LAW OFFICES
MESSER, CAPARELLO & SELF
A PROFESSIONAL ASSOCIATION

215 SOUTH MONROE STREET, SUITE 701
POST OFFICE BOX 1876
TALLAHASSEE, FLORIDA 32302-1876
TELEPHONE: (850) 222-0720
TELECOPIER: (850) 224-4359
INTERNET: www.lawfla.com

April 24, 2001

BY HAND DELIVERY
Ms. Blanca Bayó, Director
Division of Records and Reporting
Room 110, Easley Building
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, Florida 32399-0850

Re: FPSC Docket No. 010102-TP

Dear Ms. Bayó:

Enclosed for filing on behalf of AT&T Communications of the Southern States, Inc., AT&T Wireless Services, Inc., Intermedia Communications, Inc., Time Warner Telecom, WorldCom, Inc., and XO Florida, Inc. are an original and fifteen copies of the Posthearing Brief of AT&T Communications of the Southern States, Inc., AT&T Wireless Services, Inc., Intermedia Communications, Inc., Time Warner Telecomm, WorldCom, Inc., and XO Florida, Inc. in the above referenced docket. Also enclosed is a 3 1/2" diskette with the document on it in WordPerfect 9.0 format.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the same to me in the enclosed self-addressed stamped envelope.

Thank you for your assistance with this filing.

Sincerely,

Floyd R. Self

FRS/amb
Enclosure
cc: Parties of Record

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

Investigation of Proposed Updates to the Routing Data Base System (RDBS) and Business Rating Input Database System (BRIDS) Affecting the Tampa Telecommunications Carriers	Docket No. 010102-TP Filed: April 24, 2001

JOINT POSTHEARING BRIEF OF
AT&T COMMUNICATIONS OF THE SOUTHERN STATES, INC.,
AT&T WIRELESS SERVICES, INC. ,
INTERMEDIA COMMUNICATIONS, INC.,
TIME WARNER TELECOM,
WORLDCOM, INC.
AND
XO FLORIDA, INC.

AT&T Communications of the Southern States, Inc., and AT&T Wireless Services, Inc. (collectively "AT&T"), Intermedia Communications, Inc. ("Intermedia"), Time Warner Telecom, WorldCom, Inc. ("WorldCom") and XO Florida, Inc., through undersigned counsel, herewith jointly submit this posthearing brief.

I. BASIC POSITION

A single Tampa rate center can be reestablished in the LERG by having Verizon change its tariff to reflect one Tampa rate center and to further modify its tariff as necessary to establish five billing tiers that reflect the five geographic rate centers formerly in the tariff. Implementing these billing tiers should not require any other changes to Verizon's billing or routing systems since this is the way Verizon currently is routing and billing calls in the Tampa area. The only other necessary actions to implement the single LERG rate center would be (1) for the Commission to direct Verizon to recall any changes to the LERG and the BRIDS and RDBS systems that took effect February 1, 2001, and which geographically assigned Verizon's NXX codes to one of the five geographic rate centers, and (2) for each ALEC to advise Verizon which of the five billing tiers its NXX codes correspond to for the billing of Verizon's customers that call ALEC customers or for the ALEC codes to default to the Tampa Central billing tier if no selection is made along with the "best rate" approach. A return to the LERG's single rate center thus can be implemented without rate center consolidation, without prematurely exhausting the 813 NPA, without requiring customers to change their telephone numbers, without relying upon some untried and unproven grandfathering system that introduces new routing and rating problems, without changing the way the entire industry has routed and rated calls for as long as anyone remembers, and without changing the way Verizon has routed and rated calls to its own customers.

II. ISSUES AND POSITIONS

LEGAL ISSUE

A. Under current Florida and Federal law, what is the extent of the Commission's authority to order RCC?

SUMMARY OF POSITION: *It is not necessary for the Commission to address this legal question since it is possible to resolve the issues in this case without implementation of rate center consolidation. If the Commission feels compelled to examine the rate center question, it should do so in Docket No. 981444-TP on a generic basis with the involvement of all interested and affected parties.*

ANALYSIS AND ARGUMENT: At the outset, it is important to understand in practical terms what rate center consolidation in this case really means to Verizon and its customers. The current situation is that Verizon has five different ways of billing customers in the Tampa area for local, EAS, ECS, and toll calls depending upon the physical location of the customer. These five different billing areas are summarized on Ms. Menard's Exhibit 3 (BYM-2).

In basic terms, rate center consolidation would mean that all of the customers in these five areas would share exactly the same calling scopes and (ideally) be billed at the same rate. In other words, an EAS call for one customer would be an EAS call for every other customer in the consolidated area calling the same location.

From Verizon's standpoint, to provide all of these customers with exactly the same calling scopes and to charge them all the same rates would result in lost toll and ECS revenues in the "millions of dollars." Verizon would not voluntarily eat these lost revenues, so the alternative is to increase rates for the Verizon customers in the Tampa area to make up the difference. The problem arises, however, as to whether the Commission has the jurisdiction and authority to order any such rate center consolidation and the ability to address the "lost revenues" that may be associated with any such consolidation.

