

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition by Sprint
Communications Company Limited
Partnership for arbitration with
Verizon Florida Inc. pursuant to
Section 251/252 of the
Telecommunications Act of 1996.

DOCKET NO. 010795-TP
ORDER NO. PSC-03-0637-FOF-TP
ISSUED: May 27, 2003

The following Commissioners participated in the disposition of
this matter:

BRAULIO L. BAEZ
RUDOLPH "RUDY" BRADLEY

ORDER RESOLVING PARTIES' DISPUTED LANGUAGE

BY THE COMMISSION:

I. CASE BACKGROUND

On June 1, 2001, Sprint Communications Company Limited Partnership (Sprint) filed a Petition for Arbitration pursuant to 47 U.S.C. Section 252(b) of the Telecommunications Act of 1996, seeking arbitration of certain unresolved terms and conditions of a proposed renewal of its interconnection agreement with Verizon Florida, Inc. f/k/a GTE Florida, Incorporated (Verizon). Verizon filed a response and the matter was set for hearing.

In Sprint's petition, 15 issues were enumerated for arbitration. Prior to the administrative hearing, the parties resolved or agreed to stipulate a number of those issues. The administrative hearing was held on January 17, 2002. On January 7, 2003, Order No. PSC-03-0048-FOF-TP, Final Order on Arbitration, was issued.

On February 5, 2003, Sprint and Verizon filed a Joint Motion for Extension of Time to file an interconnection agreement. On

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February 12, 2003, Order No. PSC-03-0212-PCO-TP was issued granting this Motion.

On February 12, 2003, Sprint and Verizon filed a Second Joint Motion for Extension of Time, which was granted by Order No. PSC-03-0229-PCO-TP, issued February 18, 2003.

On February 28, 2003, Verizon filed a Motion for Approval of Interconnection, Resale, Unbundling and Collocation Agreement with Sprint, though the attached agreement was unsigned.

On February 28, 2003 Sprint filed a Motion to Resolve Disputed Language. This pleading also contained an unsigned agreement. While Verizon and Sprint agreed on most of the language to be included in their agreement, they continued to disagree on how certain arbitration rulings should be memorialized in their contract. Specifically, Verizon and Sprint have not agreed on language to define "Local Traffic," multi-jurisdictional trunks, and Sprint VAD/00-traffic. Verizon and Sprint have also not agreed on language that reflects the current state of the Commission's UNE pricing for Verizon.

On March 7, 2003, Verizon filed its Opposition to Sprint's Motion to Resolve Disputed Language (Verizon Response). On March 10, 2003, Sprint filed its Opposition to Verizon's Motion for approval of interconnection agreement (Sprint Response). On April 14, 2003, Sprint filed a letter withdrawing the Issue II identified in its Motion. Issue II addressed UNE pricing for Verizon, and this matter was addressed by the Commission at the April 9, 2003 Special Agenda conference for Docket No. 990649B-TP.

This Order addresses which language, where the parties are in disagreement, should be included in the final executed Interconnection Agreement.

This Commission is vested with jurisdiction in this matter pursuant to Section 252 of the Act, as well as Sections 364.161 and 364.162, Florida Statutes, to arbitrate interconnection agreements.

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II. ANALYSIS AND FINDINGS

In their Motions the parties identify two areas where the parties disagree as to the wording that should be reflected in their agreement. For ease of reference, we follow the format in Sprint's filing.

A. Definition of Local Traffic

In this issue, the parties have asked the Commission to define "local traffic," based upon the January 7, 2003, Final Order on Arbitration, Order No. PSC-03-0048-FOF-TP, (Final Order).

Sprint

In its Motion, Sprint claims that Verizon's proposed definition is very narrow and ". . . seeks to preserve its position that the calls must originate and terminate on different networks, a concept that was specifically rejected by this Commission." In contrast, Sprint asserts that its proposed definition of "local traffic" is ". . . a more encompassing definition consistent with the determinations made by the Commission in the Final Order." Sprint's proposal for Appendix A to Articles I & II Glossary Section is as follows:

Local Traffic: For purpose of the payment of reciprocal compensation between the Parties, "Local Traffic" shall mean all telecommunication traffic, exchanged between Verizon, Sprint, and/or any telecommunication carrier, other than a CMRS provider, except for the telecommunications traffic that is interstate or intrastate Exchange Access, Information Access, or exchange service for such access as determined by the FCC in the Order by Remand and Report and Order, CC Docket Nos. 96-98, 99-68 adapted April 18, 2001, FCC 01-131 ("Order"), as that Order is subsequently modified by action of the FCC or a court of competent jurisdiction (See paragraphs 34, 36, 39, 42-43). The parties agree that Local Traffic specifically includes all telecommunications traffic that originates and terminates within a given local area or mandatory expanded area service ("EAS") area, other than telecommunications

traffic delivered to Internet service providers. Neither Party waives its rights to participate and fully present its respective positions in any proceeding dealing with compensation for Internet traffic.

