

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Global NAPS,
Inc. for arbitration pursuant to
47 U.S.C. 252(b) of
interconnection rates, terms and
conditions with Verizon Florida
Inc.

DOCKET NO. 011666-TP
ORDER NO. PSC-03-0253-PHO-TP
ISSUED: February 20, 2003

Pursuant to Notice and in accordance with Rule 28-106.209, Florida Administrative Code, a Prehearing Conference was held on February 17, 2003, in Tallahassee, Florida, before Commissioner J. Terry Deason, as Prehearing Officer.

APPEARANCES:

Jon C. Moyle, Jr., Esquire, Moyle, Flanigan, Katz, Raymond & Sheehan, P.A., The Perkins House, 118 North Gadsden Street, Tallahassee, Florida 32301; and James R. J. Scheltema, Esquire, Global NAPs, Inc., 5042 Durham Road West, Columbia, Maryland 21044-1445
On behalf of Global NAPs, Inc.

Kelly L. Faglioni, Esquire, and Edward P. Noonan, Esquire, Hunton & Williams, Riverfront Plaza, East Tower, 951 East Byrd Street, Richmond, Virginia 23219
On behalf of Verizon Florida, Inc.

Lee Fordham, Esquire, Florida Public Service Commission, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850
On behalf of the Commission.

PREHEARING ORDER

I. CONDUCT OF PROCEEDINGS

Pursuant to Rule 28-106.211, Florida Administrative Code, this Order is issued to prevent delay and to promote the just, speedy, and inexpensive determination of all aspects of this case.

DOCUMENT NO. 011666-TP

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FPSC-COMMISSION CLERK

II. CASE BACKGROUND

On December 20, 2001, Global NAPS, Inc. (GNAPS) petitioned the Commission to arbitrate certain unresolved terms and conditions of an interconnection agreement with Verizon Florida Inc. (Verizon). Verizon filed a response and the matter has been set for hearing.

III. PROCEDURE FOR HANDLING CONFIDENTIAL INFORMATION

A. Any information provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the Commission and the parties as confidential. The information shall be exempt from Section 119.07(1), Florida Statutes, pending a formal ruling on such request by the Commission, or upon the return of the information to the person providing the information. If no determination of confidentiality has been made and the information has not been used in the proceeding, it shall be returned expeditiously to the person providing the information. If a determination of confidentiality has been made and the information was not entered into the record of the proceeding, it shall be returned to the person providing the information within the time periods set forth in Section 364.183, Florida Statutes.

B. It is the policy of the Florida Public Service Commission that all Commission hearings be open to the public at all times. The Commission also recognizes its obligation pursuant to Section 364.183, Florida Statutes, to protect proprietary confidential business information from disclosure outside the proceeding.

1. Any party intending to utilize confidential documents at hearing for which no ruling has been made, must be prepared to present their justifications at hearing, so that a ruling can be made at hearing.

2. In the event it becomes necessary to use confidential information during the hearing, the following procedures will be observed:

- a) Any party wishing to use any proprietary confidential business information, as that term is defined in Section 364.183, Florida Statutes, shall

notify the Prehearing Officer and all parties of record by the time of the Prehearing Conference, or if not known at that time, no later than seven (7) days prior to the beginning of the hearing. The notice shall include a procedure to assure that the confidential nature of the information is preserved as required by statute.

- b) Failure of any party to comply with 1) above shall be grounds to deny the party the opportunity to present evidence which is proprietary confidential business information.
- c) When confidential information is used in the hearing, parties must have copies for the Commissioners, necessary staff, and the Court Reporter, in envelopes clearly marked with the nature of the contents. Any party wishing to examine the confidential material that is not subject to an order granting confidentiality shall be provided a copy in the same fashion as provided to the Commissioners, subject to execution of any appropriate protective agreement with the owner of the material.
- d) Counsel and witnesses are cautioned to avoid verbalizing confidential information in such a way that would compromise the confidential information. Therefore, confidential information should be presented by written exhibit when reasonably possible to do so.
- e) At the conclusion of that portion of the hearing that involves confidential information, all copies of confidential exhibits shall be returned to the proffering party. If a confidential exhibit has been admitted into evidence, the copy provided to the Court Reporter shall be retained in the Division of the Commission Clerk and Administrative Services's confidential files.