As is more specifically discussed in connection with Issues 1 and 2 below, there is a very easy and practical way to resolve this case that would not require any form of rate center consolidation. Quite simply, recognizing the five geographic rate centers in Verizon's tariff as billing tiers, and having the entire industry continue to utilize a single Tampa rate center in the LERG as it has always done, saves the rate center consolidation question for another day.

Under the doctrine of judicial restraint, "a court is limited to deciding only questions properly presented to it and necessary to the determination of the case." <u>Shands Teaching Hospital & Clinics, Inc. v. Smith</u>, 480 So. 2d 1366, 1368 (Barfield, concurring). Unquestionably, the resolution of this legal issue that was identified during the hearing is very important to Verizon. But the precedent that would be established in resolving this legal issue in this case has consequences far beyond Verizon – the Commission's answer to this question also impacts Verizon's customers, the ALECs operating in the Tampa area and their customers, and every other ILEC and ALEC in Florida. Indeed, BellSouth has sought permission from this Commission to file an amicus brief on this legal issue preciously because any decision in this case, however limited it may be on its face, will set the precedent for any future situations. It is reasonable to expect that every other ILEC and

ALEC operating in Florida will be interested if not impacted by the outcome of the Commission's resolution of this legal issue.

In view of the serious and far reaching consequences the resolution of this legal question can have even if it is expressly limited to the facts in this case, the proper course for the Commission is to defer addressing this question at this time. If the Commission makes the proper decision in this case, it certainly will be unnecessary to address this legal question. Alternatively, even if the Commission adopts Verizon's bad solution, it still is not necessary to address rate center consolidation.

Nevertheless, if the Commission believes it is necessary to answer this question in order to resolve the specific issues in this case, or the Commission is interested in exploring the ramifications of this legal question, it should do so in a manner that would afford every interested person with the opportunity to meaningfully participate. The best and easiest means of accomplishing this process in a consistent, procedurally correct manner, would be to use the forum the Commission has already identified for that purpose – Docket No. 981444. Accordingly, the Commission should defer this legal issue to Docket No. 981444, and proceed to resolve this case on the basis of the single LERG rate center with five tariffed billing tiers that is discussed more fully below.

<u>ISSUE 1:</u> **Should the Tampa Market Area be considered one rate center? If not, what rate centers should be associated with the Tampa Market Area?**

SUMMARY OF POSITION: *There has always been one rate center for Tampa, and Verizon should reverse the changes effective February 1, 2001, that were made in the LERG to create five geographic rate centers. It is the LERG, and not Verizon's tariff, that the industry relies upon for routing and rating.*

ANALYSIS AND ARGUMENT:

Introduction

There has always been one rate center in effect in the LERG for Tampa since before the introduction of local competition. Tr. 54. It is the LERG that the industry relies upon for routing and rating information, and Verizon's tariff and its internal controls have been transparent to, and irrelevant to the rest of the industry.

The "conflict" between the LERG and the Verizon tariff can be resolved simply and easily – A single Tampa rate center can be reestablished in the LERG by having Verizon change its tariff to reflect one Tampa rate center and to further modify its tariff as necessary to establish five billing tiers that reflect the five geographic rate centers formerly in the tariff. Implementing these billing tiers should not require any other changes to Verizon's billing or routing systems since this is the way Verizon currently is routing and billing calls in the Tampa area. Tr. 83.

The only other necessary actions to implement the single LERG rate center would be (1) for the Commission to direct Verizon to recall any changes to the LERG and the BRIDS and RDBS systems that took effect February 1, 2001, and which geographically assigned Verizon's NXX codes to one of the five geographic rate centers, and (2) for Verizon to assign its "best rate" to the ALEC NXX codes for the billing of Verizon customers that call ALEC customers. A return to the LERG's single rate center thus can be implemented without rate center consolidation, without prematurely exhausting the 813 NPA, without requiring customers to change their telephone numbers without relying upon some untried and unproven grandfathering system that introduces new routing and rating problems, without changing the way the entire industry has routed and rated calls for as long as anyone remembers, and without changing the way Verizon has routed and rated calls to its own customers.

The Undisputed Facts

The basic facts in this case are largely undisputed.

The Verizon tariff has identified five geographic rate centers for the Tampa area since at least 1970. Tr. 19, 46. The Verizon tariff utilizes only the Tampa Central rate center for the rating and routing of calls 41 miles and greater. Exh. 5.

The LERG has identified but a single rate center for the Tampa area for as long as anyone knows. Tr. 70. The LERG is the "bible" used by the entire industry for the routing and rating of telephone calls. Tr. 59. It is the one place carriers look when they are coming into a market. Tr. 92. The LERG has been in existence since the divestiture of the Bell system in the early 1980s. Tr. 161.

Verizon wants the LERG changed to be in conformance with the Verizon tariff. Tr. 58.

The ALECs want the Verizon tariff changed to be in conformance with the LERG. Tr. 78.

What's The Real Issue Here

As the cross examination of Verizon's witness Ms. Menard revealed, the driving force behind Verizon's deconstruction of the LERG's single Tampa rate center is an internal billing problem – Verizon has been required to treat all Tampa area ALEC NXX codes as being in Tampa Central so that Verizon will know how to bill its customers for calls to ALEC customers. Tr. 57, 63, 68-69.