Sprint defends its proposed language by referring back to the wording of the arbitrated issue, a stipulation relevant to that issue, and the decision rendered in the Final Order. The Order Establishing Procedure¹ set forth Issue 1 as a two-part issue that read:

Issue 1: In the new Sprint/Verizon interconnection agreement:

(A) For the purposes of reciprocal compensation, how should local traffic be defined?

(B) What language should be included to properly reflect the FCC's recent ISP Remand Order?

By a mutual stipulation², an agreement was reached for Issue 1(B), which left only Issue 1(A) in dispute. In the Final Order, we found:

For the purposes of the new Sprint/Verizon interconnection agreement, we find that the jurisdiction of calls dialed via 00- or 7/10D should be defined based upon the end points of a call. Thus, calls dialed in this manner, which originate and terminate in the same local calling area, should be defined as local traffic.

Final Order at p. 12.

Sprint believes our decision is applicable to "**all traffic**," though it admits that "[t]he principal topic of discussion in Issue 1(A) is Sprint's Voice Activated Dialing . . ." (Emphasis in original)

¹Order No. PSC-01-1753-PCO-TP, issued August 28, 2001, in Docket No. 010795-TP (Order Establishing Procedure).

²The Parties' Stipulation was filed with the Commission on January 14, 2002.

Verizon's proposed language seeks to limit the definition of "local traffic" in such a manner to only address "VAD/00-" traffic, according to Sprint. Sprint contends that Verizon's proposal seeks to capture the definition that we specifically rejected in our analysis leading up to the decision. Sprint cites the following passages from the Final Order:

In arguing that reciprocal compensation cannot apply when a call originates and terminates on the same carrier's network, which in turn implies that the call cannot be local, we believe that Verizon argues in reverse order from the normal sequence. Customarily, jurisdiction is determined before considering the appropriate form of compensation.

. . .

Verizon's interpretation [of the cost responsibility for reciprocal compensation] may be unduly narrow.

Final Order at p. 11.

Sprint states that Verizon's proposed language would prevent "VAD/00-" traffic from being terminated to third parties (i.e. ALECs) that provide service within the same local calling area since Verizon's proposal retains the requirement that "local traffic" must originate on one party's network and terminate on the other party's network. Sprint asserts that:

. . . assuming a call originated on the Verizon network and terminated to a customer that was in the same local calling area but served by a CLEC, Verizon's language would preclude that call from being completed. It is unclear from Verizon's proposed language what would happen to these calls or how Sprint would be charged. Presumably Verizon would simply assess access charges for these calls. Sprint does not believe that is the intent of the Commission's decision in the Final Order.

Sprint believes Verizon's requirement that "local traffic" must originate on one party's network and terminate on the other party's network ". . . is specifically contrary to the findings of the Commission in this proceeding . . ." and reiterates that its

proposal should be adopted. Sprint believes the language in the Final Order is "unambiguous."

Verizon

Verizon believes its proposed language to address the definition of "local traffic" reflects the FCC's regulations and our Final Order. It proposes:

Telecommunications traffic originated by a Subscriber of one Party on that Party's network and terminated to a Subscriber of the other Party's network, except for Telecommunications traffic that is interstate or intrastate Exchange Access, Information Access, or exchange services for such 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.

Local traffic does not include the following traffic:

(1) any Internet Traffic; (2) any traffic that does not originate and terminate within the same Verizon local calling areas as defined by Verizon, based on the actual originating and terminating points of the complete end-to-end communications; (3) Toll traffic, including, but not limited to, calls originated on a 1+ presubscription basis, or on a casual dialed (10XXX/101XXXX) basis; (4) any traffic that is not switched by the terminating Party; or, (5) any traffic that is not subject to reciprocal compensation under Section 251(b)(5) of the Act. For the purposes of this definition, a Verizon calling area includes a Verizon non-optional Extended Local Calling Scope Arrangement, but does not include a Verizon optional Extended Local Calling Scope Arrangement. A Verizon Extended Local Calling Scope Arrangement is an arrangement that provides a Subscriber a local calling scope (Extended Area Service, "EAS"), outside of the

Subscriber's basic exchange serving area. As used in this definition of "Local Traffic," "Subscriber" means a third party residence or business end-user subscriber to Telephone Exchange Service provided by a Party.

Sprint VAD/00- Traffic (as "Sprint VAD/00- Traffic" is defined in Section 5.8 of the Interconnection Attachment) shall be Local Traffic as provided in the Commission Order No. PSC-03-0048-FOF-TP in Docket No. 010795-TP, as such order is modified from time-to-time. Neither Party waives its rights to participate and fully present its respective positions in any proceeding dealing with the compensation for Internet Traffic or Sprint VAD/00-Traffic.

