Kimberly Caswell
Vice President and General Counsel, Southeast
Legal Department

ORIGINAL

FLTC0007
201 North Franklin Street (33602)
Post Office Box 110
Tampa, Florida 33601-0110

Phone 813 483-2606
Fax 813 204-8870
kimberly.caswell@verizon.com

June 10, 2002

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

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

Dear Ms. Bayo:

Please find enclosed an original and 15 copies of Verizon Florida Inc.'s Post-Hearing Statement and Brief for filing in the above matter. Also enclosed is a diskette with a copy of the Brief in .pdf format. Service has been made as indicated on the Certificate of Service. If there are any questions regarding this matter, please contact me at 813-483-2617.

Sincerely,

Kimberly Caswell/dm

Kimberly Caswell

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Investigation into appropriate methods to compensate carriers for exchange of traffic subject to Section 251 of the Telecommunications Act of 1996	)))))	Docket No. 000075-TP (Phase IIA) Filed: June 10, 2002

VERIZON FLORIDA INC.'S POST-HEARING STATEMENT AND BRIEF

Verizon Florida Inc. ("Verizon") files this Post-Hearing Statement and Brief in accordance with Commission Rule 28-106.215 and the Second Order on Procedure in this case (Order No. PSC-02-0139-PCO-TP (Jan. 31, 2002).)

I. Verizon's Basic Position

All parties agree that the Commission should continue to encourage contracting carriers to negotiate the definition of the local calling area for purposes of applying reciprocal compensation. If negotiations are unsuccessful, then the tariffed local calling areas of the incumbent local exchange carrier ("ILEC") should be used to determine reciprocal compensation obligations, as they typically have been since reciprocal compensation was instituted under the Telecommunications Act of 1996 (Act). All carriers are familiar with these Commission-approved local calling areas and their continued use is the most administratively simple approach. Use of the ILECs' tariffed local calling areas for reciprocal compensation purposes will not affect the alternative local exchange carriers ("ALECs'") ability to define their own local calling areas for retail purposes.

The new alternative proposed by the AT&T Companies (AT&T Communications of the Southern States, Inc., TCG of South Florida, and AT&T Broadband Phone of Florida, LLC) and Florida Digital Network ("FDN") is unacceptable for legal, policy, and practical reasons. These parties urge the Commission to adopt the entire LATA as the local calling area for reciprocal compensation purposes. This proposal would convert intraLATA toll traffic to local traffic for intercarrier compensation purposes. This toll traffic would become subject to reciprocal compensation, rather than the intrastate access rates that now apply. The ultimate result would

be a virtual elimination of the access charge regime this Commission established in 1983. Given the interexchange carriers' ("IXCs'") overriding objective of eliminating access charges, there will be no effective way to prevent arbitrage between higher switched access rates and lower reciprocal compensation rates. Indeed, the AT&T Companies' own testimony confirms that they view this proceeding as a platform for access reform.

Verizon does not oppose access reform *if* it is done lawfully and deliberately, with due consideration of the implicit universal service funding approach this Commission approved in 1995. As the Commission has recognized, it does not have the authority to change intrastate access rates, which are controlled by statute. The LATA-wide reciprocal compensation proposal is an obvious attempt to circumvent these statutory constraints. If the Commission could eliminate access charges simply by calling toll traffic local traffic, there would have been no reason for AT&T and the rest of the industry to have devoted their resources to achieving access reform in the Legislature this past session.

Even aside from the legal obstacles, LATA-wide reciprocal compensation is a terrible idea from a policy perspective. While IXCs with local operations stand to benefit by shifting their traffic to their ALEC operations, IXCs without local operations and ILECs will be at a substantial competitive disadvantage, as they will have to continue to pay access charges on intraLATA traffic. The LATA-wide reciprocal compensation proposal thus violates competitive neutrality, because different carriers will pay different compensation for the same calls.

This extreme proposal is, in addition, at odds with federal and State requirements for all carriers to contribute their fair share to supporting universal service. This Commission has ruled that universal service in Florida must be funded through implicit subsidies in the ILECs' rates, including their access rates. Replacing access charges with lower reciprocal compensation rates for certain carriers would contravene the implicit funding mechanism this Commission approved and would reduce revenues available to support universal service.

There is no compelling reason to move to LATA-wide reciprocal compensation. It is not a response to any identified policy problem and no party even recommended this approach in

the earlier hearing on this issue. The ALECs are free to offer customers any calling plan they wish. ALECs and IXCs that save money by not paying access charges *may* pass the savings on to customers—or they may not, if past experience is any guide. They could just as well pocket the savings and continue to charge customers toll rates. If some ALECs do offer lower rates to customers, ILECs and stand-alone IXCs will not be able to compete, because they will still have to cover intraLATA access charges--and the ILEC will still have to fund universal service through implicit subsidies, without raising basic local rates. Consumers cannot ultimately win if the Commission favors certain competitors instead of creating a level playing field for all competitors.

With regard to the other issue to be resolved in this phase of the case—the default reciprocal compensation method—the Commission should defer a ruling pending the FCC's decision in its *Unified Intercarrier Compensation Rulemaking*. The FCC has undertaken a comprehensive examination of all forms of intercarrier compensation, including reciprocal compensation for local calls. There is no need for the Commission to duplicate this effort, particularly because its decision may well need to change if it is inconsistent with the FCC's. Under the circumstances, the best approach is to maintain the *status quo*. Verizon believes the ALECs do not oppose this approach, since per-minute reciprocal compensation is often the *status quo* under their interconnection contracts.

If the Commission does not defer its ruling on a default compensation mechanism, then a bill-and-keep methodology can provide benefits, but only if it is carefully designed to prevent new forms of arbitrage and anticompetitive behavior. Verizon has proposed just such a mechanism, which includes an out-of-balance criterion and efficient network architecture conditions. If the Commission wishes to set a default compensation scheme at this time, then it should adopt Verizon's bill-and-keep proposal.

II. Verizon's Positions on Specific Issues

Issue 13: How should a "local calling area" be defined, for purposes of determining the applicability of reciprocal compensation?

(a) What is the Commission's jurisdiction in this matter?

Summary of Position: ** The Commission cannot define the entire LATA as the local calling area for reciprocal compensation purposes, because it lacks the authority to modify access charges and because it would violate the state and federal requirements for all carriers to contribute their fair share to universal service support. **

(b) Should the Commission establish a default definition of local calling area for the purpose of intercarrier compensation, to apply in the event parties cannot reach a negotiated agreement?

Summary of Position: ** Negotiation should continue to be the primary means of defining the local calling area for reciprocal compensation purposes. Adoption of a default approach in the event negotiations prove unsuccessful will be beneficial only if the Commission makes clear that the default is the ILEC's tariffed local calling area. **

(c) If so, should the default definition of local calling area for purposes of intercarrier compensation be: 1) LATA-wide local calling, 2) based upon the originating carrier's retail local calling area, or 3) some other default definition/mechanism?

Verizon's Position: ** If the Commission adopts a default local calling area definition, it should be the ILEC's tariffed local calling areas. This is the only approach that is lawful, competitively neutral and consistent with universal service objectives. **

A. The Parties' Proposals

Today, contracting parties negotiate the definition of the local calling area for reciprocal compensation purposes. (*See, e.g.*, Shiroishi, Tr. 20.) Staff and all parties to this docket agree that these negotiations should continue to be the primary means of determining reciprocal compensation obligations. (Trimble, Tr. 85, 117-18; Ward, Tr. 185; Dec. 5, 2001 Agenda Conference (Agenda Conf.) Tr. 47.) They disagree, however, on the default mechanism that should apply, if the Commission finds that a default mechanism is even necessary.[1] Verizon, Sprint, ALLTEL, and BellSouth support using the ILECs' local calling areas to define reciprocal compensation obligations, just as they all agree that the ALECs should remain free to define their own local calling areas for retail purposes. While BellSouth continues to believe that the originating carrier reciprocal compensation approach it proposed before these hearings would be feasible, it has acknowledged the concerns about implementation of different calling areas. (Shiroishi, Tr. 22.) Ms. Shiroishi advises the Commission to use "the ILEC's geographic calling

scope (as defined by the ILEC's tariff)" in the default mechanism for assessing reciprocal compensation. (Shiroishi, Tr. 31.)

FCTA witness Barta took no position on the default definition of the local calling area. Of the parties fielding witnesses at the hearing, only two—the AT&T Companies and FDN—recommended something other than the ILEC's local calling area for this purpose. They now propose using the entire LATA as the local calling area for reciprocal compensation purposes, although neither they nor any other party made this proposal in the earlier proceedings on this issue. (Trimble, Tr. 88-89; Agenda Conf. Tr. 51.) The LATA-wide approach was first suggested by Staff, in its November 21, 2001 recommendation to the Commission. Instead of voting on Staff's recommendation, the Commission ordered this supplemental hearing to better understand the consequences of particular local calling area definitions for reciprocal compensation purposes.

As Verizon explains below, now that the Commission is better informed, it must conclude that LATA-wide reciprocal compensation is unacceptable on legal and policy grounds. Maintaining the use of the ILECs' tariffed local calling areas for reciprocal compensation purposes is the simplest and most competitively neutral approach.

B. Intercarrier Compensation Today

In order to examine the merits of the default options for defining the local calling area for reciprocal compensation purposes, it is necessary to understand how intraLATA intercarrier compensation works today.

IntraLATA toll calls may be carried by local exchange companies (ILECs or ALECs) or IXCs. Access charges apply in both instances. For intraLATA toll calls carried by IXCs, the IXC pays the originating local carrier an originating access charge and pays the terminating local

[1] BellSouth witness Shiroishi observes that "[i]t has not been BellSouth's experience that this issue is one that requires the Commission to establish a default definition," because it has not been "highly contested and arbitrated." (Shiroishi, Tr. 21, 53-54.) Verizon has had the same experience.

carrier a similar terminating access charge. The IXC recovers the access charges through its toll charges to the end user. (Trimble, Tr. 92-93.)