For example, utilizing Exhibit 3 (BYM-2) prepared by Ms. Menard, if a Verizon customer in Zephyrhills calls an ALEC customer, and the ALEC customer's number has been internally assigned by Verizon to the Tampa Central billing tier, then that call is billed by Verizon as an ECS call for the Verizon customer. Alternatively, if that same Zephyrhills Verizon customer calls an

ALEC customer whose number is part of an NXX code assigned internally by Verizon to Tampa North, then for billing purposes it is an EAS call for the Verizon customer. Tr. 71.

If the Commission accepts the way Verizon has framed the problem, then the consequences of returning to a single rate center are complicated and costly: Verizon could implement rate center consolidation where everyone in the five geographic areas would have exactly the same local calling scopes and the same EAS and ECS routes. But rate center consolidation is not an option because Verizon believes the Commission can't order it, and even if it was implemented then Verizon would lose "many, many, many, many million dollars" worth of revenues that would have to be made up from rate increases. Tr. 46-47, 85. Of course, Verizon's framing of the problem, and its recommended solution, also accelerates the exhaust of 813 NPA, customer number changes, and ALEC network and operating problems that are more fully discussed in response to Issue 2 below.

But Verizon's solution is unnecessary. As Ms. Menard acknowledged on cross-examination, there can be a single rate center in the LERG used by Verizon and everyone else in the industry. Tr. 78. If Verizon is allowed to treat its tariffed geographic rate centers as billing tiers, then Verizon's billing problem as to its customers is solved. The only remaining matter is how Verizon is to treat calls made from Verizon customers to ALEC customers.

Ms. Menard testified that today calls made by Verizon customers to ALEC customers get routed and billed on the basis of Verizon arbitrarily assigning within its billing system the ALEC NXX codes to the Tampa Central area. Tr. 74. Without this assignment, Verizon does not know if a call from a Verizon customer in New Port Richey should be billed as an ECS or a toll call. (According to Exhibit 3, BYM-2, calls from New Port Richey to Tampa West are ECS calls and to any of the other Tampa areas is a toll call.)

Within the context of the solution advanced by the ALECs in this case, the continued assignment of the ALEC NXX codes, either arbitrarily by Verizon to Tampa Central or to a more appropriate billing tier area selected by the ALEC, solves Verizon's internal billing problems. Indeed, Verizon has even told us how the ALEC's preference can be conveyed to Verizon and the rest of the industry – in the location field of the LERG, next to the rate center field, the ALECs and Verizon can indicate "North," "South," "East," "West," or "Central." Tr. 75. A billing problem is thus solved with a billing solution.

However, this solution creates a potential discrimination issue for some ALEC customers. Tr. 71. For example, if an ALEC NXX code was assigned to the Tampa Central Verizon internal billing tier, but the customer resided within the Tampa West billing tier, then calls to that ALEC customer from Verizon callers in New Port Richey would be billed by Verizon to those New Port Richey callers as a toll call and not an ECS call, which is the way Verizon would bill the call if it was to a Verizon customer. While it may seem that this example creates a problem only for the Verizon customer, since the Verizon customer gets stuck with a toll bill, this is not the complete picture. As Mr. Tystad testified, it is the ALEC that ultimately suffers because the caller knows it is an ECS call to everyone in the Tampa West area from New Port Richey whereas to this one particular number it is a toll call – the caller complains to the called party who in turn complains to its carrier, the ALEC. Tr. 302-308.

There may be situations where the caller gets the benefit of a local call to the ALEC customer whereas calls to ILEC customers are toll, but this does not eliminate the customer relations damage. As Mr. Tystad explained to Commissioner Deason regarding Time Warner's experience in Rochester, New York:

> COMMISSIONER DEASON: But wouldn't just the opposite exist, some [calls] that were terminating for your customers would be local whereas for the incumbent LEC they were toll? Didn't it work both ways.
>
> THE WITNESS: Yes, it could. But in this case the only one that got brought up was Time Warner was a toll call.
> COMMISSIONER DEASON: So when you made the change, then, were there not -- there were situations where your customers could make toll-free calling that would be converted to toll calls?
>
> THE WITNESS: Yep. But the expectation of the customer is that it doesn't matter who the service provider is, the phone works exactly the same. So if it is a local call from this phone, it better be a local call from this phone.

Tr. 304-305.

Under the proposed ALEC solution, this inconsistent billing rate problem should be limited to situations where the ALEC customer resides in a billing tier that is different than the billing tier to which the ALEC NXX code is assigned by Verizon. To resolve this limited situation, the Commission should adopt the "best rate" approach Mr. Tystad discusses at pages 279-280 of his testimony (pages 4 and 5 of Mr. Tystad's prefiled direct testimony). Under this approach, whatever is the best rate to any Verizon customer within the five billing tiers would be the rate Verizon would charge its customers for calls to those ALEC customers. For example, since a call from a Verizon customer in New Port Richey is an ECS call to a Verizon Tampa West customer but a toll call to an ALEC customer residing in Tampa West that has a telephone number assigned to the Tampa Central billing tier, then all calls to ALEC customers in any Tampa billing tier from New Port Richey would be ECS calls – the best rate offered on any New Port Richey to Tampa route.

