

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into appropriate methods)
to compensate carriers for exchange of traffic) Docket No. 000075-TP
subject to Section 251 of the Telecommunications)
Act of 1996.)

**REBUTTAL TESTIMONY OF
TERRY A. HAYNES**

**ON BEHALF OF
VERIZON FLORIDA INC.**

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2 **Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND**
3 **POSITION.**

4 A. My name is Terry Haynes. My business address is 600 Hidden Ridge,
5 Irving, Texas 75015. I am a manager in the State Regulatory Policy
6 and Planning group supporting the 20 Verizon states formerly
7 associated with GTE. I am testifying here on behalf of Verizon Florida
8 Inc. ("Verizon").

9

10 **Q. ARE YOU THE SAME TERRY HAYNES WHO SUBMITTED**
11 **TESTIMONY EARLIER IN THIS PROCEEDING?**

12 A. Yes.

13

14 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PHASE**
15 **OF THE DOCKET?**

16 A. I will respond to the testimony of other parties—primarily Mr. Gates
17 and Dr. Selwyn—on matters related to assignment of telephone
18 numbers to end users physically outside the rate center associated
19 with a particular number.

20

21 **Q. WHAT IS YOUR GENERAL IMPRESSION OF WITNESS GATES'**
22 **TESTIMONY ON THE NUMBER ASSIGNMENT ISSUE?**

23 A. Mr. Gates makes some of the most extreme proposals I have ever
24 seen, all in the guise of maintaining the "status quo." He asserts that
25 the Commission should establish a policy of determining what calls are

1 "local" by comparing the NXX codes of the calling and called parties.
2 (Gates Direct Testimony (DT) at 4.) He states, correctly, that this is
3 the process used today. (Id.) But he also proposes that carriers
4 should be permitted to assign NXX codes across the state, without
5 regard to the physical location of the end user. He claims that this is
6 the practice today and the Commission should formally sanction it.
7 (Gates DT at 4-5, 25-32.) However, the result of Gates'
8 recommendations would be an obliteration of the longstanding
9 local/toll distinction that guides this Commission's telephone service
10 pricing policy.

11
12 As I explained in my Direct Testimony, a customer's basic exchange
13 rate typically includes the ability to make an unlimited number of calls
14 within a designated geographic area at modest or no additional
15 charge. Calls outside the local calling area (as defined in Verizon's
16 tariffs and local interconnection agreements) are subject to an
17 additional, toll charge. Toll service is generally priced higher, on a
18 usage-sensitive basis, than local calling. As regulators across the
19 country, including this Commission, understand, toll revenues have
20 historically been used to hold down the price of basic local service.

21
22 The ILECs' tariffs and billing systems use the NXX codes of the calling
23 and called parties to ascertain the originating and terminating
24 exchanges involved in a call, and the call is rated accordingly. If NXX
25 codes can be assigned to customers outside their home rate center (to

1 avoid what Mr. Gates calls the “disincentive of a toll call,” Gates DT at
2 26), then the ILEC cannot discern whether the call is local or toll, and
3 cannot properly rate it. Potentially, all calls will look like local calls,
4 even if they are classified as toll for billing purposes in the ILECs’
5 tariffs. This means that ILECs will lose the toll revenues that are a
6 principal source of contribution to local rates.

7
8 From another perspective, what Mr. Gates seeks to achieve is massive
9 rate center consolidation, with potentially an entire LATA as a local
10 calling area. As I discuss later, Verizon has no problem with the
11 ALECs (or the ILECs) defining their own calling areas as they see fit.
12 However, Mr. Gates’ proposal would force Verizon to redefine its local
13 calling areas. The local/toll calling concept that is linked to Verizon’s
14 rate centers, and that is embodied in its tariffs and interconnection
15 agreements, will be rendered meaningless.

16
17 As a legal matter, I am told the Commission no longer has the ability to
18 implement rate center consolidation, which would be the effect of Mr.
19 Gates’ proposal. As a policy matter, Mr. Gates’ approach is a stunning
20 departure from decades-long policies. Certainly, this kind of major
21 policy overhaul could not be undertaken in a docket intended to
22 evaluate the much narrower issue of reciprocal compensation. I am
23 confident the Commission will see Mr. Gates’ proposals for what they
24 are and give them no serious consideration in this docket.

