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August 2, 2002

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Commission Clerk and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard, Room 110  
Betty Easley Conference Center  
Tallahassee, FL 32399-0850

**VIA HAND DELIVERY**

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Re: Docket No. 020412-TP

Dear Ms. Bayo:

Enclosed herewith for filing in the above-referenced docket on behalf of US LEC of Florida, Inc., ("US LEC") are the original and fifteen copies of the Prefiled Direct Testimony of Wanda Montano.

\* Also enclosed is a diskette containing the Prefiled Direct Testimony of Wanda Montano. This testimony is in WordPerfect format.

Please acknowledge receipt of these documents by stamping the extra copy of this letter "filed" and returning the copy to me.

Thank you for your assistance with this filing.

Sincerely,

*Martin P. McDonnell*

Martin P. McDonnell, Esq.

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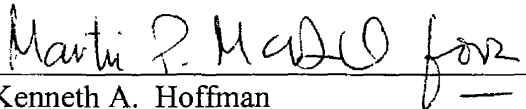
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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing Prefiled Direct Testimony of Wanda G. Montano was served on the following individuals by U.S. Mail this 2<sup>nd</sup> day of August, 2002.

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Kenneth A. Hoffman

**BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION**

**Petition of US LEC OF FLORIDA INC.            )**  
**For Arbitration with Verizon-Florida, Inc.    )**  
**Pursuant to 47 U.S.C. § 252(b) of the        )**  
**Communications Act of 1934, as amended     )**  
**By the Telecommunications Act of 1996        )**  

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**Docket No. 020412-TP**

**Filed: August 2, 2002**

**PREFILED DIRECT TESTIMONY OF WANDA G. MONTANO  
ON BEHALF OF US LEC OF FLORIDA INC.**

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1       **Q:   PLEASE STATE YOUR NAME, TITLE, AND ADDRESS FOR THE**  
2       **RECORD.**

3       A:   My name is Wanda G. Montano. I am currently Vice President, Regulatory  
4       and Industry Affairs for US LEC Corp., the parent company of US LEC of  
5       Florida Inc. (“US LEC”), and its operating subsidiaries, including the  
6       Petitioner in this proceeding. My business address is 6801 Morrison Blvd.,  
7       Charlotte, NC 28211.

8       **Q:   PLEASE DESCRIBE YOUR RESPONSIBILITIES FOR US LEC.**

9       A:   I am responsible for the management of US LEC’s relationships with state  
10      and federal agencies who oversee our business, as well as for US LEC’s  
11      relationships with Incumbent Local Exchange Carriers (“ILECs”), alternative  
12      local exchange telecommunications companies (“ALECs”), Independent  
13      Telephone Companies (“ICOs”) and wireless companies.

14      **Q:   PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND**  
15      **AND PROFESSIONAL EXPERIENCE.**

16      A:   I joined US LEC in January 2000. Prior to that, I was employed in various  
17      positions by Teleport Communications Group (“TCG”) and then by AT&T  
18      following AT&T’s acquisition of TCG. In 1998-1999, I served as General  
19      Manager for North and South Carolina (Sales Executive) for AT&T  
20      (Charlotte, N.C.) During 1997-1998 I was Vice President & Managing  
21      Executive for North & South Carolina (Sales and Operations Executive) for  
22      TCG (Charlotte, N.C.) During 1995-1997, I served as Vice President,

1 Competitive Local Exchange Carrier Services for TCG (Staten Island, N.Y.)  
2 During 1994-1995, I was Director of Process Reengineering for TCG (Staten  
3 Island, N.Y.) During 1992-1994, I was Director of Marketing for TCG  
4 (Staten Island, NY). During 1990-1992 I was Senior Product Manager for  
5 Graphnet (Teaneck, N.J.). From 1982-1990, I was Regulatory Manager for  
6 Sprint Communications Corp. in Reston, Virginia and, from 1979-1982 I was  
7 a paralegal for GTE Service Corporation in Washington, D.C. I have a B.S.  
8 from East Carolina University in Greenville, N.C. (1974). I received my  
9 Paralegal Certificate from the University of Maryland in 1980 and I received  
10 my M.B.A. in Marketing & Government Affairs from Marymount University  
11 of Virginia in 1988.

12 **Q: HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE FLORIDA**  
13 **COMMISSION?**

14 A: Yes, I have testified before this Commission on two occasions. I have also  
15 testified before the North Carolina Utilities Commission, the New York  
16 Public Service Commission, the Pennsylvania Public Utility Commission,  
17 and the Georgia Public Service Commission. In addition, I have submitted  
18 pre-filed testimony to the Maryland Public Service Commission and the  
19 South Carolina Public Service Commission.