This best rate offer would be available for Verizon customer originated calls into a Tampa ALEC customer, and they would be reciprocal by the ALEC to ALEC customer calls for the same routes to Verizon customers. This does not affect the billing or revenues associated with calls from Verizon customers to other Verizon customers.

Verizon's response to this will likely be that this is discriminatory to its callers and excessively too complicated to implement. This proposal does make it discriminatory on some few calls when comparing calls from Verizon customers to Verizon customers versus Verizon to ALEC calls or visa versa. But the Commission is not being called upon to resolve a problem in an ideal situation. Quite the contrary. Here, the Commission already has both hands tied behind its back. First, while true rate center consolidation would eliminate any billing discrimination it would create massive legal issues for the Commission both in terms of its authority to order rate center consolidation and its authority to deal with Verizon's millions of dollars in lost revenues and how local rates could be increased. These could take years to resolve, and the final resolution may not be satisfactory. Second, if the Commission follows Verizon's solution and allows five geographic rate centers to exist in the LERG, then the Commission faces the inevitable premature exhaust of the 813 NPA and all of the problems that flow from conducting another area code relief proceeding. It seems that explaining to the public that the Commission decision to grant Verizon some billing relief for a problem Verizon created was the catalyst for such changes would be unacceptable.

The ALECs recognize that the local telecommunications marketplace has the potential to change dramatically in the future and that the "best rate" proposal may not always be the best way to deal with this situation. As a short term proposition, if Verizon's internal billing problem cannot be cleanly squared, then Verizon should have to deal with any shortcomings since this problem exists today because of the actions of Verizon and no one else. However, if the Commission has concerns regarding the long term consequences of the "best rate" approach to dealing with this limited issue, then it would be appropriate for the Commission to time limit the best rate for five years or to formally review it at that time.

As a final point, when discussing the one LERG and one tariff Tampa rate center Ms. Menard indicated that there may be a number portability problem. Tr. 75. But there is a problem under the porting guidelines only if there is porting across rate center boundaries. In adopting the one LERG/one tariff Tampa rate center plan, there would not be a violation of this requirement. Ms. Menard pointed out that large geographic areas that crossed rate center boundaries was location portability, which does not yet exist. However, a single Tampa rate center in the LERG and in Verizon's tariff would not violate any rule or policy and provide considerable potential customer benefits. Tr. 84-85.

The Only Solution Supported By The Record And In The Public's Interest

Adoption of the one LERG Tampa rate center means that only three actions are required. First, Verizon must undo the changes it instituted in the LERG effective February 1, 2001, when it assigned each of Verizon's existing NXX codes to one of the five geographic rate centers. Second, Verizon must amend its tariff to reflect a single Tampa rate center, and Verizon may need to institute other conformance changes in its tariff or internal operating procedures to recognize the five geographic areas as billing tiers for the Tampa area. Third, Verizon must implement the "best rate" to the ALEC NXX codes for calls from Verizon customers outside Tampa to ALEC customers within Tampa.

The cross-examination at the hearing revealed that the full nature and consequences of Verizon's LERG-tariff conflict were not fully realized. But the evidence that was developed at the hearing even more clearly shows there is a solution that is at once easy to implement, retains the unique routing and billing dynamics enjoyed by the Tampa area Verizon customers, and does not adversely impact our limited telephone number resources. In the final analysis, the Commission is choosing between three undesirable alternatives — five rate centers and NPA exhaust, rate center consolidation, or one rate center. The real question is which of these choices poses the easiest to live with set of consequences. Given the choices, only one choice accomplishes all of the Commission's objectives and more, and that is to return the LERG to a single Tampa rate center and amend Verizon's tariff to establish five Tampa area billing tiers.

ISSUE 2: **How would multiple rate centers impact the numbering resources in the Tampa Market Area?**

SUMMARY OF POSITION: *The introduction of five geographic rate centers for Tampa would lead to the premature exhaust of the 813 NPA, since the ALECs would have to obtain additional NXX codes to serve five rate centers instead of one. This is not in the best interest of the customers.*

ANALYSIS AND ARGUMENT:

Introduction

Verizon's stated problem is the inconsistency between the LERG and its tariff. Verizon's solution to change the LERG from one rate center to five geographic rate centers and require all the ALECs in Tampa to reallocate their NXX codes to those five geographic rate centers sounds simple and easy to implement. But clearly the cure is worse than the illness: if the Commission chooses Verizon's solution, the result will be the premature exhaust the 813 NPA, the need for ALEC customers to take unwanted telephone number changes, and the imposition of routing and billing changes on every telecommunications company that originates or terminates calls into the Tampa area.

Through these proceedings the Commission has learned that the real problem is how Verizon should bill Verizon customers for calls to ALEC customers. Verizon's proposal to resolve the inconsistency between its tariff and the LERG is overkill – the conflict can be resolved by changing Verizon's tariff and establishing five billing tiers, with Verizon implementing the "best rate" for calls from Verizon customers to ALEC customers. The "best rate approach" will not require the ALECs to obtain additional NXX codes, and thus there will be no acceleration of the exhaust of the 813 NPA. In addition, this approach will not require any customers to change their telephone number, and will not impact the way any carrier routes and rates calls. Finally, recognition of the Verizon rate centers as billing tiers will not require rate center consolidation, thus eliminating the need for the Commission to deal with all of the issues that flow from rate center consolidation.

