission allowing voice, video, and data communications over a single virtual network. ATM represents a specific implementation of cell relay, where the data packets are known as cells and have a fixed length of 53 octets.

Once the connection is made, information in the header of each cell is used to route the cell to its destination. All the nodes on the network are connected via one or more switched nodes, which route the cells to their destinations. The ATM switch (CPE), as required, allocates the total available transmission bandwidth. Because of the fixed-cell-length transmission can be carried out simultaneously for a number of cells. ATM guarantees service and provides Quality of Service options (QoS) for customers.

The use of these fixed-length cells allows ATM to support a range of applications and traffic types. Cells are statistically multiplexed and network capacity is dynamically allocated based on the real-time needs of the applications supported. This implies that a single port can be provisioned with aggregate PVC Peak Cell Rates exceeding the port size, but not exceeding the aggregate PVC Sustained Cell Rates.

SECTION 3 - DESCRIPTION OF SERVICES

3.11 Asynchronous Transfer Mode (ATM) Service

3.11.1 Various applications require different service categories, or classes of service depending on their basic characteristics and requirements. US LEC offers customers a variety of choices to suit their needs: CBR, VBR-RT, VBR-NRT and UBR.

CBR (Constant Bit Rate) - Supported by a constant cell transfer rate, CBR is designed for applications that require stable bandwidth levels and low latency (in other words, those which *cannot* tolerate variances in delay or cell loss). Examples of applications that require CBR service include boardroom quality video and private line circuit emulation.

VBR-RT (Variable Bit Rate – Real Time) - VBR-RT is designed for applications that require stable bandwidth levels and low-to-medium latency (in other words, those which *cannot* tolerate variances in delay or cell loss). Examples of applications that require VBR-RT service include desktop quality video and packetized voice applications. This service class can also carry SNA traffic. VBR-RT has a less stringent variance tolerance than CBR, and demands less significant resources from the ATM network than CBR. In effect, VBR-RT offers customers services closer to CBR quality, in a more cost-effective manner.

VBR-NRT (Variable Bit Rate – Non-Real Time) - The VBR-NRT service category is designed for servicing bursty data applications such as E-mail and other LAN data applications. As such, VBR is often used with delay and loss-sensitive data, as well as packetized voice and video. This service class can also carry SNA traffic if the CDV is set within acceptable limits.

UBR (Unspecified Bit Rate) - Unspecified Bit Rate (UBR) service is designed for data applications that do not require guarantees on when or if the data is delivered. With UBR the Sustained Cell Rate (SCR) is set to zero and all traffic is tagged. The customer can choose the Peak Cell Rate value and is charged based on this value.

SECTION 3 - DESCRIPTION OF SERVICES

Reserved For Future Use

SECTION 4 - RATES AND CHARGES

4.1 Calculation of Rates

4.1.1 Rates for service are based on airline mileage between rate centers of the calling and called stations. The location of rate centers is based on information provided by Bell Atlantic - Maryland, Inc. Mileage is calculated using the Vertical and Horizontal (V&H) coordinate system from the National Exchange Carriers Association Tariff F.C.C. No. 4.

4.1.2 Timing of calls begins when the call is answered at the called station. Different rates may apply depending on the time of day or day of week the call is made. Calls originating in one time period and terminating in another time period will be billed according to the rates in effect during each portion of the call.

4.2 Dial-Around Compensation Surcharge for Payphones

4.2.1 A Dial-Around Compensation Surcharge applies to all completed consumer intrastate long distance calls placed from a public/semi-public payphone which are not paid on a sent paid basis. The Surcharge applies to:

A. Calling card service
B. Collect calls
C. Third party billed
D. Directory Assistance calls
E. Pre-paid card service

4.2.2 The Surcharge does not apply to:

A. Calls paid for by inserting coins
B. Calls placed from stations other than public/semi-public payphones
C. Calls placed to the Maryland Telecommunications Relay Service for the hearing impaired
D. Any calls for which the payphone provider is otherwise compensated pursuant to contract with the carrier.

SECTION 4 - RATES AND CHARGES

4.2 Dial-Around Compensation Surcharge for Payphones (cont'd)

4.2.3 The Dial Around Compensation Surcharge rate is $.25 per call.

4.2.4 If the Company provides service under a term plan (1,3,5 years, etc.) and (1) automatically renews the contract and (2) imposes a penalty for early cancellation by the customer, then the customer shall be notified 60 days in advance of the customer's current contract expiration date.

SECTION 5 - EXCHANGE ACCESS SERVICE

5.1 General

The Company's Local Telephone Service provides a Customer with the ability to connect to the company's switching network which enables the Customer to:

- place or receive calls to any calling Station in the local calling area, as defined herein;
- access basic 911 Emergency Service;
- access the interexchange carrier selected by the Customer for interLATA, intraLATA, interstate or international calling;
- access Operator Services;
- access Directory Assistance;
- place or receive calls to 800 telephone numbers;
- access Telephone Relay Service.

The Company's service can not be used to originate calls to other telephone companies caller-paid information services (e.g., 900, 976). Calls to those numbers and other numbers used for caller-paid information services will be blocked by the Company's switch.

Company's local exchange service allows the Customer unlimited access to stations on the public switched network within the Customer's basic local calling area, i.e., the local calling area as specified in the Incumbent Local Exchange Carrier's tariff in effect and as amended from time to time in the future.

Each Exchange Access Service is available on a "Full" service basis, whereby service is delivered to demarcation/connection block at the customer's premises.

The following Exchange Access Service Options are offered:

Message Rate Service
Measured Rate Service

SECTION 5 - EXCHANGE ACCESS SERVICE

5.2 Explanation of Rate Schedules

Three rate schedules are presented for each Exchange Access Service offered. Except for the central office exceptions listed below, a customer's rate schedule is dependent on the distance between the customer's dominant serving wire center and a US LEC switch.

Each rate schedule is airline mileage based as follows:

Schedule 1: Customers whose serving wire centers are 0 – 10 miles from a US LEC switch.

Schedule 2: Customers whose serving wire centers are 11– 16 miles from a US LEC switch.

Schedule 3: Customers whose serving wire centers are greater than 16 miles from a US LEC switch.

5.3 Local Calling Areas

Exchange or Zone	Exchange and Zones included in Exchange Area
Aberdeen	Aberdeen, Bel Air, Churchville, Darlington, Edgewood, Fallston, Havre de Grace, Perryville and Port Deposit exchanges, and the Fork zone
Annapolis	Annapolis, Crofton, Millersville, Odenton, Sherwood Forest and West River exchanges, and the Armiger-Gibson Island, Brooklyn Park-Linthicum, Glen Burnie, Severn and Severna Park zones.
Arbutus Zone	All zones of the BMEA and the Columbia and Sykesville exchanges

SECTION 5 - EXCHANGE ACCESS SERVICE

5.3 Local Calling Areas (cont'd)

Exchange or Zone	Exchange and Zones included in Exchange Area
Armiger-Gibson Island Zone	All zones of the BMEA and the Annapolis exchange
Ashton	Ashton, Columbia, Damascus, Gaithersburg, Glenwood and Laurel exchanges, and the Berwyn, Bethesda, Hyattsville, Kensington, Layhill, Rockville, Silver Spring and Washington DC zones. In addition, telephones in the Ellicott City Zone are included in the exchange area of telephones bearing the central office code of 854 of the Ashton Exchange
Baltimore Zone	All zones of the BMEA and the Columbia, Fallston, Sparks-Glencoe, Sykesville and Worthington exchanges
Bel Air	Bel Air, Aberdeen, Cardiff, Churchville, Darlington, Edgewood, Fallston, Havre de Grace and Jarrettsville exchanges, and the Fork, Parkville and Towson zones.
Berlin	Berlin, Bishopville, Ocean City, Pocomoke, Salisbury, Snow Hill and Willards.
Berwyn Zone	All zones of the WMEA and the Ashton, Columbia, Crofton and Laurel exchanges, In addition telephone services bearing the central office codes 410-427, 792, 797, 813, 862 and 880 of the Waterloo zone are also included in the exchange area of customers with telephone services bearing the central office codes 301-206, 369, 419, 886 and 953 of the Berwyn zone.

SECTION 5 - EXCHANGE ACCESS SERVICE

5.3 Local Calling Areas (cont'd)

Exchange or Zone	Exchange and Zones included in Exchange Area
Bethesda Zone	All zones of the WMEA and the Ashton, Damascus, Gaithersburg and Laurel exchanges
Bishopville	Bishopville, Berlin, Ocean City, Salisbury, Selbyville, Del., Snow Hill and Willards
Bittinger	Bittinger, Friendsville-Accident, Grantsville, Lonaconing, Oakland and Westernport
Bowie-Glenn Dale Zone	All zones of the WMEA and the Crofton, Laurel, Millersville, Odenton and West River exchanges. In addition, telephone services bearing the central office codes 410-519 or 551 of the Severn zone and 410-793 of the Severna Park zone are also included in the exchange area of customers with telephone services bearing the central office codes 301-261, 621, 677, 858, 912 or 970 of the Bowie-Glenn Dale zone.
Brandywine	Brandywine, Hughesville and Waldorf exchanges, and the capitol Heights, Clinton, Marlboro and Oxon Hill zones.
Brooklyn Park-Linthicum Zone	All zones of the BMEA and the Annapolis, Columbia, Millersville, Odenton, Sherwood Forest and Sykesville exchanges.
Brunswick	Brunswick, Buckeystown, Fredrick, Keedysville and Middletown.
Buckeystown	Buckeystown, Brunswick, Frederick, New Market and Poolesville

SECTION 5 - EXCHANGE ACCESS SERVICE

5.3 Local Calling Areas (cont'd)

Exchange or Zone	Exchange and Zones included in Exchange Area
Cambridge	Cambridge, Hurlock, Oxford, St. Michaels, Tilghman, Trappe, Vienna and Wingate
Capitol Heights Zone	All zones of the WMEA and the Brandywine, Indian Head, Laurel, Waldorf and West River exchanges.
Cardiff	Bel Air, Cardiff, Darlington, Delta, Pa., Fawn Grove, Pa., Jarrettsville and Port Deposit
Catonsville Zone	All zones in the BMEA and the Columbia, Glenwood, Laurel and Sykesville exchanges
Cecilton	Cecilton, Chesapeake city, Elkton, Galena, Still Pond and Warwick
Centreville	Centreville, Chestertown, Church Hill, Easton, Greensboro, Hillsboro, Queenstown, Ridgely, Rock Hall, Stevensville and Sudlersville
Chase Zone	All zones o f the BMEA and the Edgewood exchange
Chesapeake City	Cecilton, Chesapeake City, Elkton and Warwick
Chesterton	Centerville, Chestertown, Church Hill, Galena, Millington, Rock Hall, Still Pond and Sudlersville
Church Hill	Centerville, Chestertown, Church Hill, Millington and Sudlersville
Churchville	Aberdeen, Bel Air, Churchville, Darlington, Edgewood, Fallston, and Havre de Grace
Clear Spring	Clear Spring, Hagerstown, Hancock and Williamsport

SECTION 5 - EXCHANGE ACCESS SERVICE

5.3 Local Calling Areas (cont'd)

Exchange or Zone	Exchange and Zones included in Exchange Area
Clinton Zone	All zones of the WMEA and the Brandywine and Waldorf exchanges
Cockeysville Zone	All zones of the BMEA and the Hampstead, Jarretts-Jarretsville, Parkton, Sparks-Glencoe, Sykesville and Worthington exchanges.
Columbia	Ashton, Columbia, Glenwood and Laurel exchanges and the Arbutus, Baltimore, Berwyn, Brooklyn Park-Linthicum, Catonsville, Elkridge, Ellicott City, Glen Burnie, Layhill, Pikesville, Randallstown, Silver Spring, Towson, Waterloo and Woodlawn zones
Crisfield	Crisfield, Marion, Pocomoke, Princess Anne, Salisbury and Smith Island
Crofton	Annapolis, Crofton, Millersville, Odenton, Sherwood Forest and west River exchanges, and the Berwyn, Bowie-Glenn Dale, Glen Burnie, Hyattsville, Severn Severna Park zones.
Cumberland	Cumberland, Flintstone-Oldtown, Frostburg, Grantsville, Hewitt, Pa., Lonaconing, McCoole, Mt. Savage, Ridgely, W. Va., State Line, Pa., Wellersburg, Pa., and Westerport
Damascus	Ashton, Damascus, Frederick, Gaithersburg, Glenwood, My. Airy and New Market exchanges, and the Bethesda, Kensington, Layhill, Rockville and Silver Spring zones.
Darlington	Aberdeen, Bel Air, Cardiff, Churchville, Darlington, Havre de Grace and Port Deposit

SECTION 5 - EXCHANGE ACCESS SERVICE

5.3 Local Calling Areas (cont'd)

Exchange or Zone	Exchange and Zones included in Exchange Area
Deal Island	Deal Island, Nanticoke, Princess Anne, Salisbury, Smith Island and Vienna
Delmar	Delmar, Del., Delmar, Md., Laurel, Del., Nanticoke, Salisbury, Sharptown and Willards
Denton	Denton, Easton, Federalsburg, Greensboro, Hillsboro, Preston and Ridgely
Dundalk Zone	All zones of the BMEA and the Edgewood exchange.
Easton	Centreville, Denton, Easton, Federalsburg, Greensboro, Hillsboro, Oxford, Preston, Queenstown, Ridgely, St. Michaels, Stevensville, Tilghman and Trappe.
Edgewood	Aberdeen, Bel Air, Churchville, Edgewood, Fallston and Havre de Grace exchanges, and the Chase, Dundalk, Essex, Fork, Parkville, Sparrows Point and Towson zones.
Elkridge Zone	All zones in the BMEA and the Columbia, Laurel Odenton and Sykesville exchanges
Elkton	Cecilton, Chesapeake City, Elkton, North East, Perryville, Port Deposit and Warwick
Ellicott City Zone	All zones of the BMEA and the Columbia, Glenwood, Laurel and Sykesville exchanges. In addition, telephones bearing the central office code of 854 of the Ashton exchange are included.

SECTION 5 - EXCHANGE ACCESS SERVICE

5.3 Local Calling Areas (cont'd)

Exchange or Zone	Exchange and Zones included in Exchange Area
Emmitsburg	Emmitsburg, Fairfield, Pa., Frederick, Highfield and Thurmot
Essex Zone	All zones of the BMEA and the Edgewood exchange
Fallston	Aberdeen, Bel Air, Churchville, Edgewood, Fallston, Havre de Grace, and Jarrettsville exchanges, and the Baltimore, Fork, Parkville and Towson exchanges
Federalsburg	Denton, Easton, Federalsburg, Hurlock, Preston and Sharptown
Flintstone-Oldtown	Cumberland, Flintstone-Oldtown, Hancock, Hewitt, Pa., Ridgely, W Va., State Line, Pa.
Fork Zone	All zones of the BMEA and the Aberdeen, Bel Air, Edgewood, Fallston, Jarrettsville and Sparks-Glencoe exchanges.
Frederick	Brunswick, Buckeystown, Damascus, Emmitsburg, Frederick, Middletown, Mt. Airy, Myersville, New Market, Thurmont, Union Bridge and Walkersville
Friendsville-Accident	Bittinger, Friendsville-Accident, Grantsville and Oakland
Frostburg	Cumberland, Frostburg, Grantsville, Lonaconing, Mt. Saveage and Wellersburg, Pa.
Gaithersburg	Ashton, Damascus, Gaithersburg and Poolesville exchanges and the Bethesda, Kensington, Layhill, Rockville, Silver Spring and Washington, D.C., zones

SECTION 5 - EXCHANGE ACCESS SERVICE

5.3 Local Calling Areas (cont'd)

Exchange or Zone	Exchange and Zones included in Exchange Area
Galena	Cecilton, Chestertown, Galena, Millington, Still Pond and Warwick
Glen Burnie Zone	All zones of the BMEA and the Annapolis, Columbia, Crofton, Laurel, Millersville, Odenton, Sherwood Forest and Sykesville exchanges
Glenwood	Ashton, Columbia, Damascus, Glenwood, Mt. Airy, and Sykesville exchanges and the Catonsville, Ellicott City and Woodlawn zones
Grantsville	Bittinger, Cumberland, Friendsville-Accident, Frostburg, Grantsville, Lonaconing, Mt. Savage and Salisbury, Pa.
Greensboro	Centerville, Denton, Easton, Greensboro, Hillsboro, Ridgely and Sudlersville
Hagerstown	Clear Spring, Hagerstown, Hancock, Keedysville, Falling waters, W Va., Myersville, Smithsburg and Williamsport
Hampstead	Hampstead, Parkton, Silver Run, Sparks-Glencoe, Westminster and Worthington Exchanges, and the Cockeysville, Pikesville, Reistertown, Towson zones.
Hancock	Berkeley Springs, W. Va., Clear Spring, Flintstone-Oldtown, Hagerstown, Hancock, Needmore, Pa., and Warfordsburg, Pa.
Havre de Grace	Aberdeen, Bel Air, Churchville, Darlington, Edgewood, Fallston, Havre de Grace, Perryville and PortDeposit

SECTION 5 - EXCHANGE ACCESS SERVICE

5.3 Local Calling Areas (cont'd)

Exchange or Zone	Exchange and Zones included in Exchange Area
Highfield	Blue Ridge Summit, Pa., Emmitsburg, Highfield, Myersville, Smithsburg, Thurmont and Waynesboro, Pa.
Hillsboro	Centreville, Denton, Easton, Greensboro, Hillsboro, Ridgely and Queenstown
Hughesville	Brandywine, Hughesville, La Plata, Mechanicsville, Tompkinsville and Waldorf
Hurlock	Cambridge, Federalsburg, Hurlock, Preston, Sharptown, Trappe and Vienna
Hyattsville Zone	All zones of the WMEA and the Ashton, Crofton, Laurel and West River exchanges
Indian Head	Indian Head, La Plata, Nanjemoy and Waldorf exchanges, and the Capitol Heights and Oxon Hill zones
Jarrettsville	Bel Air, Cardiff, Fallston, Jarrettsville, Parkton and Sparks-Glencoe exchanges, and the Cockeysville, Fork Parkville and Towson zones
Keedysville	Brunswick, Hagerstown, Keedysville, Middletown, Myersville and Williamsport
Kensington Zone	All zones of the WMEA and the Ashton, Damascus, Gaithersburg and Laurel exchanges.

SECTION 5 - EXCHANGE ACCESS SERVICE

5.3 Local Calling Areas (cont'd)

Exchange or Zone	Exchange and Zones included in Exchange Area
Kitzmiller	Elk Garden, W Va., Kitzmiller, Oakland and Westernport
La Plata	Hughesville, Indian Head, La Plata, Mechanicsville, Nanjemoy, Tomkinsville and Waldorf.
Laurel	Ashton, Columbia, Laurel, Millersville and Odenton exchanges, and the Berwyn, Bethesda, Bowie-Glenn Dale, capitol Heights, Catonsville, Elkridge, Ellicott City, Glen Burnie, Hyattsville, Kensington, Layhill, Marlboro, Severn, Silver Spring, Washington DC, and Waterloo zones.
Layhill Zone	All zones of the WMEA and the Ashton, Columbia, Damascus, Gaithersburg and Laurel exchanges
Leonardtown	Leonardtown, Lexington Park-Great Mills, Mechanicsville, Ridge and Tompkinsville
Lexington Park-Great Mills	Leonardtown, Lexington Park-Great Mills, Mechanicsville, Ridge and Solomons
Lonaconing	Bittinger, Cumberland, Frostburg, Grantsville, Lonaconing, McCoole and Westernport
Marion	Crisfield, Marion, Pocomoke, Princess Anne and Salisbury
Marlboro Zone	All zones of the WMEA and the Brandywine, Laurel, North Beach and West River Exchanges
McCoole	Cumberland, Keyser, W. Va., Lonaconing, McCoole, Piedmont, W. Va., and Westernport

SECTION 5 - EXCHANGE ACCESS SERVICE

5.3 Local Calling Areas (cont'd)

Exchange or Zone	Exchange and Zones included in Exchange Area
Mechanicsville	Hughesville, La Plata, Leonardtown, Lexington Park-Great Mills, Mechanicsville and Tompkinsville
Middletown	Brunswick, Frederick, Keedysville, Middletown and Myersville
Millersville	Annapolis, Crofton, Laurel, Millersville, Odenton and Sherwood Forest exchanges, and the Bowie-Glenn Dale, Brooklyn Park-Linthicum, Glen Burnie, Severn, Severna Park and Waterloo zones.
Millington	Chestertown, Church Hill, Galena, Millington, Still Pond, Sudlersville and Warwick
Mt. Airy	Damascus, Frederick, Glenwood, Mt. Airy, New Market and Sykesville
Mt. Savage	Cumberland, Frostburg, Grantsville, Mt. Savage and Wellersburg, Pa.
Myersville	Frederick, Hagerstown, Highfield, Keedysville, Middletown, Myersville, Smithsburg and Thurmont
Nanjemoy	Indian Head, La Plata, Nanjemoy and Waldorf
Nanticoke	Deal Island, Delmar, Nanticoke, Princess Anne, Salisbury and Vienna
New Market	Buckeystown, Damascus, Frederick, Mt. Airy and New Market
New Windsor	New Windsor, Sykesville, Union Bridge and Westminster

SECTION 5 - EXCHANGE ACCESS SERVICE

5.3 Local Calling Areas (cont'd)

Exchange or Zone	Exchange and Zones included in Exchange Area
North Beach	North Beach, Prince Frederick, Solomons and West River exchanges and the Marlboro zone
North East	Elkton, North East, Perryville and Port Deposit
Oakland	Bittinger, Friendsville-Accident, Gormania, w. Va., Kitzmiller, Oakland and Westernport
Ocean City	Berlin, Bishopville, Ocean City, Salisbury, Snow Hill and Willards
Odenton	Annapolis, Crofton, Laurel, Millersville, Odenton and Sherwood Forest exchanges, and the Bowie-Glen Dale, Brooklyn Park-Linthicum, Elkridge, Glen Burnie, Severn, Severna Park and Waterloo zones.
Oxford	Cambridge, Easton, Oxford, St. Michaels and Trappe
Oxon Hill Zone	All zones of the WMEA and the Brandywine, Indian Head and Waldorf exchanges
Parkton	Hampstead, Jarrettsville, Parkton and Sparks-Glencoe exchanges, and the Cockeysville and Towson zones
Parkville Zone	All zones of BMEA and the Bel Air, Edgewood, Fellston, Jarrettsville and Sparks-Glencoe exchanges
Pocomoke	Berlin, Crisfield, Marion, Pocomoke, Princess Anne, Salisbury, Snow Hill and Temperanceville, Va.