20 **Q: HAVE YOU PARTICIPATED IN US LEC's INTERCONNECTION**  
21 **NEGOTIATIONS WITH VERIZON?**

22 A: Yes, I have participated in the negotiating sessions. In addition, I have

1 reviewed the points of contention raised during the negotiations to ensure  
2 their consistency with state and federal requirements and policy.

3 **Q: WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

4 A: The purpose of my testimony is to explain what I understand to be the legal  
5 and competitive policy arguments in support of US LEC's position on  
6 Interconnection Points ("IPs") (Issues 1 and 2), reciprocal compensation for  
7 Voice Information Services Traffic (Issues 3 and 4), the use of "terminating  
8 party" or "receiving party" (Issue 5), reciprocal compensation for virtual  
9 NXX" traffic (Issue 6), compensation for ISP traffic (Issue 7), and  
10 applicability of changes to Verizon's tariffed and non-tariffed rates (Issue 8).  
11 ISSUES 1 AND 2 (INTERCONNECTION ATTACHMENT, SECTIONS  
12 7.1.1.1, 7.1.1.1.1, 7.1.1.2, 7.1.1.3; GLOSSARY, SECTION 2.45)

13 **Q: PLEASE EXPLAIN THE POI AND THE IP TERMS VERIZON USES**  
14 **IN ITS CONTRACT.**

15 A: In order for US LEC and Verizon to exchange traffic between their respective  
16 customers, they must interconnect their networks as required by Section  
17 251(c)(2) of the Act. The physical points at which they perform the  
18 connection are called Points of Interconnection or POIs under Verizon's  
19 defined terms. The billing points that distinguish the financial responsibility  
20 of each Party for transporting traffic are called Interconnection Points or IPs  
21 under Verizon's defined terms. US LEC is familiar with Verizon's terms,  
22 and is willing to use them, so long as the resulting obligations remain

1 consistent with FCC “rules of the road” that govern interconnection between  
2 ALECs and ILECs.

3 **Q: PLEASE EXPLAIN THE FCC’S RULES OF THE ROAD.**

4 A: The first “rule of the road” is that US LEC is entitled to select a single,  
5 technically feasible POI in a Local Access and Transport Area (“LATA”) for  
6 the exchange of traffic with Verizon. The second “rule” is that each LEC  
7 bears the burden of delivering local traffic originated by its customers to the  
8 POI and recovers such costs in the rates charged to its end users. Unlike  
9 Verizon’s proposed contract terms, under FCC decisions, the default rule is  
10 that the physical connection of the Parties’ networks and the demarcation of  
11 financial responsibility are at the same point – in other words, the POI is also  
12 the default IP. Therefore, together, these rules require that US LEC select the  
13 POI/default IP and bear the financial responsibility for carrying traffic  
14 originated by its customers to the POI/default IP and, conversely, Verizon  
15 must bear the financial responsibility for carrying traffic originated by its  
16 customers to the POI/default IP.

17 **Q: HOW DO THESE RULES APPLY TO THE PARTIES’**  
18 **INTERCONNECTION ARRANGEMENTS IN FLORIDA?**

19 A: US LEC has one switch in Florida, located in Verizon’s service territory in  
20 the Tampa area. This switch currently serves the Tampa LATA and numerous  
21 local calling areas within that LATA. US LEC has established POIs at each  
22 Verizon Access Tandem where US LEC has been assigned NXX codes and

1 provides local exchange services to its end users.

2 **Q: HAS THE FLORIDA COMMISSION APPLIED THE FCC'S "RULES**  
3 **OF THE ROAD" BEFORE?**

4 A: Yes. The Commission has generally applied the FCC's rules in a manner that  
5 is consistent with the FCC's treatment of the issues. In the recent arbitration  
6 involving AT&T and BellSouth, the Commission ruled that "AT&T should  
7 be permitted to designate the interconnection points in each LATA for the  
8 mutual exchange of traffic, with both parties assuming financial  
9 responsibility for bringing their traffic to the AT&T-designated  
10 interconnection point."<sup>1</sup> The Commission also generally considered the  
11 FCC's rules in Docket No. 000075-TP, when it approved Staff's  
12 recommendation that (a) an originating carrier has the responsibility for  
13 delivering its traffic to the point(s) of interconnection designated by the  
14 ALEC in each LATA; and (b) an originating carrier is precluded by FCC  
15 rules from charging a terminating carrier for the cost of transport, or for the  
16 facilities used to transport the originating carrier's traffic, from its source to

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<sup>1</sup> *Petition by AT&T Communications of the Southern States, Inc., d/b/a AT&T for Arbitration of Certain Terms and Conditions of a Proposed Agreement with BellSouth Telecommunications, Inc., Pursuant to 47 U.S.C. Section 252, Docket No. 000731-TP, Final Order on Arbitration, Order No. PSC-01-1402-FOF-TP at 41 (Fl. PSC June 28, 2001).*