For intraLATA toll calls carried by local carriers, the local carrier originating the call charges the end user for toll service, and the local carrier terminating the call charges the originating local carrier terminating access. Thus, for example, when an ILEC customer makes a toll call to an ALEC customer, the ILEC charges its end user toll rates, which cover the ILEC's cost of the terminating access paid to the ALEC. (Trimble, Tr. 93-94.)

The sum of Verizon's originating and terminating access charges averages about $0.09 per minute. (Trimble, Tr. 92.) There is no requirement for cost-based access rates. On the contrary, when the Commission established the access charge scheme in 1983, its "overriding goal was to implement access charges that maintain the financial viability of the LECs while maintaining universal service." *(Intrastate Telephone Access Charges for Toll Use of Local Exchange Services*, 83 FPSC 100, 1983 Fla. PUC Lexis 71, at *15 (1983).) The Commission has maintained this link between access charges and universal service, directing the ILECs to continue to fund universal service through "markups on the services they offer," including access. *(Determination of Funding for Universal Service and Carrier of Last Resort Responsibilities*, 95 FPSC 12:375, 1995 Fla. PUC Lexis 1748 ("*Universal Service Order*"), at *56 (Dec. 27, 1995).)

Reciprocal compensation, on the other hand, is based on total element long-run incremental cost ("TELRIC"), which precludes any support for basic local service. Reciprocal compensation is a construct of the Act; section 251(b)(5) requires all local exchange carriers to "establish reciprocal compensation arrangements for the transport and termination of telecommunications." The FCC has interpreted this requirement to apply only to local traffic. (*Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd 15499, at paras. 1033-34 (1996) ("*Local Competition Order*"); 47 C.F.R. § 51.701(b)(1).) Because they include no contributions to universal service, reciprocal compensation rates are substantially lower than access rates, typically less than

$0.004 per minute. (*See, e.g.*, Hearing Ex. 15, documents produced in response to items 6(e) and 7 of Staff's First Request for Production of Documents to Verizon.)

Historically, toll and local traffic (and the associated intercarrier compensation) have been defined by reference to the ILECs' tariffed local exchange areas, established over the years by either the Commission or by the ILEC with the Commission's approval. (Ward, Tr. 170-71; Ruscilli, July 5-6, 2001 Tr. 39; *see also, e.g.*, *Petition for Arbitration of Dispute with BellSouth Telecomm., Inc. Regarding Call Forwarding, by Telenet of South Florida, Inc.*, Final Order on Arbitration, 97 FPSC 4:519, 1997 Fla. PUC Lexis 476 (1997) ("*BellSouth/Telenet Arbitration Order*"), at *14-15 ("this Commission has set certain policies regarding the price distinction between local and toll services").) The Commission's ruling on the nature of virtual NXX traffic in this case confirms and continues this practice. The Commission approved its Staff's recommendation that "calls to virtual NXX customers located outside of the local calling area to which the NPA/NXX is assigned *are not local calls for purposes of reciprocal compensation*." (Trimble, Tr. 105, *quoting* Nov. 21, 2001 Staff Recommendation in this docket (Staff Rec.) at 94 [emphasis added].) Under this rationale, virtual NXX calls are not local calls for intercarrier compensation purposes, because their end points are not within the same local calling area *of the ILEC:* "classification of traffic as either local or toll has historically been, and should continue to be, determined based upon the end points of a particular call." (Trimble, Tr. 105, *quoting* Staff Rec. at 93.) "[I]t seems reasonable to apply access charges to virtual NXX/FX traffic that originates and terminates in different local calling areas." (Staff Rec. at 95.)

The distinction between the intercarrier compensation schemes for local and toll calls is reflected in both Chapter 364 (*see, e.g.*, sec. 364.16(3)(a) (a local exchange carrier cannot terminate access traffic under a local interconnection agreement without paying the appropriate terminating access charges) and the Act (*see, e.g.*, *Local Competition Order* at para. 1033, *citing* Act sections 251(b)(5) and 252(d)(2) (concerning reciprocal compensation) and sections 201 and 202 (concerning access) ("The Act preserves the legal distinctions between charges for transport and termination of local traffic and interstate and intrastate charges for terminating

long-distance traffic.") The FCC has made clear that whenever a local exchange carrier provides service "in order to connect calls that travel to points—both interstate and intrastate—beyond the local exchange," it is providing an access service.[2]

While carriers are free to agree to change the definition of local calling area for reciprocal compensation purposes, none of Verizon's interconnection agreements do so. (Trimble, Tr. 163; Hearing Ex. 10, at 3.) Sprint's interconnection agreements also use the ILEC's local calling area to determine reciprocal compensation obligations. (*See, e.g.*, Ward, Tr. 183.) Verizon understands that BellSouth has a relative handful of agreements expanding what is considered local traffic for reciprocal compensation purposes, but those agreements specifically exempt switched access from the local traffic definition; they do not make all calls originating and terminating in the LATA local for reciprocal compensation purposes. (Shiroishi, Tr. 33, 71.)

In short, for purposes of intercarrier compensation, the Commission has established and maintained a local/toll distinction based on the ILECs' tariffed local exchange areas. Access charges apply to toll calls, and reciprocal compensation applies to local calls (absent a contractual agreement otherwise).

C. How LATA-wide Reciprocal Compensation Would Change Intercarrier Compensation

As explained, when an ALEC and ILEC collaborate to complete an intraLATA toll call today, the originating carrier pays the terminating carrier access charges. Under the LATA-wide reciprocal compensation proposal, these access charges would be replaced with a reciprocal compensation charge, which is much lower. Access charges would no longer apply to any calls completed between local carriers within the LATA.

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[2] *Implementation of the Local Competition Provisions in the Telecomm. Act of 1996*, Order on Remand and Report and Order, 16 FCC Rcd 9151, 9168, at para. 37 (2001) ("*ISP Remand Order*"), *remanded, WorldCom, Inc. v. FCC*, No. 01-1218 (D.C. Cir. May 3, 2002). Although the D.C. Circuit remanded the ISP Remand Order to permit the FCC to clarify its reasoning, it left the order in place as governing federal law. *See WorldCom, Inc. v. FCC*, No. 01-1218, slip. op. at 5.

Redefining the local calling area for reciprocal compensation purposes should not affect intercarrier compensation for an IXC that handles an intraLATA toll call. That IXC will still pay access charges to the local carrier(s) on each end of the call. (Trimble, Tr. 96; *see also* Staff Rec. at 46.) The ILEC, likewise, will continue to "pay" access charges when it carries a toll call from one Verizon customer to another, since Florida law requires ILECs to impute the cost of access charges into their intraLATA toll rates. (Trimble, Tr. 94-95, *citing* Fla. Stat. sec. 364.051(6)(c).)

Of course, many IXCs are also ALECs, so the rules won't operate so neatly. While IXCs may remain subject to access charge obligations under a LATA-wide reciprocal compensation rule, in practical terms, only IXCs without ALEC operations (or close relations with a specific ALEC) can be expected to continue to pay access charges. It is unrealistic to believe that a price difference for transport and termination for identical traffic could be sustained based on the identity of one of the parties, especially when many Florida ALECs are also IXCs. (Trimble, Tr. 108.) These IXCs make no secret of their motivation to avoid paying access charges. (*See, e.g.*, Agenda Conf. Tr. at 50; Cain, Tr. 219, 229), and they can be expected to take full advantage of any regulation allowing them to further this objective. (Trimble, Tr. 108.) It is inevitable that IXCs with ALEC operations (including AT&T, MCI, and many others) will shift their intraLATA minutes to "local" minutes in order to avoid higher access charges on the same calls. They can do so through either legitimate means (for instance, marketing to move intraLATA toll customers to the ALEC side) or through less legitimate tactics, like misreporting toll minutes as local. (Shiroishi, Tr. 38, 44-45, 60.) They can use either their ALEC or IXC networks to exploit arbitrage opportunities. (Shirioishi, Tr. 50-51.) IXCs might, for instance, strip off ANI or CPN information from interexchange calls so they appear local to the terminating local carrier. (Shiroishi, Tr. 45.)

Intercarrier compensation arbitrage is not just a theoretical concern. As ILECs have become better able to verify the jurisdiction of IXCs' access minutes, they have discovered problems with IXCs assigning intrastate access minutes to the interstate jurisdiction, where

access charges are lower. These problems are beginning to come to light through Commission complaints here and elsewhere. (*See, e.g.*, Shiroishi, Tr. 77; Complaint of BellSouth Telecomm., Inc. Regarding the Practices of WorldCom, Inc. in the Reporting of Percent Interstate Usage for Compensation for Jurisdictional Access Services, Fla. P.S.C. Docket No. 020420-TP, filed May 14, 2002; Complaint of Carolina Tel. and Tel. Co., d/b/a Sprint against Broadwing Communications Services, Inc., North Carolina Util. Comm'n Docket No. T454, sub 9 (accusing Broadwing of deliberately underreporting its intrastate access minutes); Complaint of BellSouth against WorldCom, Inc. in South Carolina P.S.C. Docket No. 2002-166-C (accusing WorldCom of access arbitrage).)

Indeed, the AT&T Companies' witness Cain makes no secret of AT&T's intentions to use a LATA-wide reciprocal compensation rule as a back-door means of effecting access reform. He makes the broad claim that the Commission's goal in this proceeding is "reforming and unifying legacy intercarrier compensation regulations" (Cain, Tr. 221), and does not try to hide AT&T's intention to apply LATA-wide reciprocal compensation to all intraLATA calls. Mr. Cain testified:

> *Any call* that or originated or terminated in the same LATA would be considered a local call, and the terminating provider would receive reciprocal compensation for terminating it. Terminating providers would continue to receive access charges for *interLATA* calls, as they do today.

(Cain, Tr. 217-18 [emphasis added].)

> A LATA-wide local calling area results in the elimination of intraLATA toll charges for various paths that a call takes and eliminates the need to input different rates for those calls. Instead, a call is rated the same no matter what dialing pattern is used....

(Cain, Tr. 219-20.)