SECTION 5 - EXCHANGE ACCESS SERVICE

5.3 Local Calling Areas (cont'd)

Exchange or Zone	Exchange and Zones included in Exchange Area
Poolesville	Buckeystown, Gaithersburg and Poolesville exchanges and the Rockville zone
Port Deposit	Aberdeen, Cardiff, Darlington, Elkton, Havre de Grace, North East, Perryville and Port Deposit
Preston	Denton, Easton, Federalsburg, Hurlock, Preston and Trappe
Prince Frederick	North Beach, Prince Frederick and Solomons
Princess Anne	Crisfield, deal Island, Marion, Nanticoke, Pocomoke, Princess Anne, Salisbury, Smith Island and Snow Hill
Queenstown	Centreville, Easton, Hillsboro, Queenstown, Rock Hall, St., Michaels and Stevensville
Randallstown Zone	All zones o the BMEA and the Columbia, Sykes-Sykesville and Worthington exchanges
Reistertown Zone	All zones of the BMEA and the Hampstead, Sparks-Glencoe, Sykesville, Westminster and Worthington exchanges
Ridge	Leonardtown, Lexington Park-Great Mills and Ridge
Ridgely	Centreville, Denton, Easton, Greensboro, Hillsboro and Ridgely
Rock Hall	Centreville, Chestertown, Queenstown, Rock Hall and Stevensville

SECTION 5 - EXCHANGE ACCESS SERVICE

5.3 Local Calling Areas (cont'd)

Exchange or Zone	Exchange and Zones included in Exchange Area
Rockville Zone	All zones of the WMEA and the Ashton, Damascus, Gaithersburg and Poolesville exchanges
St. Michaels	Cambridge, Easton, Oxford, Queenstown, St. Michaels, Stevensville and Tilghman
Salisbury	Berlin, Bishopville, Crisfield, Deal Island, Delmar, del., Delmar, Md., Marion, Nanticoke Ocean City, Pocomoke, Princess Anne, Salisbury, Sharptown, Snow Hill, Vienna and Willards
Severn Zone	All zones of the BMEA and the Annapolis, Crofton, Laurel, Millersville, Odenton and Sherwood Forest exchanges. In addition, telephones bearing the central office codes 301-261, 621, 677, 858, 912 and 970 of the Bowie-Glenn Dale zone are also included in the exchange area of customers with telephones bearing central office codes 410-519 and 551 of the Severn zone.
Severna Park	All zones of the BMEA and the Annapolis, Crofton, Millersville, Odenton and Sherwood Forest exchanges. In addition, telephones bearing the central office codes 301-261, 621, 677, 858, 912 and 970 of the Bowie-Glenn Dale zone are also included in the exchange area of customers with telephones bearing the central office codes 410-793 of the Severna Park zone
Sharptown	Delmar, Del., Delmar, Md., Federalsburg, Hurlock, Salisbury, Sharptown and Vienna
Sherwood Forest	Annapolis, Crofton, Millersville, Odenton and Sherwood Forest exchanges and the Brooklyn Park-Linthicum, Glen Burnie, Severn and Severna Park exchanges

SECTION 5 - EXCHANGE ACCESS SERVICE

5.3 Local Calling Areas (cont'd)

Exchange or Zone	Exchange and Zones included in Exchange Area
Silver Run	Hampstead, Littlestown, Pa., Silver Run, Taneytown and Westminster
Silver Spring	All zones of the WMEA and the Ashton, Columbia Zone
Smith Island	Crisfield, Deal Island, Princess Anne and Smith Island
Smithsburg	Hagerstown, Highfield, Myersville and Smithsburg
Snow Hill	Berlin, Bishopville, Ocean City, Pocomoke, Princess Anne, Salisbury, Snow Hill and Willards
Solomons	Lexington Park-Great Mills, North beach, Prince Frederick and Solomons
Sparks-Glencoe	Hampstead, Jarrettsville, Parkton, Sparks-Glencoe and Worthington exchanges, and the Baltimore, Cockeysville, Fork, Parkville, Reistertown and Towson zones
Sparrows Point Zone	All zones of the BMEA and the Edgewood exchange
Stevensville	Centreville, Easton, Queenstown, Galena, Millington and Still Pond.
Still Pond	Cecilton, Chestertown, Church Hill, Greensboro, Millington and Sudlersville
Sudlersville	Centreville, Chestertown, Church Hill, Greensboro, Millington and Sudlersville

SECTION 5 - EXCHANGE ACCESS SERVICE

5.3 Local Calling Areas (cont'd)

Exchange or Zone	Exchange and Zones included in Exchange Area
Sykesville	Glenwood, Mt. Airy, New Windsor, Sykesville and Westminster exchanges, and the Arbutus, Baltimore, Brooklyn Park-Linthicum, Catonsville, Cockeysville, Elkridge, Ellicott City, Glen Burnie, Pikesville, Randallstown, Reistertown, Towson and Woodlawn zones
Taneytown	Silver Run, Taneytown, Union Bridge and Westminster
Thurmont	Emmitsburg, Frederick, Highfield, Myersville, Thurmont and Walkersville
Tilghman	Cambridge, Easton, St. Michaels and Tilghman
Tompkinsville	Hughesville, La Plata, Leonardtown, Mechanicsville, Tompkinsville and Waldorf
Towson Zone	All zones of the BMEA and the Bel Air, Columbia, Edgewood, Fallstown, Hampstead, Jarrettsville, Parkton, Sparks-Glencoe, Sykesville, Westminster and Worthington exchanges
Trappe	Cambridge, Easton, Hurlock, Oxford, Preston and Trappe
Union Bridge	Frederick, New Windsor, Taneytown, Union Bridge and Westminster
Vienna	Cambridge, Deal Island, Hurlock, Nanticoke, Salisbury, Sharptown, Vienna and Wingate

SECTION 5 - EXCHANGE ACCESS SERVICE

5.3 Local Calling Areas (cont'd)

Exchange or Zone	Exchange and Zones included in Exchange Area
Waldorf	Brandywine, Hughesville, Indian Head, La Plata, Nanjemoy, Tompkinsville and Waldorf exchanges, and the Capitol Heights, Clinton and Oxon Hill zones.
Walkersville	Frederick, Thurmont and Walkersville
Warwick	Cecilton, Chesapeake City, Elkton, Galena, Middletown, Del., Millington and Warwick
Waterloo Zone	All zones of the BMEA, and the Columbia, Laurel, Millersville and Odenton exchanges. In addition, telephone services bearing the central office codes 301-206, 369, 419, 886 and 953 of the Berwyn zone are also included in the exchange area of customers with telephone services bearing the central office codes 410-724, 792, 797, 813, 862 and 880 of the Waterloo zone
Westernport	Bittinger, Cumberland, Keyser, W. Va., Kitzmiller, Lonaconing, McCoole, Oakland, Piedmont, W. Va., and Westernport
Westminster	Hampstead, New Windsor, Silver Run, Sykesville, Taneytown, Union Bridge, Westminster and Worthington exchanges, and the Pikesville, Reistertown and Towson zones
West River	Annapolis, Crofton, North Beach and West Rives exchanges and the Bowie-Glenn Dale, Capitol Heights, Hyattsville and Marlboro zones

SECTION 5 - EXCHANGE ACCESS SERVICE

5.3 Local Calling Areas (cont'd)

Exchange or Zone	Exchange and Zones included in Exchange Area
Willards	Berlin, Bishopville, Delmar, Ocean City, Salisbury, Snow Hill and Willards
Williamsport	Clear Springs, Hagerstown, Falling Waters, W. Va., Keedysville and Williamsport
Wingate	Cambridge, Vienna and Wingate
Woodlawn Zone	All zones of the BMEA and the Columbia, Glenwood and Sykesville exchanges
Worthington	Hampstead, Sparks-Glencoe, Westminster and Worthington exchanges, and the Baltimore, Cockeysville, Pikesville, Randallstown, Reistertown and Towson zones

SECTION 6 - SERVICE RATES

6.1 Message Rate Exchange Service

T-1 Access Digital Facility	Monthly Recurring Charges		
(Includes 15 lines or Trunks)	1 Year	2 Year	3 Year
Schedule 1	$325.00	$300.00	$275.00
Schedule 2	$350.00	$325.00	$300.00
Schedule 3	$400.00	$375.00	$350.00

DID Numbers:

	1 Year	2 Year	3 Year
Group of 20 Numbers	$4.00	$3.60	$3.45

Digital Termination

	1 Year	2 Year	3 Year
DOD Trunks	$17.50	$17.50	$17.50
Business Trunks (2 way)	$17.50	$17.50	$17.50
DID Trunks	$17.50	$17.50	$17.50
Trunk Terminations	$17.50	$17.50	$17.50

Analog Termination

	1 Year	2 Year	3 Year
Business Lines (w/Hunting)	$17.50	$17.50	$17.50
PBX Trunk (GroundStart)	$17.50	$17.50	$17.50
Analog Gateway	$150.00	$125.00	$100.00
Group of 20 DID Numbers	$4.00	$3.60	$3.45

Usage Based Charges:	1 Year	2 Year	3 Year
MESSAGE RATE (per call)			
Zone A	$0.2500	$0.2000	$0.1500

Non-Recurring Charges	
Per T1 Access Facility Installation	$1000.00
Per Analog Gateway Facility Installation	$300.00
Per Later Access Line Connection	$40.00
Per Premise Visit	$13.00

SECTION 6 - SERVICE RATES

6.2 Measured Rate Exchange Service

T-1 Access Digital Facility (Option A)
(Includes 15 lines or Trunks)

	Monthly Recurring Charges		
	1 Year	2 Year	3 Year
Schedule 1	$325.00	$300.00	$275.00
Schedule 2	$350.00	$325.00	$300.00
Schedule 3	$400.00	$375.00	$350.00

DID Numbers:

	1 Year	2 Year	3 Year
Group of 20 Numbers	$4.00	$3.60	$3.45

Digital Termination

	1 Year	2 Year	3 Year
DOD Trunks	$17.50	$17.50	$17.50
Business Trunks (2 way)	$17.50	$17.50	$17.50
DID Trunks	$17.50	$17.50	$17.50

Analog Termination

	1 Year	2 Year	3 Year
Business Lines (w/Hunting)	$17.50	$17.50	$17.50
PBX Trunk (GroundStart)	$17.50	$17.50	$17.50
Analog Gateway	$150.00	$125.00	$100.00
Trunk Terminations	$17.50	$17.50	$17.50

Usage Based Charges:	1 Year	2 Year	3 Year
MEASURED RATE (per minute per call)			
Zone A	$0.0175	$0.0150	$0.0100
Zone B	$0.0200	$0.0175	$0.0150

Non-Recurring Charges

Per T1 Access Facility Installation	$1000.00
Per Analog Gateway Facility Installation	$300.00
Per Later Access Line Connection	$40.00
Per Premise Visit	$13.00

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SECTION 6 - SERVICE RATES

6.2 Measured Rate Exchange Service (Cont'd)

T-1 Access Digital Facility (Option B)	Monthly Recurring Charges		
(Requires 24 lines or Trunks)	1 Year	2 Year	3 Year
Schedule 1	$275.00	$250.00	$225.00
Schedule 2	$300.00	$275.00	$250.00
Schedule 3	$325.00	$300.00	$270.00

DID Numbers:	1 Year	2 Year	3 Year
Group of 20 Numbers	$4.00	$4.00	$4.00

Digital Termination	1 Year	2 Year	3 Year
DOD Trunks	$15.00	$15.00	$15.00
Business Trunks (2 way)	$15.00	$15.00	$15.00
DID Trunks	$15.00	$15.00	$15.00

Analog Termination	1 Year	2 Year	3 Year
Business Lines (w/Hunting)	$20.00	$20.00	$20.00
PBX Trunk (GroundStart)	$20.00	$20.00	$20.00
Analog Gateway	$150.00	$125.00	$100.00
Trunk Terminations	$17.50	$17.50	$17.50

Usage Based Charges:	1 Year	2 Year	3 Year
MEASURED RATE (per minute per call)			
Zone A	$0.0175	$0.0150	$0.0100
Zone B	$0.0200	$0.0175	$0.0150

Non-Recurring Charges	
Per T1 Access Facility Installation	$1000.00
Per Analog Gateway Facility Installation	$300.00
Per Later Access Line Connection	$40.00
Per Premise Visit	$13.00

SECTION 6 - SERVICE RATES

6.3 ISDN PRI Measured Rate Service

T-1 Access Digital Facility

(Includes 14 B-channels and 1 D-channel)

	Monthly Recurring Charges		
	1 Year	2 Year	3 Year
Schedule 1	$500.00	$450.00	$400.00
Schedule 2	$550.00	$500.00	$450.00
Schedule 3	$600.00	$550.00	$500.00

Digital Termination

	Schedule 1	Schedule 2	Schedule 3
Trunk Terminations	$17.50	$17.50	$17.50
ANI Delivery	$75.00	$75.00	$75.00

Usage Based Charges:	1 Year	2 Year	3 Year
MEASURED RATE (per minute per call)			
Zone A	$0.0175	$0.0150	$0.0100
Zone B	$0.0200	$0.0175	$0.0150

Non-Recurring Charges

Per T1 Access Facility Installation	$1000.00
Per Analog Gateway Facility Installation	$300.00
Per Later Access Line Connection	$40.00
Per Premise Visit	$13.00

SECTION 6 - SERVICE RATES

6.4 Digital Data Service

T-1 Access Digital Facility	Monthly Recurring Charges		
	1 Year	2 Year	3 Year
Schedule 1	$500.00	$350.00	$300.00
Schedule 2	$600.00	$450.00	$400.00
Schedule 3	$700.00	$550.00	$500.00

Data Port - requires one per endpoint of 512K

	1 Year	2 Year	3 Year
56K	$40.00	$30.00	$25.00
128K	$80.00	$60.00	$50.00
256K	$160.00	$120.00	$100.00
384K	$240.00	$180.00	$150.00
512K	$320.00	$240.00	$200.00
Cross Connect	$100.00	$75.00	$50.00
Interoffice Channel	$150.00	$125.00	$100.00

Mileage Charges - mileage between endpoints on a data circuit

Fractional DS1 Mileage - per mile	$1.00	$1.00	$1.00
DS1 Mileage - per mile	$2.00	$2.00	$2.00

Non-Recurring Charges

Per T1 Access Facility Installation	$1000.00

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SECTION 6 - SERVICE RATES

6.5 Frame Relay Service

T-1 Access Digital Facility
(Data Only)

Monthly Recurring Charges

	1 Year	2 Year	3 Year
Schedule 1	$500.00	$350.00	$300.00
Schedule 2	$600.00	$450.00	$400.00
Schedule 3	$700.00	$550.00	$500.00
Remote	$700.00	$550.00	$500.00

DS-0 Access Digital Facility
(Data Only)

Monthly Recurring Charges

	1 Year	2 Year	3 Year
Schedule 1	$120.00	$110.00	$100.00
Schedule 2	$130.00	$120.00	$110.00
Schedule 3	$150.00	$130.00	$120.00
Remote	$175.00	$160.00	$150.00

Non-Recurring Charges

Per T1 Access Facility Installation	$1000.00
Per DS0 Access Facility Installation	$40.00
Per Port Installation	$500.00

IntraLATA Data Ports

	1 year	2 year	3 Year
56/64K FRS Port	$ 150.00	$ 135.00	$ 125.00
112/128K FRS Port	$ 225.00	$ 200.00	$ 160.00
224/256K FRS Port	$ 525.00	$ 450.00	$ 350.00
336/384K FRS Port	$ 550.00	$ 475.00	$ 400.00
448/512K FRS Port	$ 675.00	$ 550.00	$ 475.00
560/640K FRS Port	$ 800.00	$ 675.00	$ 500.00
672/768K FRS Port	$ 800.00	$ 675.00	$ 600.00
784/896K FRS Port	$ 900.00	$ 775.00	$ 700.00
1.008/1.024Mb FRS Port	$ 1000.00	$ 875.00	$ 800.00
1.344/1.536Mb FRS Port	$ 1400.00	$ 1275.00	$ 1200.00

SECTION 6 - SERVICE RATES

6.5 Frame Relay Service (Cont'd)

25% CIR Data Ports

	1 year	2 year	3 Year
56/64K FRS Port	$ 225.00	$ 215.00	$ 200.00
112/128K FRS Port	$ 350.00	$ 340.00	$ 325.00
224/256K FRS Port	$ 475.00	$ 465.00	$ 450.00
336/384K FRS Port	$ 600.00	$ 590.00	$ 575.00
448/512K FRS Port	$ 725.00	$ 715.00	$ 700.00
560/640K FRS Port	$ 850.00	$ 840.00	$ 825.00
672/768K FRS Port	$ 925.00	$ 910.00	$ 900.00
784/896K FRS Port	$ 1075.00	$ 1060.00	$ 1050.00
1.008/1.024Mb FRS Port	$ 1225.00	$ 1210.00	$ 1200.00
1.344/1.536Mb FRS Port	$ 1825.00	$ 1810.00	$ 1800.00

26-50% CIR Data Ports

	1 year	2 year	3 Year
56/64K FRS Port	$ 250.00	$ 235.00	$ 225.00
112/128K FRS Port	$ 375.00	$ 360.00	$ 350.00
224/256K FRS Port	$ 500.00	$ 485.00	$ 475.00
336/384K FRS Port	$ 625.00	$ 610.00	$ 600.00
448/512K FRS Port	$ 750.00	$ 735.00	$ 725.00
560/640K FRS Port	$ 875.00	$ 860.00	$ 850.00
672/768K FRS Port	$ 1000.00	$ 985.00	$ 975.00
784/896K FRS Port	$ 1150.00	$ 1135.00	$ 1125.00
1.008/1.024Mb FRS Port	$ 1300.00	$ 1285.00	$ 1275.00
1.344/1.536Mb FRS Port	$ 1950.00	$ 1935.00	$ 1925.00

51-75% CIR Data Ports

	1 year	2 year	3 Year
56/64K FRS Port	$ 300.00	$ 285.00	$ 275.00
112/128K FRS Port	$ 425.00	$ 410.00	$ 400.00
224/256K FRS Port	$ 550.00	$ 535.00	$ 525.00
336/384K FRS Port	$ 675.00	$ 660.00	$ 650.00
448/512K FRS Port	$ 800.00	$ 785.00	$ 775.00
560/640K FRS Port	$ 925.00	$ 910.00	$ 900.00
672/768K FRS Port	$ 1050.00	$ 1035.00	$ 1025.00
784/896K FRS Port	$ 1225.00	$ 1210.00	$ 1200.00
1.008/1.024Mb FRS Port	$ 1375.00	$ 1360.00	$ 1350.00
1.344/1.536Mb FRS Port	$ 2075.00	$ 2060.00	$ 2050.00

SECTION 6 - SERVICE RATES

6.5 Frame Relay Service (Cont'd)

76-100% CIR Data Ports

	1 year	2 year	3 Year
56/64K FRS Port	$ 325.00	$ 315.00	$ 300.00
112/128K FRS Port	$ 550.00	$ 440.00	$ 425.00
224/256K FRS Port	$ 675.00	$ 565.00	$ 550.00
336/384K FRS Port	$ 800.00	$ 690.00	$ 675.00
448/512K FRS Port	$ 925.00	$ 815.00	$ 800.00
560/640K FRS Port	$ 975.00	$ 965.00	$ 950.00
672/768K FRS Port	$ 1100.00	$ 1090.00	$ 1075.00
784/896K FRS Port	$ 1275.00	$ 1265.00	$ 1250.00
1.008/1.024Mb FRS Port	$ 1475.00	$ 1465.00	$ 1450.00
1.344/1.536Mb FRS Port	$ 2175.00	$ 2165.00	$ 2150.00

SECTION 6 - SERVICE RATES

6.6 Connectivity and Co-location Service (CCS)

Monthly Recurring Charges:	Zone A	Zone B
DS1 Entrance Facility	$72.00	$150.00
DS3 Entrance Facility	$960.00	$2100.00
DS1 Dialtone with DID	$500.00	N/A
PRI Dialtone with DID	$500.00	N/A
20 DID numbers - 1 year agreement	20.00	20.00
20 DID numbers - 2 year agreement	18.00	18.00
20 DID numbers - 3 year agreement	17.00	17.00
Non-Recurring Charges:		
PRI Installation	$1000.00	$1000.00
DS1 Installation	$1000.00	$1000.00
DS1 Entrance Facility Installation	$100.00	$750.00
S3 Entrance Facility Installation	$100.00	$870.50

6.7 Digital Subscriber Line (DSL)

Synchronous Speed	Monthly Recurring Charges
1.5 Mbps SDSL	$799.00
1.04 to 1.1 Mbps SDSL	$599.00
768 to 784 Kbps SDSL	$499.00
384 to 416 Kbps SDSL	$199.00
192 to 200 Kbps SDSL	$179.00
144 to 166 Kbps SDSL	$149.00
Non-Recurring Charges	
DSL Circuit Installation	$250.00

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SECTION 6 - SERVICE RATES

6.8 Asynchronous Transfer Mode (ATM) Service (Cont'd)

Local Loop					
			MRC		
	Schedule	NRC	1 Year	2 Year	3 Year
DS1	On net	$ 1,250	$ 500	$ 350	$ 300
	Off net	$ 1,250	$ 600	$ 450	$ 400
	NNI	$ 1,250	$ 700	$ 550	$ 500
DS3	On net	$ 3,500	$ 4,000	$ 3,750	$ 3,500
	Off net	$ 3,500	$ 6,000	$ 5,500	$ 5,000
	NNI	$ 3,500	$ 4,000	$ 3,750	$ 3,500
DS1 Co-lo	Co-lo	$ 1,250	$ 74	$ 74	$ 74
DS3 Co-lo	Co-lo	$ 3,500	$ 960	$ 960	$ 960

ATM Port (>12 Mb Requires 45 Mb DS3 Port)					
			MRC		
	Schedule	NRC	1 Year	2 Year	3 Year
1.5 Mb (DS1)	ALL	N/A	$ 775	$ 750	$ 700
45 Mb (DS3)	On net	N/A	$ 4,000	$ 3,750	$ 3,500
	Off net	N/A	$ 5,000	$ 4,750	$ 4,500

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SECTION 6 - SERVICE RATES

6.8 Asynchronous Transfer Mode (ATM) Service (Cont'd)

PVCs (Per PVC, Simplex Pricing)

			SCR (Term & Schedule Independent)		
QoS	**NRC**	**PCR**	**0-56 Kb**	**64+ Kb**	**1.5+ Mb**
		Per 64 Kb	**Per 8 Kb**	**Per 64 Kb**	**Per 1.5 Mb**
CBR	$100	1:1 SCR	$ 2.250	$ 18.00	$ 432.00
VBR-rt*	$100	4:1 SCR	$ 2.125	$ 17.00	$ 408.00
VBR-nrt*	$100	4:1 SCR	$ 2.000	$ 16.00	$ 384.00
UBR	$100	N/A	$ 0.500	$ 4.00	$ 96.00

* SCR for VBR-rt and VBR-nrt PVCs must be at least 25% of PCR

Volume Discounts (Per solution, all elements)

MRC	**Discount**
10K	5%
20K	10%
30K	15%
50K	20%

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SECTION 6 - SERVICE RATES

Reserved For Future Use

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SECTION 7 - OTHER SERVICE ARRANGEMENTS

Reserved For Future Use

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SECTION 8 - MISCELLANEOUS SERVICES

8.1 Remote Call Forwarding On-Net

8.1.1 Description

Remote Call Forwarding On-Net is a service that utilizes a US LEC switch to automatically forward all incoming calls dialed to the remote call forwarding on-net number to another US LEC service number.

8.1.2 Rates

	Non-Recurring	Monthly Recurring
Remote Call Forwarding On-Net (per number)	$100.00	$25.00

SECTION 8 - MISCELLANEOUS SERVICES

8.2 Operator Services

8.2.1 Description

Operator Handled Calling Services are provided to Customers and Users of Company-provided Local Exchange Services, and to Customers and Users of exchange access lines which the Customer has pre-subscribed to the Company's Message Telephone Service.

8.2.2 Definitions

Person-to-Person: Calls completed with the assistance of a Company operator to a particular person, station, department, or PBX extension specified by the calling party. Charges may be billed to the Customer's commercial credit card and/or LEC calling card, calling station, called station, or a designated third-party station. Calls may be dialed with or without the assistance of a Company operator.

Collect Call: Calls completed with the assistance of a Company Operator for which charges are billed -- not to the originating telephone number, but to the destination or terminating number.

Operator Dialed Charge: The end user places the call without dialing the destination number, although the capability to do it himself exists. The end user will dial "0" for local calls and "00" for long distance calls and then requests the operator to dial the called station.

Billed to Non-Proprietary Calling Card: Refers to calls that are dialed by the customer in accordance with standard dialing instructions and billed to a non-proprietary calling card issued by another carrier.

SECTION 8 - MISCELLANEOUS SERVICES

8.2 Operator Services (Cont'd)

8.2.3 Rates

Local Operator assisted calls are billed at the same per-minute or per-message rates as direct dialed local calls.

Intrastate calls will be billed based upon the Customer's selected toll plan as described in US LEC of Maryland Inc.'s MPSC Tariff No. 3.

Local exchange, IntraLATA, and Long Distance calls may be placed on an Operator Assisted basis. For Operator Assisted calls to Busy Line Verification and Interrupt, or Directory Assistance, additional surcharges specified in this tariff will apply in addition to any applicable Operator charges.

In addition to the usage charges identified above, the following operator-assisted charges will apply:

	Per Call Charges
Person-to-Person	$2.00
Collect Calling	$1.00
Third Number Billing	$1.00
Calling Card	$1.00

SECTION 8 - MISCELLANEOUS SERVICES

8.3 Busy Line Verify and Line Interrupt Service

8.3.1 Description

Upon request of a calling party the Company will verify a busy condition on a called line.

A) The operator will determine if the line is clear or in use and report to the calling party.

B) The operator will interrupt the call on the called line only if the calling party indicates an emergency and requests interruption.

8.3.2 Regulations

A) A charge will apply when:

1) The operator verifies that the line is busy with a call in progress.

2) The operator verifies that the line is available for incoming calls.

3) The operator verifies that the called number is busy with a call in progress and the customer requests interruption. The operator will then interrupt the call, advising the called party the name of the calling party. One charge will apply for both verification and interruption.

SECTION 8 - MISCELLANEOUS SERVICES

8.3 Busy Line Verify and Line Interrupt Service (Cont'd)

8.3.2 Regulations (Cont'd)

B) No charge will apply:

1) When the calling party advises that the call is to or from an official public emergency agency.

2) Under conditions other than those specified in 8.3.2(a) preceding.

C) Busy Verification and Interrupt Service is furnished where and to the extent that facilities permit.

D) The Customer shall identify and save the Company harmless against all claims that may arise from either party to the interrupted call or any person.

8.3.3 Rates

	Per Request
Busy Line Verify Service	$0.95
Busy Line Verify and Busy Line Interrupt Service	$1.40

SECTION 8 - MISCELLANEOUS SERVICES

8.4 Directory Assistance

8.4.1 Description

A Customer may obtain Directory Assistance in determining telephone numbers within the State of Maryland by calling the Directory Assistance operator.