Verizon asserts that under FCC rules, "local traffic" must originate on the network of one Party and terminate on the network of the other Party, according to its interpretation of 47 C.F.R. § 51.701(e). Verizon believes "telecommunications traffic" as defined in 47 C.F.R. § 51.701(b)(1) is:

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.

Verizon believes its proposed language accomplishes multiple things:

- ▶ Verizon's definition makes clear the determination of whether traffic is Exchange Access or Information Access will be based on the Verizon-Florida local calling scope.
- ▶ Verizon's definition makes clear what types of traffic are not eligible for reciprocal compensation, including "Internet Traffic" and "Toll Traffic."
- ▶ Verizon's definition memorializes the Commission's ruling in the Final Order that Sprint's "VAD/00-" traffic should be defined as local for the purposes of reciprocal compensation.

- ▶ Verizon's definition makes clear that under 47 C.F.R. § 51.701(a), reciprocal compensation applies to the "transport and termination of telecommunications traffic between LECs and other telecommunications carriers."
- ▶ Verizon's definition excludes from "local traffic" eligible for reciprocal compensation any traffic that is not switched by the terminating party.
- ▶ Verizon's definition specifies that "local traffic" does not include any traffic that is not eligible for reciprocal compensation under §251(b)(5) of the Act.

Verizon concludes the defense of its proposal asserting that:

[t]he Commission did not make the broad determination that all traffic that originates and terminates within the local calling area (without originating and terminating on different networks) should be within the "local traffic" definition. Sprint's attempt to go beyond the Commission's specific decision on "VAD/00-" traffic injects confusion into the contract and will inevitably lead to controversy later.

To resolve this issue, we revisit the Final Order. We note that Sprint correctly represented the issue and its sub-parts as it appeared in the Order Establishing Procedure; nonetheless, we find the wording of the issue in dispute, Issue 1(A), is not the true indicator of the specific subject matter our decision addressed. In the Final Order, we stated:

As noted, the primary topic of discussion in this issue involves the compensation arrangement for calls placed utilizing a product Sprint intends to offer in Florida, its VAD product. We believe, however, that the true dispute concerns VAD calls that originate and terminate in the same local calling area, and whether said calls should be included in the definition of local traffic for the purposes of reciprocal compensation.

. . .

We note that there does not appear to be a dispute over the compensation arrangement for toll calls placed utilizing Sprint's VAD product; these calls are unquestionably considered to be access for the purpose of inter-carrier compensation.

Final Order at p. 8 (emphasis added).

The cited text above from the Final Order also reinforces the distinction that a customer using the "VAD/00-" platform can place calls that may terminate inside or outside of a given local calling area. Voice Activated Dialing is unquestionably a "user-defined" service, and as such, we do not find a "one-size-fits-all" definition is appropriate. In the Final Order, we emphasized that the end points of a given call dictate the compensation, and ultimately the definition:

For the purposes of the new Sprint/Verizon interconnection agreement, we find that the jurisdiction of calls dialed via 00- or 7/10D should be defined based upon the end points of a call. Thus, calls dialed in this manner, which originate and terminate in the same local calling area, should be defined as local traffic.

Final Order at p. 12.

We qualified our decision to apply specifically to the true dispute (noted above), the "00-/VAD" and 7/10D calls that originate and terminate in the same local calling area. As such, we disagree with Sprint that our decision is applicable for "**all traffic.**" (emphasis in original) We find, however, that the Final Order clearly sets forth our intent with respect to resolving Issue 1(A).

We find that Sprint's proposed language generally conforms with its above-emphasized belief that all traffic should be included. Thus, we find Sprint's proposed language should not be included in the parties' interconnection agreement. Rather, we

find a modified version³ of Verizon's proposed language shall be adopted.

Language to define "local traffic"

Telecommunications traffic originated by a Subscriber of one Party on that Party's network and terminated to a Subscriber of the other Party's network, except for Telecommunications traffic that is interstate or intrastate Exchange Access, Information Access, or exchange services for such access. The determination of whether Telecommunications traffic is Exchange Access or Information Access shall be based upon the end points of a call and Verizon's local calling areas as defined by Verizon.

Sprint VAD/00- Traffic (as "Sprint VAD/00- Traffic" is defined in Section 5.8 of the Interconnection Attachment) should be defined based upon the end points of a call. Thus, "VAD/00-" calls which originate and terminate in the same local calling area, should be defined as local traffic, ~~shall be Local Traffic~~ as provided in the Commission Order No. PSC-03-0048-FOF-TP in Docket No. 010795-TP, as such order is modified from time-to-time. Neither Party waives its rights to participate and fully present in respective positions in any proceeding dealing with the compensation for Internet Traffic or Sprint VAD/00- Traffic.