IV. POST-HEARING PROCEDURES

Each party shall file a post-hearing statement of issues and positions. A summary of each position of no more than 50 words, set off with asterisks, shall be included in that statement. If a party's position has not changed since the issuance of the prehearing order, the post-hearing statement may simply restate the prehearing position; however, if the prehearing position is longer than 50 words, it must be reduced to no more than 50 words. If a party fails to file a post-hearing statement, that party shall have waived all issues and may be dismissed from the proceeding.

Pursuant to Rule 28-106.215, Florida Administrative Code, a party's proposed findings of fact and conclusions of law, if any, statement of issues and positions, and brief, shall together total no more than 40 pages, and shall be filed at the same time.

V. PREFILED TESTIMONY AND EXHIBITS; WITNESSES

Testimony of all witnesses to be sponsored by the parties has been prefiled. All testimony which has been prefiled in this case will be inserted into the record as though read after the witness has taken the stand and affirmed the correctness of the testimony and associated exhibits. All testimony remains subject to appropriate objections. Each witness will have the opportunity to orally summarize his or her testimony at the time he or she takes the stand. Summaries of testimony shall be limited to five minutes. Upon insertion of a witness' testimony, exhibits appended thereto may be marked for identification. After all parties and Staff have had the opportunity to object and cross-examine, the exhibit may be moved into the record. All other exhibits may be similarly identified and entered into the record at the appropriate time during the hearing.

Witnesses are reminded that, on cross-examination, responses to questions calling for a simple yes or no answer shall be so answered first, after which the witness may explain his or her answer.

The Commission frequently administers the testimonial oath to more than one witness at a time. Therefore, when a witness takes

the stand to testify, the attorney calling the witness is directed to ask the witness to affirm whether he or she has been sworn.

VI. ORDER OF WITNESSES

All testimony is stipulated into the record and cross examination is waived. GNAPS reserves the right to cross examine the surrebuttal testimony of witness Haynes.

<u>Witness</u>	<u>Proffered By</u>	<u>Issues #</u>
<u>Direct</u>		
Dr. Lee L. Selwyn	GNAPS	1, 4, 5
Peter D'Amico	Verizon	1, 2, 3
Terry Haynes	Verizon	4, 5
Karen Fleming	Verizon	8
Jonathan B. Smith	Verizon	9
<u>Rebuttal</u>		
Dr. Lee L. Selwyn	GNAPS	1, 4, 5
Kevin Collins	Verizon	1, 5
Peter D'Amico	Verizon	1, 2, 3
Terry Haynes	Verizon	4, 5
<u>Surrebuttal</u>		
Terry Haynes	Verizon	4, 5

VII. BASIC POSITIONS

GNAPS: Verizon proposes burdensome terms and conditions which are designed to (1) retain its monopoly revenue streams (2) preclude economically viable competition and (3) deny consumers deserved benefits. It does so by exercising its monopoly powers and ignoring the 1996 Telecommunications Act, related federal law and Florida law, (e.g., the Commission's Order in 000075-TP).

In contrast to other jurisdictions, such as New York, where the Commission found that Global's competitive FX offering via non-geographically correlated NXXs can provide real alternatives and competitive benefits, especially to those in rural areas, Verizon proposes that its Florida consumers remain captive. Further, the administrative law judge in Pennsylvania found in Global's arbitration with Verizon there that adoption of Global's-defined local calling areas would promote competition, just as was found by this Commission in docket 0000075-TP. Verizon's service territory should be opened to competition just as other Florida ILEC's service territories have been opened.

VERIZON: The Commission should adopt the undisputed portions of the new interconnection agreement between Verizon and Global NAPs, Inc. ("Global"). In the case of disputed provisions, the Commission should adopt Verizon's proposed language for the agreement.

Specifically, the Commission should rule in Verizon's favor on each issue in this case:

The Commission should order Global to locate its point of interconnection on Verizon's network, as federal law requires (Issue 1).

The Commission should require the parties to mutually agree on the technical and operational issues associated with Global's election to use two-way trunks (Issue 2).