Directory Assistance charges apply for all requests for which the Company's facilities are used. Each number requested is charged as shown below. Requests for information other than telephone numbers will be charged the same rate as shown for the applicable request for telephone numbers.

A credit will be given for calls to Directory Assistance when:

- the Customer experiences poor transmission or is cut-off during the call,
- the Customer is given an incorrect telephone number, or
- the Customer inadvertently misdials an incorrect Directory Assistance NPA.

To receive a credit, the customer must notify the Company operator or Business Office of the problem experienced.

Residential customers will receive six (6) free Directory Assistance calls each month with two (2) requests per call. Directory Assistance charges will not be levied against an individual who suffers from a visual disability that precludes the use of a telephone directory.

8.4.2 Rates

Per Call	$0.95

SECTION 8 - MISCELLANEOUS SERVICES

8.5 Service Implementation

8.5.1 Description

Absent a promotional offering, service implementation charges will apply to new service orders or to orders to change existing service.

8.5.2 Rates

	Non-Recurring
Per Service Order	$25.00

8.6 Restoration of Service

8.6.1 Description

A restoral charge applies to the re-establishment of service and facilities suspended because of nonpayment of bills and is payable at the time that the re-establishment of the service and facilities suspended is arranged for.

8.6.2 Rates

	Non-Recurring
Per Occasion	$25.00

SECTION 8 - MISCELLANEOUS SERVICES

8.7 Maintenance Visit Charge

8.7.1 Description

A maintenance visit charge applies if a maintenance visit is required to complete any requested maintenance work on the subscriber's premises.

Where a NID exists, if the Company is able to test for dial tone and the problem proves to be beyond the NID (within Customer premises), a maintenance charge is applicable. In the event there is no NID and/or the Company is unable to test for dial tone, then no maintenance charge will be assessed. In those cases where the Customer has bought an inside wire maintenance warranty/plan (a non-regulated service) from the Company, no maintenance charge will be applicable regardless of the dial tone test results or whether a NID exists or not.

8.7.2 Rates

	Non-Recurring
Per Visit	$13.00

8.8 Emergency Services (Enhanced 911)

8.8.1 Description

Allows Customers to reach appropriate emergency services including police, fire and hospital medical services. Enhanced 911 has the ability to selectively route an emergency call to the primary 911 provider so that it reaches the correct emergency service located closest to the caller. In addition, the Customer's address and telephone information will be displayed to the person handling the 911 call. The Company will impose a surcharge to all Customers at a level determined by the respective county.

SECTION 8 - MISCELLANEOUS SERVICES

8.9 Presubscription Changes

8.9.1 Description

Customer may change the choice of Primary Interexchange Carrier (PIC) at any time. The customer's original PIC choices are activated at no charge as described in Section 11.2 Presubscription Charge Application. Subsequent changes are subject to the following charges.

8.9.2 Rates

	Per Line/Trunk Per Occurrence
InterLATA PIC Change	$5.00
IntraLATA PIC Change (when available)	$5.00
Both PIC selections changed simultaneously	$5.00

8.10 Telecommunications Relay Services (TRS)

8.10.1 Description

Enables deaf, hard-of-hearing or speech-impaired persons who use a Text Telephone (TT) or similar devices to communicate freely with the hearing population not using TT and vice versa. A Customer will be able to access the state provider to complete such calls. The Company will impose a surcharge to all Customers at a level determined by the Commission.

8.11 Calling Cards

8.11.1 Description

Calling Cards are available for customers who may want to make calls on their US LEC account from differing locations. Calling card calls will incur the following charges:

SECTION 8 - MISCELLANEOUS SERVICES

8.11 Calling Cards (Cont'd)

8.11.2 Rates

Payphone Compensation Surcharges	$0.25
Rate per minute	$0.25

*per payphone originated call

8.12 Accounting Codes

8.12.1 Description

Accounting Codes provide customers with a means of restricting calls or itemizing calls, according to specific digits that must be dialed at the end of a long distance telephone number. The length of Accounting Codes may vary from 2 to 6 digits, however, the length must be consistent for each customer location.

Offered are packages of codes that are verified against a specific list of valid numbers, for call restriction, or offers unverified packages of 2-6 digits in length for cataloging by code, the calls made.

8.12.2 Rates

Charge Per Customer Location	Non-Recurring	Monthly Recurring
Verified Packages	$30.00	$10.00
Unverified Packages	$30.00	$ 5.00

SECTION 8 - MISCELLANEOUS SERVICES

8.13 Foreign Exchange (FX) Service

8.13.1 Description

FX Service enables a Customer to receive a Company-provided Exchange Access Service at a point outside the Exchange Access Service Area corresponding to the NPA-NXX designation (as set forth in Section 4.1) of such Exchange Access Service.

The Local Calling Area and all Usage Service rates which apply to an FX Exchange Access Service are the same as those which regularly apply to other Company-provided Exchange Access Services bearing the same NPA-NXX designation.

8.13.2 Rates

	Non-Recurring	Monthly Recurring
Foreign Exchange Service	$500.00	$1000.00

8.14 Hospitality Rates

8.14.1 Description

Hospitality rates will have no local usage charges associated with them. Hotels and motels that supply guest rooms and route local and long distance guest traffic over Company digital facilities will qualify for Hospitality Rates.

SECTION 8 - MISCELLANEOUS SERVICES

8.15 Directory Listings

8.15.1 Description

For each Customer of Company-provided Exchange Access Service(s), the Company shall arrange for the listing of the Customer's main billing telephone number in the directory(ies) published by the dominant Local Exchange Carrier in the area at no additional charge. At a Customer's option, the Company will arrange for additional listings at the following rates:

8.15.2 Rates

	Non-Recurring	Monthly Recurring
Each Additional Listing	$6.30	$2.50(I)

8.16 Custom Calling Features

8.16.1 Description

These features will include Custom Calling and CLASS features such as Call Forwarding, Call Waiting, Caller ID, etc.

8.16.2 Rates

	Per Service Order Non-Recurring	Per Feature Monthly Recurring
Custom Calling Feature (with the exception of Caller ID) per feature	$25.00	$2.75
Caller ID	$25.00	$7.50
Caller ID Blocking	No charge	No charge

SECTION 9 - SPECIAL ARRANGEMENTS

9.1 Special Construction

9.1.1 Basis for Charges

Where the Company furnishes a facility or service for which a rate or charge is not specified in the Company's tariffs, charges will be based on the costs incurred by the Company and may include:

A) non-recurring type charges;
B) recurring type charges;
C) termination liabilities; or
D) combinations thereof.

9.1.2 Basis for Cost Computation

The costs referred to in 9.1.1 preceding may include one or more of the following items to the extent they are applicable:

A) cost installed of the facilities to be provided including estimated costs for the rearrangements of existing facilities. Cost installed includes the cost of:

1) equipment and materials provided or used,
2) engineering, labor and supervision,
3) transportation, and
4) rights of way;

B) cost of maintenance;

C) depreciation on the estimated cost installed of any facilities provided, based on the anticipated useful service life of the facilities with an appropriate allowance for the estimated net salvage;

SECTION 9 - SPECIAL ARRANGEMENTS

9.1 Special Construction (Cont'd)

9.1.2 Basis for Computation (Cont'd)

D) administration, taxes and uncollectible revenue on the basis of reasonable average costs for these items;

E) license preparation, processing and related fees;

F) tariff preparation, processing and related fees;

G) any other identifiable costs related to the facilities provided; or

H) an amount for return and contingencies.

9.1.3 Termination Liability

To the extent that there is no other requirement for use by the Company, a termination liability may apply for facilities specially constructed at the request of the customer.

A) The termination liability period is the estimated service live of the facilities provided.

B) Unless previously paid pursuant to 9.1.1 and 9.1.2, the amount of the maximum termination liability is equal to the estimated amounts for:

SECTION 9 - SPECIAL ARRANGEMENTS

9.1 Special Construction (Cont'd)

9.1.3 Termination Liability (Cont'd)

B) (Cont'd.)

1) Cost installed of the facilities provided including estimated costs for rearrangements of existing facilities and/or construction of new facilities as appropriate, less net salvage. Cost installed includes the cost of:

(a) equipment and materials provided or used,
(b) engineering, labor and supervision,
(c) transportation, and
(d) rights of way;

2) license preparation, processing, and related fees;
3) tariff preparation, processing, and related fees;
4) cost of removal and restoration, where appropriate; and
5) any other identifiable costs related to the specially constructed or rearranged facilities.

C) The applicable termination liability method for calculating the unpaid balance of a term obligation. The amount of such charge is obtained by multiplying the sum of the amounts determined as set forth in Section 9.1.3(B) preceding by a factor related to the unexpired period of liability and the discount rate for return and contingencies. The amount determined in section 9.1.3(B) preceding shall be adjusted to reflect the redetermined estimate net salvage, including any reuse of the facilities provided. This product is adjusted to reflect applicable taxes.

SECTION 10 - INTRALATA TOLL PRESUBSCRIPTION

10.1 General

IntraLATA toll presubscription is a procedure whereby an end user or Pay Telephone Service Provider may select and designate an IntraLATA Toll Provider ("ITP") to access IntraLATA toll calls without dialing an access code. The end user or Pay Telephone Service Provider may designate an ITP for IntraLATA toll, a different carrier for InterLATA toll, or the same carrier for both. This ITP is referred to as the end user or Pay Telephone Service Provider preferred IntraLATA toll provider.

Each carrier will have one or more access codes assigned to it for various types of service. When an end user of Pay Telephone Service Provider selects a carrier as its preferred IntraLATA toll provider, only one access code of that carrier may be incorporated into the switching system of the Telephone Company permitting access to that carrier by the end user or Pay Telephone Service Provider without dialing an access code. Should the same end user or Pay Telephone Service Provider wish to use other services of the same carrier, it will be necessary for the end user or Pay Telephone Service Provider to dial the necessary access code(s) to reach that carrier's other service(s).

An ITP must use Feature Group D ("FGD") Switched Access Service to qualify as an IntraLATA toll provider. All ITPs must submit a Letter of Intent ("LOI") to the Company at least twenty days prior to the IntraLATA toll-presubscription-conversion date or, if later, forty-five days prior to the date on which the carrier proposed to begin participating in IntraLATA toll presubscription.

Selection of an ITP by an end user or Pay Telephone Service Provider is subject to the terms and conditions in 10.3.2.

SECTION 10 - INTRALATA TOLL PRESUBSCRIPTION

10.2 Presubscription Charge Application

10.2.1 90-Day Initial Free Presubscription choice for Existing Users

Existing end users or Pay Telephone Service Providers may exercise an initial free presubscription choice, either by contacting the Company, or by contacting the ITP directly. The initial free choice must be made within ninety days following implementation of IntraLATA toll presubscription. End user or Pay Telephone Service Provider choices that constitute exercising the free choices are:

Designating an ITP as their primary carrier, thereby requiring no access code to access that ITP's service. Other carriers are accessed by dialing 101-XXXX or other required codes.

Choosing no carrier as a primary carrier, thus requiring 101-XXXX code dialing to access all ITPs. This choice can be made by directly contacting the Company.

Following an existing end user's or Pay Telephone Service Provider's free selections, any change made more than 90 days after presubscription is implemented is subject to a nonrecurring charge, as set forth in 10.7.1. following.

10.2.2 Initial Free Presubscription Choice for New Users

New end users or Pay Telephone Service Providers who subscribe to service after the presubscription implementation date (including an existing customer who orders an additional line) will be asked to select a primary ITP when they place an order for Company Exchange Service. If a customer cannot decide upon an IntraLATA toll carrier at the time, the customer will have thirty days following completion of the service request to make an IntraLATA PIC choice without charge. In the interim, the customer will be assigned a "No-PIC" and will have to dial an access code to make IntraLATA toll calls. The free selection period available to new end users or Pay Telephone Service Providers is the period within thirty days of installation of the new service.

SECTION 10 - INTRALATA TOLL PRESUBSCRIPTION

10.2 Presubscription Charge Application (cont'd)

10.2.2 Initial Free Presubscription Choice for New Users (Cont'd)

Initial free selection available to new end user or Pay Telephone Service Providers are:

Designating an ITP as their primary carrier, thereby requiring no access code to access that ITP's service. Other carriers are accessed by dialing 101-XXXX or other required codes.

Choosing no carrier as a primary carrier, thus requiring 101-XXXX code dialing to access all ITPs. This choice can be made by directly contacting the Company.

Following a new end user's or Pay Telephone Service Provider's free selections, any change made more than 30-days after presubscription is implemented is subject to a nonrecurring charge, as set forth in 11(F)(1) following.

10.2.3 Charge for IntraLATA Toll Presubscription

After expiration of the initial free presubscription choice period for new customers, as specified above, or existing customers, the end user or ITP will be assessed an IntraLATA Toll presubscription charge as specified in 10.7 following.

10.2.4 Cancellation of IntraLATA Toll Presubscription by an ITP

If an ITP elects to discontinue Feature Group D service after implementation of the IntraLATA toll presubscription option, the ITP is obligated to contact, in writing, all end users or Pay Telephone Service Providers who have selected the canceling ITP as their preferred IntraLATA toll provider. The ITP must inform the end users or Pay Telephone Service Providers that it is canceling its Feature Group D service, request that the end user select a new ITP and state that the canceling ITP will pay the PIC change charge. The ITP must provide written notification to the company that this activity has taken place.

SECTION 10 - INTRALATA TOLL PRESUBSCRIPTION

10.3 End User/Pay Telephone Service Provider Charge Discrepancy ("Anti-Slamming Measure")

10.3.1 When a discrepancy is determined regarding an end user's designation of a preferred IntraLATA toll carrier, the following applies depending upon the situation described:

A signed letter of authorization takes precedence over any order other than subsequent, direct customer contact with the Company.

When two or more orders are received for an end user line generated by telemarketing, the date field on the mechanized record used to transmit PIC change information will be used as the PIC authorization date. The order with the latest application date determines customer choice.

10.3.2 Verification of Orders for Telemarketing

No ITP shall submit to the Company a PIC change order generated by outbound telemarketing unless, and until, the order has first been conformed in accordance with the following procedures:

10.3.2.A The ITP has obtained the customer's written authorization to submit the order that explains what occurs when a PIC is changed and confirms:

10.3.2.A.1 The customer's billing name and address and each telephone number to be covered by the PIC change order;

10.3.2.A.2 The decision to change the PIC to the ITP; and

10.3.2.A.3 The customer's understanding of the PIC change fee; or

SECTION 10 - INTRALATA TOLL PRESUBSCRIPTION

10.4 PIC Switchback Options

10.4.1 Customer denies requesting change of ITP.

When the Telephone Company is contacted by an end user who denies requesting a change in ITP primary IC, the end user will be credited the charge assessed for the disputed change in carrier, and will be switched back to the previous ITP at no charge.

The ITP is in no way relieved of the FCC requirements for:

10.4.1.1 Verifying all PIC orders obtained by outbound telemarketing prior to submitting those orders, or

10.4.1.2 Instituting steps to obtain verification of orders submitted to the Company. In addition, the end user has the option of initiating a complaint to the FCC or the Public Service Commission concerning unauthorized changes in carrier. The complaint may be issued in writing to the Maryland Public Service Commission, 16th Floor, 6 St. Paul Street, Baltimore, MD 21202, or by calling toll free on 1-800-492-0474 or by calling the office of External Relations on 410-767-8028.

10.4.2 Customer requests Switchback to Previous ITP PIC.

When the Telephone Company is notified via a call from the customer, where the end user is not denying the authenticity of the most recent change to the current PIC, the Telephone Company will change the customers ITP to the previous PIC. The customer will be billed the PIC charge as specified in 10.7.1.

SECTION 10 - INTRALATA TOLL PRESUBSCRIPTION

10.5 Informational Notice to Customers

The Company will provide written notification to customers of their IntraLATA presubscription options and rights within 30 days of subscribing for service.

10.6 Rates and Charges

10.6.1	Charge for ITP Carrier Change	$5.00
10.6.2	Charge for Switchback Carrier Charge	$5.00

BEFORE THE
MARYLAND PUBLIC SERVICE COMMISSION

Petition of	)	
	)	
US LEC OF MARYLAND INC.	)	
	)	
For Arbitration with Verizon Maryland Inc.	)	Case No. 8922
Pursuant to 47 U.S.C. § 252(b) of the	)	
Communications Act of 1934, as Amended	)	
By the Telecommunications Act of 1996	)	

DIRECT TESTIMONY
OF PETER J. D'AMICO ON BEHALF OF
VERIZON MARYLAND INC.

June 10, 2002

VZ#7

Q. PLEASE STATE YOUR NAME, YOUR POSITION WITH VERIZON, AND YOUR BUSINESS ADDRESS.

A. My name is Pete D'Amico. I am a Senior Product Manager in the Interconnection Product Management Group for Verizon Services Corporation. My business address is 416 7th Avenue, Pittsburgh, Pennsylvania 15219.

Q. PLEASE PROVIDE A BRIEF DESCRIPTION OF YOUR BACKGROUND AND EXPERIENCE, INCLUDING NON-VERIZON WORK EXPERIENCE.

A. I have a Bachelor of Science in Marketing from Indiana University of Pennsylvania. I have been employed at Verizon and its predecessor companies for 18 years, in positions of increasing responsibility, and have been in product management dealing with interconnection arrangements for the last 12 years.

Q. WHAT ARE YOUR RESPONSIBILITIES IN YOUR CURRENT POSITION?

A. My responsibilities include development, implementation, and product management of interconnection services.

Q. HAVE YOU EVER TESTIFIED BEFORE?

A. Yes. I testified in connection with various section 252 arbitrations and/or section 271 proceedings in Pennsylvania, New Jersey, Maryland, Virginia, New York, Rhode Island, Vermont, New Hampshire, Maine, Delaware, South Carolina and Ohio.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to present Verizon's position on issues that US LEC has raised in this proceeding relating to network architecture (Issues 1 and 2).

Q. CAN YOU PROVIDE AN OVERVIEW OF YOUR TESTIMONY ON NETWORK ARCHITECTURE?

A. Yes.

My testimony focuses on explaining how Verizon's Virtual Geographically Relevant Interconnection Point ("VGRIP") proposal is consistent with federal law and with this Commission's precedent regarding interconnection between an incumbent local exchange carrier ("ILEC") and a competitive local exchange carrier ("CLEC"). In addition, my testimony explains why, if US LEC chooses to locate only one point of interconnection ("POI") in a LATA, it should be financially responsible for hauling the Verizon-originated call to the distant POI when that call leaves the local calling area. Otherwise, Verizon would be forced to subsidize US LEC's costs of interconnection as well as its network design choices.

US LEC's proposal is an impermissible attempt to have Verizon subsidize US LEC's attempts to enter the local telephone market. US LEC attempts to do this by, for example, having Verizon bear costs that are actually caused by US LEC's own decisions or by forcing Verizon to make network architecture decisions for the benefit primarily of US LEC and not for Verizon and its customers. The main premise behind US LEC's network architecture position is that Verizon should be financially responsible for US LEC's interconnection choices. Simply put, US LEC's demands far surpass its legal

entitlements and would have far-reaching effects on Verizon's network architecture, including forcing Verizon to subsidize the cost of US LEC's entry into the local telecommunications market and creating a disincentive to US LEC's deployment of its own network.

Q. WHAT IS A POI AND HOW DOES IT DIFFER FROM AN INTERCONNECTION POINT ("IP")?

A. A POI is where the ILEC and CLEC physically interconnect their respective networks. To exchange traffic, two carriers' networks must be physically linked; the point of that physical linkage is the POI. An IP, on the other hand, is the place in the network at which one local exchange carrier hands over financial responsibility for traffic to another local exchange carrier. A POI and an IP may be at the same place but do not have to be. Pursuant to Verizon's proposal, by definition, Verizon is financially responsible for delivering its traffic to US LEC's IP. Once Verizon transports traffic originating on its network to US LEC's IP, then US LEC takes over financial responsibility for delivering the traffic to its customer.

Q. WHAT IS THE ESSENCE OF THE DISPUTE AMONG THE PARTIES REGARDING THE POI AND IP?

A. The issue boils down to how to allocate fairly the transport costs between Verizon and the US LEC when Verizon delivers originating traffic from a local calling area to a US LEC POI that is located outside of that local calling area. US LEC wants Verizon to bear the full transport cost when Verizon delivers originating traffic from a local calling area

to a distant US LEC POI located within the LATA but outside of that local calling area. Verizon's position is that the IP, or location where financial responsibility shifts from Verizon to US LEC, must be at a much more reasonable location so that the transport costs are fairly allocated between the carriers.

The issue is not, as US LEC states, whether it has the right to choose the location of its POI within Verizon's network. In Maryland, a CLEC can choose its POI so long as it interconnects at one point within each access tandem serving area within a LATA. *See* Order No. 72348, *Application of MFS Intelenet of Maryland, Inc. for Authority To Provide and Resell Local Exchange and Interexchange Telephone Service; and Requesting the Establishment of Policies and Requirements for the Interconnection of Competing Local Exchange Networks; Policies Regarding Competitive Local Exchange Telephone Service*, Case No. 8584, Phase II, at 75-76 (Md. PSC Dec. 28, 1995) ("*MFS Intelenet Order*"). The issue, however, is whether US LEC should be financially responsible for its POI-location decision. If there is no financial accountability for US LEC when it comes to the location for its POI, then the transport costs associated with hauling local calls outside of the local calling area to the distant US LEC POI are unfairly shifted to Verizon. This encourages inefficient behavior and is unfair.

Q. WHAT DO YOU MEAN WHEN YOU STATE THAT THE PROPOSAL TO HAVE VERIZON INCUR THE COSTS OF TRANSPORT TO THE DISTANT POI ENCOURAGES INEFFICIENT BEHAVIOR AND IS UNFAIR?

A. In effect, US LEC wants Verizon to transport local calls as if they are toll calls simply because of US LEC's decisions regarding where to locate its POI. Verizon would bill its

end users for a local call but would actually transport the call to a distant location that would normally be a toll point. It is neither equitable nor fair to shift transport costs to Verizon based on the decision of US LEC or any other CLEC to locate its POIs outside of the local calling area. If there is no financial responsibility for the decision relating to the location of the POI, there is no incentive for the CLEC to engage in efficient network behavior. This is why there must be an IP separate from the POI where financial responsibility for the call shifts.

Q. HAS THE MARYLAND PUBLIC SERVICE COMMISSION EVER ADDRESSED THIS ISSUE?

A. Yes.

In arbitrating an interconnection agreement between Verizon and Sprint, the Commission specifically acknowledged "Verizon's concerns that distantly located points of interconnection could result in high costs." Order No. 77320, *Arbitration of Sprint Communications Co., L.P. v. Verizon Maryland Inc., Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Case No. 8887, at 29 (Md. PSC Oct. 24, 2001) ("*Sprint Arbitration Order*"). In response to those concerns, the Commission required Sprint to establish "additional interconnection locations" in a tandem serving area "within a reasonable proximity of Verizon's switching centers," "once traffic reaches certain volumes and distances." *Id.* As reflected in the interconnection agreement that the Commission later approved, Sprint is required to establish an additional POI/IP if Verizon "can reasonably demonstrate . . . that the combined total volume of . . . [t]raffic exchanged between the Parties at the requested Point of Interconnection exceeds 8.9

million minutes per month." Verizon-Sprint Agreement § 1.2.3.1.3. Sprint, however, is not required to establish an additional physical POI at the point where the traffic volume exchange meets the standard; if it declines to do so, that point will be treated as a virtual interconnection point ("IP") and Sprint must then compensate Verizon for transporting traffic from the virtual IP to the physical POI at UNE rates. *See id.* The Commission held that this compromise "strikes a reasonable compromise to protect Verizon from the cited fear of long (and expensive) interconnection points chosen by Sprint, while preserving the right of CLECs to choose interconnection points." *Sprint Arbitration Order* at 29.

Thus, in the *Sprint Arbitration Order*, the Commission adopted a version of Verizon's VGRIP proposal. Sprint's option to meet its obligations through either a physical POI/IP or a virtual IP – which the Commission's staff recognized is "consistent with the[] rules" set forth in the *MFS Intelenet Order* – are essentially the same as those provided in Verizon's VGRIP proposal. Commission Staff Brief, *Arbitration of Sprint Communications Co., L.P. v. Verizon Maryland Inc., Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Case No. 8887, at 14 (Md. PSC filed Sept. 12, 2001). The main difference is that, under the *Sprint Arbitration Order*, the VGRIP-like rules only apply at points where more than 8.9 million minutes per month is exchanged between the parties.