Local traffic does not include the following traffic:

- (1) any Internet Traffic;
- (2) any traffic that does not originate and terminate within the same Verizon local calling areas as defined by Verizon, based on the actual originating and terminating points of the complete end-to-end communications;
- (3) Toll traffic, including, but not limited to, calls originated on a 1+

³Our approved language is modeled after the Verizon proposal, with specific changes noted by either a strike-through (~~sample of strike-through~~) for deleted text, or by an underline (sample of underline) for new text.

presubscription basis, or on a casual dialed (10XXX/101XXXX) basis; (4) any traffic that is not switched by the terminating Party; or, (5) any traffic that is not subject to reciprocal compensation under Section 251(b)(5) of the Act, except "VAD/00-" calls which originate and terminate in the same local calling area. For the purposes of this definition, a Verizon calling area includes a Verizon non-optional Extended Local Calling Scope Arrangement, but does not include a Verizon optional Extended Local Calling Scope Arrangement. A Verizon Extended Local Calling Scope Arrangement is an arrangement that provides a Subscriber a local calling scope (Extended Area Service, "EAS"), outside of the Subscriber's basic exchange serving area. As used in this definition of "Local Traffic", "Subscriber" means a third party residence or business end-user subscriber to Telephone Exchange Service provided by a Party.

We find that the above language to define "local traffic" adds the clarity that we intended in our decision and Final Order. The contentious aspect of "VAD/00-" traffic is limited to the calls which originate and terminate in the same local calling area; our inclusion of this new wording to the (base) Verizon language emphasizes this succinctly. This emphasis is repeated in the portion of text about the five (5) specific traffic types that are excluded from the definition of local traffic. Because "VAD/00-" calls which originate and terminate in the same local calling area are to be considered local calls, yet are not subject to reciprocal compensation under Section 251(b)(5) of the Act, we are concerned that the fifth (5th) exception may circumvent the earlier definition. Accordingly, we find that an emphasis on "VAD/00-" calls which originate and terminate in the same local calling area eliminates a potential misinterpretation.

Accordingly, we find that our modified version of the Verizon proposal shall be adopted.

B. Definition and Use of Multi-jurisdictional Trunks

In similar fashion as the prior issue, this issue is also the result of Sprint and Verizon being unable to agree on specific language to incorporate into their interconnection agreement, pursuant to the Final Order.

Sprint

In its Motion, Sprint claims that Verizon's proposed language ". . . is contrary to the findings of the Commission in this proceeding." Although this issue addresses "multi-jurisdictional trunks" a companion issue to this argument concerns Sprint's Voice Activated Dialing (VAD), or zero-zero-minus (00-) traffic (hereafter, "VAD/00-"). Sprint's proposed language on "multi-jurisdictional trunks" covers two Sections, Section 2.5 and Section 2.3.4.2; "VAD/00-" compensation is addressed in Attachment C to the Sprint agreement.⁴ Sprint's proposed language follows:

2.5 Multi-jurisdictional Trunks-Subject to the fulfillment of the requirements set forth in the Florida Commission's Order in Docket 010795-TP issued January 7, 2003, as such Order may be subsequently modified or amended, regarding the development of Sprint billing system to separate multi-jurisdictional traffic transported on the same facilities, the following provisions shall apply:

2.5.1. Verizon shall not impose any restrictions on Sprint's ability to combine Local Traffic, as defined in this Agreement, with intrastate IntraLATA and InterLATA access traffic, and interstate access traffic on the same (combined) trunk group. To the extent Verizon does not currently combine its own intrastate intraLATA and interLATA access traffic with Local Traffic does not in any way inhibit or limit Sprint's ability to combine such traffic. Verizon will allow Local

⁴Attachment C is not specifically in dispute. Sections 2.4.2.1 and 2.4.2.2 make reference to Attachment C.

Traffic to be transmitted over access facilities and reciprocal compensation charges as set forth in Appendix A to the Interconnection Attachment shall apply. Verizon shall also allow access traffic to be transmitted over local interconnection facilities and access charges shall be applicable only to that portion of the traffic that is access traffic.

2.5.2. Sprint will identify to Verizon the traffic delivered on the combined trunk group as intrastate intraLATA or interLATA access, interstate access or Local Traffic. Sprint shall only be required to compensate Verizon for the delivery of such Local Traffic terminated on the Verizon network pursuant to the reciprocal compensation provisions of this Agreement. Access charges do not apply to Local Traffic. Neither Party will charge the other Party access charges for Local Traffic.

2.5.2.1. Sprint will measure and accurately identify Local Traffic, intrastate intraLATA and interLATA access traffic and interstate access traffic on the combined trunk group. Sprint will pay Verizon reciprocal compensation as set forth in Appendix A to the Interconnection Attachment for the Local Traffic portion of traffic identified that is terminated on the Verizon local network. The appropriate access charges shall apply to non-Local Traffic.

2.5.2.2. When Sprint is not able to measure traffic and subject to the limitations set forth above in Section 2.5., Sprint shall provide appropriate jurisdictional use factors that will be used to apportion traffic.