25

1 Q. PLEASE EXPLAIN IN MORE DETAIL THE SIGNIFICANCE OF THE
2 CUSTOMER'S TELEPHONE NUMBER FOR CALL HANDLING AND
3 BILLING.

4 A. A customer's telephone number or "address" serves two separate but
5 related functions: proper call routing and rating. In fact, each
6 exchange code or NXX within an NPA is assigned to *both a switch*,
7 identified by the Common Language Location Identifier ("CLLI"), *and a*
8 *rate center*. As a result, telephone numbers provide the network with
9 specific information (*i.e.*, the called party's end office switch) necessary
10 to route calls correctly from the callers to their intended destinations.
11 At the same time, telephone numbers also identify the exchanges of
12 both the originating caller and the called party to provide for the proper
13 rating of calls. It is this latter function of assigned NXX codes—the
14 proper rating of calls—that is at the heart of the virtual NXX issue.

15
16 Q. DO YOU AGREE WITH THE PRINCIPLE, ESPOUSED BY MR.
17 GATES AND DR. SELWYN, THAT "ALECS SHOULD BE ALLOWED
18 TO OFFER CUSTOMERS COMPETITIVE ALTERNATIVES TO THE
19 LOCAL CALLING AREAS THAT ARE EMBODIED IN THE ILEC'S
20 SERVICES" (SELWYN DT AT 44; GATES DT AT 8-9.)?

21 A. I certainly agree that local exchange carriers, ALECs and ILECs alike,
22 should be permitted to determine their own outward-dialing calling
23 scopes. Companies' ability to offer different calling scopes is a
24 potentially important way for them to differentiate their respective
25 services in the market. This ability, however, does not mean that an

1 ALEC can arbitrarily expand the local dialing scope of an ILEC
2 customer, as they propose to do here with a service that resembles 1-
3 800 inward dialing, at least without appropriate compensation to the
4 ILEC handling the traffic.

5
6 I believe the Commission agrees with this principle. As Mr. Ruscilli
7 pointed out in his Direct Testimony, in an arbitration between
8 BellSouth and Intermedia, the Commission forbade Intermedia to
9 assign numbers "outside of the areas with which they are traditionally
10 associated" unless and until Intermedia can provide information to
11 other carriers that will allow proper rating of calls to those numbers.
12 (Ruscilli DT at 37, *citing* FPSC Order No. PSC-00-1519-FOF-TP,
13 Docket No. 991854-TP, Aug. 22, 2000).

14
15 In addition, I believe this interpretation is consistent with section 251.g
16 of the Telecommunications Act, which maintained the distinction
17 between access services and local interconnection, and more
18 specifically maintained access services under existing access
19 arrangements unless or until those regulations were specifically
20 superseded. These principles were further reinforced by the FCC in its
21 order implementing the Telecommunications Act, in which the FCC
22 asserted that "transport and termination of local traffic are different
23 services than access service for long distance communications" (order
24 par. 1033). Dr. Selwyn's proposal selfishly seeks to eliminate the
25 existing access regime for interexchange calls and to manipulate local

1 interconnection into a windfall for a few ALECs at the expense of
2 Florida customers.

3

4 **Q. WOULD RECIPROCAL COMPENSATION BE HANDLED FAIRLY**
5 **AND REASONABLY UNDER THE ALECS' VIRTUAL NXX**
6 **PROPOSAL?**