How Verizon's Proposal Leads To The Exhaust Of The 813 NPA

The LERG is a subscription service utilized by the entire industry to determine the routing and rating of calls. Tr. 153. The LERG identifies each rate center and the appropriate V and H coordinates for each rate center. Tr. 171, 206-207. The NXX codes are assigned to a LERG rate center and the NXX codes do not become effective until published in the LERG. A carrier may not assign a telephone number until its NXX code has been effective in the LERG for at least 66 days so that the rest of the industry may program their switches and configure their networks so that calls can be properly routed and rated to telephone numbers within that NXX code. See INC Guidelines.

The industry guidelines for telephone number assignment rely upon the LERG and not the underlying tariffs of the local carriers for these purposes. Tr. 171-172, 181, 187. This is all the Commission needs to know about what really controls routing and rating. But the importance of the LERG to the entire industry is also reinforced by the interconnection agreements between ILECs and ALECS, which carriers generally reference and often specifically require compliance with

LERG procedures and processes. For example, the interconnection agreement between Verizon and Time Warner states in Article V, provision 6.5:

> It shall be the responsibility of each Party to program and update its own switches and network systems pursuant to the Local Exchange Routing Guide (LERG) to recognize and route traffic to the other Party's assigned NXX codes. Neither Party shall impose any fees or charges whatsoever on the other Party for such activities.

The underlying Verizon tariff provisions simply are not relevant to carriers in their day-to-day carrier-to-carrier relationships when it comes to the routing and rating of calls. Moreover, as the Time Warner contract reveals, to use tariffs as the controlling factor could actually cause an ALEC to incur charges in breach of the governing interconnection agreement.

Thus, any change to the LERG by necessity impacts every carrier in the North American Numbering Plan. To adopt Verizon's proposal for five Tampa rate centers in the LERG would require every carrier to make changes both to the LERG and its own internal systems to reflect five Tampa rate centers instead of the single Tampa rate center that has always existed in the LERG.

One of the changes that each ALEC operating in Tampa must make in the LERG is to assign each of its NXX codes to one of the five geographic rate centers. This process would require each ALEC to evaluate the geographic location of each and every customer that has been assigned a telephone number and determine which of the five Tampa geographic rate centers best serves the majority of customers within that ALEC NXX code. On the basis of this decision, the ALEC must then institute the necessary paperwork to place that NXX code in the proper Tampa geographic rate center in the LERG. Tr. 48, 295. But this is not the end of the process.

Some of the ALEC customers within the NXX code will physically reside in a geographic area that is outside of the boundaries of the rate center to which the ALEC has assigned the NXX code. In order to avoid inconsistent rate centers, such customers should be assigned a new telephone number from an NXX code that has been assigned to the rate center where the ALEC customer resides. Tr. 208. However, in order to properly assign customers to these proper NXX codes requires the ALEC to have an NXX code in that other rate center. Some ALECs have but a single NXX code, in which case the ALEC would need a code for each additional rate center where it has customers that physically reside outside of the rate center where it has assigned its NXX code. Alternatively, carriers that have multiple NXX codes may find that after determining which of the five geographic rate centers best meet the needs of their customers that they do not have enough codes to meet their customers' needs for all of the relevant rate centers. AT&T, for example, has estimated that it would require at least four new NXX codes to be able to have NXX codes in each rate center where there are customers. Tr. 175.

The consequences of each ALEC potentially needing one, two, three, four, or more new NXX codes would obviously accelerate the use of NXX codes in the 813 NPA. As Mr. Foley projected, assuming each existing ALEC would need four codes, the 813 NPA exhaust date would accelerate to the third quarter of 2001, or "before NPA relief could be accomplished." Tr. 154-156. Alternatively, under assumptions where fewer codes would be needed, instead of exhausting in the fourth quarter of 2006, the 813 NPA could exhaust as early as fourth quarter 2004. Tr. 154, 157. Of course, both of these projections assumed no future new entrants into Tampa and that wireless carriers would not need any further codes – not very likely assumptions. Tr. 154.

Verizon tried to minimize the potential adverse consequences of the Verizon proposal by claiming that almost all of the ALEC customers are already in Tampa Central area, implying that very few additional ALEC NXX codes would be required. However, while many if not the majority of the ALEC customers may in fact reside in the Tampa Central boundaries, Ms. Menard's analysis is flawed. Ms. Menard's analysis appears to miss some large number assignments. Tr. 95-100.

Moreover, even a few customers being adversely impacted by Verizon's proposal could represent a substantial portion of the ALEC's business. Tr. 302. Finally, if the ALEC wants to serve customers that reside in a geographic rate center for which it does not already have an NXX code, the ALEC will be required to obtain such a code.