2.5.3. Verizon may audit the development of Sprint's actual usage or the development of the jurisdictional usage factors, as set forth in the Audit provisions of the General Terms and Conditions of this Agreement.

2.5.4. As an example of the parties' intent, 00- traffic from Verizon Customers who are presubscribed to Sprint will continue to be routed by Verizon to Sprint over originating switched access service. The jurisdiction of the traffic will be determined by Sprint based upon the origination and termination points of the call traffic. Sprint will determine the amount of total 00- traffic that is Local Traffic and will report that factor and the associated minutes of use (MOU) used to determine the factor to Verizon.

2.5.4.1. With respect to VAD/00- traffic that originates from a Verizon customer and terminates to a Verizon customer, Sprint will compensate Verizon for transport on the originating side of the call and for all appropriate network elements (tandem switching, transport and end office switching) on the terminating side of the call at the rates set forth in Appendix C to the Interconnection Attachment.

2.3.4.2. With respect to VAD/00- traffic that originates from a Verizon customer but does not terminate to a Verizon customer, Sprint will compensate Verizon for transport on the originating side of the call at the rates set forth in Appendix C to the Interconnection Attachment.

As it did in the previous issue, Sprint defends its proposed language by referring back to the wording of the issue as reflected in the Order Establishing Procedure, which set forth Issue 2 as a two-part issue that read:

Issue 2: For the purposes of the new Sprint/Verizon interconnection agreement:

(A) Should Sprint be permitted to utilize multi-jurisdictional interconnection trunks?

(B) Should reciprocal compensation apply to calls from one Verizon customer to another Verizon customer, that originate and terminate on Verizon's network within the same local calling area, utilizing Sprint's "00-" dial around feature?

Sprint asserts that sub-part (A) has broad implications, and sub-part (B) is limited to apply narrowly to the compensation of "VAD/00-" calls. "Verizon is attempting to limit the outcome of the proceeding to a resolution of the second issue [sub-part (B)] while ignoring the first [sub-part (A)] . . ." according to Sprint. Sprint believes Verizon attempts to limit the concept of "VAD/00-" traffic to traffic that originates and terminates on its network, excluding traffic that may be directed to other providers in the same local calling area. Clearly, this was not contemplated in the Final Order, according to Sprint.

Sprint also notes that the subject of "multi-jurisdictional" trunks was raised (and ruled upon) in an arbitration proceeding between Sprint and BellSouth.⁵ Sprint acknowledges, though, that technical issues may exist with Verizon that did not exist with BellSouth. Nevertheless, Sprint asserts that our intended application of the "multi-jurisdictional" trunk issue encompassed more than "VAD/00-" traffic, citing to p. 18 of the Final Order:

⁵Order No. PSC-01-1095-FOF-TP, the Final Order from this arbitration, was issued on May 8, 2001, in Docket No. 000828-TP.

From an engineering perspective, we considered whether multi-jurisdictional trunks are technically feasible. Verizon's witness Munsell testifies that typically the only difference between an access facility and a local interconnection facility is the type of signaling employed, Feature Group D (FGD) for access versus Feature Group C (FGC) for local. We note that FGD signaling, also referred to as Equal Access signaling, is employed on access trunks so that end users may choose their interexchange carrier (IXC). Witness Munsell also affirms that the physical facilities do not differ, only how they are set up, since the switch actually does the signaling. Therefore, we find that it is technically feasible to provide multi-jurisdictional trunks from an engineering standpoint.

Sprint contends that ". . . all traffic forms are appropriate to traverse such facilities."

Regarding Attachment C, Sprint asserts that its proposal contains modifications that were made to comport to the changes in the treatment of "multi-jurisdictional" trunks. Sprint states:

Verizon's language does not comport with the Final Order. Verizon would charge Sprint for originating end office switching and originating tandem switching. It is inappropriate to charge Sprint for these aspects of service in that Verizon would incur these expenses on any local call originated within its service territory.

Verizon

Verizon states that Sprint's proposed language is unacceptably broad, and is inconsistent with our decision in the Final Order. Verizon believes our intent was to limit the scope of "multi-jurisdictional" trunks to "VAD/00-" traffic, citing (but not quoting) the Final Order at pages 6, 11, 14, 16, and 22. Verizon believes Sprint's language would enable it to put "all traffic" on "multi-jurisdictional" trunks, and not limit traffic as we intended. Verizon cites the decision as follows:

Until such time that Sprint demonstrates to Verizon or this Commission that its billing system can separate multi-jurisdictional traffic transported on the same facility, we find that Sprint should not be allowed to utilize multi-jurisdictional trunks. We trust that Sprint will work cooperatively with Verizon and the Ordering and Billing Forum on its billing system.

When Sprint demonstrates to Verizon or this Commission that its billing system can separate multi-jurisdictional traffic transported on the same facility, we find that Sprint's proposal for compensation should apply to "00-" calls that originate and terminate on Verizon's network within the same local calling area.