7 A. No. The ALECs expect an ILEC handling traffic anywhere within a
8 LATA (that is, including intraLATA toll traffic) to pay reciprocal
9 compensation for calls that are delivered to customers outside the
10 local calling area of the customer originating the calls. (Selwyn DT at
11 44; Gates DT at 38.) This arrangement is a sharp departure from the
12 billing policies that have existed within the telecommunications
13 industry for many years. As I stated earlier, certain telephone pricing
14 conventions were adopted decades ago in support of universal service
15 goals. A primary principle is that the basic exchange access rate of an
16 ILEC includes an unlimited number of calls within a defined geographic
17 area at little or no additional charge. Generally speaking, this
18 geographic area includes the customer's home exchange and specific
19 neighboring exchanges designated as the customer's "local calling
20 area." Whenever calls are placed to customers outside of the local
21 calling area, an additional charge applies, which generally takes the
22 form of a "toll" or message telecommunications service charge. In lieu
23 of a toll charge to the customer initiating the call, ILECs can be
24 reimbursed for their handling of the long-distance call through
25 arrangements such as toll-free 1-800/877/888 or through foreign

1 exchange (FX) service. In no instance does Verizon offer to transport
2 traffic outside of the local calling area without additional compensation
3 for the long-distance handling. Doing so would undermine the
4 infrastructure that has been established to help maintain affordable
5 local service.

6

7 The Commission is very familiar with issues relative to expansion of
8 local calling scopes. Before the Legislature took away the
9 Commission's authority to entertain expanded area service requests,
10 many such proceedings were held. A key issue in these cases was
11 how to accommodate the ILEC's loss of toll revenues. In some cases,
12 for example, customers voted to pay a monthly "adder" to obtain a
13 wider calling scope.

14

15 Verizon vigorously disagrees with Dr. Selwyn's observation that the
16 issue here is "one of pricing and competitive response, not one of
17 policy." (Selwyn DT at 54.) This would certainly come as a surprise to
18 this Commission, whose EAS and expanded calling scope (ECS)
19 decisions have duly considered the existing local/toll scheme and the
20 need to address ILEC toll losses when converting intraLATA toll routes
21 to local routes.

22

23 **Q. WOULD ASSIGNMENT OF NUMBERS OUTSIDE THE**
24 **CUSTOMER'S RATE CENTER BE CONSISTENT WITH INDUSTRY**
25 **PRACTICES TODAY?**

1 A. No. National numbering policy requires that numbers be provided to
2 carriers with the understanding that they will be used to serve
3 customers physically located within the rate centers for which they are
4 being requested; and that such numbers will begin to be utilized for
5 local exchange service within six months of receiving them from the
6 North American Number Plan Administrator. Virtual NXX service
7 violates these guidelines, because the ALEC is not providing any
8 service, local exchange or otherwise, in the rate center areas
9 associated with those NXXs.

10

11 Moreover, an ALEC's request for numbers for rate centers other than
12 those where their customers are located appears to be a sheer waste
13 of numbering resources. My Direct Testimony included a copy of a
14 June 2000 decision by the State of Maine Public Utilities Commission
15 relative to number conservation tied to virtual NXXs. In the Maine
16 example, an ALEC requested 54 NXX codes for use outside the rate
17 center in which their switch resided. These 54 codes were used to
18 provide interexchange service from across Maine to a single point
19 within the state. Because of the manner in which ILEC billing systems
20 operate, all of these interexchange calls were rated as local, since
21 virtual NXXs were utilized. The Maine Public Utility Commission
22 ultimately ordered the ALEC to return the 54 codes since it did not
23 serve local customers with any of the numbers. In Maine, over
24 500,000 numbers were "stranded" with little chance of being utilized
25 since the ALEC was only providing service in one rate center. There is

1 no reason to think the drawbacks Maine cited will be any different here
2 in Florida if the Commission adopts the ALECs' virtual NXX proposal.

3

4 **Q. BUT MR. GATES ADMITS THAT MANY ISPS USE VIRTUAL NXX**
5 **ARRANGMENTS TODAY TO PROVIDE SERVICE TO ISPS AND**
6 **OTHERS AND THAT THERE IS NOTHING UNLAWFUL OR**
7 **IMPROPER ABOUT IT. (GATES DT AT 27-28.) DO YOU AGREE?**

8 A. No, I don't. As I stated, use of virtual NXXs violates the local/toll
9 distinction established and carefully maintained by this Commission
10 and reflected in Verizon's Commission-approved tariffs and
11 interconnection agreements. It is also contrary to industry numbering
12 policy and practices. This Commission has never sanctioned virtual
13 NXX service (or, as Dr. Selwyn calls it "functionality") and, to my
14 knowledge, the ALECs never even told the Commission they were
15 offering it before this docket. If the ALECs already were entitled to
16 engage in virtual NXX activity without the Commission's permission,
17 then I don't think we'd be here discussing this issue today in this
18 docket. I would recommend that this Commission follow the Maine
19 Commission's lead and unequivocally declare that provision of virtual
20 NXX is not permissible, and that ALECs should return any codes used
21 in this way.