Mr. Cain further states: "In a LATA-wide local calling area, the NPA-NXX of the calling and called parties would be used to determine the points of origination and termination." (Cain, Tr. 218.)

In other words, the AT&T Companies recommend a wholesale restructuring of the existing access regime—not only for LECs handling intraLATA traffic, but also for IXCs

providing no local exchange service on either end of the call. Under the AT&T Companies' proposal, no company would pay intrastate access charges on any call originating and terminating in the LATA. (Trimble, Tr. 3-4.) In fact, Mr. Cain's suggestion to define "local" calls by their NXXs reveals the AT&T Companies' intention to eliminate not only intraLATA access charges, but to create loopholes that will facilitate the destruction of the *interLATA* access regime, as well (since a call with a virtual NXX could go anywhere in the country). (Trimble, Tr. 120-23.) Mr. Cain's extreme position in this proceeding should be fair warning that there is no way to fashion a limited LATA-wide reciprocal compensation approach, or to effectively prevent the AT&T Companies and others from engaging in access arbitrage and other forms of gaming under a LATA-wide scheme. (Trimble, Tr. 120-23.)

D. How an Originating Carrier Approach Would Change Intercarrier Compensation

As noted, earlier in this proceeding, BellSouth proposed defining reciprocal compensation obligations by reference to each carrier's local calling area. BellSouth no longer supports this approach to the extent it once did, and no other party has made this proposal at this stage, where the competing options have been the ILECs' local calling areas and the entire LATA. But it is worthwhile to point out that determining reciprocal compensation obligations by reference to the originating carrier's retail local calling area would change the existing intercarrier compensation rules in much the same way the LATA-wide reciprocal compensation scheme would. Under the originating carrier approach, carriers could define the entire LATA (or an even larger area) as the local calling area, thus taking advantage of the same access/reciprocal compensation arbitrage opportunities available under the LATA-wide reciprocal compensation scheme. In fact, as explained below, an originating carrier approach to reciprocal compensation would present even greater opportunities and incentives for arbitrage and gaming. (Trimble, Tr. 97-99.)

E. Why the Commission Should Reject the LATA-wide and Originating Carrier Approaches to Defining Reciprocal Compensation Obligations

Using either the entire LATA or the originating carrier's retail local calling area to define reciprocal compensation obligations would be unacceptable on both legal and policy grounds. The Commission cannot lawfully define away access charges or compromise statutory universal service contribution obligations, as both these approaches would do. Even if it had such authority, these extreme systems must be rejected because they disrupt efficient competition and remove universal service support.

1. Mandatory LATA-wide and Originating Carrier Approaches Are Unlawful

a. The Commission Has No Statutory Authority to Define Away the Access Charge System

The FCC has affirmed that "state commissions have the authority to determine what geographic areas should be considered 'local areas' for the purpose of applying reciprocal compensation obligations under section 251(b)(5), consistent with the state commissions' historical practice of defining local service areas for wireline LECs." (*Local Competition Order*, 11 FCC Rcd 15499, at para. 1035 (1996).) This authority must, of course, be exercised consistently with State laws and regulations.

As the Commission knows, its jurisdiction over the ILECs' access charges is limited to service quality oversight and verification of the mathematical correctness of the switched access rate reductions the large ILECs had to make in 1998 under section 364.163(6). (Fla. Stat. sec. 364.163(9).) The Commission has no jurisdiction to adjust access charge rates, as it confirmed in dismissing MCI's 1997 complaint that the former GTE's access charges were "excessive." The Commission held that "[t]he specific provisions of Section 364.163, Florida Statutes, clearly limit [the Commission's] authority to act with regard to switched access rates." (*Complaint by MCI Telecomm. Corp. Against GTE Florida Inc. Regarding Anti-competitive Practices Related to Excessive Intrastate Switched Access Pricing,* Final Order Granting Motion to Dismiss, 97 FPSC 10:681, 1997 Fla. PUC Lexis 1430, at *9 (1997).) Because Chapter 364 prescribes a

"specific and detailed process for the capping and reduction of access charges," the Commission concluded that the statutes could not be construed "as authorizing [the Commission] to reduce access charges *in any other manner for any other reason.*" (*Id.* at *14 [emphasis added].) When "a statute specifies a certain process by which something must be done, it implies that it shall not be done in any other manner." (*Id.* at *13-14, *citing Botany Worsted Mills v. U.S.*, 278 US 282; 73 L. Ed. 379, 385 (1929); and *Investigation of a Circuit Judge of the Eleventh Judicial Circuit of Florida*, 93 So. 2d 601, 606 (Fla. 1957).)

The LATA-wide reciprocal compensation proponents are trying to convince the Commission to reduce access rates in a manner other than that specified in section 364.163. What MCI hoped to achieve through its 1997 complaint—and what the IXCs have long advocated—is cost-based access charges. This outcome is contrary to the caps and rate adjustment percentages the Legislature prescribed in the 1995 revisions to Chapter 364. These provisions were not arbitrary choices, but deemed appropriate only after careful analysis of many other options. In fact, a proposal for cost-based access rates was among the rejected options. The proposed amendment, ultimately withdrawn, read, in relevant part: "Both interconnection services and network access services shall be...offered at cost-based prices." (Sen. Comm. on Commerce & Ec. Opp., Proposed Am. 35, Apr. 4, 1995 pkg.) If the Commission adopts the LATA-wide reciprocal compensation proposal, it will give the AT&T Companies exactly what the Legislature declined to give them in 1995—cost-based rates for all intrastate intercarrier compensation.

As explained above, replacing access rates with reciprocal compensation cannot be limited to toll calls exchanged between local carriers today, but will inevitably spread to toll calls handled by IXCs that also have ALEC relationships (which include all the large IXCs). If the Commission has no authority to adjust access charges *in any manner other than prescribed by section 364.163 or for any other reason*, it certainly lacks the power to eliminate the access charge regime by defining the LATA as the local calling area for reciprocal compensation obligations.

The Legislature considered maintenance of the local/toll distinction (and the associated access regime) so important that it forbade not only direct, but also indirect, attempts to circumvent access charges. Section 364.16(3)(a) states:

> No local exchange telecommunications company or alternative local exchange telecommunications company shall knowingly deliver traffic, for which terminating access service charges would otherwise apply, through a local interconnection arrangement without paying the appropriate charges for such terminating access service.

Enforcement of section 364.16 was so critical to the Legislature that it is one of only four key provisions of Chapter 364 that the Commission may not waive for any ALEC. (Fla. Stat. sec. 364.337(2).)

Section 364.16(3)(a) is directly relevant to the issue at hand, because it prohibits exactly what the AT&T Companies and their allies are trying to do through LATA-wide reciprocal compensation. By defining the entire LATA as the local calling area for intercarrier compensation purposes, the ALEC will be delivering traffic through a local interconnection arrangement without paying the otherwise applicable access charges. In fact, the Commission has previously interpreted section 364.16(3) to find that it is unlawful for an ALEC to circumvent access charges when its retail local calling area differs the ILEC's. (*BellSouth/Telenet Arbitration Order*, 1997 Fla. PUC Lexis 476, at *20 ("while an ALEC may have a different local calling area than an incumbent LEC, it is required by statute to pay the applicable access charges").)

The AT&T Companies and FDN have no effective response to the legal obstacles to their proposal. Mr. Cain argues that the statute does not prohibit the Commission from adopting LATA-wide reciprocal compensation because "[i]f the Commission establishes that the entire LATA will be considered local for reciprocal compensation purposes, then terminating access charges would not apply." (Cain, Tr. 233.) In other words, the ALECs won't be avoiding access charges because the Commission has defined away access changes. This circular argument, of course, ignores the fact that the Legislature specifically denied the Commission authority to alter access charges in the first instance. Access charges and local interconnection charges were

different schemes when the Legislature adopted section 364.16 and the Legislature intended for them to remain that way, as reflected in the statute and the legislative history.

If the AT&T Companies and other IXCs/ALECs truly believed the Commission could reduce access charges by replacing them with cost-based reciprocal compensation rates, then there would be no reason for them to seek access reductions from the Legislature year after year. This year, in particular, a foremost objective of AT&T and most of the industry, including Verizon, was achieving balanced, comprehensive access reform through the Florida Legislature. Certainly, the IXCs would not have devoted their resources to this cooperative effort if they thought they could achieve unilateral access reductions from the Commission in the back-door manner the AT&T Companies now advocate.

Verizon understands that its access minutes and the associated revenues may be competed away; there is nothing in Chapter 364 that prevents that result. But losing access revenues to legitimate competition is far different from their elimination by a regulatory fiat defining away access charges. That is the outcome the law *does* prevent.

b. LATA-wide Reciprocal Compensation Is Contrary to the Commission's Ruling that Virtual NXX Calls Are Not Local Calls Subject to Reciprocal Compensation.

It would be arbitrary and capricious for the Commission to make contradictory rulings in the same Order. That will be the outcome if the Commission defines the LATA as the local calling area for reciprocal compensation purposes.

If the Commission adopts LATA-wide reciprocal compensation, all calls within the LATA will be subject to reciprocal compensation. This necessarily includes virtual NXX calls, which are made possible when carriers assign telephone numbers to end users physically located outside the ILEC rate center (or local exchange) to which the telephone number is homed. (*See* Staff Rec. at 72.)

But the Commission has already made just the opposite holding—that "calls to virtual NXX customers located outside of the local calling area to which the NPA/NXX is assigned are

not local calls for purposes of reciprocal compensation." (Staff Rec. at 94, Issue 15, approved at the Dec. 5, 2001 agenda [emphasis added].). The Commission approved its Staff's reasoning that "classification of traffic as either local or toll has historically been, and should continue to be, determined based upon the end points of a particular call." (Trimble, Tr. 105, *quoting* Staff Rec. at 93.) "[I]t seems reasonable to apply access charges to virtual NXX/FX traffic that originates and terminates in different local calling areas." (Trimble, Tr. 105, *quoting* Staff Rec. at 95.)