The Commission should permit Verizon to collocate at Global's facilities in the same manner in which Global may collocate at Verizon's facilities (Issue 3(a)). Alternatively, and in the event the Commission permits Global to compel Verizon to bring its traffic to Global's network, Global should not be permitted to charge Verizon distance-sensitive rates for transport (Issue 3(b)).

The Commission should allow Global to define retail local calling areas for its own customers, but it should retain the use of Verizon's tariffed local calling areas to

determine intercarrier compensation obligations. Verizon cannot, however, implement Global's "originating carrier" approach to determining intercarrier compensation, because Global has not provided any specifics about its proposal (Issue 4).

The Commission should order, consistent with its own precedent and federal law, that (i) virtual NXX traffic is not subject to reciprocal compensation, and (ii) access charges apply to virtual NXX traffic (Issue 5).

The Commission should reject Global's proposed change-of-law provision for the *ISP Order on Remand*, because the undisputed general change-of-law provision will encompass any changes to the *ISP Order on Remand* (Issue 6).

The Commission should order the parties to include Verizon's tariff references, which establish tariffs as the first source for applicable prices while ensuring that the interconnection agreement's terms and conditions take precedence over conflicting tariffed terms and conditions (Issue 7).

The Commission should require Global to provide insurance consistent with Verizon's proposal, which reasonably protects Verizon's network, personnel, and other assets from risks associated with Global's interconnection (Issue 8).

The Commission should direct the parties to allow audits as Verizon proposes and consistent with industry practice (Issue 9).

The Commission should order the parties to abide by a change in law when it is effective (Issue 10).

The Commission should reject Global's attempt to (i) gain access to network elements that Verizon is not required to unbundle or (ii) interconnect with anything other than Verizon's existing network (Issue 11).

STAFF: Staff's positions are preliminary and based on materials filed by the parties and on discovery. The preliminary positions are offered to assist the parties in preparing for the hearing. Staff's final positions will be based upon all the evidence in the record and may differ from the preliminary positions.

VIII. ISSUES AND POSITIONS

ISSUE 1A: May GNAPs designate a single physical point of interconnection per LATA on Verizon's existing network?

POSITIONS

GNAPs: Global NAPs should not be required to provide more than one point of interconnection per LATA. Any order to the contrary would be inconsistent with 47 U.S.C. §251(c)(2) and 47 C.F.R. 51.305(a)(2) and this Commission's interpretation of federal law as determined in Docket 000075-TP. The recent decision by the FCC's Wireline Bureau for interpretation of federal law concerning this issue is also instructive. See ¶52 of the Memorandum Order and Opinion, *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; *Petition of Cox Virginia Telecom, 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; *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 State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc.*, CC Docket No. 00-218, DA 02-1731 (Re. July 17, 2002) ("Virginia Order").

VERIZON: Since the parties filed their direct testimony on May 8, 2002, Verizon proposed contract language to Global that

would permit Global to interconnect on Verizon's network at one point in a LATA, with each party bearing responsibility for facilities on its side of the POI. Verizon's proposal is consistent with applicable law. Global's proposal, however, contains an inappropriate and confusing reference to an unrelated FCC regulation that defines the network interface device. In addition, Global's proposal could require Verizon to interconnect on Global's network, contrary to the Act and FCC requirements.

STAFF: Staff has no position at this time.

ISSUE 1B: If GNAPs chooses a single point of interconnection (SPOI) per LATA on Verizon's network, should Verizon receive any compensation from GNAPs for transporting Verizon local traffic to this SPOI? If so, how should the compensation be determined?

POSITIONS

GNAPs: Each carrier should be financially responsible for carriage of traffic on its respective side of this/these point(s) of interconnection. This is consistent with 47 C.F.R. 51.703(b) and this Commission's interpretation of federal law as determined in Docket 000075-TP.

VERIZON: Since the parties filed their direct testimony on May 8, 2002, Verizon proposed contract language to Global that would permit Global to interconnect on Verizon's network at one point in a LATA, with each party bearing responsibility for facilities on its side of the POI. Verizon's proposal is consistent with applicable law. Global's proposal, however, contains an inappropriate and confusing reference to an unrelated FCC regulation that defines the network interface device. In addition, Global's proposal could require Verizon to interconnect on Global's network, contrary to the Act and FCC requirements.