Final Order at p. 17.

Verizon believes our decision was not whether Sprint could place all types of traffic on a single ("multi-jurisdictional") trunk, but instead was whether Sprint "VAD/00-" traffic that originates and terminates in the same Verizon-Florida local calling area can be carried over a trunk group that also carries access traffic, yet be billed at a rate that is different than Verizon-Florida's access rates. Verizon believes our decision set forth that

. . . [A]t present it is not technically feasible for such Sprint "VAD/00-" traffic to be carried over a trunk group that carries access traffic and yet be billed at rates other than access rates. However, the Commission also concluded that if Sprint deploys a billing system that identifies Sprint "VAD/00-" traffic that originates and terminates in the same Verizon-Florida local calling area separately from access traffic, such Sprint "VAD/00-" traffic will be subject to compensation at the measure the Commission prescribed [in the Final Order].

Verizon includes alternative language for Section 5.8:

5.8. Sprint VAD-00- Traffic

A. As used in this Section 5.8. and in Appendix C to this Interconnection Attachment, "Sprint VAD/00- Traffic"

means switched traffic that is (i) originated by an end user on the Verizon network by dialing "00-", (ii) then routed from Verizon to Sprint for handling by the Sprint Voice Activated Dialing Platform, (iii) then routed through that Platform from Sprint to Verizon, and (iv) then terminated to an end user on the Verizon network. Sprint VAD/00- Traffic does not include any Internet Traffic.

Paragraphs B and C of this Section 5.8. and Appendix C to this Interconnection Attachment apply only to Sprint VAD/00-Traffic that originates and terminates on Verizon's network in the same Verizon local calling area, based on the actual originating and terminating points of the complete end-to-end communication. All other Sprint VAD/00- Traffic shall be subject to charges in accordance with Verizon's applicable access traffic. For the purpose of this Section 5.8. and Appendix C to this Interconnection Attachment, a "Verizon local calling area" includes a non-optional Verizon Extended Local Calling Scope Arrangement, but does not include a Verizon optional Extended Local Calling Scope Arrangement. A Verizon Extended Local Calling Scope Arrangement is an arrangement that provides a Verizon Subscriber a local calling scope (Extended Area Service, "EAS"), outside of the Subscriber's basic exchange serving area. As used in the preceding sentence, "Subscriber" means a third party residence or business end-user subscriber to Telephone Exchange Services provided by Verizon.

B. Subject to Paragraph C, below, Sprint shall compensate Verizon for Sprint VAD/00-Traffic that originates and terminates on Verizon's network in the same Verizon local calling area as if such Sprint VAD/00-Traffic were switched access traffic, pursuant to the rates set forth in Verizon's intrastate access tariff.

C. In accordance with the Commission's Order No. PSC-03-0048-FOF-TP in Docket No. 010795-TP, as such order is modified from time-to-time ("Arbitration Order"), at such time as Sprint demonstrates to Verizon or the Commission that Sprint's billing system can separate multi-

jurisdictional traffic transported on the same facility (including, but not limited to, separate Sprint VAD/00-Traffic that originates and terminates on Verizon's network in the same Verizon local calling area, from other types of traffic on the same facility, intrastate intraLATA toll traffic, interstate intraLATA toll traffic, intrastate interLATA toll traffic, and interstate interLATA toll traffic), Sprint shall compensate Verizon for Sprint VAD/00- Traffic that originates and terminates on Verizon's network in the same Verizon local calling area, pursuant to the rates set forth in Appendix C to this Interconnection Attachment. With regard to Sprint VAD/00- Traffic that originates and terminates in the same Verizon local calling area, Verizon shall be obligated to charge Sprint for such traffic at rates other than those set forth in Verizon's intrastate access tariff only to the extent required by the Arbitration Order.

D. Verizon shall not be obligated to compensate Sprint for Sprint VAD/00- Traffic. Without limiting the foregoing, Verizon shall not be obligated to pay Sprint reciprocal compensation charges or access charges for Sprint VAD/00- Traffic.

E. Sprint shall identify and measure, on a call-by-call basis and in the aggregate, Sprint VAD/00- Traffic that originates and terminates on Verizon's network in the same Verizon local calling area, and shall provide to Verizon any information reasonably needed by Verizon to bill Sprint for such Traffic (including, but not limited to, identification and measurement information for such Sprint VAD/00- Traffic, on a call-by-call basis and in the aggregate). If Sprint fails to provide to Verizon such Sprint VAD/00- Traffic information, Sprint shall compensate Verizon for Sprint VAD/00- Traffic that originates and terminates on Verizon's network in the same Verizon local calling areas as if such Sprint VAD/00- Traffic were switched access traffic, pursuant to the rates set forth in Verizon's intrastate access tariff. Verizon shall have the right to audit Sprint

VAD/00- Tariff related information in accordance with Section 4.3.4. of Article 1.