Under a LATA-wide reciprocal compensation scenario, reciprocal compensation, and not access charges, would apply to any calls, including virtual NXX calls, within the LATA. This outcome cannot be squared with the Commission's ruling on virtual NXX calls. No party attempted to rebut this key point, which Mr. Trimble raised in his Direct Testimony. (Trimble, Tr. 105-06.)

A call traversing ILEC local calling area boundaries is either subject to reciprocal compensation or it is not. The Commission has already found that it is not, thus precluding the opposite ruling that reciprocal compensation applies to all calls within the LATA, regardless of whether they call originate and terminate in different ILEC local calling areas. (Trimble, Tr. 122-23.)

c. Replacing Access Charges with Reciprocal Compensation Is Contrary to State and Federal Law Requiring all Telecommunications Providers to Support Universal Service.

The Telecommunications Act of 1996 states: "All providers of telecommunications services should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service." (Act, Section 254(b)(4).)

Florida law is even more detailed and definitive as to the obligation of all carriers to support universal service. "The Legislature finds that each telecommunications company should contribute its fair share to the support of the universal service objectives and carrier-of-last-resort obligations." (Fla. Stat. sec. 364.025(2).) Pending the establishment of a permanent state universal service fund, the Legislature instructed the Commission to implement an "interim

mechanism for maintaining universal service objectives and funding carrier-of-last-resort obligations." (*Id.*) The Legislature further directed that:

> The interim mechanism shall be applied in a manner that ensures that each alternative local exchange telecommunications company contributes its fair share to the support of universal service and carrier-of-last-resort obligations. The interim mechanism applied to each alternative local exchange telecommunications company shall reflect a fair share of the local exchange telecommunications company's recovery of investments made in fulfilling its carrier-of-last-resort obligations, and the maintenance of universal service objectives.

(*Id.*)

Instead of establishing an explicit interim universal service fund, the Commission ruled that universal service would continue to be funded through the implicit contributions in the ILECs' rates, including their access rates. (Trimble, Tr. 101-02, 155-56; Shiroishi, Tr. 45-47.) Access revenues are indisputably a principal source of support for basic local service. (*See, e.g.*, Fla. P.S.C. Report on Universal Service and Lifeline Funding Issues, Feb. 1999, at 22; *Universal Service Order.*) In fact, access charges have the biggest support component of any service Verizon offers. (Trimble, Tr. 147.)

To the extent the AT&T Companies and other IXC/ALECs can substitute cost-based reciprocal compensation payments for access charge payments, then they avoid supporting universal service. Paying reciprocal compensation rates for what has always been designated as access traffic allows these companies to take implicit universal service support flows out of the system—contrary to the state and federal Legislatures' expressed intention for all carriers to equitably contribute to the preservation and advancement of universal service. (Trimble, Tr. 19-20.) It is neither fair nor nondiscriminatory for ILECs and any stand-alone IXCs to continue to support universal service through access rates, while the IXC/ALECs pay lower reciprocal compensation rates. Aside from being contrary to state and federal law, it would be arbitrary and capricious for the Commission to eliminate implicit subsidies by defining away access traffic, when it earlier directed the ILECs to fund universal service through mark-ups above cost.

The ALECs' and IXCs' cavalier response to the loss of support from access charges is that the ILECs can just file a request for funding relief or a local rate increase under the

"changed circumstances" provisions of section 364.025(3) or 364.051((4).) This approach, however, does not address the issue of the Commission's making a decision that is indefensible under the law requiring universal service contributions from all carriers or the Commission's prior ruling that ILECs must fund universal service through implicit contributions in their rates. (*See* Trimble, Tr. 148.) The Commission cannot cure an unlawful decision with a later one trying to mitigate its effects.

Moreover, the Commission has specified that a company may petition for company-specific universal service relief only if its ability to sustain universal service has "eroded due to competitive pressures." (*Universal Service Order* at *56.) In this case, the changed circumstance requiring relief would not be competitive developments but a Commission ruling redefining intraLATA toll as local for intercarrier compensation purposes—so it is not even certain whether the Commission would entertain a petition for relief.

2. The LATA-wide and Originating Carrier Proposals Are Bad Policy.

The Commission should make no mistake about the intent and effect of the LATA-wide reciprocal compensation proposal. It is access reform. Verizon does not oppose access reform, *per se* (Trimble, Tr. 123, 131); to the contrary, one of its key strategic objectives has been achieving comprehensive access reform in the Legislature (which is the only forum in which it can legitimately occur). (*See* Trimble, Tr. 154.)

What Verizon opposes, however, is back-door, ill-considered, one-sided access reform, which is what the AT&T Companies and FDN advocate. ***If*** Verizon had the freedom to price its services as it wished (like the ALECs do) and ***if*** there were no implicit universal service needs to be recovered in Verizon's rates, then Verizon would be happy to move its access charges toward cost, which is the result of the LATA-wide reciprocal compensation (and originating carrier) approaches. (*See* Trimble, Tr. 123-24, 131.) But Verizon's local rates are strictly constrained by statute and there is no explicit state universal service fund in Florida. Under these circumstances, Verizon (as well as stand-alone IXCs) cannot compete with ALECs on

equal footing if they are permitted to define reciprocal compensation obligations on a LATA-wide (or even larger) basis. If the Commission adopts this extreme approach, Verizon's revenue losses will not be caused by its failure to successfully compete, but by the artificial regulatory advantage conferred on its competitors.

In deciding the issue of default definition of local calling area for reciprocal compensation purposes, the Commission should remain aware of a number of important policy concerns. Any default local calling area definition must: (1) be competitively neutral; (2) avoid undermining the advancement and preservation of universal service; (3) be administratively easy to implement; and (4) focus on the end user. Continued use of the ILECs' Commission-approved local calling areas to define intercarrier compensation obligations will serve all of these objectives. In contrast, none of these goals will be met if the Commission orders either of the two other approaches discussed in this proceeding—LATA-wide reciprocal compensation or allowing the originating carrier to define reciprocal compensation obligations. (Trimble, Tr. 88.)

a. The LATA-wide Reciprocal Compensation Proposal Is Not Competitively Neutral.

The default definition of the local calling area for reciprocal compensation purposes should not give one type of competitor an advantage over any other. Staff tried to meet this competitive neutrality goal with its LATA-wide reciprocal compensation recommendation last November, but that effort was misguided; again, there was insufficient opportunity to inform Staff and the Commission of the consequences of LATA-wide reciprocal compensation because no party had recommended it in the earlier proceedings. (Trimble, Tr. 102.) Furthermore, Staff's apparent objective of giving the ALEC an advantage in interconnection negotiations (Agenda Conf. Tr. at 49) is contrary to competitive neutrality. The Commission should implement only policies that favor efficient competition, not particular competitors (Trimble, Tr. 103-04), as the LATA-wide reciprocal compensation scheme would do.

Under a LATA-wide approach, ALECs (and IXCs with ALEC operations) would pay a lower intercarrier compensation rate than stand-alone IXCs and ILECs for the same calls.

LATA-wide reciprocal compensation would thus give the IXC/ALECs a significant, artificial competitive advantage in pricing their intraLATA calls (regardless of whether they call them local or toll calls). These companies would have a lower cost structure not because of greater management skill or efficiency, but solely because the Commission has redefined toll calls to local calls for reciprocal compensation purposes. (Trimble, Tr. 91-92.)

This is plainly not a competitively neutral outcome. Whereas the ALEC today pays at least something toward universal service support through the access charge structure, it would pay nothing under the LATA-wide reciprocal compensation proposal—again, because reciprocal compensation, unlike access charges, does not include any implicit support for the advancement and preservation of universal service. Because significant amounts of such support still exist in the IXCs' toll cost structure and in the ILECs' imputed toll cost structure, the stand-alone IXCs and the ILECs would be artificially disadvantaged in their provision of toll vis a vis the IXC/ALECs. (Trimble, Tr. 95.) As Sprint witness Ward observes, these "IXCs would be, in essence priced out of the market and consumer choices would decline." (Ward, Tr. 173.) Sprint estimates that its IXC division would lose $14 million annually if the LATA-wide reciprocal compensation system has the effect of creating a LATA-wide retail local calling area. (Hearing Ex. 11 at 3.)

The AT&T Companies do not deny the competitive neutrality and arbitrage concerns Verizon, Sprint, and BellSouth have raised with regard to LATA-wide reciprocal compensation. On the contrary, Mr. Cain confirms that they are well founded by admitting that "IXCs that are not in the local telecommunications business might indeed face erosion in their competitive position." (Cain, Tr. 234.) In other words, stand-alone IXCs will be at an artificial competitive disadvantage under a LATA-wide reciprocal compensation rule because they cannot engage in intercarrier compensation arbitrage, as the AT&T Companies so clearly intend to do.

FDN witness Warren's attempt to rebut the competitive neutrality concern is limited to a pointless discussion about the differences in the functions IXCs and ALECs perform in handling

intraLATA toll calls. (Warren, Tr. 273-74.) She ignores the fact that competitive neutrality must be evaluated with reference to the underlying cost structure of each competitor for all pieces of the entire call (*i.e.*, the service sold to the end user). She has no rebuttal to the fundamental point that the stand-alone IXC's cost structure is made competitively untenable, relative to the ALEC's, under a LATA-wide reciprocal compensation scheme.

The Commission's mission is to "provide for the development of fair and effective competition" (*see, e.g.*, Fla. Stat. sec. 364.01(3)), not to protect or advance the interests of any particular type of competitor. The LATA-wide and originating carrier approaches are at odds with this mission because they are not competitively neutral. When regulatory decisions artificially handicap some carriers, but not others, markets cannot develop properly, to the detriment of telecommunications consumers. (Trimble, Tr. 92.) The only way to avoid this anticompetitive outcome is to retain use of the ILECs' local calling areas for defining reciprocal compensation obligations.

b. Allowing the Originating Carrier to Define Reciprocal Compensation Would Not Be Competitively Neutral.