STAFF: Staff has no position at this time.

ISSUE 2: Should the parties' interconnection agreement require mutual agreement on the terms and conditions relating to

the deployment of two-way trunks when GNAPs chooses to use them?

POSITIONS

GNAPs: The issue is misunderstood as a "compromise" between two willing parties, as currently worded. This is far from the case. In fact, by "mutual agreement", Verizon means either for Global to accept Verizon's terms, or to go through time consuming and costly negotiations to determine the terms and conditions under which two-way trunking shall be available and applicable. Instead, Global NAPS, as a customer, should proffer a request for two way trunking which should not be denied by Verizon if reasonable. In a free and competitive market between willing buyers and sellers, the seller would not dictate the terms and conditions applicable to the purchase of goods and services. In a free market, the seller would instead follow the mantra "whatever the buyer wants". The Act, and the promotion of competition which it fosters, aims at mimicking such a free market. Verizon should not be allowed to wield its dominant stature to dictate the terms and conditions under which two-way trunking will be offered.

VERIZON: Verizon agrees that, pursuant to 47 C.F.R. § 51.305(f), Global has the option to decide whether it wants to use one-way or two-way trunks for interconnection. But if and when Global opts to use two-way trunks, the parties must come to an understanding about the operational and engineering aspects of the two-way trunks between them. Global should not be permitted to dictate those case-specific terms to Verizon, because Global's decision necessarily affects Verizon's network.

STAFF: Staff has no position at this time.

ISSUE 3A: Should GNAPs be required to provide collocation to Verizon at GNAPs' facilities in order to interconnect with GNAPs?

POSITIONS

GNAPs: Global should not be mandated to provide collocation to Verizon's facilities in order to interconnect with Global. There is a federal requirement for the incumbent to allow the CLEC to interconnect using collocation in the incumbent's facilities, but this right is not reciprocal-it is asymmetric. Notwithstanding, Global offers any and all who wish to collocate-including Verizon-the ability to do so at its facilities on a space available basis at market rates in a non-discriminatory manner.

VERIZON: Verizon recognizes that an ALEC does not have the duty to offer collocation to Verizon under the Act. Nothing in the Act, however, prohibits the Commission from allowing Verizon to interconnect with the ALECs via a collocation arrangement at their premises. Verizon seeks interconnection options that are comparable to the options that Verizon offers to Global. This is a fair proposal that promotes efficient network design (Issue 3(a)).

If Verizon is not permitted to collocate at Global's facilities, then the Commission should prohibit Global from charging distance-sensitive rates for transporting traffic to Global's network (Issue 3(b)). If the Commission permits Global to force Verizon to transport traffic to Global's network, contrary to the requirements of the Act, and Verizon cannot collocate at Global's switch, then the Commission should at least reasonably limit what Global may charge Verizon for transport. Specifically, limiting Global to non-distance sensitive rate elements for transport prevents Global from charging Verizon excessive transport rates when Verizon delivers its originating traffic to a distant Global POI that is not on Verizon's network.

STAFF: Staff has no position at this time.

ISSUE 3B: If Verizon cannot collocate at GNAPs' facilities, should GNAPs charge Verizon distance-sensitive rates for transport?

POSITIONS

GNAPs: Should there be insufficient space for Verizon-as well as any other requesting party-to be denied collocation, then Global should be allowed to charge market based rates for transport.

VERIZON: Verizon recognizes that an ALEC does not have the duty to offer collocation to Verizon under the Act. Nothing in the Act, however, prohibits the Commission from allowing Verizon to interconnect with the ALECs via a collocation arrangement at their premises. Verizon seeks interconnection options that are comparable to the options that Verizon offers to Global. This is a fair proposal that promotes efficient network design (Issue 3(a)).

If Verizon is not permitted to collocate at Global's facilities, then the Commission should prohibit Global from charging distance-sensitive rates for transporting traffic to Global's network (Issue 3(b)). If the Commission permits Global to force Verizon to transport traffic to Global's network, contrary to the requirements of the Act, and Verizon cannot collocate at Global's switch, then the Commission should at least reasonably limit what Global may charge Verizon for transport. Specifically, limiting Global to non-distance sensitive rate elements for transport prevents Global from charging Verizon excessive transport rates when Verizon delivers its originating traffic to a distant Global POI that is not on Verizon's network.