1 the point(s) of interconnection in a LATA.<sup>2</sup>

2 In its Response, Verizon mentions the Sprint arbitration decision in  
3 which the Commission directed Sprint to compensate BellSouth when  
4 BellSouth delivers its originating traffic to a distant Sprint POI outside of the  
5 local calling area.<sup>3</sup> Like the AT&T arbitration decision, the Sprint decision  
6 was based on the particular facts and circumstances in that arbitration.  
7 Moreover, it predated both the AT&T arbitration decision and the Staff  
8 Recommendation in Docket No. 000075-TP. It is my understanding that the  
9 Staff Recommendation was produced during a generic proceeding to  
10 establish guidelines for all carriers that interconnect in Florida. Therefore,  
11 because the Docket No. 000075-TP result governs all LECs, and the  
12 individual arbitrations are, although persuasive authority, only binding on the  
13 ILEC and ALEC that participated in each arbitration, those differences  
14 should be considered by the Commission as it makes its decision in this case.  
15 US LEC submits that Verizon's Virtual Geographically Relevant  
16 Interconnection Points ("VGRIPs") proposal satisfies neither FCC rules nor  
17 this Commission's precedent, and we urge the Commission to reject it.

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<sup>2</sup> December 5, 2001 Commission Agenda Conference, Docket 000075-TP, Adoption of November 21, 2001 Staff Recommendation, Issue 14.

<sup>3</sup> *Petition of Sprint Communications Company Limited Partnership for Arbitration of Certain Unresolved Terms and Conditions of a Proposed Renewal of Current Interconnection Agreement with BellSouth Telecommunications, Inc.*, Final Order on Arbitration, Docket No. 000828-TP, Order No. PSC-01-1095-FOF-TP (Fl. PSC May 8, 2001) at 36.

1       **Q:    WHAT IS THE CRUX OF THE DISPUTE IN ISSUES 1 AND 2?**

2       A:    From a policy perspective, US LEC has three major problems with Verizon's  
3           VGRIPs proposal. First, Verizon wants the right to designate the IP  
4           (whether physical or virtual) or, given that US LEC has already designated  
5           its IP in the Verizon LATA in which it provides service in Florida, to require  
6           US LEC to transition to additional IPs (whether physical or virtual)  
7           unilaterally designated by Verizon. I believe this is inconsistent with both  
8           FCC rules and the Commission's determination that the ALEC is entitled to  
9           select the point(s) of physical interconnection between the parties' networks.<sup>4</sup>

10                  Second, Verizon wants to designate the method US LEC must use to  
11           interconnect with Verizon, specifically collocation. I believe requiring  
12           collocation is inconsistent with FCC rules and is an issue this Commission  
13           has not yet addressed. Third, if US LEC fails to establish the physical IPs  
14           requested by Verizon, then Verizon wants to penalize US LEC by imposing  
15           transport charges for Verizon's originating traffic, from the Verizon end  
16           office to US LEC's IP. In other words, Verizon would charge US LEC for  
17           transporting Verizon's originating traffic *within the local calling area*, which  
18           I believe violates both FCC rules *and* the Commission's prior rulings. The  
19           additional technical and network reasons for rejecting Verizon's proposed  
20           interconnection structure are addressed in more detail in Frank Hoffmann's

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<sup>4</sup> AT&T Arbitration Order at 41.

1 testimony concerning Issues 1 and 2.

2 **Q: WHAT IS THE POLICY BASIS FOR US LEC'S POSITION THAT**  
3 **VERIZON DOES NOT HAVE THE RIGHT TO DESIGNATE THE**  
4 **IP?**

5 A: The Act and the FCC recognize that new entrants, such as US LEC, must be  
6 able to determine the most efficient location for the exchange of traffic. The  
7 Act grants ALECs, not Verizon, the right to select the POI/default IP. Under  
8 47 U.S.C. § 251(c)(2)(B), Verizon must provide interconnection at any  
9 technically feasible point selected by US LEC. As the Third Circuit recently  
10 held (after the Commission's *AT&T/BellSouth* decision):

11 The decision where to interconnect and where not to  
12 interconnect must be left to WorldCom, subject only to  
13 concerns of technical feasibility. Verizon has not presented  
14 evidence that it is not technically feasible for WorldCom to  
15 interconnect at only one point within a LATA. Nor has  
16 Verizon shown that it is technically necessary for WorldCom  
17 to interconnect at each access tandem serving area. *The*  
18 *PUC's requirement that WorldCom interconnect at these*  
19 *additional points is not consistent with the Act.*<sup>5</sup>

20  
21 Under binding FCC rules, unless Verizon can meet its burden of showing that  
22 US LEC's requested POI(s) and single IP in the Tampa LATA is not

---

<sup>5</sup> *MCI Telecommunications Corp. et al. v. Bell Atlantic-Pennsylvania et al.*,  
271 F.3d 491, 518 (3d Cir. 2001) (emphasis added).