Verizon tried to further minimize the impact of moving the LERG to five rate centers for Tampa by proposing to grandfather existing ALEC customers in their existing NXX codes. As Ms. Menard acknowledged, this proposal has not been used anywhere else and it could create even more problems. Tr. 272. This proposal may have the short term benefit of precluding existing ALEC customers from having to take number changes because they do not reside within the physical boundaries of the rate center, it does not address the fact that if the ALEC gains customers in the future, the ALEC will need numbers in the other rate centers. Moreover, while Verizon's grandfathering plan appears to permit existing customers to obtain additional numbers from the same code, if the ALEC runs out of numbers in that code the grandfathering would end and the ALEC would need one or more additional codes. Tr. 100. In addition, under the Verizon proposal, the ALEC customer could not port its number back to Verizon which poses the possibility of the customer taking a very undesired number change or the customer is locked into service by the ALEC. Tr. 218, 291, 266, 271-272. On the other hand, as to Verizon's own customers, the grandfathering proposal would create situations where a Verizon customer would be charged two different rates to call the same location. Tr. 127-128. In any case, the grandfathering proposal poses more administrative headaches and hassles for the ALECs, when in fact the problem being addressed is one created by Verizon.

Finally, Verizon tried to lessen any premature 813 NPA exhaust by advocating its willingness to implement a number pooling trial. However, pooling trials may only be used by

NPAs currently in jeopardy, and at the moment the 813 NPA is not in jeopardy. A number pooling trial is further discussed at Issue 4 below.

If the LERG is to be changed to match Verizon's tariff, the 813 NPA will prematurely exhaust. The exact exhaust date cannot be established by this record since not all of the ALECs have participated in these proceedings, but the record provides that the 813 NPA could exhaust as early as the end of 2001. Moreover, from the carriers that have participated, there is uncontroverted evidence that they will need additional codes in order to meet their customers' needs. Number pooling and grandfathering combined do not solve the problem, and create additional problems.

Over the last few years, this Commission has had to deal with a large number of area code changes and other NPA relief measures. Clearly, this Commission should avoid any decision that would accelerate the exhaust of an NPA if it has the opportunity to render a decision that would not accelerate the exhaust of an NPA. Tr. 164-165. Here, the Commission has before it a plan that will in fact resolve the problems identified by Verizon and not create any additional problems for Verizon, the ALECs, any of the ALEC or Verizon customers or the 813 NPA. On the other hand, selection of Verizon's plan will place the Commission squarely on the road to a relief docket for the 813 NPA sooner rather than later.

<u>ISSUE 3a</u>: **What effect will Verizon's changes to its Routing Database System (RDBS) and Business Rating Information Database System (BRIDS) have on other telecommunications carriers in the Tampa Market Area?**

SUMMARY OF POSITION: *Verizon's proposed changes would require the ALECs to reassign its existing NXX codes to one of the five geographic rate centers. In reassigning NXX codes, some customers will have to take telephone number changes. In addition, ALECs would have to obtain new NXX codes, leading to the premature exhaust of the 813 NPA.*

ANALYSIS AND ARGUMENT: See the discussion at Issues 1 and 2 above that is incorporated herein.

<u>ISSUE 3b:</u> **What effect would one or more rate centers have on telecommunications carriers in the Tampa Market Area?**

SUMMARY OF POSITION: * One Tampa rate center has been in effect since before the beginning of local competition, and its continuation is in the best interests of everyone. Changing to five rate centers would lead to the premature exhaust of the 813 NPA, customer telephone number changes, and other routing and customer service problems.*

ANALYSIS AND ARGUMENT: See the discussion at Issues 1 and 2 above that is incorporated herein.

<u>ISSUE 4:</u> **Should a number pooling trial be implemented in the Tampa Metropolitan Statistical Area? If so, when should the number pooling trial begin?**

SUMMARY OF POSITION: *A number pooling trial will be appropriate for the Tampa area when the 813 comes into jeopardy if the national pooling process is unable to commence by that time. Given the current pooling trials implementation schedule for Florida, the earliest a new trial could start would be late November 2001 (60 days after the last currently schedule trial for the Ft. Pierce MSA).*

ANALYSIS AND ARGUMENT: As a general concept, number pooling should help to prolong the life of an NPA by more efficiently using limited numbering resources. The FCC's delegation order to this Commission provides that a number pooling trial may be implemented by the Commission if the NPA is in jeopardy. FCC 99-249, CC Docket No. 96-98, rel. Sept. 15, 1999. At this moment, the 813 NPA is not in jeopardy.

The intent of the FCC in delegating number pooling authority to this Commission was to provide this Commission with additional resources in dealing with jeopardy situations until the FCC can establish a national number pooling plan and adopt such other appropriate national measures. At this time, the FCC is in the process of rolling out its national number pooling plan to provide relief on a nation-wide basis.

Assuming the 813 were in jeopardy, the FCC's delegation order further provides that there should be a reasonable staggering of the implementation of each pooling trial. At the present time, this Commission has pooling trials scheduled to start essentially every two months through September of this year. Accordingly, the earliest a new number pooling trial could start for the 813 NPA would be late November 2001 (60 days after the last currently schedule trial for the Ft. Pierce MSA).

The parties to this brief support the adoption of number pooling trials where consistent with state authorizations and which have the potential to help preserve limited number resources. However, there is no evidence of record, let alone competent substantial evidence of record, that implementation of number pooling under Verizon's proposal will minimize, let alone neutralize, the premature exhaust of the 813 NPA. If circumstances outside of the consequences of adoption of Verizon's proposal warrant implementation of a number pooling trial in the 813 NPA, then this Commission should proceed with such a pooling trial. But the Commission should not adopt a pooling trial as a means of solving Verizon's billing problem – this is not an appropriate use of a pooling plan and there is no evidence that pooling would solve or help Verizon's billing. In the final analysis, if the Commission wants to act in a manner that least impacts the precious remaining NXX codes and the 813 NPA, then the only solution is the single LERG rate center with five billing tiers in the Verizon tariff.