However, the point at which Sprint must establish an additional interconnection location (or a virtual IP) – when the traffic exchanged is equivalent to the amount of traffic carried over a DS-3 facility – likely will do little to prevent CLECs from forcing Verizon to bear the vast majority of the costs incurred by CLECs' choice of POIs. First,

many CLECs will never have traffic volumes that exceed the 8.9 million minute per month (*i.e.*, DS-3) threshold. For those CLECs, Verizon will never receive compensation for the costs it incurs in transporting traffic outside the local calling area to the CLECs' POIs. Second, Verizon may never receive compensation even from those CLECs with traffic volumes in excess of the threshold. Such CLECs may be led to engage in inefficient network reconfiguration simply to divert traffic in order to ensure that traffic volumes remain under the threshold so that Verizon continues to bear full responsibility for the transport costs resulting from the CLECs' decisions about where to locate their POIs.

Q. WOULD YOU PLEASE PROVIDE AN EXAMPLE ILLUSTRATING HOW VERIZON CAN BE REQUIRED TO BEAR COSTS ATTRIBUTABLE TO US LEC'S CHOSEN POI?

A. Yes. Assume a Verizon customer located in Sparks Glencoe calls a next-door neighbor whose local service provider is US LEC. US LEC has chosen to locate its only POI in the Baltimore LATA in Columbia, which is approximately 30 miles away from, and not in the same local calling area as, Sparks Glencoe. Under US LEC's suggested approach, Verizon would be required to carry the call many miles on its way to US LEC's POI.

Normally, the call described above would be charged as an intra-LATA toll call because of how it was routed. However, under US LEC's proposal, Verizon would only charge its customer for a local call, which will most likely be a flat rate. Verizon also would pay the CLEC to terminate the call, even though it would, in essence, be a toll call because of the CLEC's choice as to the placement of its POI. In short, Verizon would

typically not be able to bill its customer for its costs caused by the CLEC's choice of POI location, would not be able to charge the CLEC for that choice, and instead would have to pay the CLEC reciprocal compensation. Verizon would charge its end user for a local call, even though this call was transported as an intra-LATA toll call.

Q. WHAT CHARGES WOULD APPLY IF A VERIZON CUSTOMER LOCATED IN SPARKS GLENCOE PLACED A CALL TO A VERIZON CUSTOMER LOCATED IN COLUMBIA?

A. If a Verizon customer in Sparks Glencoe were calling another Verizon customer in Columbia, Verizon would rightly be able to charge its customer originating the call toll charges for transporting the call to Columbia.

Q. UNDER US LEC'S PROPOSAL, WOULD US LEC HAVE TO PAY TO TRANSPORT THE TRAFFIC BACK TO ITS LOCAL CUSTOMER IN SPARKS GLENCOE?

A. Theoretically, yes. This is a theoretical situation because, in Verizon's experience, US LEC most likely would not be carrying the call back to a residential customer in Sparks Glencoe. It is far more likely that US LEC, instead, would drop off the call to a customer that is collocated at (or located nearby) its switch in Columbia. CLECs have pulled off this "magic trick" by assigning local calling numbers in Sparks Glencoe to their customers – even though they are not physically located in that local calling area – thereby creating the illusion of a local call. In this way, US LEC would not bear any of

the costs that it has caused and, instead, would have its interconnection decisions subsidized by Verizon.

Even if US LEC's customer were physically located in Sparks Glencoe, however, that should not change the allocation of financial responsibility for transporting the traffic outside of the local calling area to US LEC's switch. The fact that US LEC has decided to serve an end user from so distant a switch is its business decision. Under US LEC's proposal, however, Verizon would be required to subsidize that business decision, which transforms a call between neighbors into a toll call for which Verizon receives no compensation.

I note that, no matter how the Commission resolves the interconnection architecture issue, such calls should not be subject to reciprocal compensation, but that issue is the subject of a separate dispute between the parties and is addressed in the testimony of Mr. Terry Haynes.

Q. PLEASE DESCRIBE VERIZON'S VIRTUAL GEOGRAPHICALLY RELEVANT INTERCONNECTION POINT ("VGRIP") PROPOSAL.

A. Under VGRIP, Verizon may request that the CLEC establish a POI at a collocation site in each Verizon tandem wire center where the CLEC chooses to assign telephone numbers. That POI would serve as the CLEC's IP under VGRIP. If Verizon only operates one tandem in a LATA, then Verizon may designate additional VGRIP locations, such as host end office wire centers. In addition, either Party may designate a CLEC collocation site at any Verizon wire center as the CLEC IP for traffic originating from that end office. Under VGRIP, Verizon would incur more than its share of the transport cost, but it would

be able to deliver its traffic to the CLECs at a more central location. Verizon would be responsible for the costs of hauling this traffic from the Verizon customer to the designated Verizon VGRIP tandem wire center or end office wire center where the CLEC is collocated, even though that location may be beyond the local calling area of the originating customer. The CLEC is then responsible for delivering the call from this central location to the CLEC customer. If a CLEC elects not collocate and establish a POI/IP at the VGRIP locations, Verizon proposes that the end office serving the Verizon customer who places the call will act as the "virtual IP." Although Verizon will then transport this traffic from the Verizon customer to the CLEC-designated location, the CLEC will be financially responsible for the transport from the "virtual IP" to the CLEC POI.

Q. GOING BACK TO THE SPARKS GLENCOE/COLUMBIA EXAMPLE ABOVE, HOW WOULD THE CALL BE TREATED?

A. If US LEC agrees to pick up traffic at Verizon tandems then Verizon will incur the transport cost to get the traffic from Verizon's customers to the US LEC IP located at the tandem. Responsibility for the traffic will be transferred to US LEC at the tandem and US LEC will transport the traffic to its end users. If US LEC chose to place its POIs in places that are not at the VGRIP locations, Verizon would deliver its traffic to US LEC's chosen POI location, but could recover the additional transport and other costs for delivering the traffic to that location.

Q. **DOES VGRIP REPRESENT A COMPROMISE ON VERIZON'S PART?**

A. Yes. Under VGRIP, Verizon would incur more than its share of the transport cost, because it would be responsible for the costs of hauling its traffic from the Verizon customer to the VGRIP location, even though the location may be beyond the local calling area. Verizon is willing to incur this extra transport cost in exchange for the ability to deliver its traffic to US LEC at a more central location. If US LEC elects not to collocate and establish a POI/IP at the VGRIP locations, Verizon will then transport its traffic to the US LEC designated location. However, US LEC will be financially responsible for the transport from the originating end office to the US LEC POI.

Q. **DO YOU AGREE WITH US LEC'S CLAIM THAT SECTION 7.1.1.3 GRANTS VERIZON THE POWER TO CHANGE US LEC'S NETWORK ARCHITECTURE AT VERZION'S SOLE DISCRETION?**

A. No. This claim appears to be based on a misreading of section 7.1.1.3. That section allows Verizon to request that US LEC establish POI/IPs that comply with sections 7.1.1.1 or 7.1.1.2 – that is, at a collocation site at either a Verizon tandem or a Verizon end office. However, US LEC is not obligated to agree to that request. If US LEC chooses not to establish POIs that comply with the other provisions of VGRIP, then US LEC will become financially responsible for traffic at Verizon's end offices, through the creation of virtual IPs at those locations. Although US LEC would be required to bear the cost of transporting this traffic from the virtual IP to its POI, it would not be required to change its network architecture so that it became physically responsible for transporting that traffic. Therefore, although VGRIP enables Verizon to *request* that US

LEC establish physical POI/IPs, US LEC remains free to meet its requirements through the establishment of virtual IPs, which do not require it to change its network architecture. This is no different from the provisions this Commission imposed in the *Sprint Arbitration Order*.

Q. DO YOU AGREE WITH US LEC'S READING OF SECTION 7.1.1.2?

A. No. First, it should be noted that any dispute about this provision is entirely hypothetical at this point. US LEC states that it "does not currently collocate with Verizon." US LEC Petition at 9. Furthermore, US LEC has informed the North Carolina Utilities Commission that collocation is not part of its network architecture, that it does not currently collocate with Verizon in any state, and that, at most, it is possible that it will elect to do so in the next few years. *See* Direct Testimony of Frank R. Hoffmann, Jr., *Petition of US LEC of North Carolina, Inc. for Arbitration with Verizon South, Inc. Pursuant to 47 U.S.C. § 252(b) of the Communications Act of 1996, as Amended by the Telecommunications Act of 1996*, Docket No. P-561, Sub 19, at 8 (N.C. Utils. Comm'n filed Apr. 12, 2002); Rebuttal Testimony of Frank R. Hoffmann, Jr., *Petition of US LEC of North Carolina, Inc. for Arbitration with Verizon South, Inc. Pursuant to 47 U.S.C. § 252(b) of the Communications Act of 1996, as Amended by the Telecommunications Act of 1996*, Docket No. P-561, Sub 19, at 3 (N.C. Utils. Comm'n filed May 24, 2002). Because section 7.1.1.2 applies only when a CLEC has established a collocation arrangement in a Verizon end office, US LEC has not shown that this provision will affect it in any way.

Second, under section 7.1.1.2, if US LEC establishes a collocation arrangement at a Verizon end office, Verizon will have the right to request that US LEC designate that site as an IP. However, US LEC is wrong to claim that section 7.1.1.2 would require US LEC to assume the physical responsibility for transporting traffic from the collocation site to US LEC's POI. US LEC is free to elect not to undertake this task, in which case it will simply be financially responsible for the transport of the traffic.

Third, US LEC is also incorrect to contend that this proposal is unfair. If US LEC decides to adopt a network architecture whereby it deploys facilities at a collocation site at a Verizon end office, US LEC should assume the financial responsibility for the transport of traffic from that end office to its POI. When US LEC establishes a collocation site at a Verizon end office, it has brought its network into contact with Verizon's. For US LEC to refuse to accept traffic at the point where both carriers have already deployed network facilities – and instead to require Verizon to transport that traffic to a distant location – means that US LEC is simply shifting costs to Verizon. US LEC should not be permitted to shift costs in this way.

Q. DO YOU AGREE WITH US LEC'S CLAIM THAT VERIZON'S VGRIP PROPOSAL PENALIZES A CLEC THAT DOES NOT ESTABLISH MULTIPLE INTERCONNECTION POINTS?

A. No. First, as noted above, this Commission has previously required Sprint to establish multiple IPs in certain situations – whether through the establishment of additional POIs or virtual IPs.

Second, the FCC and numerous other state commissions have agreed that it is appropriate to require CLECs to bear the costs that their choice of POI(s) imposes on an ILEC. In the *Local Competition Order*, the FCC held that "a requesting carrier that wishes a 'technically feasible' but expensive interconnection would, pursuant to section 252(d)(1), *be required to bear the cost of that interconnection*, including a reasonable profit." First Report and Order, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rcd 15499, 15603, ¶ 199 ("*Local Competition Order*") (subsequent history omitted; emphasis added). The FCC stated further that, "because competing carriers *must usually compensate incumbent LECs for the additional costs incurred* by providing interconnection, competitors have an incentive to make economically efficient decisions about where to interconnect." *Id.* at 15608, ¶ 209 (emphasis added). Similarly, in approving Verizon's section 271 application in Pennsylvania, the FCC found that a Verizon proposal, which similarly "permits carriers to *physically* interconnect at a single point of interconnection (POI)," but "distinguish[es] between the physical POI and the point at which Verizon and an interconnecting competitive LEC are responsible for the cost of interconnection facilities," "complies with the clear requirement of our rules." Memorandum Opinion and Order, *Application of Verizon Pennsylvania Inc., et al. for Authorization To Provide In-Region, InterLATA Services in Pennsylvania*, 16 FCC Rcd 17419, 17474-75, ¶ 100 (2001) ("*Pennsylvania 271 Order*"). The FCC also rejected claims that "Verizon's policies in regard to the financial responsibility for interconnection facilities fail to comply with its obligations under the Act." *Id.*

Other state commissions have also found it reasonable and consistent with federal law to distinguish between CLECs' right to select a physical point of interconnection and the allocation of the financial responsibility for those choices. For example, the South Carolina Public Service Commission recently held that "[r]equiring AT&T to pay for the costs of its interconnection choices to offset the costs imposed by those interconnection choices on BellSouth is the fair and equitable solution." Order on Arbitration, *Petition of AT&T Communications of the Southern States, Inc., for Arbitration of Certain Terms and Conditions of a Proposed Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to 47 U.S.C. Section 252*, Docket No. 2000-527-C, at 24 (S.C. PSC Jan. 30, 2001). That Commission further explained that, because "AT&T's interconnection choices require[] the transport of local calls from one local calling area to another local calling area where AT&T's POI is located," "AT&T has contributed to the need and costs of these facilities" and therefore "should pay for use of the facilities." *Id.*

The North Carolina Utilities Commission likewise found that "it is equitable and in the public interest" to require AT&T "to compensate BellSouth for, or otherwise be responsible for, transport beyond the local calling area," when AT&T elects to "interconnect[] at points within the LATA but outside of BellSouth's local calling area from which traffic originates." Recommended Arbitration Order, *Arbitration of Interconnection Agreement Between AT&T Communications of the Southern States, Inc., and TCG of the Carolinas, Inc., and BellSouth Telecommunications, Inc., Pursuant to the Telecommunications Act of 1996*, Docket Nos. P-140, Sub 73 & P-646, Sub 7, at 15 (N.C. Utils. Comm'n Mar. 9, 2001) ("*N.C. Arbitration Order*"), *aff'd*, Order Ruling on

Objections and Requiring the Filing of the Composite Agreement, Docket Nos. P-140, Sub 73 & P-646, Sub 7, at 5 (N.C. Utils. Comm'n June 19, 2001).

Finally, the Third Circuit Court of Appeals recently held that the Pennsylvania Public Utilities Commission should "consider shifting costs" to a CLEC that selects a technically feasible POI that "prove[s] more expensive to Verizon." *MCI Telecomm. Corp. v. Bell Atlantic-Pa.*, 271 F.3d 491, 518 (3d Cir. 2001).

Q. WOULD YOU PLEASE RESPOND TO US LEC'S CLAIM THAT THE FCC'S RULES DO NOT DISTINGUISH BETWEEN THE POI AND THE IP?

A. Yes. This is simply incorrect. As explained above, the FCC has expressly found that "a requesting carrier that wishes a 'technically feasible' but expensive interconnection would, pursuant to section 252(d)(1), *be required to bear the cost of that interconnection*, including a reasonable profit." *Local Competition Order*, 11 FCC Rcd at 15603, ¶ 199 (emphasis added). In order to require a CLEC to bear the cost of that interconnection, there would need to be a distinction between the physical POI and the points at which the CLEC becomes financially responsible for transporting traffic to that POI, known as IPs under the interconnection agreement. This interpretation is confirmed by the FCC's finding, in approving Verizon's section 271 application in Pennsylvania, that "Verizon's policies," which "distinguish between the physical POI and the point at which Verizon and an interconnecting competitive LEC are responsible for the cost of interconnection facilities," "do not represent a violation of our existing rules." *Pennsylvania 271 Order*, 16 FCC Rcd at 17474-75, ¶ 100. This Commission's *Sprint Arbitration Order* also distinguishes between the POI and the IP, by providing for the creation of virtual IPs

when Sprint is required, but declines, to establish a new physical POI. The state commission decisions discussed above similarly distinguish between a POI and an IP.

Q. DO YOU AGREE WITH US LEC THAT A CLEC HAS A UNILATERAL RIGHT TO SELECT ITS INTERCONNECTION POINTS, SUBJECT ONLY TO THE LIMITS OF TECHNICAL FEASIBILITY?

A. No. The suggestion that US LEC is entitled to designate any "technically feasible" IP is contrary to the FCC's statements in the *Local Competition Order*. The technical feasibility standard applies only to the designation of POIs. If US LEC were also entitled to establish IPs at any technically feasible point, then it could avoid bearing responsibility for the costs imposed by its interconnection choices.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

BEFORE THE
MARYLAND PUBLIC SERVICE COMMISSION

Petition of	)	
	)	
US LEC OF MARYLAND INC.	)	
	)	
For Arbitration with Verizon Maryland Inc.	)	Case No. 8922
Pursuant to 47 U.S.C. § 252(b) of the	)	
Communications Act of 1934, as Amended	)	
By the Telecommunications Act of 1996	)	

REBUTTAL TESTIMONY
OF PETER J. D'AMICO ON BEHALF OF
VERIZON MARYLAND INC.

August 9, 2002

VZ #8

Q. PLEASE STATE YOUR NAME.

A. My name is Pete D'Amico.

Q. ARE YOU THE SAME PETE D'AMICO WHO FILED DIRECT TESTIMONY IN THIS DOCKET ON JUNE 10, 2002?

A. Yes.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to address the arguments raised in the testimonies of US LEC's witnesses concerning network architecture (Issues 1 and 2).

Q. DO YOU AGREE WITH MR. HOFFMAN'S CLAIM THAT "US LEC TAKES ADVANTAGE OF DECREASED TRANSPORT COSTS TO PROVIDE SERVICE OVER A LARGE AREA WITH A SINGLE SWITCH"? (Hoffman Testimony at 4:22 - 5:1.)

A. I cannot evaluate this claim because US LEC has refused to provide the information necessary to determine the accuracy of this assertion. In particular, US LEC has refused to provide information on both the physical locations of its customers and the amount of traffic that it delivers to those customers. *See* US LEC's Response to Verizon Interrogatories No. 3 and 4. Although US LEC states that it has obtained a number of full and partial NXX codes in the Baltimore LATA and the Maryland portion of the Washington, DC LATA, it has admitted that a number of its customers "have been assigned NXX codes in areas where they have no physical locations." Response to

Verizon Interrogatory No. 3. (In its response to Verizon's interrogatory, US LEC identifies the number of such customers as 11. *See id.* In its response to a Staff data request, however, US LEC states that the number of such customers is 12. *See* US LEC's Response to Staff Data Request No. 7.) This means that, when Verizon customers in those areas dial the numbers that have been assigned to those US LEC customers, Verizon must transport the traffic to US LEC's switch in those LATAs, but US LEC is not required to transport the traffic back to the local calling area from which that traffic originated.

US LEC has not indicated how many telephone numbers it has assigned to these 11 or 12 customers or where they are located in relation to US LEC's switches, except to state that the customers are not ISPs and are not collocated at US LEC's switches. *See id.* Nonetheless, these customers may well have been assigned numbers in all or nearly all of the NXX codes that US LEC has obtained. Moreover, it is likely that these customers are located only a very short distance from US LEC's switches. Thus, these customers could well account for the vast majority of the traffic that Verizon sends to US LEC. If so, then US LEC would not be serving a large area from its switch by taking advantage of decreased transport costs, but instead would be taking advantage of Verizon's existing network to transport traffic to US LEC's switch at Verizon's expense and then providing little or no transport of its own.

Q. DO YOU AGREE WITH MR. HOFFMAN'S AND MS. MONTANO'S CLAIMS THAT TECHNICAL FEASIBILITY IS RELEVANT TO THE LOCATION OF US

LEC'S INTERCONNECTION POINTS? (Hoffman Testimony at 7:6-9; Montano Testimony at 7:2-4.)

A. No. The suggestion that US LEC is entitled to designate any "technically feasible" IP is contrary to the FCC's statements in the *Local Competition Order*,[1] as I explained in my initial testimony. *See* D'Amico Testimony at 17:7-11. It is also contrary to the decisions of this commission, other state commissions, and of the Third Circuit, as I also explained in my initial testimony. *See id.* at 5:12 - 6:19, 14:1 - 16:6. In addition to the decisions cited in my initial testimony, the Ohio PUC recently held that ILECs should be permitted to charge a CLEC for transporting traffic outside a local calling area to a CLEC's POI so that the CLEC "will have to balance costs and benefits rationally when designing and deploying its network in accordance with the Act and the FCC's . . . rules." Arbitration Award, *Petition of Global NAPs, Inc. for Arbitration of Interconnection Rates, Terms, and Conditions and Related Arrangements with United Telephone Company of Ohio d/b/a Sprint, et al.*, Case No. 01-2811-TP-ARB, *et al.*, at 7 (Ohio PUC May 9, 2002) ("*Ohio Arbitration Award*"), *reh'g denied*, Entry on Rehearing, Case Nos. 01-2811-TP-ARB, *et al.* (Ohio PUC July 18, 2002). The South Carolina Public Service Commission, in arbitrating an agreement between Verizon and HTC Communications, Inc., recently adopted Verizon's similar GRIP proposal and "agree[d] with Verizon that its language . . . [is] consistent with the Commission's [earlier] ruling" under which a CLEC must

[1] First Report and Order, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rcd 15499 ("*Local Competition Order*") (subsequent history omitted).

bear the costs of its interconnection choices. Order on Arbitration, *Petition of HTC Communications, Inc. for Arbitration of an Interconnection Agreement with Verizon South Inc.*, Docket No. 2002-66-C, Order No. 2002-450, at 58 (S.C. PSC June 12, 2002). The South Carolina PSC stated further: "As we have previously ruled that a CLEC is responsible for paying for facilities necessary to carry calls from distant local calling areas to a single POI, the same conclusion should be drawn in this case and Verizon's [GRIP] language . . . should be adopted." *Id.* at 59; *see also* D'Amico Testimony at 15:1-13 (discussing the South Carolina Commission's earlier order).

All of those decisions make clear that US LEC is mistaken in its view that, under federal law, the POI and the IP must be at the same location. *See, e.g.*, US LEC's Response to Verizon Interrogatory No. 6. In fact, I note that US LEC has stated that, under the parties' current network architecture, its POIs are at locations *different from* its IP. Responding to Staff's question whether "US LEC ha[s] knowledge of any interconnection arrangement where the physical point of interconnection is not the point of financial demarcation," US LEC responded that, "[u]nder the current interconnection agreement between US LEC and Verizon, the physical points of interconnection are located at Verizon's tandems" while the "US LEC IP is at its switch." US LEC's Response to Staff Data Request No. 6.

Q. US LEC HAS ASSERTED THAT IT "HAS OFFERED TO TRANSPORT VERIZON'S ORIGINATED TRAFFIC FROM THE POI TO US LEC'S IP FOR THE SAME NON-DISTANCE SENSITIVE ENTRACY FACILITY CHARGE VERIZON PAYS TODAY, AND AS VERIZON HAS AGREED TO PAY . . . IF US

LEC ESTABLISHES A COLLOCATED IP AT VERIZON'S TANDEM." CAN YOU PLEASE COMMENT? (US LEC Response to Staff Data Request 11.)

A. Yes. First, US LEC has mischaracterized Verizon's VGRIP proposal. Under VGRIP, if US LEC established a collocated IP at Verizon's tandem, US LEC would transport the traffic from that point to its switch, and could charge Verizon reciprocal compensation for that traffic (assuming the traffic were eligible for such compensation). Verizon would not, however, be financially responsible for paying for the facilities used to transport this traffic, which is what I understand US LEC's reference to a non-distance sensitive entrance facility charge to mean. Second, US LEC's "offer[]" to bill a non-distance sensitive entrance facility charge to Verizon for transporting Verizon-originated traffic to US LEC's IP does not address the issue of Verizon being required to transport traffic beyond a local calling area without receiving compensation.

Q. **DO YOU AGREE WITH MR. HOFFMAN'S CLAIM THAT "VERIZON IS TRYING TO DICTATE THE PHYSICAL MANNER IN WHICH US LEC ESTABLISHES ITS CHOSEN IP"? (Hoffman Testimony at 8:10-11.)**

A. No. As I explained in my initial testimony, "VGRIP enables Verizon to *request* that US LEC establish physical POIs that serve as IPs, [but] US LEC remains free to meet its requirements through the establishment of virtual IPs, which do not require it to change its network architecture." D'Amico Testimony at 11:23 - 12:3. Moreover, Mr. Hoffman ultimately admits that his characterization of VGRIP is inaccurate. He states that "adoption of VGIPs [*sic*] would force US LEC to change *either the physical or financial*

aspect of its preferred, and existing, interconnection architecture with Verizon." Hoffman Testimony at 9:6-8 (emphasis added).

Q. DO YOU AGREE WITH MR. HOFFMAN'S CLAIM THAT US LEC "*MUST*" ESTABLISH AN INTERCONNECTION POINT THROUGH COLLOCATION AT THE VERIZON TANDEM? (Hoffman Testimony at 11:19 - 12:3.)

A. No. As stated above, US LEC does not have to agree to Verizon's request that US LEC establish an IP through collocation at the Verizon tandem. Indeed, Mr. Hoffman again ultimately admits that his characterization of VGRIP is inaccurate. He recognizes that US LEC may "refuse[] to establish such physical connections." Hoffman Testimony at 12:8-9. Similarly, although US LEC has stated in response to Staff's data request that "US LEC has no option" and that "Verizon could require US LEC to collocate," in that same response US LEC acknowledged that, under VGRIP, it may "*either* establish collocated IPs *or* pay for the transport of Verizon's originated traffic." US LEC's Response to Staff's Data Request No. 15.