STAFF: Staff has no position at this time.

ISSUE 4: Which carrier's local calling area should be used as the basis for determining intercarrier compensation obligations?

POSITIONS

GNAPs: Global NAPs should not have its retail local calling areas limited by Verizon's retail or wholesale local calling areas. Instead, the size of local calling areas should be subject to competition. In order to effect such competition and eliminate economic constraints related to the ILEC's local calling area definitions, all intra-LATA traffic exchanged between GNAPs and Verizon should be treated as cost-based "local" compensation under §251(b)(5), and should not be subject to intrastate access charges.

VERIZON: Verizon's tariffed local calling areas should continue to be used to determine whether reciprocal compensation or access charges apply to traffic the parties exchange. This proposal will not affect Global's ability to define retail local calling areas for its own customers.

The Commission should reject Global's proposal to base intercarrier compensation on the retail local calling area(s) of the carrier originating the call. This outcome would (i) violate the Act's plain requirement for reciprocal compensation to be reciprocal, (ii) violates the state statutory prohibition against the Commission altering the access charge regime, (iii) is not competitively neutral, and (iv) fails to consider the costs and massive administrative problems associated with this approach.

Although the Commission selected the originating carrier approach as the preferred "default" in its generic reciprocal compensation docket (Order number PSC-03-0059-FOF-TP), that decision does not (and cannot) foreclose consideration of other approaches in individual arbitrations. In fact, adoption of Global's proposal here would not be consistent with the generic Order. There, the Commission concluded that there was

"insufficient record to establish the specifics of implementation" of the originating carrier approach.¹ Instead of rejecting that approach because of the lack of implementation specifics, as the Commission's Staff had advised, the Commission indicated an expectation that implementation details would be worked out on a case-by-case basis.² That is not possible in this case, given Global's inability to provide any detail for implementing its plan. Accordingly, the only way to resolve this issue consistent with the Commission's generic decisions is to deny Global's proposal to use the originating carrier's local calling area for intercarrier compensation purposes, and to accept Verizon's proposal to continue to use Verizon's tariffed local calling areas for these purposes, in accordance with the Commission's longstanding distinction between local and access traffic.

STAFF: Staff has no position at this time.

ISSUE 5: Should GNAPs be permitted to assign NXX codes to customers that do not physically reside in the local calling area associated with that NXX code?

POSITIONS

GNAPs: Global NAPs should be allowed to use an assignment of NXX codes to provide competitive FX service because (1) there is no longer a nexus necessary between assignment of NXX codes and geography, (2) allowing the use of "virtual" NXXs provides a means for CLECs to provide an alternate foreign exchange ("FX") service, (3) allowing the use of VNXX to provision FX service promotes competition.

¹ *In re Investigation Into Appropriate Methods to Compensate Carriers for Exchange of Traffic Subject to Section 251 of the Telecommunications Act of 1996*, Order No. PSC-02-1248-FOF-TP, Order on Reciprocal Compensation, Florida Public Service Commission, Docket No. 000075-TP (Sept. 10, 2002) ("September 10 Order"), *aff'd*, Order Denying Motions for Reconsideration, Order No. PSC-03-0059-FOF-TP at 15 (Jan. 8, 2003) ("January 8 Order").

² *See id.*

VERIZON: Verizon does not oppose Global's assignment of so-called "virtual NXX codes." Although Global has failed to properly raise it in this arbitration, the real issue in dispute is whether virtual NXX traffic is subject to reciprocal compensation. The Commission has already held that it is not. In its generic reciprocal compensation Order (number PSC-02-1248-FOF-TP), the Commission concluded that, as a matter of federal law, "calls terminated to end users outside the local calling area in which their NPA/NXXs are homed are not local calls for purposes of intercarrier compensation,"³ such that reciprocal compensation does not apply to these calls. The Commission observed that access charges appeared to be the appropriate form of compensation.⁴ Verizon's proposal to apply access charges, rather than reciprocal compensation, to virtual NXX traffic is consistent with the Commission's Order and the law underlying that Order. Global's proposal to apply reciprocal compensation to interexchange traffic is not.