22

23 **Q. BUT THE ALECS' CLAIM IS THAT ALECS' VIRTUAL NXX SERVICE**
24 **IS LIKE THE ILECS' FX SERVICE. DO YOU AGREE?**

25 A. No, I do not. To try to convince the Commission that virtual NXX

1 service is nothing unusual or impermissible, the ALECs compare it to
2 the ILECs' FX service. (Gates DT at 53; Selwyn DT at 28.) While the
3 two services are functionally alike, the similarity ends there. When
4 Verizon offers FX service to a customer, he agrees to pay a monthly
5 charge to Verizon for transporting to him calls that would otherwise be
6 toll calls and for which Verizon would normally bill the originating party.
7 When an ALEC provides virtual NXX service, however, the ILEC
8 handling the virtual NXX traffic is not compensated for its transport of
9 calls to a rate center which is outside the normal local calling scope.

10

11 Moreover, for FX service, the end user customer compensates Verizon
12 for the ability to receive calls from only *one* other rate center. If a
13 customer chose to have FX service from all of the rate centers within a
14 LATA, his total monthly FX charges would be correspondingly much
15 greater, to compensate Verizon for transporting the traffic outside of
16 the local calling area from across the LATA. The ALECs are
17 proposing that ILECs provide, in effect, LATA-wide FX service at no
18 charge—and that, in addition, they should pay the ALECs reciprocal
19 compensation for these new “local” calls. This is certainly not the
20 status quo today, from Verizon’s perspective, and the Commission
21 should not sanction this patently unfair change.

22

23

24 **Q. DR. SELWYN CLAIMS THAT THE ONLY IMPACT OF AN ALEC’S**
25 **DECISION TO DELIVER TRAFFIC TO A RATE CENTER OUTSIDE**

1 **OF THE HOME RATE CENTER IS THE POSSIBILITY THAT THE**
2 **ILEC MAY SUSTAIN A COMPETITIVE LOSS. (SELWYN DT AT 53.)**
3 **DO YOU AGREE WITH THAT ASSESSMENT?**

4 A. Certainly not. Virtual NXX traffic is not traditional local traffic. Dr.
5 Selwyn suggests that Verizon should ignore the cost of transporting
6 the calls outside of the local calling area and simultaneously pay
7 reciprocal compensation. Today, when calls are transported outside of
8 the local calling area, Verizon is supposed to be compensated through
9 access charges; reciprocal compensation does not apply because the
10 calls are not local in nature. If the Commission were to endorse the
11 ALECs' approach, Verizon would lose revenue not through legitimate
12 competition, but because an ALEC inappropriately assigned numbers
13 to customers located in rate centers outside of the local calling area.
14 In fact, Verizon is experiencing these losses today, as ALECs admit
15 they are misassigning numbers.

16
17 Verizon urges the Commission to join the ranks of state commissions
18 denying reciprocal compensation for virtual NXX traffic. Mr. Ruscilli
19 lists and describes their decisions in his Direct Testimony (at 36-53).
20 Connecticut will likely soon be added to this list. The Department of
21 Public Utility Control there has just issued a draft order rejecting
22 arguments, like those the ALECs make here, that the ILECs are
23 somehow evading their reciprocal compensation obligations by
24 refusing to pay such compensation for virtual NXX traffic. The
25 Department has proposed to deny reciprocal compensation for

1 termination of these non-local calls, and is instead considering
2 applying access charges to them. (*DPUC Investigation of the*
3 *Payment of Mutual Compensation for Local Calls Carried Over Foreign*
4 *Exchange Service Facilities*, Draft Decision (March 29, 2001).)