An originating carrier reciprocal compensation approach will provide even greater arbitrage and gaming opportunities than the LATA-wide system would. Allowing the originating carrier to define the local calling area for reciprocal compensation purposes would enable it to pay lower reciprocal compensation rates for outbound traffic, to receive higher rates for inbound traffic, or even a combination of the two. An ALEC marketing inbound calling services, for example, would charge higher terminating access rates for its inbound traffic—for calls between the same local exchange carriers and the same geographic points to which the ALEC pays the lower reciprocal compensation rate. (Trimble, Tr. 98-99.) Given past experience with ISP-bound traffic, it is certain the ALECs will have no problem identifying arbitrage opportunities, to the extent they are handed such opportunities by regulators.

The direction of the call should play no part in determining how intercarrier compensation should be assessed. As Mr. Dowds observed when the originating carrier option was raised at the December 5, 2001 agenda conference:

> [I]t just strikes me as highly anomalous that the form of compensation will differ based on the direction of the call, which is really what you're, you're allowing for her. It seems to me that you've encouraged gaming.

(Agenda Conf. Tr. 64.)

In short, the originating carrier approach is no more acceptable than the LATA-wide reciprocal compensation proposal.

c. The LATA-wide and Originating Carrier Approaches Would Undermine Universal Service Objectives.

As discussed above, a LATA-wide or originating carrier approach would contravene state and federal law requiring all carriers to contribute their fair share to universal service support, as well as the Commission's ruling that universal service is to be funded through mark-ups on the ILECs' rates. Even if the Commission could lawfully ignore these requirements, the policy consequences of ordering either of these new alternatives are unacceptable. Allowing ALECs and ALEC/IXCs to avoid paying access charges reduces the amount of support available for basic local rates. (Shiroishi, Tr. 46-48; Trimble, Tr. 101-02, 144-45.) As Ms. Ward testified, "there are clearly millions of dollars at risk for both IXCs' and ILECs' intraLATA toll revenues as well as millions of dollars for ILECs' intraLATA access revenues." (Ward, Tr. 174.) Sprint estimates that LATA-wide local calling for reciprocal compensation purposes would cause it to lose $16 million in revenue annually. (Hearing Ex. 11, at 2.) Verizon's losses, conservatively estimated, would also run into the millions of dollars annually (Trimble, Tr. 145 and Hearing Ex. 15, confidential response to item 7 of Staff's First Request for Production of Documents to Verizon); almost all of these access revenues could disappear over time. (Trimble, Tr. 159.) Obviously, Verizon cannot bear this loss of support, year after year, and still maintain and upgrade its network at acceptable levels. Future deployment of both basic and enhanced services to rural and other high-cost areas will be particularly at risk. (Trimble, Tr.

146, 153.) Elimination of support from access will also likely cause upward pressure on ILECs' residential rates or even high-cost business rates and/or will increase pressure for the establishment of a permanent universal service fund. (Trimble, Tr., 146; Busbee, Tr. 208.)

The LATA-wide reciprocal compensation proponents have no effective response to the universal service concerns Verizon and others raised. Ms. Warren simply ignores state universal service funding requirements, pointing instead to the explicit federal universal service fund, which is irrelevant to the issue here. (Warren, Tr. 271-72.) She also accuses Mr. Trimble of "improperly equat[ing] a subsidy flow with universal service" (Warren, Tr. 272), when it is this Commission that decided to fund universal service through implicit subsidy flows.

Mr. Cain also seems to blame Verizon for the fact that state universal service funding is not explicit, but rather "hidden in the prices carriers or customers pay for their services" (Cain, Tr. 230-31)-- even though AT&T knows Verizon has long advocated legislative reform to remove implicit subsidies from its rates, which Verizon is not free to do today. Mr. Cain further argues that Verizon "gave up the right to a guaranteed level of revenue" when it elected price regulation. (Cain, Tr. 231.) It is correct that Verizon has no right to protection of its revenues from losses associated with the opening of Verizon's businesses to competition. But Verizon cannot have expected to lose a substantial portion of its revenues through a fundamental change in the intercarrier compensation rules—particularly when it was clear that the Legislature removed the Commission's discretion to change the access regime.

The ALECs' advice that the ILECs can make a filing under section 364.025's "changed circumstances" provision is as unsatisfactory on policy grounds as it would be on legal grounds. Even if the ILEC could obtain relief under section 364.025(3), such relief would not necessarily correct the competitive neutrality problems associated with the LATA-wide or originating carrier reciprocal compensation approaches. An after-the-fact filing for relief from funding losses will not give back the ILEC what it lost (in terms of revenues, customers, or competitive position) and cannot correct the long-term market disruptions wrought by either LATA-wide reciprocal compensation or allowing the ALEC to define reciprocal compensation obligations.

It is also ridiculously bad policy to make a decision knowing it will undermine universal service support flows and competitive neutrality, then hope to address these problems later, *when there is no good reason to make the decision in the first instance.* (*See, e.g.*, Shiroishi, Tr. 63-64; Trimble, Tr. 148-49.) The LATA-wide reciprocal compensation is not a "fix" to any identified policy problem and was not even proposed by any party when the issue of default local calling definition was first litigated in this docket. This proposal is, rather, a ploy by the ALECs and ALEC/IXCs to gain a competitive advantage over their competitors. Giving some competitors an artificial cost advantage over others isn't a legitimate, let alone compelling, reason to move away from using the ILECs' local calling areas to define reciprocal compensation obligations.

d. Continued Use of the ILECs' Local Calling Areas to Assess Reciprocal Compensation Is the Simplest Option.

The current practice of using the ILECs' tariffed local calling areas to define reciprocal compensation obligations is best from an administrative standpoint. This approach has worked well over the years and it is easier to maintain an existing, proven system than to implement and administer a new one. (Trimble, Tr. 103, 132-33.) Under the current system, all carriers in Florida have an absolute understanding of what is considered local traffic and what is considered toll traffic for intercarrier compensation purposes. (Trimble, Tr. 103; Ward, Tr. 171.) In addition, the current system does not vary with the type of carrier (whether ILEC, IXC, or ALEC) and all carriers have systems in place to handle existing rules. (Trimble, Tr. 103). Jurisdictionalizing traffic for access and reciprocal compensation has been done for years by the ILECs, IXCs, and ALECs; as FCTA witness Barta pointed out, most ALECs already have sophisticated billing systems to track and bill for actual minutes of use. (Barta, Tr. 249.)

It is not true, as Mr. Cain alleges, that LATA-wide reciprocal compensation will simply carriers' billing systems. (Cain, Tr. 220.) As Ms. Ward points out, ALECs and IXCs are billed the same access rates today for intraLATA traffic. If the rules are changed to assess intercarrier compensation based on the type of the carrier, as LATA-wide reciprocal compensation would

require, then Florida-specific billing modifications would be necessary to try to apply the LATA-wide local calling definition to ALECs only. (Ward, Tr. 182-83.)

In addition, Mr. Cain's argument that LATA-wide calling would "simplify retail call rating as well as intercarrier billing of reciprocal compensation" (Cain, Tr. 218) assumes that all carriers will provide toll-free LATA-wide retail offerings if the Commission orders a LATA-wide reciprocal compensation area. This is not a realistic assumption. ALECs excused from paying access charges could well pocket the money they save and continue to assess toll charges on their end users. Likewise, unless all reciprocal compensation is under a strict bill-and-keep mechanism (which no party has proposed), traffic volumes will still need to be measured, evaluated, and potentially billed. (Trimble, Tr. 132-33.)

Using the originating carrier's retail local calling area to establish reciprocal compensation obligations would be even more of an administrative nightmare; Staff correctly concluded that this approach would be administratively infeasible. (Agenda Conf. Tr. 59.) Each ALEC could have one or more retail local calling areas, which they may change any time. Each ALEC, as well as the ILEC, would have to attempt to track these changes and build and maintain billing tables to implement each local calling area and apply the associated reciprocal compensation. (Trimble, Tr. 100; Ward, Tr. 185.)

For practical, as well as equitable, reasons, a uniform standard must be used to determine whether a call is subject to reciprocal compensation or access charges. That standard has been and should continue to be whether the call originates and terminates within an ILEC's tariffed local calling area. (Trimble, Tr. 100.)

e. There Are No Consumer Benefits Inherent in a LATA-wide Reciprocal Compensation or Originating Carrier System.

The Commission is charged with developing "fair and effective competition" (Fla. Stat. sec. 364.01(3)), which is the only kind of competition that can produce maximum consumer benefits. Fair and effective competition arises when all competitors are treated even-handedly, allowing them to succeed or fail or their own merits. Adoption of the LATA-wide reciprocal

compensation proposal (or an originating carrier approach) will do just the opposite; it will give certain competitors an artificial cost advantage over others, because they will pay lower reciprocal compensation rates, while their competitors will pay higher access charges for the same calls. This outcome destroys any opportunity for fair and effective competition and the consumer benefits such competition produces. Because they are anticompetitive, the LATA-wide reciprocal compensation and originating carrier approaches are also anti-consumer.

Using the entire LATA to define reciprocal compensation obligations is contrary to consumers' interest for the additional reason that it will substantially reduce an important source of support (access revenues) for basic local service, to the detriment of universal service objectives. Because promotion and maintenance of universal service is unquestionably a key public interest goal (*see, e.g.*, Fla. Stat. secs. 364.01 (4)(a) & (h)), any action that would compromise that goal is not in the public interest.

The proponents of the LATA-wide reciprocal compensation proposal claim it will enhance competition by allowing ALECs to offer retail calling plans "that may vary from those offered by the ILEC." (Cain, DT at 4-5, 6, 7) and that it would "promot[e] facilities based competition and intraLATA retail price competition." (Warren, Tr. 265). There are a number of problems with these claims.

ALECs already have the undisputed ability to define their retail local calling areas as they wish, including offering LATA-wide local calling plans. (Shiroishi, Tr. 54.) Continuing to use the ILECs' local calling area for reciprocal compensation purposes does not affect the ALECs' authority to establish their own local calling areas for retail purposes.