To resolve this issue, we revisit the Final Order. As Sprint pointed out, the issue that was arbitrated was a two-part issue; sub-parts (A) and (B) were addressed individually in the decision:

Part A decision

Until such time that Sprint demonstrates to Verizon or this Commission that its billing system can separate multi-jurisdictional traffic transported on the same facility, we find that Sprint should not be allowed to utilize multi-jurisdictional trunks. We trust that Sprint will work cooperatively with Verizon and the Ordering and Billing Forum on its billing system.

Part B decision

When Sprint demonstrates to Verizon or this Commission that its billing system can separate multi-jurisdictional traffic transported on the same facility, we find that Sprint's proposal for compensation should apply to "00-" calls that originate and terminate on Verizon's network within the same local calling area.

Final Order at p. 23.

We find this distinction is important to answer some of the assertions made by Sprint in its pleadings. Sprint asserts that sub-part (A) has broad implications, and thus believes Verizon's viewpoint is too limiting. Verizon asserts that there is no justification for Sprint to broaden the interpretation of the Part (A) decision as it has. In its Response, Verizon places a particular emphasis on a specific portion of the Part (B) ruling to emphasize that its application is specific: [This ruling addresses] ". . . calls that originate and terminate on Verizon's network within the same local calling area."

We only agree with certain assertions each party makes regarding the Part (A) and Part (B) decisions. We agree with Sprint that sub-part (A) has broad implications, and disagree with

Verizon that Sprint "broadened" the Part (A) interpretation. We find that Verizon correctly asserts that the application of the Part (B) decision is specific. Though the Final Order does not explicitly state the (broad or narrow) scope of the implications for this issue, we believe the relationship between the Part (A) and Part (B) decisions merits consideration.

We find the Part (A) decision influences what the parties can do in Part (B); however, the reverse is not true. To illustrate, we find that the multi-jurisdictional trunking in Part (A) would enable the compensation proposal in Part (B) to be implemented. The compensation proposal in Part (B) *depends on* the multi-jurisdictional trunking in Part (A). In contrast, the multi-jurisdictional trunking in Part (A) *does not depend on* the compensation proposal in Part (B). Therefore, we find the scope of our decision is similarly structured. We find the Part (A) decision has a broad scope, and the Part (B) decision has a narrow scope, but the narrow scope of Part (B) is conditioned on the broader Part (A) decision. Although we agree with certain assertions of each party, we find the language proposal from Verizon more accurately captures our decision in the Final Order.

Regarding the Part (B) ruling in the Final Order, we believe the tone of this ruling is captured in the first word - "[W]hen . . ." Clearly, our intent was conditioned on Sprint having modified its billing systems to separate multi-jurisdictional traffic transported on the same facility. Our ruling reflects that Sprint's compensation proposal for "VAD/00-" calls that originate and terminate on Verizon's network within the same local calling area is to take place "when" the billing system accommodation has been accomplished. We find this is unambiguous and, furthermore, puts the onus on Sprint to modify its billing systems and "demonstrate to Verizon or this Commission that its billing system can separate multi-jurisdictional traffic transported on the same facility."

We believe there is a related consideration that we did not specifically address, the use of jurisdictional factors.⁶ Although

⁶Inter-carrier compensation can be based on jurisdictional percentage of use factors. Common factors are "Percent Local Usage" (PLU), or "Percent Interstate Usage" (PIU).

the Final Order addresses billing issues, the proposed language from Sprint and Verizon broach the topic of jurisdictional factors. In Sprint's proposed Section 2.5.2.2., Sprint essentially states that it will continue to use ". . . the appropriate jurisdictional use factor . . . to apportion traffic" when it is not able to measure traffic. We believe the above-referenced language was included by Sprint as an interim measure - something that will no longer be needed "when" the billing system accommodation has been accomplished. Our presumption is that the billing system accommodation will enable accurate measurement of the traffic that might otherwise be factored (i.e., estimated). Verizon's proposed language makes no such allowance for jurisdictional factors, and seems to envision that exact measurement will be used in conjunction with multi-jurisdictional trunks. We, therefore, must evaluate the parties' proposals in accordance with what it believes was our intent regarding jurisdictional factors.

In the Final Order, Sprint's "duplicate billing" difficulties were explored, and we stated our agreement with a Verizon witness that ". . . the magnitude of inaccurate or duplicate billing is immeasurable." To that end, we find that the Verizon language is more consistent with our ruling on multi-jurisdictional trunks. As referenced earlier, we believe the "conditional" aspects of our decision are unambiguous, and the clear burden is on Sprint to modify its billing systems in order to reap the benefits of our decision. We believe that accurate measurement will be a by-product of the billing system upgrade, "when" that action takes place. Strictly speaking, we find that accurate inter-carrier compensation depends on measurement rather than applying (estimated) jurisdictional factors. Since our decision contemplated measurement rather than estimation, we find Verizon's language, which forecloses use of jurisdictional factors, shall be included. Upon implementation of the billing system modifications, we find that Sprint will be capable of providing an accurate measurement of the traffic that would otherwise be factored.