Q. DO YOU AGREE WITH MR. HOFFMAN'S CLAIM THAT, IN THE EVENT US LEC FAILS TO ESTABLISH A GEOGRAPHICALLY RELEVANT IP, THEN UNDER "OPTION THREE" US LEC MUST BEAR ALL OF THE COSTS OF TRANSPORTING A CALL FROM THE ORIGINATING END OFFICE TO US LEC'S CHOSEN IP (Hoffman Testimony at 12:11-26)?

A. Yes. However, as I explained in my initial testimony, under "option one" — where US LEC finds it cost-justified to establish a geographically relevant IP at a Verizon tandem

— Verizon can incur more than its share of the transport cost, because Verizon will be responsible for the costs of hauling its traffic from the Verizon customer to the geographically relevant IP, even though the IP may be located beyond the local calling area. *See* D'Amico Testimony at 9:17 - 10:6. Under "option three," US LEC must bear the costs of transporting traffic within the local calling area, calculated using this Commission's unbundled network element rates, as explained in Verizon's response to US LEC's Interrogatory No. 24. Thus, VGRIP is a compromise proposal that provides US LEC with options based on the network architecture that it finds more advantageous.

Q. DO YOU AGREE WITH MR. HOFFMAN'S CLAIM THAT "VERIZON WANTS TO CHARGE US LEC FOR DEDICATED TRANSPORT FACILITIES, REGARDLESS OF THE AMOUNT OF TRAFFIC IT ORGINIATES FROM THE END OFFICE VERIZON WOULD DESIGNATE AS A VIRTUAL IP"? (Hoffman Testimony at 13:18-20.)

A. Yes. As Verizon has previously explained to US LEC, Verizon will use the unbundled network element ("UNE") rate that the this Commission has established for dedicated transport. However, Mr. Hoffman incorrectly implies that Verizon will actually install and use dedicated trunks to transport this traffic. *See* Hoffman Testimony at 13:21 - 14:11. Under "option three," Verizon will not change the method by which it transports the traffic. Instead, as previously explained to US LEC and as explained in Verizon's response to US LEC's Interrogatory No. 24, it will use the UNE rate that the PUC has established for dedicated transport for purposes of the calculation under Verizon's proposed section 7.1.1.1.1.

Q. DO YOU AGREE WITH MR. HOFFMAN'S CLAIM THAT, UNDER VGRIP, US LEC COULD BE FORCED "TO PROVIDE AN UNDERUTILIZED DIRECT END OFFICE FACILITY TO CARRY VERIZON'S ORIGINATING TRAFFIC BACK TO US LEC'S SWITCH"? (Hoffman Testimony at 19:21-22.)

A. No. As I have previously explained, although Verizon may request that a collocation site that US LEC has established at a Verizon end office be designated as a geographically relevant IP, US LEC is free to refuse that request. If US LEC refused that request, it would not have to establish a direct end office facility, even if such a facility would be efficiently utilized.

Q. MR. HOFFMAN STATES THAT VERIZON "SHOULD BE REQUIRED TO SHOW THAT A SINGLE US LEC-IP PER LATA CAUSES VERIZON TO INCUR SPECIFIC COSTS FOR WHICH IT IS NOT ALREADY COMPENSATED BY THE SERVICES IT PROVIDES ITS CUSTOMERS THAT ORIGINATE ITS TRAFFIC." PLEASE RESPOND. (Hoffman Testimony at 17:8-10; *see also id.* at 15:18 - 18:18.)

A. As I explained in my initial testimony, in the *Local Competition Order*, the FCC held that "a requesting carrier that wishes a 'technically feasible' but expensive interconnection would, pursuant to section 252(d)(1), *be required to bear the cost of that interconnection*, including a reasonable profit." 11 FCC Rcd at 15603, ¶ 199 (emphasis added). US LEC's proposal is clearly "expensive" under that standard. As I explain further below, it would require Verizon to incur costs for which it would receive no compensation. *See also* D'Amico Testimony at 4:19 - 5:7.

Using an example I provided in my initial testimony, assume that a Verizon customer in Sparks Glencoe calls another Verizon customer in Sparks Glencoe. *See id.* at 7:14 - 9:9. In completing that call, Verizon bears the costs of switching the traffic in an end office located in the Sparks Glencoe local calling area and, if necessary, of transporting the call between two end offices in that local calling area. The local service rates that Verizon charges its customers compensate Verizon for performing those tasks. Verizon, however, would not normally transport the call outside of that local calling area.

If the called party in the above example were a US LEC customer, however, Verizon would no longer have to perform the terminating switching function involved in completing that call. Instead, it would be performed by US LEC, and Verizon would compensate US LEC through the payment of reciprocal compensation.

Although US LEC would thus be compensated for the switching function that it performs, Verizon would be required to perform additional functions in order to complete the call. Specifically, because US LEC's switch, which is located in Columbia, is outside the local calling area where the call originated, Verizon would be required to transport the call from Sparks Glencoe to Columbia, possibly through one or more tandem switches. Because the calling and called parties in this example would have telephone numbers associated with the same local calling area, Verizon would not be able to collect toll charges from its customer — as it would if a Verizon customer in Sparks Glencoe placed a call to a US LEC customer with a telephone number associated with the Columbia local calling area. Under US LEC's proposal, it would not be required to compensate Verizon for that transport and switching. Nor would Verizon receive compensation for those costs from any other source. Thus, US LEC's proposal would

require Verizon to bear uncompensated costs that it incurs as a result of US LEC's decision to serve callers in a local calling area (here, Sparks Glencoe) from a switch located far outside that local calling area (Columbia).

Although US LEC's proposal requires Verizon to bear these uncompensated transport costs, I note that when US LEC must transport a call from its switch in Columbia to a customer in Sparks Glencoe it can and does receive compensation for that transport from its own customer. Under US LEC's rate guide, the rates it charges often differ based on a customer's distance from US LEC's switch. *See* US LEC Rate Guide § 6.1.2 ("A Customer's rate schedule is dependent on the distance between the Customer's respective ILEC serving wire center and a US LEC switch.").

However, US LEC might not be required to transport the call from Columbia to Sparks Glencoe at all. Instead, US LEC could have assigned a Sparks Glencoe telephone number to an end user with no physical presence in the Columbia local calling area, but who, instead, was located in Columbia, nearby US LEC's switch.[2] In this situation, Verizon would still have to bear uncompensated costs in transporting the call from Sparks Glencoe to Columbia, but US LEC would transport the call only the short distance between its switch and its customer. In this way, US LEC would enable its customer located in Columbia to receive toll calls at Verizon's expense.

[2] I note that, no matter how the Commission resolves the interconnection architecture issue, such calls should not be subject to reciprocal compensation, but that issue is the subject of a separate dispute between the parties and is addressed in the testimony of Mr. Terry Haynes.

In contrast, Verizon's VGRIP proposal would enable Verizon to receive fair compensation for the additional functions that it provides. Specifically, as noted above, the VGRIP proposal provides that US LEC either must perform these additional functions itself — by establishing geographically relevant IPs at a Verizon tandem or end office — or must compensate Verizon for performing those tasks. Under VGRIP, the unbundled network element rates that this Commission has established are used to determine the amount of that compensation. Under federal law, those rates must be based on the forward-looking cost of providing those services. See 47 U.S.C. § 252(d)(1)(A)(i); 47 C.F.R. § 51.505. Accordingly, those rates provide a means for calculating the uncompensated expenses that Verizon incurs as a result of US LEC's chosen network architecture.

Q. MR. HOFFMAN STATES THAT US LEC IS ALREADY "FINANCIALLY RESPONSIBLE FOR THE TRANSPORT TO BRING ITS CALLS TO THE VERIZON-IP." PLEASE RESPOND. (Hoffman Testimony at 14:18-19.)

A. Mr. Hoffman appears to be addressing a scenario where a US LEC customer in Sparks Glencoe would call a Verizon customer in Sparks Glencoe. As a result of US LEC's decision to serve its customer from a switch located in Columbia, it would first have to transport that call from Sparks Glencoe to Columbia and then from its switch back to the Verizon end office in Sparks Glencoe serving Verizon's customer, or to the Verizon tandem that end office subtends. As I discussed above, however, US LEC can and does obtain compensation for these transport costs from its customers.

Q. DO YOU AGREE WITH MS. MONTANO CLAIM THAT THE FCC'S *INTERCARRIER COMPENSATION NPRM* AND ITS *TSR WIRELESS ORDER* SUPPORT US LEC'S POSITION HERE? (Montano Testimony at 8:12 - 9:6.)

A. No. In the *Intercarrier Compensation NPRM*, the FCC acknowledged that "[a]pplication of [its] rules" — including 47 C.F.R. § 51.703(b), on which Ms. Montano relies — "has led to questions concerning which carrier should bear the cost of transport to the POI, and under what circumstances an interconnecting carrier should be able to recover from the other carrier the costs of transport from the POI to the switch serving its end user." Notice of Proposed Rulemaking, *Developing a Unified Intercarrier Compensation Regime*, 16 FCC Rcd 9610, 9651, ¶ 112 (2001) ("*Intercarrier Compensation NPRM*"). However, the FCC did not suggest that those rules clearly resolved those questions. (The portion of the NPRM that Ms. Montano quotes as support for US LEC's position is not where the FCC discusses the allocation of financial responsibility for a CLEC's decision to establish only a single physical POI per LATA. *See* Montano Testimony at 8:12-14 (quoting *Intercarrier Compensation NPRM*, 16 FCC Rcd at 9634, ¶ 70).) In fact, as I stated in my initial testimony, in the *Pennsylvania 271 Order* the FCC clearly held that those rules do not prohibit the drawing of a distinction between the POI and the IP. *See* Memorandum Opinion and Order, *Application of Verizon Pennsylvania Inc., et al. for Authorization To Provide In-Region, InterLATA Services in Pennsylvania*, 16 FCC Rcd 17419, 17474-75, ¶ 100 (2001) ("*Pennsylvania 271 Order*"). Numerous other state commissions have also rejected Ms. Montano's reading of 47 C.F.R. § 51.703(b). *See* Order on Arbitration, *Petition of AT&T Communications of the Southern States, Inc., for Arbitration of Certain Terms and Conditions of a Proposed Interconnection Agreement*

with BellSouth Telecommunications, Inc. Pursuant to 47 U.S.C. Section 252, Docket No. 2000-527-C, at 25-26 (S.C. PSC Jan. 30, 2001); Recommended Arbitration Order, *Arbitration of Interconnection Agreement Between AT&T Communications of the Southern States, Inc., and TCG of the Carolinas, Inc., and BellSouth Telecommunications, Inc. Pursuant to the Telecommunications Act of 1996*, Docket Nos. P-140, Sub 73 & P-646, Sub 7, at 14 (N.C. Utils. Comm'n Mar. 9, 2001), *aff'd*, Order Ruling on Objections and Requiring the Filing of the Composite Agreement, Docket Nos. P-140, Sub 73 & P-646, Sub 7 (N.C. Utils. Comm'n June 19, 2001); *Ohio Arbitration Award* at 6.

In the *TSR Wireless Order*, the Commission held only that a wireless call that originates and terminates in a local calling area is subject to the Commission's reciprocal compensation rules. *See* Memorandum Opinion and Order, *TSR Wireless, LLC v. U S West Communications, Inc.*, 15 FCC Rcd 11166, 11166, ¶ 1 (2000) ("*TSR Wireless Order*"). The FCC did not address the issue of whether CLECs must be financially responsible when, as a result of their interconnection decisions, local traffic must be transported outside of the local calling area where it originates.

Q. THE FCC'S WIRELINE COMPETITION BUREAU RECENTLY DETERMINED, IN AN INTERCONNECTION AGREEMENT ARBITRATION, THAT CLECS' PROPOSALS ADDRESSING THE ALLOCATION OF COSTS OF A CLEC'S INTERCONNECTION DECISIONS "MORE CLOSELY

CONFORM[]" TO THE FCC'S RULES THAN VERIZON'S VGRIP PROPOSAL.[3] DO YOU HAVE ANY COMMENT ON THAT ORDER?

A. Yes. In that decision, the Bureau did not find that Verizon's VGRIP proposal violates the Commission's rules. Indeed, it recognized that the FCC had "declined to find that policies similar to . . . VGRIPs violated the Act in the *Verizon Pennsylvania 271 Order*." *Virginia Arbitration Order* ¶ 53 n.123. In fact, in the *Pennsylvania 271 Order*, the FCC expressly held that "Verizon's policies do not represent a violation of our existing rules." 16 FCC Rcd at 17474-75, ¶ 100.

The Bureau also found that "Verizon raises serious concerns about the apportionment of costs caused by a competitive LEC's choice of points of interconnection." *Virginia Arbitration Order* ¶ 54. Despite that, the Bureau's decision does not cite or discuss the FCC's holding in the *Local Competition Order* that a CLEC would "be required to bear the cost of" a "'technically feasible' but expensive interconnection." 11 FCC Rcd at 15603, ¶ 199. Finally, I note that the Bureau's order has not yet been reviewed by the FCC.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

[3] Memorandum Opinion and Order, *In the Matter of Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration*, CC Docket Nos. 00-218 *et al.*, DA 02-1731, ¶ 53 (Wireline Comp. Bur. rel. July 17, 2002) ("*Virginia Arbitration Order*").

Products

Local services

- Local network access (dial-tone)
- Local calling
- Line features
- Enhanced local services

Featured
ADVANTAGE T
Local
Long distance and toll-free
Internet and enhanced
Additional
Satisfaction guarantee and SLAs
Back to products

Local network access (dial-tone)
Our local network access provides a high-quality, clear voice or data business line, and allows businesses to secure the minimum number of lines necessary as well as the capacity to expand service and add features as they grow. Customers can keep their existing telephone numbers when they switch to US LEC. Local network access facilities are available in four types:

- T-1 access
- Channel access (DS0)
- ISDN PRI (primary rate interface)
- Advantage T

Multiple local access services are available for above facilities:

- Business lines
- Data lines
- Key system lines
- PBX trunks
- Foreign exchange

The US LEC network comprises a variety of trunking configurations, enabling single and multiple voice and data transmissions between two network elements. Our local trunks offer connectivity flexibility so customers can customize specific traffic patterns based on their needs, such as one-way outbound calling only or two-way calling.

Top

Local calling
US LEC completes local calls over its all-digital network. US LEC local service provides:

Local calling area coverage at least the size of the incumbent

VZ #9

- telephone company.
- 411
- 911
- Operator assistance
- Directory listing
- White-page listing
- Yellow-page listing

Top

Line features

- Call forwarding
- Call forward busy
- Call forward no answer
- Remote access to call forwarding
- Call transfer
- 3-way calling
- Call waiting
- Toll denial
- Call hold
- Caller ID

Top

Enhanced local services

- DID - US LEC's DID trunks provide greater user productivity by eliminating the need for assistance, reducing incoming call "traffic jams" and offering the caller a speedy connection to the desired party.
- EAS (Expanded Area Service) - This service provides a greater free local calling area than the ILEC, and an extended local calling area.
- ANI - Automatic number identification is used to identify the responsible party to be billed for the call.
- Foreign exchange - This service involves an inbound-only call, toll-free to the calling party, which is paid for by the called party. If desired, the service includes a listing in the "foreign" white and yellow pages of the ILEC directory.
- Co-location - US LEC's co-location packages provide the placement of the customer's equipment and connectivity to telecom services. As part of the placement agreement, US LEC also provides access to the physical space, utility support such as power and temperature/humidity control and security, among other benefits.

Top

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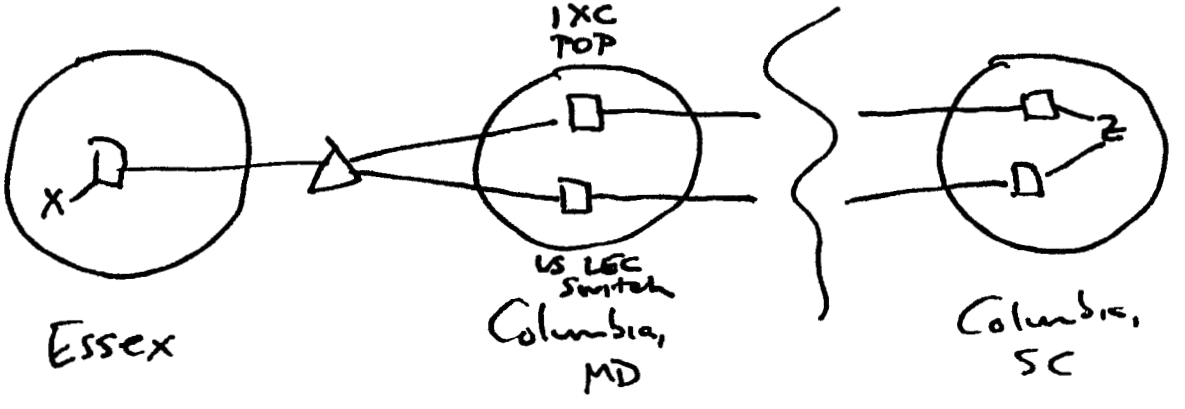
X
Local Calling Area A
Y
Local Calling Area B



V311

AGREEMENT

between

Verizon Maryland Inc.

and

Sprint Communications Company L.P.

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PART V: INTERCONNECTION

1.0 INTERCONNECTION AND PHYSICAL ARCHITECTURE

1.1 Interconnection Activation

Subject to the terms and conditions of this Agreement, each Party shall exercise commercially reasonable efforts to enable SPRINT to provide fully operational service predominately over its own Telephone Exchange Service facilities to business and residential Customers in accordance with SPRINT's intended implementation schedule in Maryland, attached hereto as Schedule 1.1. To that end, the Parties will establish and perform to milestones such as trunking arrangements for Traffic Exchange, timely submission of Access Service Requests, 911 Interconnection establishments, SS7 certification and arrangements for alternate-billed calls.

1.2 Trunk Types And Interconnection Points

1.2.1 Trunk Types. This Section 1 describes the architecture for Interconnection of the Parties' facilities and equipment over which the Parties shall configure the following separate and distinct trunk groups for the exchange of traffic of the types specified below, to the extent the Parties will exchange one or more types of such traffic corresponding to the trunk types listed below:

Traffic Exchange Trunks for the transmission and routing of terminating Reciprocal Compensation Traffic, Tandem Transit Traffic, translated LEC IntraLATA toll free service access code (e.g., 800/888/877) traffic, IntraLATA Toll Traffic, and, where agreed to between the Parties and as set forth in subsection 1.3.7, InterLATA Toll Traffic between their respective Telephone Exchange Service customers pursuant to Section 251(c)(2) of the Act, and Measured Internet Traffic, all in accordance with Section 2 herein;

Access Toll Connecting Trunks for the transmission and routing of Exchange Access traffic, including translated InterLATA toll free service access code (e.g., 800/888/877) traffic, between SPRINT Telephone Exchange Service customers and purchasers of Switched Exchange Access Service via a VERIZON Tandem, pursuant to Section 251(c)(2) of the Act, in accordance with Section 3 herein;

Information Services Trunks for the transmission and routing of terminating Information Services Traffic in accordance with Section 4 herein;

BLV/BLVI Trunks for the transmission and routing of terminating BLV/BLVI traffic, in accordance with Section 21 of the General Terms and Conditions;

911/E911 Trunks for the transmission and routing of terminating E911/911 traffic, in accordance with Section 4 herein;

Directory Assistance Trunks for the transmission and routing of terminating directory assistance traffic, in accordance with Section 21 of the General Terms and Conditions;

Operator services (IntraLATA call completion) Trunks for the transmission and routing of terminating IntraLATA call completion traffic, in accordance with Section 21 of the General Terms and Conditions; and

Other Trunks as may be requested and agreed to by

the Parties.

1.2.2 Reciprocal Compensation Traffic Reciprocal Compensation Interconnection Points .

1.2.2.1 Pursuant to the Arbitration Orders, except as otherwise agreed by the Parties, the Interconnection Points ("IPs") from which SPRINT will provide transport and termination of Reciprocal Compensation Traffic (and other traffic types which may be routed over Traffic Exchange Trunks pursuant to Section 1.2.1) to its Customers ("SPRINT-IPs") shall be as follows:

1.2.2.1.1 SPRINT shall make available to VERIZON at least one SPRINT-IP in each LATA.

1.2.2.1.2 In addition to SPRINT's obligations under Section 1.2.2.1.1 above, SPRINT shall make available to VERIZON all of the SPRINT-IPs listed in Schedule 1.1.

1.2.2.1.3 In addition to SPRINT's obligations under Sections 1.2.2.1.1 and 1.2.2.1.2 above, SPRINT shall make available to VERIZON the SPRINT-IPs provided for in Section 1.2.3.1 below.

1.2.2.2 Except as otherwise agreed by the Parties, the Interconnection Points ("IPs") from which VERIZON will provide transport and termination of Reciprocal Compensation Traffic to its Customers ("VERIZON-IPs") shall be as follows:

1.2.2.2.1 For Reciprocal Compensation Traffic delivered by SPRINT to the VERIZON Tandem subtended by the terminating End Office serving the VERIZON Customer, the VERIZON-IP will be the VERIZON Tandem Wire Center.

1.2.2.2.2 For Reciprocal Compensation Traffic delivered by SPRINT to the VERIZON terminating End Office Wire Center serving the VERIZON Customer, the VERIZON-IP will be VERIZON End Office Wire Center.

1.2.2.3 Should either Party offer additional IPs to any Telecommunications Carrier that is not a Party to this Agreement, the other Party may elect to deliver traffic to such IPs for the NXXs or functionalities served by those IPs. To the extent that any such SPRINT-IP is not located at a Collocation site at a VERIZON Tandem Wire Center or VERIZON End Office Wire Center, then SPRINT shall permit VERIZON to establish physical Interconnection through collocation or other operationally comparable arrangements acceptable to VERIZON at the SPRINT-IP, to the extent such physical Interconnection is technically feasible.

1.2.2.4 Each Party is responsible for delivering its Reciprocal Compensation Traffic that is to be terminated by the other Party to the other Party's relevant IP.

1.2.3 Points of Interconnection. A "Point of Interconnection" or "POI" means the physical location where the originating Party's facilities physically interconnect with the terminating Party's facilities for the purpose of exchanging traffic.

As and to the extent required by Applicable Law, the Parties shall provide Interconnection of their networks at any technically feasible point as described in Sections 1.2.3.1 and 1.3.

1.2.3.1 Pursuant to the Arbitration Orders, SPRINT shall make available to VERIZON technically feasible Points of Interconnection at which VERIZON can deliver traffic to SPRINT as follows:

1.2.3.1.1 SPRINT shall make available to VERIZON, in each LATA, at least one technically feasible Point of Interconnection at which VERIZON can deliver traffic to SPRINT. Such Point of Interconnection shall be the SPRINT-IP for traffic delivered by VERIZON to such Point of Interconnection.

1.2.3.1.2 In addition to SPRINT's obligations under Section 1.2.3.1.1 above, upon request by VERIZON, SPRINT shall make available to VERIZON, in each VERIZON access Tandem serving area, at least one technically feasible Point of Interconnection at which VERIZON can deliver traffic to SPRINT. Upon request by VERIZON, such Point of Interconnection shall be in Maryland; provided that, for LATA 236, SPRINT may elect to make such Point of Interconnection available to VERIZON in the District of Columbia. Each such Point of Interconnection shall be the SPRINT-IP for traffic delivered by VERIZON to such Point of Interconnection.

1.2.3.1.3 In addition to SPRINT's obligations under Sections 1.2.3.1.1 and 1.2.3.1.2 above, upon request by VERIZON, subject to the conditions set out in Sections 1.2.3.1.3.1 through 1.2.3.1.3.7 below, SPRINT shall make available to VERIZON (a) additional technically feasible physical Points of Interconnection at which VERIZON can deliver traffic to SPRINT, and (b) virtual Points of Interconnection as described in

Section 1.2.3.1.3.6 below. Each such Point of Interconnection shall be the SPRINT-IP for traffic delivered by VERIZON to such Point of Interconnection.

1.2.3.1.3.1 SPRINT shall make a Point of Interconnection available to VERIZON if VERIZON can reasonably demonstrate, using three consecutive months of traffic usage data, that the combined total volume of Reciprocal Compensation Traffic and Measured Internet Traffic exchanged between the Parties at the requested Point of Interconnection exceeds 8.9 million minutes per month.

1.2.3.1.3.2 Subject to Sections 1.2.3.1.3.3 through 1.2.3.1.3.6 below, the location of each Point of Interconnection shall be mutually agreed upon by the Parties.

1.2.3.1.3.3 If the Point of Interconnection is to be located at a VERIZON End Office, except as otherwise agreed by the Parties, such Point of Interconnection shall be located more than twenty (20) miles from an existing Point of Interconnection at which VERIZON delivers Reciprocal Compensation Traffic and Measured Internet Traffic to SPRINT.

1.2.3.1.3.4 A physical Point of Interconnection will not be located at any VERIZON Tandem or VERIZON End Office where necessary collocation space or VERIZON fiber connectivity is not available.