ISSUE 5: **What other number conservation measures, if any, should the Commission order in the Tampa Market Area? If so,**

a) When should these measures be implemented?

b) How should the cost recovery be established?

SUMMARY OF POSITION: *The best number conservation measure would be to retain the single rate center for Tampa, with Verizon changing its tariff to reflect five billing tiers for its customers. The implementation of any other conservation measures and the cost recovery for any such other measures should be addressed in Docket No. 981444-TP.*

ANALYSIS AND ARGUMENT:

In the discussion under Issues 1 and 2, incorporated herein, there is an extensive examination of the fact that the underlying basis for this proceeding is an internal Verizon billing problem affecting how Verizon should bill Verizon customers for calls to ALEC customers in the Tampa area. Amending Verizon's tariff to reflect one rate center and five billing tiers will not affect the routing and rating of calls to Verizon's customers nor will it adversely impact the telephone number resources in the 813 NPA. Accordingly, any further investigation of number conservation measures for Verizon and the 813 NPA should be conducted in the Commission's proceeding that has been opened for this purpose, Docket No. 981444.

ISSUE 6: **Should Verizon be ordered to implement rate center consolidation in the Tampa Market Area? If so,**

a) How many rate centers should be consolidated? and if so, how should it be implemented?

b) When should the rate center consolidation be effective?

c) Should Verizon be allowed to recover its costs upon consolidation of its rate centers in the Tampa Market Area? If so, how?

SUMMARY OF POSITION: *Adoption of a single Tampa rate center and five billing tiers in the Verizon tariff eliminates the need for rate center consolidation. Such billing tiers would allow Verizon to continue to route and bill calls to its customers without any changes for the customers or Verizon.*

ANALYSIS AND ARGUMENT: At the outset, it is important to understand in practical terms what rate center consolidation in this case really means to Verizon and its customers. The five rate centers identified by Ms. Menard's Exhibit 3 (BYM-2) actually represent five different billing areas each with its own unique calling scopes and corresponding rates. This means that Verizon has five different ways of billing customers in the Tampa area for local, EAS, ECS, and toll calls, depending upon which of the five geographic areas the call originates or terminates. In basic terms, rate center consolidation would mean that all of the customers in these five areas would share exactly the same calling scopes and be billed at the same rate. In other words, an ECS call for one customer calling New Port Richey would be an ECS call for every other customer in the consolidated area calling New Port Richey, including those for whom it was a toll call.

While rate center consolidation would provide all of Tampa area customers with exactly the same calling scopes at the same rate, as Ms. Menard testified, to charge them all the same rate for this service would result in millions of dollars worth of lost toll and ECS revenues. Consolidating just the Tampa South with Tampa East and the Tampa North with Zephyrhills would result in lost revenues to Verizon of approximately $6.5 million which Verizon will not voluntarily eat. The greater cost to consolidate the entire Tampa area only creates a larger involuntary sum. Tr. 79-83, 85-88.

Without accepting the validity of Verizon's lost revenues figures and the potential further legal battles that most likely will ensue if such measures were forced on Verizon or if there were involuntary rate increases to Verizon's customers, the discussion under Issues 1 and 2 above demonstrate that it is completely unnecessary for the Commission to have to deal with this question. Quite simply, amending Verizon's tariff to change the five rate centers to match the one in the LERG and to establish five billing tiers that would reflect the way Verizon's Tampa customers are currently being billed by Verizon for local, EAS, ECS, and toll completely eliminates the need for rate center consolidation. In one action, the Commission avoids rate center consolidation while not changing any existing routing and rating for Verizon's customers.

In the end, if the Commission believes that true rate center consolidation is appropriate for Tampa, the record in this case is incomplete. Instead, the best course would be for the Commission to adopt one rate center in the LERG and tariff with the five billing tiers previously discussed and then in a different proceeding, with proper notice to the world, the Commission can fully investigate all of the implementation issues associated with such a decision. Moreover, as is addressed under Legal Issue A above, there are some very serious and important legal questions regarding the extent of the Commission's jurisdiction and the authority of the ILECs to implement rate center consolidation. These issues should clearly be addressed on a generic basis with the full input again of all interested parties as the consequences of such legal decisions can have far reaching consequences for the customers residing within the areas being consolidated as well as the serving carriers.