Despite their rhetoric, the ALECs' argument is not really about their ability to define *their own* retail local calling areas. Rather, they want to force the ILECs to change *their* local calling areas to remove what they call the "disincentive" of a toll call for Verizon customers calling other carriers' customers. (Gates, July 5-6 Tr. 779.) In fact, Dr. Selwyn openly discusses the ALECs' objective to establish a larger "inward local calling area"—that is, to define the calling area for *ILEC customers* calling ALEC customers. (Selwyn, July 5-6, 2001 Tr. 617-18.) They believe

that moving to LATA-wide reciprocal compensation at the wholesale level will drive the ILECs to expand their retail local calling scopes, as well.

The ALECs claim that intercarrier compensation costs constrain their freedom to define their retail local calling areas differently from the ILEC. (Cain, Tr. 229; Warren, Tr. 264.) The Commission should view these claims skeptically. Many ALECs today offer services with local calling areas that do not coincide with the ILEC's (Ward, Tr. 184), and "[i]t is very common for ALECs to bundle a variety of services based upon its total underlying costs, including both reciprocal compensation and telephone exchange access services." (Busbee, Tr. 208; *see also* Selwyn, July 5-6, 2001 Tr. 612-13.) Dr. Selwyn, testifying on behalf of AT&T and several other ALECs and IXCs in the earlier stage of this proceeding, acknowledged that "ALECs may compete directly with the ILEC and with each other by offering customers local calling areas that differ from that being offered by the ILEC." (Selwyn, July 5-6, 2001 Tr. 611.) In addition, IXCs and wireless carriers have been able to offer attractively priced retail packages with toll-free calling scopes as large as the entire nation, regardless of their obligations to pay access charges to the terminating local exchange carrier. (Shiroishi, Tr. 54-56; Busbee, Tr. 208.)

Further, the ALECs today operate under the same access charge rules as the IXCs and the ILECs. All of these carriers are on equal footing with regard to their ability to offer LATA-wide local calling scopes; they all make pricing and marketing decisions based on their estimation of costs they need to cover, including access payments. (Trimble, Tr. 131-32.) The ALECs are not trying to remove any competitive handicap; rather, they are trying to impose such a handicap on their IXC and ILEC competitors. Lowering certain companies' costs by allowing them to avoid access charges (and thus universal service contributions) will give these companies an artificial pricing advantage over their stand-alone IXC and ILEC competitors—an advantage that has nothing to do with their marketing skills. (Trimble, Tr. 130-32.)

Verizon and other ILECs are not afraid to have to compete on a LATA-wide basis if the reciprocal compensation rules are changed—they are *unable* to do so, given their pricing constraints (including the imputation requirement) and universal service funding obligations.

Until deliberate, comprehensive access reform can occur, it is critical to maintain as much competitive neutrality as possible in terms of universal service contributions. (Trimble, Tr. 132.)

In any event, there is no assurance that consumers would even see ALECs offer LATA-wide local calling scopes if the Commission ordered LATA-wide reciprocal compensation. Mr. Cain makes no such commitments on AT&T's behalf, instead vaguely claiming only that LATA-wide reciprocal compensation will "allow[] for evolution of innovative calling plans." (Cain, Tr. 220.) Dr. Selwyn cautioned that larger local calling areas might not be "the optimal competitive strategy for all ALECs." (Selwyn, July 5-6, 2001 Tr. 613.) So the ALECs (and ALEC/IXCs) could well continue to charge their customers toll rates and keep the money they save by paying reciprocal compensation, instead of the access charges that formerly applied. (Shiroishi, Tr. 51; Trimble, Tr.132-33.) Commissioner Deason had difficulty with this situation, aptly describing it as "almost like having your cake and eating it, too." (Agenda Conf. Tr. 48.) Commissioner Baez, likewise, expressed concern that an ALEC's failing to match its retail local calling scope with the LATA-wide local area for reciprocal compensation could "creat[e] a situation where the consumer can get taken advantage of." (Agenda Conf. Tr. 57-58.)

As Ms. Shiroishi observed, "[i]f the market has a price that it will bear, there is oftentimes not an incentive to lower that price." (Shiroishi, Tr. 69.) If history is any guide, carriers enjoying access reductions will keep the savings. (Trimble, Tr. 152, 161.) So even if the Commission took the misguided view that it is desirable to give ALECs a cost advantage over their stand-alone IXC and ILEC competitors because the ALECs *could* more easily offer their end users lower-priced LATA-wide calling, it is far from certain that they *would* do so.

f. The LATA-wide Proposal Is Extreme and Out-of-Step with Decisions Around the Country.

As discussed, the LATA-wide proposal is at odds with this Commission's *BellSouth/Telenet Arbitration Order* and its refusal to order reciprocal compensation for virtual NXX traffic. This thinking is in step with Commissions around the country that have also refused to apply reciprocal compensation to such calls that do not originate and terminate in the same

ILEC local calling area. These include Commissions in Connecticut,[3] Illinois,[4] Texas,[5] South Carolina,[6] Tennessee,[7] Georgia,[8] and Missouri.[9]

The Texas Commission raised the same concerns Verizon has here about had the far-reaching impacts of a LATA-wide reciprocal compensation scheme:

> AT&T's LATA-wide proposal...has implications for ILEC revenue streams, such as switched access, that have not been fully examined in this proceeding.

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[3] *DPUC Investigation of the Payment of Mutual Compensation for Local Calls Carried Over Foreign Exchange Service Facilities*, Decision in Docket No. 01-01-29, at unnumbered page 23 (Conn. Dept. of Pub. Util. Control Jan. 30, 2002.) ("The purpose of mutual compensation is to compensate the carrier for the cost of terminating a local call" *and since these calls are not local*, they will not be eligible for mutual compensation.") (emphasis added).

[4] *TDS Metrocom, Inc., Petition for Arbitration of Interconnection Rates, Terms, and Conditions and Related Arrangements with Illinois Bell Telephone Co. d/b/a Ameritech-Illinois Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Arbitration Decision, Docket No. 01-0338, at 48 (Ill. Comm. Comm'n Aug. 8, 2001); Arbitration Decision, *Level 3 Communications, Inc. Petition for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Illinois Bell Telephone Company d/b/a Ameritech Illinois*, Docket No. 00-0332 (Ill. Comm. Comm'n Aug. 30, 2001) ("FX traffic does not originate and terminate in the same local rate center and therefore, as a matter of law, cannot be subject to reciprocal compensation.").

[5] *Proceeding to Examine Reciprocal Compensation Pursuant to Section 252 of the Federal Telecommunications Act of 1996*, Revised Arbitration Award, Docket No. 21982, at 15 (Tex. PUC Aug. 31, 2000) (holding that reciprocal compensation applies only to calls that originate from and terminate to an end user within the ILEC's local calling area, but specifying that this ruling does not preclude CLECs from establishing their own local retail calling areas).

[6] *Petition of Adelphia Business Solutions of South Carolina, Inc. for Arbitration of an Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Communications Act of 1934, as Amended by the Telecommunications Act of 1996*, Order on Arbitration, Docket No. 2000-516-C, at 7 (S.C. PSC Jan. 16, 2001) ("Applying the FCC's rules to the factual situation in the record before this Commission regarding this issue of 'virtual NXX,' this Commission concludes that reciprocal compensation is not due to calls placed to 'virtual NXX' numbers as the calls do not terminate within the same local calling area in which the call originated.").

[7] *Petition for Arbitration of the Interconnection Agreement Between BellSouth Telecommunications, Inc. and Intermedia Communications, Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Interim Order of Arbitration Award, Docket No. 99-00948, at 42-44 (Tenn. Regulatory Util. Comm'n June 25, 2001).

[8] *Generic Proceeding of Point of Interconnection and Virtual FX Issues*, Final Order, Docket No. 13542-U, at 10-12 (Ga. PSC July 23, 2001) ("The Commission finds that reciprocal compensation is not due for Virtual FX traffic.").

[9] *Application of AT&T Communications of the Southwest, Inc., TCG St. Louis, Inc., and TCG Kansas City, Inc., for Compulsory Arbitration of Unresolved Issues With Southwestern Bell Telephone Company Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Arbitration Order, Case No.TO-2001-455, at 31 (Mo. PSC June 7, 2001) (finding VFX traffic "not be classified as a local call").

> Consequently, the Commission declines to adopt AT&T's LATA-wide proposal because it has ramifications on rates for other types of calls, such as intraLATA toll calls, that are beyond the scope of this proceeding.

(*Re: Reciprocal Compensation*, Arbitration Award, 203 P.U.R. 4th 419, 2000 PUC Lexis 95, at *55-56 (Tex. P.U.C. 2000).)

Sprint witness Ward calls the Commission's attention to a Commission ruling in Nevada designating the ILEC's local calling area as the basis for determining intercarrier compensation obligations,[10] and points out that "no other state in which Sprint LTD operates has defined the LATA as the local calling area for intercarrier compensation purposes." (Ward, Tr. 183.) Ms. Ward and ALLTEL witness Busbee also note the Ohio Commission's Local Service Guidelines stating that the ILEC's local calling area shall be used to differentiate local from toll calls for the purpose of intercarrier compensation. (Ward, Tr. 176-77 and Busbee, Tr. 207, *quoting* Pub. Util. Commn's of Ohio Local Service Guidelines, sec. IV(c), at 27.)

In his testimony earlier in this docket, AT&T witness Selwyn claimed, without providing any citations, that LATA-wide reciprocal compensation was the rule in Massachusetts and New York. (Selwyn, July 5-6, 2001 Tr. 616.) To Verizon's knowledge, there is no such rule in Massachusetts. In fact, when Staff asked AT&T for a copy of the claimed Massachusetts decision, AT&T never provided anything, to Verizon's knowledge. (*See* AT&T's Response to Staff's First Request for Production of Documents, item 1.)