1.2.3.1.3.5 Nothing in this Section 1.2.3.1.3 shall require SPRINT to establish more than one Point of Interconnection in each VERIZON local calling area.

1.2.3.1.3.6 If SPRINT does not make available to VERIZON a physical Point of Interconnection pursuant to the preceding provisions of this Section 1.2.3.1.3, in lieu of making available such physical Point of Interconnection, SPRINT shall make available to VERIZON a virtual Point of Interconnection. Subject to Sections 1.2.3.1.3.3 and 1.2.3.1.3.5 above, upon request by VERIZON, a virtual Point of Interconnection shall be located (a) at any VERIZON Tandem at which the volume of traffic exchanged between the Parties meets the requirements of Section 1.2.3.1.3.1 above, and (b) at any VERIZON End Office at which the volume of traffic exchanged between the Parties meets the requirements of Section 1.2.3.1.3.1 above.

For traffic delivered by VERIZON to SPRINT, SPRINT shall compensate VERIZON for VERIZON's transporting such traffic from the virtual Point of Interconnection to the physical Point of Interconnection to which the traffic is actually delivered. The amount that SPRINT shall pay to VERIZON for VERIZON's transporting such traffic from the virtual Point of Interconnection to the physical Point of Interconnection to which the traffic is actually delivered shall be an amount equal to the charges provided for in Part IV, Section I, B that VERIZON would bill to SPRINT if SPRINT purchased or leased from VERIZON, in accordance with this Agreement, from the virtual Point of Interconnection to such physical Point of Interconnection, the services, facilities and arrangements used by VERIZON for transporting the traffic.

1.2.3.1.3.7 If the Parties are unable to agree upon the establishment of a Point of Interconnection within forty-five (45) days after

such Point of Interconnection is requested by VERIZON pursuant to this Section 1.2.3.1.3, either Party may seek resolution of their lack of agreement pursuant to Section 17 of the General Terms and Conditions.

1.2.4 Except as otherwise provided in this Agreement, the Parties will mutually agree upon where One-Way Traffic Exchange Trunks (trunks with traffic going in one direction, including one-way trunks and uni-directional two-way trunks) and/or Two-Way Traffic Exchange Trunks (trunks with traffic going in both directions) will be deployed.

1.2.5 Two-Way Traffic Exchange Trunks.

Where the Parties have agreed to use Two-Way Traffic Exchange Trunks, VERIZON shall provide Two-Way Traffic Exchange Trunks for the exchange of traffic between the networks of VERIZON and SPRINT pursuant, and subject, to the terms and conditions set forth below, the rates in Part IV, and the rates, terms and conditions set forth in VERIZON's applicable Tariffs (including, but not limited to, to the extent applicable, VERIZON Tariffs P.S.C.-Md.-No. 217 and F.C.C. No. 1).

1.2.5.1 Where the Parties have agreed to use Two-Way Traffic Exchange Trunks, prior to ordering any Two-Way Traffic Exchange Trunks from VERIZON, SPRINT shall meet with VERIZON to conduct a joint planning meeting ("Joint Planning Meeting"). At that Joint Planning Meeting, each Party shall provide to the other Party originating Hundred Call Second information, and the Parties shall mutually agree on the appropriate initial number of Two-Way End Office and Tandem Traffic Exchange Trunks and the interface specifications at the Point of Interconnection ("POI"). Where the Parties have agreed to convert existing One-Way Traffic Exchange Trunks to Two-Way Traffic Exchange Trunks, at the Joint Planning Meeting, the Parties shall also mutually agree on the conversion process and project intervals for conversion of such One-Way Traffic Exchange Trunks to Two-Way Traffic Exchange Trunks.

1.2.5.2 Two-Way Traffic Exchange Trunks shall be from a VERIZON End Office or Tandem to a mutually agreed upon POI.

1.2.5.3 SPRINT shall provide a two (2) year traffic forecast ("Initial Forecast") to VERIZON of the number of End Office and Tandem Two-Way Traffic Exchange Trunks that SPRINT anticipates VERIZON will need to provide during the ensuing two (2) year period. SPRINT's Initial Forecast shall provide the number of trunks for delivery of traffic to and from VERIZON over each Two-Way Traffic Exchange Trunk group for each of the next eight (8) quarters. If SPRINT has not provided such Initial Forecast to VERIZON in August 2001, SPRINT agrees to provide such Initial Forecast to VERIZON within forty-five (45) days of the Effective Date of this Agreement. Thereafter, the Initial Forecast shall be updated, and forecasts shall be provided to VERIZON on an as-needed basis but no less frequently than semiannually in accordance with VERIZON's forecasting cycle. All forecasts shall comply with the VERIZON CLEC Interconnection Trunking Forecast Guide and shall include, at a minimum, Access Carrier Terminal Location ("ACTL"), traffic type (Reciprocal Compensation Traffic/Toll Traffic/Measured Internet Traffic), code (identifies trunk group), A location/Z location (CLLI codes for SPRINT-IPs and VERIZON-IPs), interface type (e.g., DS3), and trunks in service each year (cumulative).

In addition, the Parties will hold joint planning sessions, as needed, to address trunk engineering, utilization, and forecasting issues. At these meetings, subject to Section 19.0 ("Confidentiality") of the General Terms and Conditions, the Parties will each share their historical trunk group usage data (and other applicable trunk group utilization data) for trunk groups dedicated to traffic between the Parties. The Parties agree to work together cooperatively in: the establishment of new trunk groups; assessing utilization of, and sizing additions to, existing trunk groups; and, reducing trunk quantities for underutilized trunk groups.

1.2.5.4 Two-Way Traffic Exchange Trunks shall have SS7 Common Channel Signaling. The Parties agree to utilize B8ZS and Extended Super Frame (ESF) DS1 facilities, where available.

1.2.5.5 With respect to End Office Two-Way Traffic Exchange Trunks, both Parties shall use an economic Hundred Call Second equal to five (5).

1.2.5.6 Two-Way Traffic Exchange Trunk groups that connect to a VERIZON access Tandem shall be engineered using a design blocking objective of Neal-Wilkenson B.005 during the average time consistent busy hour. Two-Way Traffic Exchange Trunk groups that connect to a VERIZON local Tandem shall be engineered using a design blocking objective of Neal-Wilkenson B.01 during the average time consistent busy hour. VERIZON and SPRINT shall engineer Two-Way Traffic Exchange Trunks using BOC Notes on the LEC Networks SR-TSV-002275.

1.2.5.7 The performance standard for final Two-Way Traffic Exchange Trunk groups shall be that no such Traffic Exchange Trunk group will exceed its design blocking objective (B.005 or B.01, as applicable) for three (3) consecutive calendar traffic study months.

1.2.5.8 SPRINT shall determine and order the number of Two-Way Traffic Exchange Trunks that are required to meet the applicable design blocking objective for all traffic carried on each Two-Way Traffic Exchange Trunk group. SPRINT shall order Two-Way Traffic Exchange Trunks by submitting ASRs to VERIZON setting forth the number of Two-Way Traffic Exchange Trunks to be installed and the requested installation dates within VERIZON's effective standard intervals or negotiated intervals, as appropriate. SPRINT shall complete ASRs in accordance with Ordering and Billing Forum Guidelines as in effect from time to time.

1.2.5.9 VERIZON may monitor Two-Way Traffic Exchange Trunk Groups using service results for the applicable design blocking objective. If VERIZON observes blocking in excess of the applicable design blocking objective on any final Two-Way Traffic Exchange Trunk group and SPRINT has not notified VERIZON that it has corrected such blocking, VERIZON may submit to SPRINT a Trunk Group Service Request directing SPRINT to remedy the blocking. Upon receipt of a Trunk Group Service Request, SPRINT will complete an ASR to augment the Two-Way Traffic Exchange Trunk Group with excessive blocking and submit the ASR to VERIZON within five (5) business days.

1.2.5.10 In the event the traffic volume between a VERIZON End Office and the SPRINT POI, which is carried by a Final Tandem Traffic Exchange Trunk group, exceeds the Hundred Call Second busy hour equivalent of one (1) DS-1 at any time or 200,000 combined minutes of use for a single month, except as otherwise agreed by the Parties, SPRINT shall promptly submit an ASR to

VERIZON to establish new End Office Two-Way Traffic Exchange Trunks between that VERIZON End Office and the SPRINT POI .

1.2.5.11 The Parties will review all Tandem Two-Way Traffic Exchange Trunk groups that reach a utilization level of seventy (70%) percent or greater to determine whether those groups should be augmented. SPRINT will promptly augment all Tandem Two-Way Traffic Exchange Trunk groups that reach a utilization level of eighty percent (80%) by submitting ASRs for additional trunks sufficient to attain a utilization level of approximately seventy percent (70%), unless the Parties agree that additional trunking is not required. For each Tandem Two-Way Traffic Exchange Trunk group with a utilization level of less than sixty percent (60%), except as otherwise agreed by the Parties, SPRINT will promptly submit ASRs to disconnect a sufficient number of Traffic Exchange Trunks to attain a utilization level of approximately sixty percent (60%) for each respective group. In the event SPRINT fails to submit an ASR for Two-Way Traffic Exchange Trunks in conformance with this section, VERIZON may bill SPRINT for the excess Traffic Exchange Trunks at the applicable VERIZON rates.

1.2.5.12 Because VERIZON will not be in control of the timing and sizing of the Two-Way Traffic Exchange Trunks between its network and SPRINT's network, except for unexcused missed installation appointments, VERIZON's performance in connection with these Two-Way Traffic Exchange Trunk groups shall not be subject to any performance measurements and remedies under this Agreement, and, except as otherwise required by Applicable Law, under any FCC or Commission approved carrier-to-carrier performance assurance guidelines or plan.

1.2.5.13 Upon three (3) months prior written notice and with the mutual agreement of the Parties, either Party may withdraw its traffic from a Two-Way Traffic Exchange Trunk group and install One-Way Traffic Exchange Trunks to the other Party's POI.

1.2.5.14 Both Parties shall use a DS-3 facilities interface at the POI for Two-Way Traffic Exchange Trunks. Upon mutual agreement, the Parties may use other types of interfaces (such as, where available, STS-1 or OC-n) at the POI. When Two-Way Traffic Exchange Trunks are provisioned using a DS-3 interface facility, SPRINT shall order the multiplexed DS-3 facilities to the VERIZON Central Office that is designated in the NECA 4 Tariff as an Intermediate Hub location, unless otherwise agreed to in writing by VERIZON. The specific NECA 4 Intermediate Hub location to be used for Two-Way Traffic Exchange Trunks shall be in the appropriate Tandem subtending area based on the LERG. In the event the appropriate DS-3 Intermediate Hub is not used, then SPRINT shall pay 100% of the facility charges for the Two-Way Traffic Exchange Trunks.

1.2.5.15 Except as otherwise agreed by the Parties, Two-Way Traffic Exchange Trunks shall only carry Reciprocal Compensation Traffic, IntraLATA Toll Traffic and Measured Internet Traffic.

1.2.5.16 Except as set forth in the next sentence or otherwise agreed in writing by the Parties, the total number of Tandem Two-Way Traffic Exchange Trunks between SPRINT's network and a VERIZON Tandem (including, but not limited to, a VERIZON Tandem located in the GTE Service Area [as "GTE Service Area" is defined in Appendix D of the Merger Order]) will be limited to a maximum of 240 trunks. The total number of Tandem Two-Way Traffic Exchange Trunks between SPRINT's network and a VERIZON Tandem located in the Bell Atlantic Service Area (as "Bell Atlantic Service Area" is defined in Appendix D of the Merger Order) in LATA 236or LATA 238}, shall be limited to a maximum of 672 trunks, unless otherwise mutually agreed to in writing by the Parties. In the event that the volume of traffic between SPRINT's network and a VERIZON Tandem exceeds, or reasonably can be anticipated to exceed, the capacity of the maximum permitted number of Tandem Two-Way Traffic Exchange Trunks, SPRINT shall promptly submit an ASR to VERIZON to establish new or additional End Office Trunks to insure that the volume of traffic between SPRINT's network and the VERIZON Tandem does not exceed the capacity of the maximum permitted number of Tandem Two-Way Traffic Exchange Trunks.

1.2.5.17 SPRINT will route its traffic to VERIZON over End

Office and Tandem Two-Way Traffic Exchange Trunks in accordance with SR-TAP191, including but not limited to those standards requiring that a call from SPRINT to a VERIZON End Office will first be routed to the End Office Traffic Exchange Trunk group between SPRINT and the VERIZON End Office.

1.2.5.18 The Parties will work cooperatively to calculate a Proportionate Percentage of Use ("PPU") factor for each facility on which the Two-Way Traffic Exchange Trunks ride, based on the total number of minutes of traffic that each Party sends over the Two-Way Traffic Exchange Trunks riding on that facility. SPRINT will pay a percentage of VERIZON's monthly recurring charges for each facility on which the Two-Way Traffic Exchange Trunks ride equal to SPRINT's percentage of use of that facility as shown by the PPU. The PPU shall not be applied to calculate the charges for any portion of a facility that is on SPRINT's side of the SPRINT-IP, which charges shall be solely the financial responsibility of SPRINT. During the first full calendar quarter (and any partial calendar quarter preceding such first full calendar quarter) after the first Two-Way Traffic Exchange Trunk is established on a facility, the PPU for that facility will be fifty percent (50%) for each Party. For each calendar quarter thereafter, the Parties shall recalculate the PPU using actual traffic usage data for the preceding calendar quarter.

Non-recurring charges for each facility on which the Two-Way Traffic Exchange Trunks ride shall be apportioned as follows: (a) for the portion of the facility on VERIZON's side of the SPRINT-IP, SPRINT shall pay 50% of VERIZON's non-recurring charges; and, (b) for the portion of the facility on SPRINT's side of the SPRINT-IP, SPRINT shall be solely responsible for the non-recurring charges.

Nothing in this Section 1.2.5 changes a Party's obligations under this Agreement to provide for the transport and termination of traffic on its side of its Interconnection Point. If SPRINT is required to establish Interconnection Points by this Agreement or Applicable Law and SPRINT fails to establish such Interconnection Points, SPRINT will be responsible for one hundred percent (100%) of all recurring and non-recurring charges for Two-Way Traffic Exchange Trunks and related services, facilities and arrangements (including, but not limited to, one hundred percent {100%} of all recurring and non-recurring charges for the facilities on which the Two-Way Traffic Exchange Trunks ride), that arise between the time when SPRINT is first required to establish such Interconnection Points and the time when SPRINT actually establishes such Interconnection Points. Except to the extent that SPRINT is required to establish Interconnection Points by this Agreement or Applicable Law, the preceding sentence shall not be deemed to require SPRINT to establish Interconnection Points.

1.3 Physical Architectures

1.3.1 SPRINT shall have the sole right and discretion to specify any of the following three methods for interconnection at any of the VERIZON-IPs:

(a) a physical or virtual Collocation node SPRINT established at the VERIZON-IP; and/or

(b) a physical or virtual Collocation node established separately at the VERIZON-IP by a third party with whom SPRINT has contracted for such purposes; and/or

(c) an Entrance Facility and transport (where applicable) leased from VERIZON (and any necessary multiplexing), to the VERIZON-IP.

1.3.2 SPRINT shall provide its own facilities or purchase necessary transport for the delivery of traffic to any Collocation arrangement it establishes at a VERIZON-IP pursuant to Part III, Section 2.

1.3.3 SPRINT may order from VERIZON any of the Interconnection methods specified above in accordance with the rates, order intervals and other terms and conditions in the Agreement, in any applicable VERIZON Tariff(s) (including, but not limited, to the extent applicable, VERIZON Tariffs P.S.C.-Md.-No. 217 and 218, and F.C.C. No. 1, or as may be subsequently agreed to between the Parties.

1.3.4 VERIZON shall have the sole right and discretion to specify any of the following methods for Interconnection at any of the SPRINT-IPs:

(a) a physical, virtual or other alternative Collocation node VERIZON establishes at the SPRINT-IP; and/or

(b) a physical, virtual or other alternative Collocation node established separately at the SPRINT-IP by a third party with whom VERIZON has contracted for such purposes; and/or

(c) an Entrance Facility leased from SPRINT (and any necessary multiplexing), to the SPRINT-IP.

1.3.5 VERIZON shall provide its own facilities or purchase necessary transport for the delivery of traffic to any Collocation node it establishes at a SPRINT-IP pursuant to Part III, Section 2.

1.3.6 VERIZON may order from SPRINT any of the Interconnection methods specified above in accordance with the order intervals and other terms and conditions, including, without limitation, rates and charges, set forth in this Agreement, in any applicable Tariff(s), or as may be subsequently agreed to between the Parties

1.3.7 Under any of the architectures described in this subsection 1.3, and subject to mutual agreement between the Parties, either Party may utilize the Traffic Exchange Trunks for the termination of Toll Traffic in accordance with the terms contained in Section 2 below and pursuant to the other Party's Switched Exchange Access Service Tariffs (including, but not limited to, to the extent applicable, VERIZON Tariffs P.S.C.-Md.-No. 217 and F.C.C. No. 1). The other Party's Switched Exchange Access Service rates shall apply to such facilities.

1.3.8 The publication "Bellcore Technical Publication GR-342-CORE; High Capacity Digital Special Access Service, Transmission Parameter Limits and Interface Combination" describes the specification and interfaces generally utilized by VERIZON and is referenced herein to assist the Parties in meeting their respective Interconnection responsibilities.

1.3.9 [Intentionally Omitted]

1.4 Alternative Interconnection Arrangements

1.4.1 In addition to the foregoing methods of Interconnection, and subject to mutual agreement of the Parties, the Parties may agree to establish a Mid-Span Fiber Meet arrangement which may include a SONET backbone with an electrical interface at

the DS-3 level in accordance with the terms of this subsection 1.4. The fiber meet point shall be designated as the POI for both Parties. In the event the Parties agree to adopt a Mid-Span Fiber Meet arrangement, each Party agrees to (a) bear all expenses associated with the purchase of equipment, materials, or services necessary to facilitate and maintain such arrangement on its side of the fiber hand-off to the other Party and (b) compensate the terminating Party for transport of traffic from the POI to the terminating Party's IP at rates set forth in Part IV.

1.4.2 The establishment of any Mid-Span Fiber Meet arrangement is expressly conditioned upon the Parties' reaching prior written agreement on routing, appropriate sizing and forecasting, equipment, ordering, provisioning, maintenance, repair, testing, augment, and compensation procedures and arrangements, reasonable distance limitations, and on any other arrangements necessary to implement the Mid-Span Fiber Meet arrangement. Any Mid-Span Fiber Meet arrangement requested at a third-party premises is expressly conditioned on the Parties having sufficient capacity at the requested location to meet such request, on unrestricted 24-hour access for both Parties to the requested location, on other appropriate protections as reasonably deemed necessary by either Party, and on an appropriate commitment that such access and other arrangements will not be changed or altered.

1.4.3 Mid-Span Fiber Meet arrangements shall be used only for the termination of Reciprocal Compensation Traffic, Measured Internet Traffic and IntraLATA Toll Traffic unless and until such time as the Parties have agreed to permit its utilization for other traffic types and unless and until the Parties have agreed in writing on appropriate compensation arrangements relating to the exchange of other types of traffic over such Mid-Span Fiber Meet, and only where facilities are available.

1.4.4 SPRINT and VERIZON shall work cooperatively to install and maintain a reliable network as agreed pursuant to Section 1.4.2. SPRINT and VERIZON shall exchange appropriate information (e.g., maintenance contact numbers, information related to the jointly constructed network configuration, information required to comply with law enforcement and other security agencies of the Government and such other information as the Parties shall mutually agree) to achieve this desired reliability.

1.4.5 SPRINT and VERIZON shall work cooperatively to apply sound network management principles and network management controls to alleviate or to prevent congestion.

1.5 Interconnection in Additional LATAs

1.5.1 If SPRINT determines to offer Telephone Exchange Services in any LATA in Maryland not listed in Schedule 1.1 in which VERIZON also offers Telephone Exchange Services, SPRINT shall provide written notice to VERIZON of the need to establish Interconnection in such LATA pursuant to this Agreement.

1.5.2 The notice provided in subsection 1.5.1 shall include (a) the SPRINT-IP; (b) the requested VERIZON-IP; (c) the initial Rating Point SPRINT has designated in the new LATA; (d) SPRINT's intended Interconnection activation date; and (e) a forecast of SPRINT's trunking requirements conforming to Section 14.3 of the General Terms and Conditions.

1.5.3 Unless otherwise agreed to by the Parties, the Parties shall designate the Wire Center(s) SPRINT has identified as its initial Rating Point(s) in the LATA as the SPRINT IP(s) in that LATA and shall designate a mutually agreed upon Tandem Office or End Offices within the LATA nearest to the SPRINT-IP (as measured in airline miles utilizing the V and H coordinates method) as the VERIZON-IP(s) in that LATA .

1.5.4 The Parties shall agree upon an addendum to Schedule 1.1 to reflect the schedule applicable to each new LATA requested by SPRINT; provided, however, that unless agreed by the Parties, the Interconnection activation date in a new LATA shall not be earlier than sixty (60) days after receipt by VERIZON of all complete and accurate trunk orders and routing information. Within ten (10) business days of VERIZON's receipt of the SPRINT's notice provided for in subsection 1.5.1, VERIZON and SPRINT shall confirm the VERIZON-IP, the SPRINT-IP, and the Interconnection activation date for the new LATA, by attaching an addendum to Schedule 1.1.

2.0 TRANSMISSION AND ROUTING OF TELEPHONE EXCHANGE SERVICE TRAFFIC PURSUANT TO SECTION 251(c)(2)

2.1 Scope of Traffic

This Section 2 prescribes parameters for Traffic Exchange Trunks used for Interconnection pursuant to Section 1.0 above.

2.2 Trunk Group Connections and Ordering

2.2.1 Traffic Exchange Trunk group connections will be made at a DS-3 or DS-1 level. Subject to agreement of the Parties, higher speed connections may be made, when and where available, in accordance with the Joint Process prescribed in Section 14 of the General Terms and Conditions.

2.2.2 Each Party will identify its Carrier Identification Code, a three or four digit numeric obtained from Bellcore, to the other Party when ordering a trunk group.

2.2.3 Unless mutually agreed to by both Parties, each Party will outpulse ten (10) digits to the other Party.

2.2.4 Where One-Way Traffic Exchange Trunks are used, in the event the traffic volume between any two Central Office Switches at any time exceeds the Hundred Call Second busy hour equivalent of one DS-1 or 200,000 combined minutes of use for a single month, the originating Party will establish new direct trunk groups to the applicable End Office(s) consistent with the grade of service and quality parameters set forth in the Joint Process.

2.2.5 Each Party will use commercially reasonable efforts to monitor its trunk groups and to augment those groups using generally accepted trunk engineering standards so as to not exceed blocking objectives. Each Party agrees to use modular trunk engineering techniques where practical.

2.2.6 SPRINT and VERIZON agree to conduct a ninety (90) day trial, commencing in April, 2002, regarding (a) VERIZON's delivery to SPRINT by fax of OBF compliant ASRs to establish new Traffic Exchange Trunk groups, augment existing Traffic Exchange Trunk groups, and disconnect previously established Traffic Exchange Trunk groups, and (b) SPRINT's OBF compliant response to such ASRs. The parameters of the trial shall be specified by VERIZON prior to the commencement of the trial.

SCHEDULE 1.1

NETWORK INTERCONNECTION SCHEDULE:

LATA

MARYLAND RESIDENTIAL SERVICES

VERIZON-IP	SPRINT-IP	SPRINT Intended Implementation Date
	BLTMMD60W78 1220 S Howard St	February 8, 2002
	HGTWMD93W78 300 Highland Way	February 8, 2002
	SLBRMDSCW97 128 E Church St	February 8, 2002

VERIZON-IP(s) shall be either the VERIZON Tandem or the VERIZON End Office to which the terminating NPA/NXX has been assigned in the LERG.

MARYLAND BUSINESS SERVICES

VERIZON-IP	SPRINT-IP	SPRINT Intended Implementation Date
	BLTMMD60W78 1220 S Howard St	February 8, 2002
	HGTWMD93W78 300 Highland Way	February 8, 2002
	SLBRMDSCW97 128 E Church St	February 8, 2002

VERIZON-IP(s) shall be either the VERIZON Tandem or the VERIZON End Office to which the terminating NPA/NXX has been assigned in the LERG.

SCHEDULE 1.2

INTERCONNECTION POINTS FOR DIFFERENT TYPES OF TRAFFIC

Each Party shall provide the other Party with Interconnection to its network at the following points for transmission, routing and termination subject to the availability of facilities. Compensation for such facilities will be as set forth in Part IV or as provided elsewhere herein.

1. For the termination of Reciprocal Compensation Traffic, Measured Internet Traffic or Toll Traffic originated by one Party's Customer and terminated to the other Party's Customer, at the points set forth in Section 1 of Part V of the Agreement.