ISSUE 7: **Should Verizon be required to undo changes made prior to August 15, 2000, in its RDBS and BRIDS systems? If so, should Verizon be required to file a revised Tariff reflecting one Tampa Rate Center?**

SUMMARY OF POSITION: *Yes, to both questions. Notwithstanding Verizon's tariff, there has been only one rate center for Tampa. The problems Verizon has identified are internal billing matters that can be resolved by establishing in the tariff billing tiers.*

ANALYSIS AND ARGUMENT: Verizon should absolutely be directed to rescind the changes it had made in the LERG to establish the five Tampa geographic rate centers. If Verizon is allowed to leave the LERG unchanged with five geographic rate centers, a number of adverse consequences will flow from that decision. The biggest problem the Commission will face is that the ALECs will need additional NXX codes in order to have telephone numbers in each of the five geographic rate centers in order to provide service to their customers. These additional NXX codes will lead to the premature exhaust of the 813 NPA. In addition, some ALEC customers will have to take telephone number changes because the existing ALEC NXX codes must be assigned to one of the five geographic rates centers. Since some of the ALEC customers will not reside within the geographic area served by that rate center, the customer will need to be assigned a new telephone number from another NXX code that is assigned to the geographic rate center serving that customer. None of these consequences need occur as the simplest solution is also the best: have Verizon change its tariff to reflect one rate center like in the LERG and five billing tiers. The discussion at Issues 1 and 2 above, incorporated herein, more fully explores the real problem raised by Verizon's actions and the billing tiers solution that resolves the problem without exhausting the area code or changing rates or numbers to customers.

Respectfully submitted,

MESSER, CAPARELLO & SELF, P.A.
Post Office Box 1876
Tallahassee, FL 32302-1876
(850) 222-0720

FLOYD R. SELF, ESQ.

Attorneys for AT&T Communications of the Southern States, Inc., AT&T Wireless Services, Inc., Intermedia Communications, Inc., and WorldCom, Inc.

Marsha Rule, Esq.
AT&T Communications of the Southern States, Inc.
101 N. Monroe Street, Suite 700
Tallahassee, FL 32301

Attorney for AT&T Communications of the Southern States, Inc. and AT&T Wireless Services, Inc.

Scott Sapperstein, Esq.
Intermedia Communications, Inc.
M.C. FLT-HQ-3
One Intermedia Way,
Tampa, FL 33647-1752

Attorney for Intermedia Communications, Inc.

Donna Canzano McNulty, Esq.
WorldCom, Inc.
The Atrium, Suite 105
325 John Knox Road
Tallahassee, FL 32303

Attorney for WorldCom, Inc.

Dana Shaffer
XO Communications, Inc.
105 Molly Street, Suite 300
Nashville, Tennessee 37201-2315
(615) 777-7700 Telephone
(615) 345-1564 Telefax

Vicki Gordon Kaufman
McWhirter, Reeves, McGlothlin, Davidson,
Decker, Kaufman, Arnold & Steen, P.A.
117 South Gadsden Street
Tallahassee, Florida 32301
(850) 222-2525 Telephone
(850) 222-5606 Telefax

Attorneys for XO Florida, Inc.

Karen Camechis
Pennington, Moore, Wilkinson, Bell & Dunbar, P.A.
215 S. Monroe Street, 2nd Floor
Tallahassee, FL 32301
(850)222-3533

Attorney for Time Warner Telecom

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the Posthearing Brief of AT& Communications of the Southern States, Inc, AT&T Wireless Services, Inc, Intermedia Communications, Inc., Time Warner Telecom, WorldCom, Inc., XO Florida, Inc. in Docket 010102-TP have been served upon the following parties by Hand Delivery (*) and/or U. S. Mail this 24th day of April, 2001.

Lee Fordham, Esq.*
Division of Legal Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

Ms. Harriet Eudy
ALLTEL
206 White Avenue, S.E.
Live Oak, FL 32060-3357

Ms. Rhonda P. Merritt
AT&T
101 North Monroe Street, Suite 700
Tallahassee, FL 32301-1549

Michael A. Gross
Florida Cable Telecommunications Assoc., Inc.
246 E. 6th Avenue, Suite 100
Tallahassee, FL 32303

Scott Sapperstein, Esq.
Intermedia Communications, Inc.
One Intermedia Way, M.C. FLT-HQ3
Tampa, FL 33647-1752

Ms. Donna C. McNulty
WorldCom, Inc.
325 John Knox Road, Suite 105
Tallahassee, FL 32303-4131

NANPA
Tom Foley, Relief Planner
Eastern Region
820 Riverbend Blvd.
Longwood, FL 32779

Mr. F. B. (Ben) Poag
Sprint-Florida, Incorporated
P. O. Box 2214 (MC FLTLHO0107)
Tallahassee, FL 32316-2214

Ms. Carolyn Marek
Time Warner Telecom
233 Bramerton Court
Franklin, TN 37069-4002

Ms. Michelle A. Robinson
c/o Mr. David Christian
Verizon Florida Inc.
106 East College Avenue, Suite 810
Tallahassee, FL 32301-7704

Peter M. Dunbar
Karen M. Camechis
Pennington, Moore, Wilkinson, Bell & Dunbar, P.A.
P.O. Box 10095
Tallahassee, FL 32302

Charles Beck, Esq.
Office of Public Counsel
111 West Madison Street, Room 812
Tallahassee, FL 32399-1400

Ms. Dana Shaffer
XO Communications, Inc.
105 Molloy Street, Suite 300
Nashville, TN 37201

Vicki Gordon Kaufman, Esq.
McWhirter, Reeves, McGlothlin, Davidson, Decker, Kaufman, Arnold & Steen, P.A.
117 S. Gadsden Street
Tallahassee, FL 32301

Kimberly Wheeler
Morrison & Foerster
2000 Pennsylvania Avenue, NW
Washington, DC 20006-1888

Floyd R. Self