5

6 **Q. DO YOU AGREE WITH MR. GATES THAT CUSTOMERS WISH TO**
7 **USE VIRTUAL NXX CODES “TO TAKE ADVANTAGE OF STATE-**
8 **OF-THE-ART, CURRENTLY AVAILABLE TECHNOLOGIES THAT**
9 **ALLOW CONSUMERS TO REACH THEIR BUSINESSES WITHOUT**
10 **THE DISINCENTIVE OF A TOLL CALL” (GATES DT AT 26)?**

11 A. No. Virtual NXX service is hardly a state-of-the-art technology and it is
12 certainly not necessary to provide customers toll-free calling.
13 Telephone companies have been offering toll-free service for more
14 than 20 years. In fact, the ALEC number assignment action forces
15 originating ILECs like Verizon to (1) at the originating switch, treat the
16 call as a local call for billing and switch routing purposes, and then (2)
17 transport the call over Verizon facilities (at Verizon expense) to the
18 distant ALEC interconnection point, much like Verizon would transport
19 a toll call or an originating access call -- existing services for which
20 Verizon would be compensated by the originating toll user or the
21 interexchange access customer, respectively. The only thing that's
22 “new” here is the new scheme to manipulate intercarrier transport and
23 compensation in a manner to load all of the costs on the originating
24 ILEC, and then, instead of compensating the originating ILEC for the
25 services provided, to prevent the originating ILEC from billing either

1 the originating customer or the receiving ALEC -- and then to bill
2 reciprocal compensation to the originating ILEC! There is not any
3 aspect of the virtual NXX service that would be considered new or
4 state-of-the-art from a technology perspective.

5
6 With regard to the "disincentive" a toll call may create, Verizon would
7 agree that most customers would like all their calls to be local, rather
8 than having to pay any toll charges. But that's not sufficient reason for
9 the Commission to suddenly reject the existing local/toll system and its
10 underlying public policy rationale.

11
12 **Q. MR. GATES SUGGESTS IF THE COMMISSION "PROHIBITS" USE**
13 **OF VIRTUAL NXXS, THEN EAS CALLS MAY NO LONGER BE**
14 **CONSIDERED LOCAL. (GATES DT AT 28-29.) DO YOU AGREE?**

15 A. Absolutely not. This odd theory seems to be rooted in Mr. Gates'
16 misperception of the status quo, as well as the nature of EAS. Once
17 again, I believe that Mr. Gates' assumption that ALECs can use virtual
18 NXXs today is unjustified. From my perspective, prohibition of virtual
19 NXXs is the status quo, and it has had no effect on the classification of
20 EAS as local.

21
22 Mr. Gates implies that EAS developed because the ILECs asked the
23 Commission to change toll traffic into local in order to stem competition
24 for toll services. (Gates DT at 29.) This is not true. As the
25 Commission knows, EAS has generally been established in response

1 to customer demand for a larger local area calling scope. The ILEC
2 typically requests and receives a rate increase to compensate it for
3 expansion of the local calling scope. Contrary to Mr. Gates' assertion,
4 the ILECs are not asking the Commission to "change the treatment of
5 certain local traffic back to toll." EAS is deemed local by the
6 Commission now and will remain local, regardless of how the
7 Commission decides the virtual NXX issue.

8

9 **Q. DO YOU AGREE WITH MR. GATES THAT VIRTUAL NXX CALLS**
10 **ARE ROUTED LIKE LOCAL CALLS AND DO NOT GO THROUGH**
11 **AN ACCESS TANDEM (GATES DT AT 30)?**

12 A. No, I do not. In fact, Mr. Gates' testimony conflicts with the virtual NXX
13 routing example provided on page 51 of Dr. Selwyn's Direct
14 Testimony. In Dr. Selwyn's example, the ILEC routes a call from a
15 West Palm Beach rate center to an ALEC POI in the Miami rate center
16 via the ILEC tandem. Generally speaking, the only way a virtual NXX
17 call would *not* pass through an ILEC tandem would be when the ALEC
18 point of interconnection (POI) is located in the same rate center as the
19 ILEC central office through which a virtual NXX call originates.