STAFF: Staff has no position at this time.

ISSUE 6: Should the parties' interconnection agreement include a change in law provision specifically devoted to the ISP Remand Order?

POSITIONS

GNAPs: Verizon should provide for a reservation of rights by the parties pending the anticipated decision from the remanded ISP decision by the FCC. Carriage of ISP-bound traffic is critical to Global's current business plans and special recognition causes no harm to Verizon while

³ Sept. 10, 2002 Order at 33.

⁴ See *id.* at 31 ("We agree with Verizon witness Haynes that traffic that originates in one local calling area and terminates in another local calling area would be considered *intrastate exchange access* under the FCC's revised Rule 51.701(b)(1)."), 33 ("We find that calls terminated to end users outside the local calling area in which their NPA/NXXs are homed are not local calls for purposes of intercarrier compensation . . . this unavoidably creates a default for determining intercarrier compensation").

providing additional support to Global when and if changes in the regulatory environment impact its operations. The distinction between this issue and changes in law generally is the knowledge that the FCC is currently revisiting the issue.

VERIZON: The parties' undisputed change-of-law provision in General Terms and Conditions § 4.6 requires the parties to negotiate in good faith to amend the interconnection agreement if a change in law alters the FCC's reciprocal compensation rules resulting from the *ISP Order on Remand*. The parties simply do not need change-of-law provisions specifically devoted to the *ISP Order on Remand*, as Global suggests. Global has not, in any event, proposed the special contractual provision it says it needs.

STAFF: Staff has no position at this time.

ISSUE 7: Should the parties' interconnection agreement incorporate by reference each parties' respective tariffs?

POSITIONS

GNAPs: A final executed, or arbitrated, interconnection agreement represents the principal contract between the two interconnecting parties. The parties' duties and obligations are governed by the "four corners" of the document, not by outside documents under the control of one party. Verizon may not affirmatively impose additional obligations or alter its responsibility under the agreement through its tariff modifications.

VERIZON: The parties' interconnection agreement sets forth the parties' respective rights and obligations arising from Verizon's duty to interconnect with Global pursuant to §§ 251 and 252 of the Act. The agreement, however, does not address terms and conditions for every service or facility that Global may obtain from Verizon (e.g., access services). Nevertheless, Global proposes to remove every tariff reference in the parties' draft agreement, because Global contends that these references

would have the effect of superceding the terms and conditions of the interconnection agreement. These concerns are unfounded. Many tariff references concern services or facilities that are outside the scope of the interconnection agreement. To the extent that a tariff addresses services or facilities within the scope of the interconnection agreement, Verizon's proposal makes tariffs the first source for applicable *prices*, but makes clear that the agreement controls service terms and conditions.

STAFF: Staff has no position at this time.

ISSUE 8: What amounts and types of insurance should GNAPs be required to obtain?

POSITIONS

GNAPs: The Agreement should be modified to include more reasonable insurance limits that reflect the relative economic position of interconnecting CLECs. No insurance limit should exceed \$1,000,000. Insurance obligations should be reciprocal between the parties, *i.e.*, to the extent that insurance obligations are imposed on Global, these same conditions should be applicable to Verizon.

VERIZON: Verizon is required by law to enter into interconnection agreements with ALECs. In light of that requirement, it is reasonable for Verizon to seek adequate protection of its network, personnel, and other assets. Verizon's proposed insurance requirements are reasonable in light of the risks for which the insurance is procured and consistent with Verizon's requirements for other carriers. Global's proposed changes to Verizon's insurance requirements would entirely eliminate certain types of insurance, and substantially and unreasonably lower insurance amounts.

STAFF: Staff has no position at this time.

ISSUE 9: To what extent should the parties be permitted to conduct audits to ensure (i) the accuracy of each other's bills, and (ii) appropriate use and disclosure of Verizon OSS Information?

POSITIONS

GNAPs: The Agreement should not authorize or permit either Party to audit, review or otherwise access the other Party's confidential records and systems. Global provides traffic reports and voluntarily agrees to have these subject to audit.