Dr. Selwyn's reference to New York is also misleading, because it ignores key details. In 1995, the New York State Telephone Association (representing ILECs) and the local competitors agreed to a LATA-wide reciprocal compensation scheme that would be available *only to facilities-based carriers providing the full range of local exchange service, including business, residential, and Lifeline services.* (*Proceeding to Examine Issues Related to the Continuing Provision of Universal Service and to Develop a Regulatory Framework for the Transition to Competition in the Local Exchange Market*, Case 94-C-0095, 1995 N.Y. PUC Lexis

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[10] Ward, Tr. 175-76, *citing* Order Adopting Revised Arbitration Decision in Docket Nos. 98-10015 and 99-1007 (Pac-West Telecomm, Inc./Nevada Bell and Advanced Telecom. Group, Inc/Nevada Bell arbitrations), at para. 69 (April 12, 1999) ("'reciprocal compensation obligations should apply to traffic that originates and terminates within state-defined local calling areas'").

497 (Sept. 27, 1995) ("*New York Order*").) The Commission observed that a more widely applicable rule would unacceptably affect the implicit universal service support flows from access revenues. (*New York Order* at 17-18.) The New York industry proposal, much more limited that the LATA-wide proposal made in this docket, also predated the establishment of the reciprocal compensation requirement in the Telecommunications Act of 1996, and did not change local and toll calling definitions, as the LATA-wide reciprocal compensation proposal here would. Thus, for or a number of reasons, the *New York Order* does not support the imposition of the radical LATA-wide reciprocal compensation proposal made here.

One detail about the New York proceeding is worth emphasizing, though. The IXCs, including AT&T, vigorously opposed the industry proposal, because they did not have plans at that time to enter the market as full service local providers. They complained that the higher access charges the IXCs would have to pay at each end of a call would competitively disadvantage them in the provision of intraLATA toll service. They also argued that "defining eligibility for the lower access charge is not administratively simple" and warned of "a potential for dislocations from year to year." (*New York Order* at *15.)

These are exactly the points that Verizon makes here—LATA-wide reciprocal compensation is not competitively neutral and it is not possible to enforce different compensation rules for different carriers. AT&T in 1995 adamantly opposed this approach because it would put them at a competitive disadvantage in terms of their cost structure and would harm their ability to market intraLATA toll. (Trimble, Tr. 150.) The only conceivable reason for AT&T's departure from its position in 1995 is that today, after having developed its ALEC business, the AT&T Companies will be better able to arbitrage the access rate structure to shift toll minutes to the local jurisdiction.

* * *

Defining the entire LATA as the local area for reciprocal compensation purposes is an extreme idea that is not intended to correct any existing problem, but rather to give certain

competitors an artificial competitive advantage over others. In addition to being unlawful, LATA-wide reciprocal compensation offers no benefits over maintaining the ILECs' local calling areas as the reference for assessing intercarrier compensation. The Commission must, therefore, reject LATA-wide reciprocal compensation (as well as an originating carrier approach, which shares the drawbacks of the LATA-wide proposal). If the Commission deems it necessary to establish a default local calling area for reciprocal compensation purposes, it should maintain the ILEC's tariffed local calling areas.

Issue 17: Should the Commission establish compensation mechanisms governing the transport and delivery or termination of traffic subject to Section 251 of the Act to be used in the absence of the parties reaching agreement or negotiating a compensation mechanism? If so, what should be the mechanism?

Verizon's Position: ** No. The Commission should defer ruling until the FCC has completed its *Unified Intercarrier Compensation Rulemaking*, in which the FCC is considering the same issue identified here. **

(a) Does the Commission have jurisdiction to establish bill and keep?

Verizon's Position: ** Yes. **

(b) What is the potential financial impact, if any, on ILECs and ALECs of bill and keep arrangements?

Verizon's Position: ** It is impossible to give a generic answer about the potential financial impact of bill and keep on ILECs and ALECs; impacts can only be calculated for specific carrier pairs. In any event, negative financial impact will be prevented by an out-of-balance traffic condition. **

(c) If the Commission imposes bill and keep as a default mechanism, will the Commission need to define generically ""roughly balanced"? If so, how should the Commission define "roughly balanced?"

Verizon's Position: ** Adoption of a standard for "roughly balanced" is advisable. Verizon suggests defining traffic as roughly balanced if the imbalance is less than 10% in any 3-month period. **

(d) What potential advantages or disadvantages would result from the imposition of bill and keep arrangements as a default mechanism, particularly in comparison to other mechanisms already presented in Phase II of this docket?

Verizon's Position: ** A bill-and-keep approach may offer benefits in terms of ease of administration and less need for regulatory intervention, but it must include network architecture conditions and an out-of-balance standard to avoid creating new arbitrage and gaming opportunities. **

I. How a Bill-and-Keep System Works

Under a bill-and-keep system, each carrier interconnects its facilities to those of other carriers and traffic flows between and among networks according to the carriers' interconnection agreements. The parties do not bill each other for termination of traffic, but instead recover their respective costs from their end users. (Trimble, Tr. 109.) There are currently quite a number of bill-and-keep arrangements in local interconnection agreements in Florida. (*See, e.g.*, Shiroishi, Tr. 30; Hearing Ex. 10, at 2-3.)

II. The Commission Has Authority to Order Bill-and-Keep.

The FCC has given the States explicit authority to impose bill-and-keep arrangements for termination of local traffic "if the state commission determines that the amount of local telecommunications traffic from one network to the other is roughly balanced with the amount of local telecommunications traffic flowing in the opposite direction, and is expected to remain so." (FCC Rule 51.713(b).) Subsection (c) of Rule 51.713 states: "Nothing in this section precludes a state commission from presuming that the amount of local telecommunications traffic from one network to the other is roughly balanced with the amount of local telecommunications traffic flowing in the opposite direction and is expected to remain so, unless a party rebuts such a presumption." So contrary to some ALECs' suggestions, there is no need for the Commission to make any factual findings that traffic is balanced before adopting bill-and-keep as a policy preference. In fact, it would be impossible for the Commission to do so in this generic docket. Traffic balance determinations are necessarily specific to pairs of carriers, as traffic flows between different carrier pairs will have different characteristics. Of course, the FCC rule allows carriers to rebut the presumption that traffic is balanced, so no carrier will be forced to operate under bill-and-keep where it may not be the most appropriate choice. (Trimble, Tr. 110-11.)

III. Even Though the Commission Can Order Bill-and-Keep, It Should Defer a Ruling on the Default Compensation Mechanism Until the FCC Rules in Its Intercarrier Compensation Rulemaking.

Even though the Commission has the authority to order bill-and-keep in this generic proceeding, it should refrain from ordering any compensation mechanism at this time. The FCC has already undertaken a thorough analysis of the feasibility of a bill-and-keep approach for all traffic, including the local traffic at issue in this docket. (*Developing a Unified Intercarrier Compensation Regime*, Notice of Proposed Rulemaking, 16 FCC Rcd 9610 (2001).) Comments and replies have been submitted in that case and FCC action is pending. Because the FCC is evaluating the same intercarrier compensation issue identified here, the best approach is to await the FCC's ruling. If the Commission adopts a mechanism that differs from the one the FCC orders, this Commission will likely need to alter the state mechanism—with all the inefficiency, expense and disruption that entails for both the Commission and the industry. (Trimble, Tr. 86-87, 112.)

Although Verizon understands the Commission's desire to resolve the intercarrier compensation issue at a state policy level, Verizon is not aware of the carriers themselves having expressed any particular urgency in this regard. (Trimble, Tr. 86.) In fact, Verizon believes that all parties (with the exception of BellSouth) would be amenable to deferring a decision on the default compensation method until the FCC has ruled. FCTA witness Barta, for example, agrees that "it would be understandable if the Commission elected to await the outcome of the rulemaking at the federal level before establishing a default mechanism." (Barta, Tr. 259.) In the interim, the *status quo* would govern. Because that *status quo* is often a per-minute system of reciprocal compensation, this approach should be acceptable to ALECs that support per-minute compensation as a default system. (Trimble, Tr. 141-42.)

The parties' testimony on this issue confirms that deferral makes the most sense. Verizon believes the Commission views simplicity as a principal advantage of bill-and-keep. However, the testimony of Verizon and others shows that designing an appropriate bill-and-keep mechanism will be more complicated than the Commission likely anticipated. Even among

the parties that conditionally support bill-and-keep, there is no consensus about how the ideal mechanism should be structured. The FCC, of course, has heard from the entire industry spectrum on the merits of various compensation proposals, including the fine details of bill-and-keep mechanisms. It is unnecessary and inefficient for the Commission to try to duplicate this review, especially since this Commission could well have to revise its scheme once the FCC rules. (Trimble, Tr. 141.)

IV. If the Commission Adopts a Default Compensation Mechanism, It Should Be Bill-and-Keep with Efficient Network Architecture and Traffic Imbalance Conditions.

If, contrary to Verizon's advice, the Commission wishes to move ahead with a state default reciprocal compensation mechanism, it should adopt a bill-and-keep system with appropriate conditions to prevent arbitrage and gaming. A bill-and-keep approach achieved the greatest consensus among the parties filing testimony, with Verizon, BellSouth, and FDN proposing various forms of bill-and-keep. AT&T and FCTA support per-minute-based reciprocal compensation, although FCTA allows that bill-and-keep arrangements can have merit where traffic flows between carriers are balanced and their cost structures are essentially the same. (Barta, Tr. 243, 247, 250.) Sprint simply advises the Commission to follow the FCC's existing rules. (*See* Hunsucker, Tr. 188-195.)

A bill-and-keep system can be expected to reduce the need for regulatory intervention in reciprocal compensation billing disputes. (Warren, Tr. 269.) Under a bill-and-keep scheme, Commission involvement would occur primarily when parties cannot agree whether traffic is balanced between them under the Commission-defined standard. (Trimble, Tr. 115.)

Bill-and-keep could also reduce transaction costs. (Barta, Tr. 250.) While Verizon would expect to continue to measure the traffic it terminates from ALECs (to facilitate the determination of whether it is, in fact, in balance under the contract terms), doing away with bills (and billing disputes) would obviously eliminate significant costs. (Trimble, Tr. 115.)