20

21 **Q. DO YOU AGREE WITH MR. GATES' ASSERTION THAT A LEC'S**
22 **RATES COVER THE COST OF CARRYING VIRTUAL NXX AND FX**
23 **TRAFFIC TO THE POI (GATES DT AT 36)?**

24 A. No. The *TSR Wireless* Order Mr. Gates cites requires ILECs to
25 recover the cost of facilities used to deliver ALEC traffic to the ALEC's

1 POI through the rates the ILEC charges its own customers for making
2 calls. But the order does *not* state that an ALEC can establish the POI
3 outside of the rate center and expect an ILEC to provide facilities to a
4 remote POI, which would effectively force the ILEC to provide service
5 that is similar to FX service, but at no cost to the ALEC. Obviously,
6 this result would be unfair to the ILEC's customers who currently have
7 FX service, and who pay for it at a rate that compensates Verizon for
8 the additional transport required. If an ALEC wants to provide FX-like
9 service, it should compensate Verizon in a manner like Verizon's end
10 user customers do. Otherwise, Verizon would need to seek to
11 increase its basic local rates to cover the costs of the "free"
12 interexchange transport service provided to the ALEC.

13

14 **Q. ARE ILECS "ESSENTIALLY INDIFFERENT FROM A COST**
15 **PERSPECTIVE" TO HANDLING VIRTUAL NXX TRAFFIC, AS MR.**
16 **GATES ASSUMES (GATES DT AT 36)?**

17 A. No. Virtual NXX traffic causes a significant increase in the demand
18 upon ILEC networks to deliver traffic one-way to the remotely located
19 internet service providers (ISPs) served by ALEC virtual NXX
20 arrangements. This increase in traffic will ultimately drive additional
21 network investment to properly handle the call volume. So while
22 switching costs may be a neutral factor, the ILECs are certainly not
23 indifferent as to transport costs. Obviously, it costs more for facilities
24 to transport traffic 100 miles than it does to transport traffic 5 miles.

25

1 In addition, under the ALECs' proposal, ILECs would be expected to
2 pay reciprocal compensation to ALECs for traffic that would
3 traditionally have been handled more like a 1-800 call. So Verizon is
4 definitely *not* indifferent to handling virtual NXX traffic from a cost
5 perspective.

6

7 **Q. DO YOU AGREE WITH MR. GATES, THAT "RESTRICTING NXX**
8 **ASSIGNMENT" VIOLATES THE TELECOMMUNICATIONS ACT**
9 **(GATES DT AT 39)?**

10 A. No, I do not. Although I am not a lawyer, anybody can read the Act
11 and see that there's nothing in there allowing the kind of
12 misassignment of numbers the ALECs support. Likewise, there is
13 nothing in there that gives the ALEC the unilateral right to erase a
14 Commission-approved distinction between local and toll service or to
15 waste numbering resources.

16

17 Mr. Gates invokes the Act's general intent for all consumers, including
18 those in rural, insular, and high cost areas, to have access to
19 telecommunications and information services at just, reasonable, and
20 comparable rates. (47 U.S.C. sec. 254(b).) Verizon provides
21 customers in rural areas with access to telecommunications services
22 at reasonable rates. Verizon would have difficulty maintaining these
23 reasonable rates, however, if the ALECs approach to virtual NXX
24 service were adopted. In that event, local rates for both rural and
25 urban customers would need to rise to compensate Verizon for the

1 increased, uncompensated use of its network for providing toll-free or
2 FX service. The Act does not require an ILEC to subsidize an ALEC to
3 ensure the ALEC's success in the marketplace. Rather, in the context
4 at issue, the ILEC's obligation is to accommodate ALEC
5 interconnection at any reasonable point within the ILEC's network.
6 This is a far cry from being required to carry traffic outside of the local
7 calling area in order to provide free transport, while also being required
8 to pay reciprocal compensation relative to this traffic.

9

10 **Q. DOES THAT CONCLUDE YOUR TESTIMONY?**

11 **A. Yes.**

12

13

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