VERIZON: Verizon's proposed audit provisions allow either party to employ a third-party auditor to verify the accuracy or appropriateness of the other's charges. Contrary to Global's unfounded assertion, this does not give Verizon unfettered access to Global's books and records. Under Verizon's proposal, the purpose, scope, and frequency of audits are reasonably constrained, and the parties can require the auditor to keep sensitive or proprietary information confidential. Verizon further proposes reasonable audit rights to ensure appropriate use and disclosure of Verizon's OSS information. Verizon's proposal protects all ALECs that use Verizon's OSS to place an order or support a customer.

STAFF: Staff has no position at this time.

ISSUE 10: When should a change in law be implemented?

POSITIONS

GNAPs: A change in law should be implemented when there is a final adjudicatory determination which materially affects the terms and/or conditions under which the parties' exchange traffic.

VERIZON: A change in law should be implemented when effective. Global proposes to ignore effective law, claiming that it should not govern the parties' rights and obligations until all appeals are exhausted, even if an order is not

stayed. Global's proposal would ignore orders of this Commission, the FCC, and relevant courts, while Verizon's proposal requires the parties to follow the law.

STAFF: Staff has no position at this time.

ISSUE 11: Should GNAPs be permitted access to network elements that have not already been ordered unbundled?

POSITIONS

GNAPs: Global wants some protections that as a customer it will (a) have access to the same technologies deployed in Verizon's network and (b) Verizon will not deploy new technologies which will affect Global's service quality without adequate advanced notice and testing.

VERIZON: No. Verizon's proposal recognizes that Global must interconnect with Verizon's existing network. Verizon has no obligation to freeze its network in time or build a different network to suit Global, as Global's proposal would require. Global's proposal, moreover, inappropriately prejudices Verizon's obligation to unbundle new technology deployed in its network.

STAFF: Staff has no position at this time.

IX. EXHIBIT LIST

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
			<u>Direct</u>
Selwyn	GNAPs	_____ (LLS - 1)	T e c h n i c a l Qualifications and P r o f e s s i o n a l Experience
Selwyn	GNAPs	_____ (LLS - 2)	Workpapers Supporting Calculation of Verizon Florida Transport Costs

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Selwyn	GNAPs	_____ (LLS - 3)	Verizon "500" Number Access for Verizon's ISP Affiliate, Verizon Online
Selwyn	GNAPs	_____ (LLS - 4)	Verizon Telephone Companies, FCC Tariff No. 1, Access Service, Section 16.5, IP (Internet Protocol) Routing Service
Selwyn	GNAPs	_____ (LLS - 5)	Verizon Internet Protocol Routing Service Single Number Routing
Selwyn	GNAPs	_____ (LLS - 6)	Efficient InterCarrier Compensation Mechanisms for the Emerging competitive Environment (August, 2001)
D'Amico	Verizon	_____ (PD - 1)	Attachment A (Proposed Contract Language for Issue 1) to Verizon Witness D'Amico's supplemental direct testimony
Haynes	Verizon	_____ (TH - 1)	Attachment A (Proposed Contract Language for Issue 5) to Verizon witness Haynes' supplemental direct testimony.

<u>Witness</u>	<u>Proffered By</u>	<u>I.D. No.</u>	<u>Description</u>
Faglioni	Verizon	_____ (KLF - 1)	Global NAPs, Inc.'s responses to Verizon's discovery requests.
Faglioni	Verizon	_____ (KLF - 2)	Global NAPs, Inc.'s Local Exchange Price List.
Faglioni	Verizon	_____ (KLF - 3)	Map of Florida showing LATA boundaries.
<u>Rebuttal</u>			
Selwyn	GNAPs	_____ (LLS - 7)	Attachment 1: Verizon East Wireless Handbook 6.2 Type 2 (CMRS) Interconnection Service
Selwyn	GNAPs	_____ (LLS - 8)	Attachment 2: Verizon Internet Protocol Routing Service <ul style="list-style-type: none"> • E-Mail & Response to Discovery in New York • Verizon Telephone Companies, FCC Tariff No. 11, Access Service, Section 31, Internet Protocol Routing Service • Verizon Telephone Companies, FCC Tariff No. 1, Access Service, Section 16.5, Internet Protocol Routing Service
Selwyn	GNAPs	_____ (LLS - 9)	Verizon Online's use of IPRS 500-699-9900 for "local" dial access to its Internet service

Parties and Staff reserve the right to identify additional exhibits for the purpose of cross-examination.