Contrary to Mr. Barta's testimony (Tr. 244), Verizon does not "overwhelmingly" support moving to bill-and-keep. Rather, Verizon supports only bill-and-keep mechanisms that are carefully designed to allow each carrier to recover its costs to originate and terminate traffic and that encourage efficient deployment of network resources. (Trimble, Tr. 140-41.) Verizon proposed such a mechanism at the FCC and recommends the same approach here, as well. The details of Verizon's proposal are set forth in Hearing Exhibit 2 (which was attached as Ex. DBT-2 to Mr. Trimble's Direct Testimony). A key feature of this proposal is the requirement for efficient direct trunking. Absent this requirement, originating carriers may impose network inefficiencies, costs, and significant switch aggregation requirements on terminating carriers because there is no longer a price incentive to deliver traffic to the point of switching nearest the terminating end user. For example, absent appropriate rules, originating ALECs could deliver terminating traffic to the ILEC tandem, quickly exhausting tandem switching and transport facilities with local traffic volumes and causing congestion, blocking, and facilities expense. (Trimble, Tr. 113-14.) Tandem exhaustion is not unrealistic, as Ms. Warren contends. (Warren, Tr. 276.) As the Commission Staff knows, Verizon has already had to take extraordinary measures to ease tandem exhaust problems in its network.

One solution to these problems would be to apply bill-and-keep only at the point of switching nearest the terminating end user (for example, the serving end office in a traditional ILEC network). Another solution would be a more comprehensive interconnection architecture standard establishing common interconnection points that do not unfairly benefit one class of carriers at the expense of another by requiring the originating carrier to deliver allegedly "local" traffic to distant interconnection points. (Trimble, Tr. 113-14.)

AT&T's and FCTA's opposition to bill-and-keep is not supported by facts or logic. There is no evidence supporting Mr. Barta's argument that adopting bill-and-keep as a policy preference will give the ILECs a bargaining advantage. He appears to assume that ILECs will always favor bill-and-keep, ALECs will always favor per-minute compensation, and ILECs can force bill-and-keep on ALECs. In Verizon's experience, this is not true. Verizon's contracts

include both bill-and-keep and per-minute reciprocal compensation mechanisms. Moreover, bill-and-keep is less likely to be a principal negotiating objective of the ILEC now that all parties understand that Internet-bound traffic is not subject to reciprocal compensation. (Trimble, Tr. 138-39.)

The common use of bill-and-keep arrangements disproves Mr. Cain's contention that a default bill-and-keep mechanism will spawn "regulatory arbitrage and monopoly abuse." (Cain, Tr. 222-23.) Mr. Cain offers no explanation as to what form of monopoly abuse could possibly result from an appropriately designed bill-and-keep mechanism, including an out-of-balance criterion and Verizon's efficient architecture guidelines. And he ignores the fact that arbitrage has historically been the domain of the ALECs. If there are arbitrage opportunities to be had, the ALECs will exploit them to the fullest. Indeed, one advantage of the bill-and-keep system Verizon has proposed is that it would eliminate the ALECs' ability to continue to arbitrage rate structures and would reasonably assign transport costs in a symmetrical manner that does not disadvantage either carrier. (Trimble, Tr. 139-40.)

V. If the Commission Orders a Default Bill-and-Keep Approach, It Should Set a Standard for "Roughly Balanced" Traffic.

As explained above, the FCC rules permit the Commission to adopt a bill-and-keep compensation mechanism without determining whether traffic is roughly balanced between carriers. The Commission may simply presume that traffic is balanced. A party has the right, however, to rebut the presumption before the Commission, so no carrier will be forced to operate under bill-and-keep when it is not an appropriate choice. (Trimble, Tr. 110-11.)

Verizon's bill-and-keep provisions include a traffic imbalance condition, under which the parties will compensate each other under bill-and-keep unless the traffic is out of balance by a certain percentage. When traffic becomes out of balance by that percentage, then the parties will move to a per-minute-based reciprocal compensation scheme. (Trimble, Tr. 110-11.)

AT&T, FDN, and the 57 other ALECs that have adopted AT&T's interconnection agreement with Verizon have agreed to define traffic as roughly in balance if the traffic

imbalance is less than 10% in any three-month period. (Trimble, Tr. 111; Cain, Tr. 237; Hearing Ex. 15, at 2-3.) FDN also supports a 10% out-of-balance criterion in this proceeding. (Warren, Tr. 267-68.) Verizon and the ALECs have been able to administer this out-of-balance contract provision without any Commission intervention. However, it may be beneficial for the Commission to set a standard for "roughly in balance." In that case, Verizon would recommend the above-described 10% parameter Verizon has used in its contracts. (Trimble, Tr. 111.)

VI. It Is Impossible to Calculate the Potential Financial Impacts of Bill-and-Keep on ALECs and ILECs.

It is impossible (as well as unnecessary), in this generic proceeding, to determine the financial impacts of bill-and-keep on ALECs or ILECs. First, traffic balance inquiries are necessarily specific to pairs of carriers; traffic flows between different carriers will have different patterns. (Trimble, Tr. 137.) It is not possible to evaluate the impact of bill-and-keep on either the entire ALEC or ILEC industry, since the impacts of bill-and-keep will differ for each individual carrier, depending on the nature and volume of its traffic. The important point is that if traffic is out of balance between a pair of carriers, either of them has the right to rebut the presumption of balance, so that carriers are not forced to operate under a system that puts them at a financial disadvantage.

Second, historical data on exchange of traffic between carriers often includes Internet-bound traffic, which all parties now agree is not subject to reciprocal compensation. A reliable analysis of potential financial impacts, even as between specific carrier pairs, is difficult to do when traffic volumes used for comparison are still in flux. (*See, e.g.*, Shiroishi, Tr. 42.)

Third, it is impossible to evaluate the financial impact of bill-and-keep on the ALECs or ILECs outside of a specific bill-and-keep scheme. There are numerous potential variations of bill-and-keep. If the Commission wishes to adopt bill-and-keep, it must avoid ordering a variation that gives one carrier a financial advantage over the other. As discussed above, Verizon's approach, which requires efficient network architecture and an out-of-balance traffic condition, best satisfies this objective.

* * *

For all the reasons discussed here, the Commission should adopt Verizon's positions on Issues 13 and 17.

Respectfully submitted on June 10, 2002.

By: Kimberly Caswell/dm

Kimberly Caswell
P. O. Box 110, FLTC0007
Tampa, FL 33601-0110
Telephone (813) 483-2617

Attorney for Verizon Florida Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of Verizon Florida Inc.'s Post-Hearing Statement and Brief in Docket No. 000075-TP (Phase IIA) were sent via U.S. mail on June 10, 2002 to the parties on the attached list.

Kimberly Caswell/dm

Kimberly Caswell

Staff Counsel
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Nancy White c/o Nancy Sims
BellSouth Telecomm. Inc.
150 S. Monroe Street, Suite 400
Tallahassee, FL 32301-1556

Virginia C. Tate
AT&T
1200 Peachtree Street
Suite 8100
Atlanta, GA 30309

Michael Gross
Florida Cable Telecomm. Assn.
246 East 6th Avenue
Tallahassee, FL 32303

Charles Rehwinkel
Sprint-Florida
1313 Blairstone Road
MC FLTLHO0107
Tallahassee, FL 32301

Global NAPS, Inc.
10 Merrymount Road
Quincy, MA 02169

Peter Dunbar
Karen Camechis
Pennington Law Firm
P. O. Box 10095
Tallahassee, FL 32302

Mark Buechele
Supra Telecom
1311 Executive Center Drive
Suite 200
Tallahassee, FL 32301

Wanda Montano
US LEC of Florida Inc.
6801 Morrison Blvd.
Charlotte, NC 28211

Charles J. Pellegrini
Patrick Wiggins
Katz Kutter Law Firm
106 E. College Avenue
12th Floor
Tallahassee, FL 32301

Jon C. Moyle, Jr.
Cathy M. Sellers
Moyle Flanigan et al.
The Perkins House
118 N. Gadsden Street
Tallahassee, FL 32301

Norman H. Horton Jr.
Messer Law Firm
215 S. Monroe Street
Suite 701
Tallahassee, FL 32301-1876

Herb Bornack
Orlando Telephone Co.
4558 S.W. 35th Street
Suite 100
Orlando, FL 32811-6541

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

Brian Sulmonetti
MCI WorldCom, Inc.
Concourse Corp. Center Six
Six Concourse Parkway
Suite 3200
Atlanta, GA 30328

Paul Rebey
Focal Communications Corp.
200 N. LaSalle Street, Suite 1100
Chicago, IL 60601-1914

Robert Scheffel Wright
Landers & Parsons P.A.
310 West College Avenue
Tallahassee, FL 32302

Jill N. Butler
Cox Communications
4585 Village Avenue
Norfolk, VA 23502

Carolyn Marek
Time Warner Telecom of Florida
233 Bramerton Court
Franklin, TN 37069

Vicki Gordon Kaufman
McWhirter Law Firm
117 S. Gadsden Street
Tallahassee, FL 32301

Michael R. Romano
Level 3 Communications LLC
1025 Eldorado Boulevard
Broomfield, CO 80021-8869

Dana Shaffer, Vice President
XO Florida, Inc.
105 Molloy Street, Suite 300
Nashville, TN 37201-2315

Jeffry Wahlen
Ausley Law Firm
P. O. Box 391
Tallahassee, FL 32302

Genevieve Morelli
Kelley Law Firm
1200 19th Street N.W.
Suite 500
Washington, DC 20036

John McLaughlin
KMC Telecom, Inc.
1755 North Brown Road
Lawrenceville, GA 33096

Richard D. Melson
Hopping Law Firm
P. O. Box 6526
Tallahassee, FL 32314

Matthew Feil
Florida Digital Network, Inc.
390 North Orange Avenue
Suite 2000
Orlando, FL 32801

Stephen T. Refsell
Bettye Willis
ALLTEL Corporate Services Inc.
One Allied Drive
Little Rock, AR 72203-2177