2. For the termination of Meet Point Billing Traffic from an IXC to:

(a) SPRINT, at the SPRINT-IP in LATA in which the Traffic is to terminate.

(b) VERIZON, at the VERIZON-IP in LATA in which the Traffic is to terminate.

3. For the termination of Transit Traffic from an ITC, CMRS carrier, other CLEC or other LEC to:

(a) SPRINT, at the SPRINT-IP in LATA in which the Traffic is to terminate.

(b) VERIZON, at the VERIZON-IP in LATA in which the Traffic is to terminate.

4. For 911/E911 traffic originated on SPRINT's network, at the PSAP in areas where only Basic 911 service is available, or at the VERIZON 911/E911 Tandem Office serving the area in which the SPRINT Customer is located, in accordance with applicable state laws and regulations and PSAP requirements.

5. For Directory Assistance (411 or NPA-555-1212) traffic, at the applicable VERIZON operator services Tandem Office.

6. For Operator Services (call completion) traffic, at the applicable VERIZON operator services Tandem Office.

7. For BLV/BLVI traffic, at the terminating Party's operator services Tandem Office.

8. For SS7 signaling originated by:

(a) SPRINT, at mutually agreed-upon Signaling Point of Interconnection(s) ("SPOI") in the LATA in which the Reciprocal Compensation Traffic, Measured Internet Traffic, or Toll Traffic originates, over CCSAC links provisioned in accordance with Bellcore GR-905 and VERIZON Supplement Common Channel Signaling Network Interface Specification (VERIZON_905).

(b) VERIZON, at mutually agreed-upon SPOIs in the LATA in which the Reciprocal Compensation Traffic, Measured Internet Traffic,] or Toll Traffic originates, over a CCSAC links provisioned in accordance with Bellcore GR-905 and VERIZON-905.

Alternatively, either Party may elect to interconnect for SS7 signaling through a commercial SS7 hub provider.

9. For toll free service access code (e.g., 800/888/877) database inquiry traffic, at any VERIZON Signaling Transfer Point in the LATA in which the originating SPRINT Wire Center is located, over a CCSAC link. Alternatively, SPRINT may elect to interconnect through a commercial SS7 hub provider.

KELLOGG, HUBER, HANSEN, TODD & EVANS, P.L.L.C.
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(202) 326-7900
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(202) 326-7999

August 22, 2002

VIA OVERNIGHT DELIVERY

Felecia L. Greer
Executive Secretary
Maryland Public Service Commission
William Donald Schaefer Tower
6 St. Paul Centre
Baltimore, MD 21202-6806

Re: In the Matter of the Arbitration of US LEC of Maryland Inc. vs. Verizon Maryland Inc. Pursuant to 47 U.S.C. § 252(b), Case 8922

Dear Ms. Greer:

Please find enclosed for filing the original and fourteen copies of Part IV, Section I, B of the Verizon-Sprint Agreement, referenced in § 1.2.3.1.3.6 of that Agreement, to be included in VZ Exhibit 12 in the above-captioned proceeding. Also included is an electronic version of the addition. The entire agreement is available on the Public Service Commission's website as item 71 in the case jacket for Case No. 8887. The URL of the agreement is:

http://webapp.psc.state.md.us/Intranet/CaseNum/NewIndex3_VOpenFile.cfm?ServerFilePath=D%3A%5CCasenum%5C8800%2D8899%5C8887%5C071%2Edoc

Also enclosed is one extra copy of the each of the exhibit. Please date-stamp and return the extra copy in the self-addressed, postage prepaid envelope.

Thank you for your assistance. If you have any questions, please call me at 202-326-7959.

Sincerely,

Scott H. Angstreich

cc: Parties of Record
David L. Moore, Hearing Examiner

B. UNBUNDLED NETWORK ELEMENTS[4] [5]

Service or Element Description	Recurring Charges:	Non-Recurring Charges:
I. Dedicated Transport[6]		
Voice Grade/DS-0	$8.54/Month & $.018/Mile/Month	All: $6.70 /Service Order plus installation charges for each initial and additional facility purchased at the time of order
DS-1	$30.61/Month & $.375/Mile/Month	
DS-3	$414.74/Month & $10.45/Mile/Month	$315.00/Initial Facility & $21.28/Additional Facility
DDS	$8.70/Mile & $.02/Mile/Month	

[4] All rates and charges specified herein are pertaining to Part II.

[5] All rates and/or rate structures set forth herein, that are marked with an asterisk ("*"), as applied to wholesale discount of retail Telecommunications Services, unbundled Network Elements, Intrastate Collocation or call transport and/or termination of Reciprocal Compensation Traffi purchased for the provision of Telephone Exchange Service or Exchange Access, shall be interim rates and/or rate structures. These interim rates and/c rate structures shall be replaced on a prospective basis by such permanent rates and/or rate structures (applicable to wholesale discount of retail Telecommunications Services, unbundled Network Elements, Intrastate Collocation or call transport and/or termination of Reciprocal Compensation Traffi purchased for the provision of Telephone Exchange Service or Exchange Access) as may be approved by the Commission or the FCC and if appealed a may be ordered at the conclusion of such appeal.

[6] Verizon's proposed UNEs, UNE combinations, and UNE pricing methodology reflect the FCC's current rules. Verizon does not agree that UNE prices must be based solely on forward-looking costs, and Verizon reserves the right to seek to change its UNE offerings and UNE prices if the FCC's rules are vacated or modified by the FCC or by a final, non-appealable judicial decision.

Service or Element Description:	Recurring Charges:	Non-Recurring Charges:
STS-1	$334.36*/Month/Mile & $5.00* Mileage charge/Facility/Mile/Month	$52.62* Service Order $176.19* Installation charge per facility $6.62* Manual Surcharge Expedite: $78.45* Service Order $252.80*/Installation charge per facility $9.87*/Manual Surcharge
OC-3	$1,009.52*/Month/Mile & $15.29* Mileage charge/Facility/Mile/Month	$52.62* Service Order $213.23* Installation charge per facility $6.62* Manual Surcharge Expedite: $78.45* Service Order $306.38*/Installation charge per facility $9.87*/Manual Surcharge
OC-12	$2,700.17*/Month/Mile & $36.31* Mileage charge/Facility/Mile/Month	$52.62* Service Order $213.23* Installation charge per facility $6.62* Manual Surcharge Expedite: $78.45* Service Order $306.38*/Installation charge per facility $9.87*/Manual Surcharge

BEFORE THE
MARYLAND PUBLIC SERVICE COMMISSION

Petition of	)	
	)	
US LEC OF MARYLAND INC.	)	
	)	
For Arbitration with Verizon Maryland Inc.	)	Case No. 8922
Pursuant to 47 U.S.C. § 252(b) of the	)	
Communications Act of 1934, as Amended	)	
By the Telecommunications Act of 1996	)	

DIRECT TESTIMONY
OF TERRY HAYNES ON BEHALF OF
VERIZON MARYLAND INC.

June 10, 2002

VZ#13

Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND POSITION WITH VERIZON.

A. My name is Terry Haynes. My current business address is 600 Hidden Ridge, Irving, Texas 75015. I am a manager in the State Regulatory Policy and Planning Group supporting the Verizon states formerly associated with GTE. I am testifying here on behalf of Verizon Pennsylvania Inc. ("Verizon").

Q. PLEASE DESCRIBE YOUR EDUCATIONAL AND PROFESSIONAL BACKGROUND.

A. I received a Bachelor of Arts Degree in Philosophy from the University of South Carolina in 1973. Since 1979, I have been employed by Verizon and its predecessor companies. I have held positions in Operations, Technology Planning, Service Fulfillment and State and Federal Regulatory Matters.

Q. PLEASE DESCRIBE THE PURPOSE OF YOUR TESTIMONY.

A. I will address US LEC's Issue 6, which asks "Should the parties be obligated to compensate each other for calls to numbers with NXX codes associated with the same local calling area?" This issue addresses contract language in Verizon's Glossary section 2.56 and its Interconnection Attachment section 7.2.

I will explain why reciprocal compensation does not apply to calls that originate and terminate in different local calling areas, defined by reference to the actual originating and terminating points of the complete end-to-end communication. I will also explain why US LEC's proposal – to require payment of reciprocal compensation by reference to the NPA-NXX of the called number, rather than the terminating point of the complete communication – is inconsistent both with the FCC's rules and sound

regulatory policy. To aid in understanding the issues associated with these questions, I will provide a detailed description of the nature of so-called "virtual NXX" or "virtual FX" traffic. I will explain why "virtual FX" traffic should not be subject to reciprocal compensation.

I will also explain why the Commission need not address the application of intrastate access charges to virtual FX traffic. In fact, application of access charges to such traffic is justified, because US LEC is using Verizon's local exchange facilities when a customer initiates an interexchange call that would be subject to toll charges, if not for the "virtual FX" arrangement. The proposed agreement, however, does not govern access charges, which are instead governed by the parties' tariffs.

Q. BEFORE DISCUSSING THE "VIRTUAL FX" ISSUE, PLEASE DEFINE THE TERMS RELEVANT TO THE DISCUSSION.

A. Several terms and concepts discussed in my testimony, though commonly used, are often misapplied or misunderstood. As a foundation for understanding the "virtual FX" discussion, I use the following definitions:

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.

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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.

When a four-digit line number ("XXXX") is added to the NPA and exchange code, it completes the 10-digit number format used in the NANP Area and 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 or "address."[3]

Q. WHY IS A CUSTOMER'S 10-DIGIT "ADDRESS" SIGNIFICANT?

A. 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.

Q. CAN YOU EXPLAIN THE BASIC PRINCIPLES GOVERNING THE MANNER IN WHICH CUSTOMERS ARE CHARGED FOR THE CALLS THAT THEY MAKE?

A. Yes. 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

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

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).

Q. HOW DOES THE TELEPHONE NUMBER OR "ADDRESS" PLAY A ROLE IN RATING AN INDIVIDUAL CALL?

A. 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.

Q. WHAT IS "VIRTUAL FX" SERVICE, AND WHAT IS A "VIRTUAL NXX"?

A. A CLEC establishes "virtual FX" 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 "virtual NXX." 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.

Q. HOW DOES THE EXISTENCE OF SO-CALLED "VIRTUAL FX" SERVICE AFFECT EITHER THE ROUTING OR RATING OF TELEPHONE CALLS?

A. 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 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 "virtual NXX" 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 "virtual NXX" 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 – a LATA, or an entire state. 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.

Q. HAVE NXX CODES TRADITIONALLY BEEN USED TO GOVERN INTER-CARRIER COMPENSATION?

A. No. To the extent that US LEC makes this argument, it is simply confusing the rating of calls for the purpose of assessing end-user charges and 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 were the access charges 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 Baltimore 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 Baltimore 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 the 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.

Q. DOES THE PRINCIPLE THAT INTER-CARRIER COMPENSATION IS GOVERNED BY THE ORIGINATING AND TERMINATING POINTS OF THE END-TO-END COMMUNICATION APPLY TO RECIPROCAL COMPENSATION?

A. Yes. 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.

Q. IS "VIRTUAL FX" TRAFFIC INTEREXCHANGE?

A. Yes. There can be no dispute that "virtual FX" 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.

Q. IS IT IMPROPER FOR US LEC TO ASSIGN "VIRTUAL NXX" CODES TO THEIR CUSTOMERS?

A. US LEC's ability to assign telephone numbers to its customers in any way that is consistent with regulatory requirements is not at issue here. Rather, Verizon wants to ensure that the parties' agreement does not require payment of reciprocal compensation

[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).

for any interexchange traffic, including Virtual FX calls. Such calls are not subject to reciprocal compensation under the FCC's current rules.

Q. DO YOU HAVE ANY OTHER CONCERNS ABOUT "VIRTUAL NXX" TRAFFIC?

A. Yes. Another concern is related to interconnection architecture. In this proceeding, US LEC is insisting that it has a right to interconnect with Verizon at any point within a LATA and require Verizon to bear the cost of transporting traffic to that point of interconnection.

The use of "virtual NXXs" by CLECs makes calls appear local that are actually toll service from the Verizon customer's physical location to the CLEC customer's physical location, thereby denying Verizon the opportunity to collect just compensation for the transport it provides to the CLECs on the call. When an ILEC's customer initiates a call to a CLEC "virtual NXX", 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 save for the assignment of "virtual NXX" codes. 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 "virtual FX" 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 "virtual FX" service to the exclusion of other service arrangements. I should emphasize, however, that this concern is somewhat attenuated so long as the Commission adopts Verizon's proposals concerning interconnection architecture. So long as US LEC bears the cost of transporting the traffic that it receives from Verizon beyond the local calling area where that traffic originated, US LEC will have less opportunity to shift transport costs to Verizon. But US LEC has refused to accept an agreement that would require US LEC to bear these transport costs. Interconnection architecture issues are discussed in greater detail in the testimony of Mr. Peter D'Amico.

Q. US LEC ARGUES THAT IT IS PROVIDING VERIZON'S CUSTOMERS A VALUABLE SERVICE THROUGH "VIRTUAL NXX" ARRANGEMENTS. DO YOU AGREE?

A. No. By providing a "virtual NXX" arrangement, US LEC is providing a valuable service to *US LEC*'s customers, who gain the ability to receive locally rated calls from end-users located in a different local calling area – much like a toll-free 800 service. CLECs have heavily marketed "virtual FX" arrangements and are compensated by their customers for providing this functionality.

That is part of the reason that US LEC's effort to collect reciprocal compensation for this traffic is particularly inappropriate as a matter of sound regulatory policy. US LEC is already being compensated by its 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 US LEC is seeking to achieve.

Q. IT SOUNDS LIKE VERIZON IS ALSO PROVIDING US LEC'S CUSTOMER A VALUABLE SERVICE. DO YOU AGREE?

A. Yes. Verizon is providing the service of originating the call for transport to the called party's carrier. By definition, in a "virtual NXX" 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 US LEC's subscriber. And, of course, US LEC is able to offer that service only by virtue of Verizon's network – US LEC may have no facilities at all in the relevant local calling area.

Q. DO YOU AGREE WITH US LEC'S CLAIM THAT "VIRTUAL NXX" CODES ALLOW CUSTOMERS TO TAKE ADVANTAGE OF STATE-OF-THE ART TECHNLOGY?

A. No. "Virtual FX" service is hardly a state-of-the-art technology and is certainly not necessary to provide customers toll-free calling. Telephone companies have been offering toll-free service for decades. 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 "virtual NXX" service that can be considered new or state-of-the-art from a technology perspective.

Q. DO YOU AGREE WITH US LEC'S CLAIM THAT ENFORCING THE FCC'S RECIPROCAL COMEPNSATION RULES WITH RESPECT TO "VIRTUAL FX" TRAFFIC WOULD IMPEDE COMPETITION?

A. No. Enforcing the FCC's rules will promote competition, not impede it. US LEC will remain free to market its "virtual NXX" service and receive whatever compensation for that service that its 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 who are located outside the exchange. Enforcing the rules will simply prevent US LEC from exploiting a potentially lucrative regulatory arbitrage opportunity, to the detriment of competition.

Q. WOULD VERIZON'S POSITION RESTRICT US LEC'S ABILITY TO OFFER THIS SERVICE OR REDUCE ITS UTILITY TO US LEC'S CUSTOMERS?

A. No. US LEC could offer the service, and it would continue to provide the same benefits to US LEC's customers. But US LEC could not collect reciprocal compensation for such traffic, compensation to which it has no right under the FCC's rules.

Q. IS VERIZON CLAIMING ACCESS CHARGES FOR THIS TRAFFIC?

A. Not in this proceeding. The parties' agreement makes clear that access charges are governed by their intrastate and interstate access tariffs. But I note that in some cases access charges would be appropriate. For example, if the "virtual NXX" customer were

located in another LATA and another state from the calling party, interstate access charges would apply – even though the call would be rated as local for the calling party.

Q. BUT US LEC CLAIMS THAT VERIZON'S COSTS DO NOT JUSTIFY SUCH CHARGES.

A. Again, Verizon's access charges – which are set by state and federal regulators – are simply not at issue in this proceeding. The only issue is whether Verizon should pay US LEC when Verizon originates an interexchange call that US LEC delivers to its customer and for which US LEC is compensated by its customer. The FCC's rules, decades of consistent regulatory policy, and sound economics all dictate the same answer – Verizon should not be required to pay reciprocal compensation on this traffic.

Q. HAVE OTHER STATE COMMISSIONS ADDRESSED THIS ISSUE?

A. Yes. The Florida Commission, for example, recently confirmed that "virtual FX" 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 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

[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 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.

called parties."[7] The Florida Commission agreed, that "calls to virtual NXX 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]

I am aware of a number of other state commissions that have also held that reciprocal compensation does not apply to virtual NXX traffic because it does not physically originate and terminate in the same local calling area. These state

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

[8] Reciprocal Compensation Recommendation at 94.

commissions include those in Connecticut,[9] Illinois,[10] Texas,[11] South Carolina,[12]Tennessee,[13] Georgia,[14] and Missouri.[15]

[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 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 Virtual FX Issues*, Docket No. 13542-U, at 10-12 (Ga. PSC July 23, 2001) ("The Commission finds that reciprocal compensation is not due for Virtual FX 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*

(continued...)

Q. ARE YOU AWARE OF ANY STATE COMMISSIONS THAT HAVE ADDRESSED THE ISSUE OF ASSIGNMENT OF TELEPHONE NUMBERS TO END USERS LOCATED OUTSIDE OF THE RATE CENTER TO WHICH THEY ARE HOMED?

A. Yes. For example, 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]

To cite another example, on June 30, 2000, the Maine Public Utility Commission ordered a CLEC, Brooks Fiber, to return 54 NXX codes which it was using in a "virtual NXX" capacity and rejected Brooks' proposed "virtual NXX" 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

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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]Opinion and Order, *Petition of Focal Communications Corp. of Pennsylvania for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Bell Atlantic-Pennsylvania, Inc.*, Docket No. A-310630F0002, at 10-11 (Pa. PUC Jan. 29, 2001).

[17]Order, *Application of MFS Intelenet of Pennsylvania, et al.*, Docket Nos. A-310203F0002, A-310213F0002, A-310236F002 and A-310258F0002, at 19 (Pa. PUC July 31, 1996) ("MFS II Order").

competition."[18] It found that Brooks' "extravagant" use of the 54 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]

Q. DOES THE FCC'S *ISP REMAND ORDER* ALLEVIATE VERIZON'S CONCERNS WITH VFX?

A. No. 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 "virtual NXX" assignments. As I previously explained, these issues are not limited to Internet-bound traffic and are not directly related to termination rates. "Virtual NXX" assignment shifts transport costs to Verizon and makes toll calls to which toll charges properly apply appear as though they are local calls.

Q. US LEC CLAIMS THAT THE FCC'S *TSR WIRELESS ORDER* SUPPORTS ITS POSITION HERE. DO YOU AGREE?

[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).

[19] *Id.* at 16.

[20] *Id.* at 12.

A. No. The *TSR Wireless Order*[21] actually supports Verizon's position. In that order, the FCC held merely that an incumbent LEC could not charge for existing facilities used to deliver traffic originated on the incumbent's network to a paging carrier's switch. It did not decide any issue related to interconnection architecture or reciprocal compensation. Moreover, the FCC held that the incumbent *could* charge the paging carrier for a service known as "wide area calling," a service that permits individuals located outside the local calling area in which the paging carrier's facilities to call the paging carrier without incurring toll charges. That service is quite comparable to some "virtual NXX" arrangements.

Q. HOW DOES VERIZON RECOMMEND THE COMMISSION RESOLVE THIS ISSUE?

A. The Commission should adopt Verizon's proposed contract language, making clear that reciprocal compensation does not apply to any traffic that is interexchange, defined by reference to the actual originating and terminating points of the complete end-to-end call.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.

[21] Memorandum Opinion and Order, *TSR Wireless, LLC v. US West Communications, Inc.*, 15 FCC Rcd 11166 (2000).

BEFORE THE
MARYLAND PUBLIC SERVICE COMMISSION

Petition of	)	
	)	
US LEC OF MARYLAND INC.	)	
	)	
For Arbitration with Verizon Maryland Inc.	)	Case No. 8922
Pursuant to 47 U.S.C. § 252(b) of the	)	
Communications Act of 1934, as Amended	)	
By the Telecommunications Act of 1996	)	

REBUTTAL TESTIMONY
OF TERRY HAYNES ON BEHALF OF
VERIZON MARYLAND INC.

August 9, 2002

VZ#14

Q. ARE YOU THE TERRY HAYNES WHO TESTIFIED PREVIOUSLY IN THIS PROCEEDING?

A. Yes.

Q. PLEASE DESCRIBE THE PURPOSE OF YOUR REBUTTAL TESTIMONY.

A. I will address several points in the testimony of Wanda Montano. US LEC has claimed that its effort to reap reciprocal compensation payments on interexchange traffic – and to avoid the access charges that apply to such interexchange traffic – is pro-competitive. That claim is incorrect. In fact, US LEC is attempting to compete, not on the basis of increased efficiency or superior products, but purely on the basis of getting Verizon to bear the costs of the service that US LEC provides to its customers. The FCC has identified this as the kind of regulatory arbitrage that harms competition.

Q. MS. MONTANO SEEMS TO SUGGEST THAT VERIZON OBJECTS TO ROUTING AND RATING CALLS ACCORDING TO THE NXX CODE OF THE DIALED NUMBER. IS THAT CORRECT?

A. No. The parties' dispute has nothing to do with either the routing or the rating of calls. Calls are routed according to their assigned NXX code. As a general rule, each NXX code is identified in the Local Exchange Routing Guide ("LERG") with particular routing information; the LERG tells the originating carrier where to send the traffic. Verizon has not proposed any type of change to that system. And calls likewise are rated – that is, the charge to the originating caller is determined – by the NXX code of the called number. If the NXX code is associated with the local calling area of the caller, the call will be rated as local. That is true whether the called party is in the same local calling area or in a

different local calling area within the same LATA. It would even be true if the called party were located across the country.

Q. IF THE PARTIES AGREE THAT CALLS ARE RATED AND ROUTED ACCORDING TO THE NXX CODE, WHAT IS THE PARTIES' DISAGREEMENT?

A. The parties' sole disagreement for purposes of this proceeding is whether the NXX code should be used to determine intercarrier compensation, *i.e.*, whether reciprocal compensation must be paid when the called party is actually located in a different local calling area from the calling party. In other words, if a Verizon customer in Sparks Glencoe places a call to a US LEC customer located in Columbia, the question is whether reciprocal compensation should apply if the US LEC customer has been assigned an NXX code associated in the LERG with Sparks Glencoe rather than Columbia. Verizon maintains that reciprocal compensation should not be paid; that is also what the FCC has held, as I explained in my Direct Testimony.

Q. WHAT REASONS DOES MS. MONTANO GIVE FOR REQUIRING RECIPROCAL COMPENSATION ON VIRTUAL FX TRAFFIC?

A. As I understand her testimony, she offers three basic arguments. First, she argues that payment of reciprocal compensation is consistent with regulatory rules governing inter-carrier compensation in other contexts. Second, she argues that failure to order reciprocal compensation would discourage the deployment of Virtual FX arrangements. Third, she claims that payment of reciprocal compensation is required by the FCC's *TSR Wireless*

Order.[1] None of those arguments is correct. In addition, Ms. Montano offers several arguments regarding the application of access charges to this traffic. That is a separate issue that is not actually presented here, but I will address those arguments as well.

Q. IS MS. MONTANO CORRECT THAT IT IS INDUSTRY PRACTICE TO PAY INTER-CARRIER COMPENSATION BASED ON NXX CODES?

A. No. In fact, as I explained in my direct testimony, in the access charge context, the FCC has directly held that carriers must pay compensation based on the physical location of the called party, not the NXX code of the called party, which is generally associated with the local calling area of the calling party. In other words, the FCC has already decided that although FX traffic may be treated as local for purposes of rating the call to the originating end-user, it should not be treated as local traffic for purposes of inter-carrier compensation. Thus Ms. Montano's statement that "according to FCC Rules and Orders, access charges cannot be imposed on locally dialed calls" (Montano Testimony at 19:8-9) is flatly wrong.

Q. BUT WASN'T THE TRAFFIC AT ISSUE IN THE FCC ORDER YOU DISCUSSED INTERLATA TRAFFIC?

A. Yes, but the principle is the same. If a local telephone subscriber originates a call to an interLATA FX number, the local exchange carrier delivers the call to the interexchange carrier's point of presence for onward transmission to a called party; the local exchange carrier is entitled to originating access for such a call, even though the call is *rated* as a

[1] Memorandum Order and Opinion, *TSR Wireless, LLC v. US West Communications, Inc.*, 15 FCC Rcd 11166 (2000) ("*TSR Wireless Order*").

local call. Likewise, in the case of virtual FX traffic, the local exchange carrier delivers the traffic to the CLEC's point of interconnection; the CLEC then delivers the call to the called party, which is by definition located in a different local calling area (which may or may not be within the same LATA). Because the call is interexchange, no reciprocal compensation applies.