X. PROPOSED STIPULATIONS

The parties have stipulated that all filed testimony may be inserted into the record with cross examination of the witnesses waived. GNAPS reserves the right to cross examine the surrebuttal testimony of witness Haynes.

XI. PENDING MOTIONS

There are no pending motions at this time.

XII. PENDING CONFIDENTIALITY MATTERS

There are no pending requests for confidentiality.

XIII. DECISIONS THAT MAY IMPACT COMMISSION'S RESOLUTION OF ISSUES

Parties have stated in their prehearing statements that the following decisions have a potential impact on our decision in this proceeding:

Global NAPs:

Global NAPs South respectfully submits that all intercarrier compensation issues regarding information access traffic have been declared to be subject to the sole and exclusive jurisdiction of the Federal Communications Commission. Global reserves the right to provide legal argument(s) in its brief regarding the extent that federal law impacts the ability of the Florida PSC to decide any matters which may be preempted.

Verizon:

1. *AT&T Corp. v. Bell Atlantic-Pennsylvania*, 14 FCC Rcd 556 (1998), *recon. denied*, 15 FCC Rcd 7467 (2000).

2. *In the Matter of Developing a Unified Intercarrier Compensation Regime*, Notice of Proposed Rulemaking, 16 FCC Rcd. 9610 (2001)
3. *In the Matter of Federal-State Joint Commission on Universal Service*, 12 FCC Rcd. 8776 (1997).
4. *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd. 15499 (1996) (subsequent history omitted).
5. *In the Matter of Local Competition Provisions in the Telecommunication Act of 1996; Intercarrier Compensation for ISP-Bound Traffic*, Opinion and Order on Remand, 16 FCC Rcd. 9151 (2001), remanded, *WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002).
6. *In the Matter of Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection Through Physical Collocation for Special Access and Switched Transport*, Second Report and Order, 1997 WL 345996 (F.C.C.), 12 FCC Rcd. 18,730 (1997).
7. *Iowa Utilities Commission v. FCC*, 219 F.3d 744, 757 (8th Cir. 2000), rev'd on other grounds, *Verizon v. FCC*, 122 S.Ct. 1646, 1678 (2002).
8. *MCImetro Access Transmission Services LLC v. BellSouth Telecomm., Inc. et al.*, Order, Case No. 5:01-CV-921-H(4), at 12-14 (E.D. N.C. Jan. 21, 2003).
9. *Mountain Communications, Inc. v. Qwest Communications International, Inc.*, 17 FCC Rcd. 15,135, 2002 WL 1677642, ¶ 6 (2002) ("Mountain Communications"), aff'd, *Mountain Communications, Inc. v. Qwest Communications International, Inc.*, 17 FCC Rcd. 2091 (2002).
10. *TSR Wireless, LLC v U S West Communications, Inc.*, Mem. Op. and Order, 15 FCC Rcd. 11166 (2000), aff'd sub nom, *Qwest Corp. v. FCC*, 252 F.3d 462 (D.C. Cir 2001).

11. *WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002).

XIV. RULINGS

1. Verizon's Motion for Leave to File Surrebuttal or in the Alternative to Strike Portions of the Rebuttal Testimony of Global NAPs, Inc. Witness Lee L. Selwyn is granted and the surrebuttal of witness Haynes will be admitted into the record.
2. The witnesses, with the exception of Terry Haynes, are excused from attendance at the hearing. Witness Haynes may also be excused from attendance upon agreement of the parties prior to the hearing date that the witness will not be needed for cross examination of surrebuttal testimony.
3. Opening statements, if any, shall not exceed ten minutes per party.

It is therefore,

ORDERED by Commissioner J. Terry Deason, as Prehearing Officer, that this Prehearing Order shall govern the conduct of these proceedings as set forth above unless modified by the Commission.

By ORDER of Commissioner J. Terry Deason as Prehearing Officer, this 20th Day of February, 2003.



J. TERRY DEASON
Commissioner and Prehearing Officer

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; or (2) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.