Because the ordered compensation proposal is conditioned, we find Verizon appropriately may charge access rates for "VAD/00-" traffic until the requirements specified in the Final Order have been met. Verizon's proposed language in (B) and (C) captures this:

B. Subject to Paragraph C, below, Sprint shall compensate Verizon for Sprint VAD/00-Traffic that originates and terminates on Verizon's network in the same Verizon local calling area as if such Sprint VAD/00-Traffic were switched access traffic . . .

C. In accordance with the Commission's Order No. PSC-03-0048-FOF-TP in Docket No. 010795-TP, as such order is modified from time-to-time ("Arbitration Order"), at such time as Sprint demonstrates to Verizon or the Commission that Sprint's billing system can separate multi-jurisdictional traffic transported on the same facility

. . .

With regard to Sprint VAD/00- Traffic that originates and terminates on the same Verizon local calling area, Verizon shall be obligated to charge Sprint for such traffic at rates other than those set forth in Verizon's intrastate access tariff only to the extent required by the Arbitration Order.

(emphasis added)

Although we endorsed the Sprint compensation proposal in the Final Order, we find that last portion of the above-cited language from Verizon ("rates other than those set forth in Verizon's intrastate access tariff only to the extent required by the Arbitration Order") is consistent with our ruling in the Final Order that the compensation proposal was conditional. Verizon's proposed language correctly recognizes that the compensation arrangement may change to some other arrangement "when" the requirements set forth in the Final Order are met. The "rates other than those set forth in Verizon's intrastate access tariff" are described in the Final Order:

Sprint proposes to compensate Verizon for originating transport and terminating tandem switching, transport, and end office switching at TELRIC-based rates. In effect, Sprint's proposal is a hybrid. We observe that Sprint's proposal compensates Verizon for call origination and termination, which is similar to the

access compensation mechanism applicable to toll traffic. However, consistent with compensation for local traffic, Sprint's proposed rates are TELRIC-based Therefore, we are persuaded that Sprint's proposal for compensation certainly covers the costs that Verizon would incur

Final Order at p. 22.

For the reasons set forth above, we find that Verizon's version of the disputed language should be reflected in the parties' agreement.

However, regarding Attachment C, we identified a very slight, but significant text difference⁷ between the Sprint and Verizon versions. Specifically, Verizon's version added certain rate elements to the agreed-upon list, as represented below:

. . . .

Verizon will identify each of the rate elements (including, but not limited to, originating end office switching, originating tandem switching, originating transport, terminating transport, terminating tandem switching and terminating end office switching) that would apply to the Sprint VAD/00- Traffic.

. . . .

Sprint contends that Verizon's changes to Attachment C do not comport with our Final Order. Sprint asserts that the charges are inappropriate since "Verizon would incur these expenses on any local call originated within its service territory." We agree with Sprint, and believe the Final Order provides clarity for this matter:

Sprint proposes to compensate Verizon for originating transport and terminating tandem switching, transport, and end office switching at TELRIC-based rates We

⁷The underscored text, which is only contained in the Verizon version of the agreement, is in dispute. No other disputes are evident in Attachment C.

are . . . persuaded that VAD/00- traffic that originates and terminates on Verizon's network within the same local calling area, should be compensated in the manner proposed by Sprint. While we are hesitant to establish an apparent precedent by accepting Sprint's proposal to pay the originating transport of a local call, we find that because Sprint volunteered to pay the transport, the order would not be in conflict with FCC Rule 51.703(b).

Final Order at p. 22(emphasis added).

We find the proposed language from Verizon may go beyond what was required in the Final Order, Order No. PSC-03-0048-FOF-TP, and thus should not be included for the purposes of the new interconnection agreement between Sprint and Verizon. We find that Sprint's version of Attachment C should be adopted instead.

Accordingly, the parties shall file the final interconnection agreement in accordance with the specific findings as set forth in this Order within 30 days from the issuance date of the Order resolving the disputed contract language.

Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that the parties shall file the final interconnection in accordance with the specific findings as set forth in the body of this Order. It is further

ORDERED that the parties shall file the final interconnection agreement within 30 days from the issuance date of this Order resolving the disputed contract language. It is further

ORDERED that this docket shall remain open in order that the parties may file a final interconnection agreement.

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By ORDER of the Florida Public Service Commission this 27th
Day of May, 2003.

BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

By: Marcia Sharma
Marcia Sharma, Assistant Director
Division of the Commission Clerk
and Administrative Services

(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.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by

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filing a motion for reconsideration with the Director, Division of the Commission Clerk and Administrative Services, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; 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 and/or wastewater utility by filing a notice of appeal with the Director, Division of the Commission Clerk and Administrative Services and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.