Q. BUT VERIZON HAS ADMITTED IN ITS RESPONSE TO US LEC'S DISCOVERY THAT VERIZON ITSELF MAY HAVE CHARGED RECIPROCAL COMPENSATION ON FX TRAFFIC. ISN'T THAT INCONSISTENT WITH YOUR POSITION HERE?

A. Verizon may well have charged a very small amount of reciprocal compensation for CLEC-originated calls bound for Verizon FX numbers. In theory, Verizon should not do so – neither Verizon's agreements nor federal law require payment of reciprocal compensation on traffic bound for Verizon FX numbers. But, as a practical matter, Verizon's billing systems are not set up to distinguish this traffic, no CLEC has every complained about it, and the amount of compensation is so tiny that it makes no practical difference. Verizon would be happy to work with any CLEC to devise a reasonable estimate of the amount of CLEC-originated traffic delivered to Verizon FX numbers, in order to avoid any theoretical overbilling of reciprocal compensation. I describe some possible arrangements below.

Q. HOW CAN YOU BE SURE THAT THE AMOUNT OF RECIPROCAL COMPENSATION THAT VERIZON HAS BILLED FOR NON-LOCAL FX TRAFFIC IS SO SMALL?

A. Verizon has done traffic studies in other jurisdictions to measure the amount of such traffic, and has consistently found that the amount of traffic is tiny – much less than one percent of CLEC-originated traffic. There is nothing about Verizon's operations in Pennsylvania that would lead me to believe that the results of a traffic study here would be different. The universe of Verizon FX subscribers is miniscule compared with the universe of ordinary local subscribers.

Q. DO YOU KNOW WHETHER VIRTUAL FX TRAFFIC FORMS A SIGNIFICANT PERCENTAGE OF THE TRAFFIC ORIGINATED BY VERIZON CUSTOMERS AND DELIVERED TO US LEC?

A. I do not know. We have asked US LEC questions in discovery that are related to this issue and have so far received no answer. But whether US LEC in particular receives a high volume of virtual FX traffic is not the point. Many CLECs do receive very high proportions of virtual FX traffic, and whatever resolution the Commission reaches in this proceeding will be available to all CLECs in Maryland under the opt-in provision of the 1996 Act, not just to US LEC.

Q. MS. MONTANO ALSO CLAIMS THAT NOT REQUIRING PAYMENT OF RECIPROCAL COMPENSATION MAY DISCOURAGE DEPLOYMENT OF VIRTUAL FX ARRANGEMENTS. DO YOU AGREE?

A. It is correct that payment of reciprocal compensation on Virtual FX traffic provides an additional incentive for CLECs to deploy those arrangements, but that is an argument against requiring reciprocal compensation, not in favor of it. Payment of reciprocal compensation would permit a CLEC improperly to transfer to Verizon some of the costs of the service that it provides to its customer. That is uneconomic and inefficient. As the

FCC has said, in such circumstances, "carriers . . . compete, not on the basis of the quality and efficiency of the services they provide, but on the basis of their ability shift costs to other carriers."[2] The FCC has identified such regulatory arbitrage as a major impediment to the development of genuine local competition.

Q. CAN YOU ELABORATE?

A. Yes. Suppose that a Verizon customer in Columbia wants to subscribe to a Sparks Glencoe FX number. Under traditional FX arrangements, the customer would have to subscribe to local service in the Sparks Glencoe exchange, and then pay for transport from the Sparks Glencoe exchange to Columbia. In that circumstance, the customer is paying for the right to receive calls in the Sparks Glencoe exchange and to have those calls transported to Columbia.

In the case of the type of virtual FX service that US LEC wants to be able to offer, the customer in Columbia would be assigned an NXX number associated with the Sparks Glencoe exchange. But Verizon – which is the carrier actually bearing the cost of providing service in the Sparks Glencoe exchange – receives no compensation from the customer for the provision of local exchange service in Columbia, even though the customer is benefiting from that service. Moreover, US LEC wants to be able to force Verizon to bear the cost of transporting the traffic from Sparks Glencoe to Columbia, without paying Verizon for that service. Verizon would be doing almost as much work under the virtual FX arrangement as under a traditional FX arrangement provided by

[2] Order on Remand and Report and Order, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 16 FCC Rcd 9151, 9183, ¶ 71 (2001) ("*ISP Remand Order*"), *remanded, WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002).

Verizon, but receiving no compensation from the virtual FX customer. That is a classic example of shifting costs away from the cost causer – the virtual FX customer – and onto Verizon. And that is a very bad result from the point of view of regulatory policy, because it deprives all parties of accurate price signals. Now, on top of that, US LEC wants to be paid a bounty in the form of reciprocal compensation for each call that Verizon originates in Sparks Glencoe and transports to Columbia. That result is blatantly anticompetitive.

Q. MS. MONTANO CLAIMS THAT VIRTUAL FX SERVICE OFFERS CUSTOMERS IN REMOTE AREAS (SPARKS GLENCOE IN THE ABOVE EXAMPLE) ADDITIONAL PROVIDER CHOICES. IS THAT CORRECT?

A. That claim is nonsense – akin to Ms. Montano's claim that US LEC has "a presence in the local calling area" (Montano Testimony at 26:7-8) when it has no presence at all in that local calling area. Providing reciprocal compensation on Virtual FX traffic actually discourages carriers like US LEC from deploying facilities in remote areas that would compete with Verizon's facilities, because US LEC must bear the cost of those facilities. Instead, it is more profitable for US LEC instead to allow Verizon to continue providing service and to search for ways to be paid for the service that Verizon provides, as with virtual FX arrangements. Ms. Montano comes close to admitting as much, when she claims that US LEC should be permitted to take advantage of Verizon's "ubiquitous network" (Montano Testimony at 28:19) without constructing facilities of its own. US LEC is seeking a free-ride on that network, pure and simple. Payment of reciprocal compensation on virtual FX traffic would amount to paying US LEC *not* to compete.

I should note in this regard that Ms. Montano's claim that Verizon's proposed language "would give Verizon a competitive advantage over US LEC in the ISP market" (Montano Testimony at 24:15-16) is also nonsense. There is nothing about Verizon's proposed language – which applies equally to Verizon and to US LEC – that would give Verizon any type of regulatory advantage in any market.

Q. YOU HAVE ALREADY EXPLAINED THAT VIRTUAL FX SERVICE DOES NOT INVOLVE ANY STATE-OF-THE-ART TECHNOLOGY. DO YOU HAVE ANYTHING TO ADD ON THAT POINT?

A. I would just like to emphasize that the issue here is simply whether reciprocal compensation should be paid on interexchange traffic. To the extent that US LEC has a new or innovative service to offer, it can still offer it; it simply will not be able to collect compensation to which it is not entitled.

Q. SO SHOULD THE COMMISSION PROHIBIT VIRTUAL FX ARRANGMENTS?

A. The Commission could do so – other Commissions have – but that is not my point, and Verizon is not proposing any sort of impediment on CLECs' implementing Virtual FX arrangements. *See Investigation Into Use of Central Office Codes (NXXs) by New England Fiber Communications, Inc., LLC d/b/a Brooks Fiber*, Docket No. 98-78, Maine PUC (rel. June 30, 2000). But Verizon should not be unfairly burdened with the costs of such arrangements. This is partly a matter of requiring parties to bear an appropriate share of the cost of interconnection arrangements. But it is also crucial that the Commission not order payment of reciprocal compensation on this interexchange traffic. Such compensation is not only contrary to law, it is also plainly wrong from the point of view of regulatory policy.

Q. MS. MONTANO CLAIMS THAT *TSR WIRELESS* SUPPORTS US LEC'S POSITION HERE. DO YOU AGREE?

A. No. As I explained in my direct testimony, *TSR Wireless* did not address the issue presented here. Indeed, that decision merely ruled that incumbent LECs could not charge paging carriers for existing facilities used to deliver *local* traffic generated on the LEC's network to the paging carrier's switch. The FCC did not rule that any *non-local* traffic would be subject to reciprocal compensation, did not rule that *non-local* traffic had to be delivered without charge, and did not address any issues related to network architecture. The question whether the traffic at issue in *TSR Wireless* was interexchange traffic did not arise because, under the FCC's rules, traffic between CMRS providers and LECs is subject to reciprocal compensation so long as it originates and terminates *within the same Major Trading Area*, an area encompassing many exchanges. *See* 47 C.F.R. § 51.701(b)(2).

Q. AFTER YOU FIRST TESIFIED IN THIS PROCEEDING, THE FCC'S WIRELINE COMPETITION BUREAU DETERMINED, IN AN INTERCONNECTION ARBITRATION, THAT RECIPROCAL COMPENSATION SHOULD BE DETERMINED BASED ON THE NPA-NXX CODES, NOT THE PHYSICAL LOCATION OF THE CALLING PARTY AND THE CALLED PARTY.[3] DO YOU HAVE ANY COMMENT ON THAT ORDER?

[3] *See* Memorandum Opinion and Order, *In the Matter of Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration*, CC Docket Nos. 00-218 *et al.*, DA 02-1731 (Wireline Comp. Bur. rel. July 17, 2002) ("*Virginia Arbitration Order*").

A. Yes. The Bureau did not rule that reciprocal compensation is required for virtual FX traffic. Rather, what the Bureau said, considering the evidence in that particular proceeding, was that paying reciprocal compensation based on the physical location of the calling party and the called party – as Verizon proposes here – would raise "billing and technical issues that have no concrete, workable solutions at this time." *Virginia Arbitration Order* ¶ 301. The Bureau's decision was based on the perceived practical difficulty of accurately tracking and billing FX and virtual FX traffic as non-local traffic for reciprocal compensation purposes. But billing reciprocal compensation for virtual FX traffic and FX traffic based on the geographic location of the calling party and the called party poses no significant practical problem. In fact, Verizon has already identified a concrete, workable solution to ensure that FX and virtual FX traffic is properly treated as interexchange traffic for reciprocal compensation and access charge billing purposes, even though such calls are rated as local to the calling party.

Q. WOULD YOU DESCRIBE THE MANNER IN WHICH VERIZON EXCLUDES FX TRAFFIC AND FX-LIKE TRAFFIC FROM RECIPROCAL COMPENSATION BILLING?

A. Yes, but first I would like to offer a bit of background. Verizon's billing system, for purposes of billing reciprocal compensation, was designed to compare the NPA-NXX codes of the calling party and the called party to determine whether a call is in fact local. That is a reasonable method, because the volume of CLEC originated traffic sent to a FX number on Verizon's network – for which that method would not yield a correct answer from the point of view of intercarrier compensation billing – is very small. Based on a traffic study Verizon performed in Florida, such traffic makes up less than one-half of

one percent of the CLEC originated traffic delivered to Verizon for termination to its customers.

But Verizon has learned, since the advent of local competition, that the assumption that a customer's assigned NPA-NXX code most likely corresponds to the customer's physical location is often not a valid assumption in the case of traffic delivered to CLECs. To the contrary, the volume of locally rated interexchange traffic being delivered to some CLECs makes up a significant percentage of the traffic delivered to those CLECs – in fact, I am aware of situations where almost *all* of the traffic that Verizon delivers to certain CLECs is Virtual FX traffic.

To deal with this issue, Verizon has recently taken steps to develop methods to accurately measure the volume of CLEC traffic terminated to Verizon FX numbers. Verizon conducted an inexpensive study in one LATA in Florida to identify those calls that were originated by CLEC customers and terminated to Verizon FX numbers. The study amounted to nothing more elaborate than matching call records that Verizon creates on calls originated from facility based CLEC's to a list of telephone numbers that Verizon assigned to FX service lines. This study was conducted with the intent of providing a means for Verizon to properly estimate the access revenue that CLECs would be entitled to for CLEC originated calls terminated to Verizon FX numbers. At the same time, Verizon considered what approach would be required to properly account for traffic originated by Verizon customers which terminated on CLEC virtual FX numbers. Two options were identified. One option would be for the CLEC to conduct a study, similar to the one performed by Verizon, to quantify the number of Verizon customer originated minutes that were delivered to the CLEC virtual FX numbers. The other option would be for the CLEC to notify Verizon of the numbers it has assigned as virtual FX numbers. In

this scenario, Verizon would modify its traffic data collection system to capture all traffic delivered to the NPA-NXXs associated with the virtual FX numbers. A data query could then be run to identify what portion of the traffic delivered to the NPA-NXXs was actually virtual NXX traffic. A billing adjustment would then be entered into each parties' billing system to properly account for the Verizon traffic delivered to the CLEC virtual FX numbers. For example, US LEC would credit from its reciprocal compensation billing to Verizon all amounts associated with these Virtual FX minutes, while Verizon would bill US LEC access charges for those minutes at whatever rate is found to be appropriate. Verizon is prepared to work with US LEC to implement one of these options so that traffic can be properly billed.

Q. MS. MONTANO CLAIMS THAT ACCESS CHARGES SHOULD NOT APPLY TO VIRTUAL FX TRAFFIC. DO YOU AGREE?

A. No. As an initial matter, however, the access charge issue is not properly presented here. The only section of the proposed agreement that addresses access charges provides that the parties' tariffs control. Accordingly, as far as this proceeding is concerned, the parties' are in agreement.

To the extent that the Commission does address this issue, it should hold that access charges apply. The reason for this is simple: a virtual FX arrangement, like traditional FX arrangements or other toll-free calling arrangements, allows a subscriber to receive calls from a distant exchange without the calling party incurring the toll charges that would normally apply. In place of those toll charges, the called party must pay other charges – in the case of traditional FX service, the customer must subscribe to local exchange service in the foreign exchange and pay transport; in the case of toll-free

service, the customer must pay toll charges for calls received. In the case of toll-free calls, the interexchange carrier then pays originating access charges to the originating local exchange carrier. The situation is the same here: the CLEC has set up a toll-free calling arrangement for its customer. The customer is thus able to take advantage of the local exchange service that Verizon is providing in that distant exchange, yet Verizon not only receives no subscriber revenue from the CLEC customer; it is also deprived of the toll charges that would ordinarily apply. Access charges provide the originating LEC some measure of compensation for the service that it provides.

Q. MS. MONTANO ARGUES THAT VERIZON DOES NOT INCUR ANY ADDITIONAL COSTS IN DELIVERING VIRTUAL FX TRAFFIC. DO YOU AGREE?

A. The claim is misleading. Obviously, the costs of delivering traffic to a CLEC depend on the interconnection architecture in place; if a virtual FX call is delivered to the same point of interconnection as a local call from the same point, Verizon's costs of delivering the traffic will be the same. But if the Commission were to exempt the CLEC from paying the access charges that ordinarily apply to such interexchange traffic (or, even worse, require Verizon to pay the CLEC reciprocal compensation), the Commission would be encouraging the CLEC to implement these arrangements even when they are inefficient. This is because the CLEC (and the CLEC's customers) would not bear the appropriate costs of providing the services that they consume. Thus, Verizon would have to originate and carry a great deal more traffic, and would therefore be required to bear significantly higher costs, than if access charges were properly applied.

Moreover, Ms. Montano ignores the fact that virtual FX arrangements mean that Verizon will be unable to collect toll charges from its customers where toll charges would apply (but for the assignment of a virtual NXX code). Again, I am not asserting that there is anything wrong with a CLEC setting up such toll free arrangements for its customers, so long as the CLEC complies with applicable state and federal regulations. But it is wrong for the CLEC to attempt to shift the costs of those arrangements to Verizon, and it is also wrong to exempt the CLEC and its customers from bearing an appropriate share of the costs of providing local exchange service in the distant exchange. As long as Verizon is the carrier providing that local exchange service, it is entitled to be compensated for it, and access charges provide that compensation.

Q. MS. MONTANO CLAIMS THAT VERIZON IS ALREADY COMPENSATED FOR THIS BY ITS END USERS.

A. That is wrong. Local exchange charges compensate Verizon for providing service within the local exchange. If a call travels outside the local exchange, Verizon should be entitled to additional compensation. Virtual FX service should be no exception.

Q. MS. MONTANO ALSO STATES THAT REQUIRING PAYMENT OF ACCESS CHARGES WOULD BE INAPPROPRIATE BECAUSE ACCESS CHARGES ARE ABOVE COST. DO YOU AGREE?

A. No. This Commission has approved tariffed intraLATA access charges that are designed to ensure that Verizon can recover the costs of providing local exchange service. In the case of virtual FX service, the CLEC customer is benefiting from the local exchange service that Verizon is providing in that distant exchange, and the Commission has determined that access charges provide the appropriate compensation for that service.

US LEC cannot challenge those access charges in this proceeding, nor does it give any legitimate reason that it should be exempt from the charges that all other intraLATA interexchange carriers must pay.

Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

A. Yes.

BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND

IN THE MATTER OF THE ARBITRATION	*	
OF US LEC OF MARYLAND, INC. VS.	*	CASE NO. 8922
VERIZON MARYLAND INC.	*	
PURSUANT TO 47 U.S.C. § 252(b)	*	

DIRECT TESTIMONY

OF

STEVE MOLNAR

ON BEHALF OF THE STAFF
OF THE
PUBLIC SERVICE COMMISSION OF MARYLAND

August 9, 2002

PSC #1

INTRODUCTION

Q. PLEASE STATE YOUR NAME AND OCCUPATION.

A. My name is Steve Molnar. I am a regulatory economist in the Telecommunications Division of the Public Service Commission of Maryland.

Q. PLEASE OUTLINE YOUR EDUCATIONAL BACKGROUND AND PROFESSIONAL EXPERIENCE.

A. My educational background and experience are included in Attachment B.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?

A. The purpose of my testimony is to discuss the petition filed by US LEC of Maryland, Inc. ("US LEC") that requests the Commission to arbitrate unresolved issues between US LEC and Verizon Maryland, Inc. ("VMD")[1]. US LEC presented eleven issues for arbitration (*See* Attachment A). However, Issues 7, 10, and 11 have been resolved by the parties.[2]

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[1] *Petition of US LEC of Maryland, Inc. for Arbitration* ("Petition"), filed April 12, 2002.

"Should Verizon be permitted to force US LEC to designate its collocation site at a Verizon end office as the US LEC IP where Verizon will deliver its traffic?"

Although VMD disagrees with US LEC's description of VMD's position on Issue 2,[3] the focus of both issues revolves around the location and number of interconnection points that US LEC should establish for the exchange of traffic with VMD.

Q. WHAT IS VMD'S VGRIP PROPOSAL?

A. VGRIP (Virtual Geographically Relevant Interconnection Points) represents VMD's preferred procedure for CLECs to establish points of interconnection. The effect of VGRIP is to create a distinction between a physical point of interconnection ("POI") and a financial point of interconnection ("IP"). According to VMD witness D'Amico, VGRIP creates a more reasonable method for allocating transport costs between US LEC and VMD.[4] Both US LEC and VMD discuss their positions on points of interconnection in detail in their testimonies and other filings made in this proceeding. Therefore, I have not repeated them.

[3] VMD Response to US LEC Petition at. 16.
[4] *Direct Testimony of Peter J. D'Amico on Behalf of Verizon Maryland Inc.*, June 10, 2002, p. 3.

A, Yes. Sprint provided a compromise that was patterned after an agreement that Sprint had reached with BellSouth. Essentially, Sprint agreed to establish any new Sprint facilities within five miles of Verizon's switching center (either tandem or end office switch); existing interconnection locations would be grandfathered. In addition, Sprint agreed to establish additional interconnection locations if traffic exceeds 8.9 million minutes per month (essentially one DS3's worth of traffic) and is greater than 20 miles and not in a local calling area.[7]

Q. WAS THE ABOVE PROPOSAL ADOPTED BY THE PANEL IN THE SPRINT PROCEEDING?

A. Yes.

Q. HOW WOULD THE SPRINT PROPOSAL ALLEVIATE VMD'S CONCERNS?

A. If US LEC and VMD were to follow a Sprint-like arrangement, US LEC would be responsible for the transport costs once the traffic reaches a monthly usage threshold or the two end points of a DS3 between the POI and the end office from which the traffic originates are more than 20 miles

[7] Id at 493.

Q. HAS US LEC OFFERED A PROPOSAL TO RESOLVE THIS ISSUE?

A. Yes. US LEC Witness Hoffman describes a US LEC proposal at page 6 of his direct testimony. Under this proposal, US LEC would establish POIs at every access tandem within a LATA and US LEC would also establish direct end office trunking to each VMD end office where US LEC delivers at least 200,000 minutes of use per month. US LEC would continue to maintain a single IP per LATA under its proposal.

Q. HAS THE FEDERAL COMMUNICATIONS COMMISSION ("FCC") CONSIDERED THIS ISSUE?

A. Yes. In its recent order regarding an arbitration proceeding between Verizon Virginia Inc. ("VVA") and three CLECs (AT&T, WorldCom, and Cox), the FCC specifically rejected VVA's VGRIP proposal and adopted the interconnection language proposed by the CLECs.[9] The FCC, however, agreed with VVA that there were serious concerns with the apportionment of costs for virtual FX traffic. The FCC noted that the issue of virtual FX service was under examination in an industry-wide

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In the Matter of Petitions of WorldCom, Inc., Cox Virginia Telecom, Inc, and AT&T Communications of Virginia Inc., Pursuant to Section 252(e) of the Communications Act for Preemption of the Jurisdiction of the Virginia Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc. and for Expedited Arbitration, CC Docket Nos. 00-218, 00-249, and 00-251 (Rel. July 17, 2002) (the "FCC VA Arbitation Order") at para. 39.

A. Issue 6 reads as follows:

"(A) Should the parties be obligated to compensate each other for calls to numbers with NXX codes associated with the same local calling area? (B) Should Verizon be able to charge originating access to US LEC on calls going to a particular NXX code if the customer assigned the NXX is located outside of the local calling area associated with that NXX code?"

This issue relates to the provision of virtual FX service by US LEC and how VMD should compensate US LEC for terminating US LEC's traffic. VMD asserts that that such traffic should not be subject to reciprocal compensation because it more closely resembles long distance traffic.

Q. DID THE FCC ADDRESS THIS MATTER IN THE VVA ARBITRATION PROCEEDING?

A. Yes. The FCC ruled in favor of the petitioners noting that the current industry practice for rating calls is based on the three-digit NPA (Numbering Plan Area) exchange codes.[11] Attempting to rate calls based on their originating and terminating locations leads to certain technical issues that have not yet been solved. The FCC explained, however, that

[11] *See* FCC VA arbitration Order, para. 301.

ISSUES LIST

Issue 1: Is US LEC permitted to select a single Interconnection Point ("IP") per Local Access and Transport Area ("LATA"), to select the interconnection method, and to require Verizon to bear the financial responsibility to deliver its originating traffic to the IP chosen by US LEC?

Issue 2: Should Verizon be permitted to force US LEC to designate its collocation site at a Verizon end office as the US LEC-IP where Verizon will deliver its traffic?

Issue 3: Is US LEC entitled to reciprocal compensation for terminating "Voice Information Services" traffic?

Issue 4: Should US LEC be required to provide dedicated trunking at its own expense for Voice Information Service traffic that originates on its network for delivery to Voice Information Service providers served by Verizon?

Issue 5: Should the term "terminating party" or the term "receiving party" be employed for purposes of traffic measurement and billing over interconnection trunks.

Issue 6: (A) Should the parties be obligated to compensate each other for calls to numbers with NXX codes associated with the same local calling area?
(B) Should Verizon be able to charge originating access to US LEC on calls going to a particular NXX code if the customer assigned the NXX is located outside of the local calling area associated with that NXX code?

Issue 7: ***(Settled by the parties.)*** Should Verizon be obligated to act as the transit carrier for US LEC and other third party local exchange carriers?

Issue 8: What compensation framework should govern the parties' exchange and termination of ISP-bound traffic in the event the FCC's Internet Order is vacated or reversed on appeal?

Issue 9: Should Verizon be permitted to change its non-tariffed charges during the term of the agreement, or must such charges remain fixed for the entire term?

Issue 10: ***(Settled by the parties.)*** (A) Should the time period during which a party may dispute charges be limited to sixty (60) days from the invoice date, or should a party be permitted to dispute charges for an indefinite period?; and (B) May an entire class of charges be disputed at once, or must each charge be disputed separately?

Issue 11: ***(Settled by the parties.)*** Should Verizon's proposed insurance requirements be adjusted to coverage levels that are consistent with the insurance that US LEC currently maintains?

QUALIFICATIONS

Q. PLEASE OUTLINE YOUR EDUCATIONAL BACKGROUND AND PROFESSIONAL EXPERIENCE.

A. I received a Bachelor of Arts degree in accounting from Syracuse University in 1976 and a Master of Business Administration degree from Rensselaer Polytechnic Institute in 1981. I held various accounting positions in private industry until accepting employment with the Public Service Commission in 1984. Other positions I have held at the Commission include cost of capital analyst, fiscal administrator, and Assistant Chief Auditor, all in the Accounting Division.