1 technically feasible, it must offer such interconnection to US LEC.<sup>6</sup>  
2 Furthermore, the fact that the parties have already interconnected at US  
3 LEC's requested POI(s) and single IP in the Tampa LATA (as Frank  
4 Hoffmann testifies), is evidence that US LEC's requested form of  
5 interconnection is technically feasible.<sup>7</sup>

6 **Q: WHY DOES US LEC OBJECT TO VERIZON'S REQUIREMENT**  
7 **THAT US LEC ESTABLISH AN IP VIA COLLOCATION?**

8 A: As Frank Hoffmann explains, US LEC does not use collocation as its method  
9 of interconnection with Verizon and, as such, is not collocated at any Verizon  
10 office in any LATA in Florida. Nor does US LEC wish to change its method  
11 of interconnecting with Verizon. Rather, US LEC prefers to exercise its right  
12 under the Act as well as other agreed-to sections of the contract to choose one  
13 of the three methods the parties have identified as acceptable interconnection  
14 methods. US LEC's right to select an entrance facility or other method of  
15 interconnection is also granted by Section 251(c)(2), which permits US LEC  
16 to select any technically feasible method of interconnection that will be used

---

<sup>6</sup> *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499, ¶¶ 198, 205 (1996) (subsequent history omitted) (“*Local Competition Order*”).

<sup>7</sup> *Id.* at ¶ 204.

1 to establish the physical IP.<sup>8</sup>

2 Under Verizon's proposed contract language, however, Verizon wants  
3 US LEC to interconnect through collocation at Verizon's tandems, and to  
4 establish a physical IP at any other collocation arrangement US LEC may  
5 establish at a Verizon end office, or pay for Verizon's originating tandem  
6 switching costs and all of Verizon's transport costs, beginning at the Verizon  
7 end office where the call originates. These so-called "options" require US  
8 LEC to mirror Verizon's legacy network architecture (either physically or  
9 financially), which may not be the most efficient forward-looking  
10 architecture for an entrant deploying a new network, and therefore constitutes  
11 a barrier to entry.

12 **Q: PLEASE EXPLAIN THE PROBLEM CONCERNING VERIZON'S**  
13 **TRANSPORT PENALTY IN ITS THIRD OPTION.**

14 A: Verizon's transport penalty, the so-called "third option," is included in  
15 Sections 7.1.1.1.1, 7.1.1.2, and 7.1.1.3(b) of its proposed contract language.  
16 It provides that US LEC must reduce its reciprocal compensation charges to  
17 Verizon if US LEC fails to establish (1) a collocated IP at each Verizon  
18 tandem, (2) an IP at US LEC's collocation site at a Verizon end office, or (3)  
19 a collocated IP at a Verizon tandem or end office within some unspecified

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<sup>8</sup> *Id.* at 64; *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499, ¶¶549-54 (1996) ("*Local Competition Order*") (subsequent history omitted).

1 time period that must be agreed to within thirty (30) days of Verizon's  
2 request to transition the parties' existing architecture to the IPs mandated by  
3 Verizon. By reducing the termination rate Verizon pays to US LEC, Verizon  
4 effectively is charging US LEC for transporting Verizon-originated traffic  
5 from Verizon's end office over Verizon's network to the established IP, in  
6 other words, both within the local calling area and beyond it. In short, under  
7 Verizon's position, US LEC could be "charged" for transport from a Verizon  
8 end office to US LEC's IP, even if US LEC's IP were located in the same  
9 local calling area. My understanding is that even under the Commission's  
10 Sprint arbitration decision—which, as I have already explained, US LEC  
11 does not believe should guide the Commission's decision in this case—the  
12 Commission only permitted BellSouth to charge Sprint for the cost of  
13 facilities *outside* of the local calling area to Sprint's POI. This portion of  
14 Verizon's VGRIPs proposal is a penalty that has not been sanctioned by the  
15 Commission, and Verizon should be prohibited from imposing it.

16 **Q: HAS THE FCC EVER CLARIFIED AN INTERCONNECTING LEC'S**  
17 **OBLIGATION TO CARRY TRAFFIC THEIR CUSTOMER**  
18 **ORIGINATES TO THE POI?**

19 A: Yes. As the FCC recently affirmed, "[u]nder our current rules, the  
20 originating telecommunications carrier bears the costs of transporting traffic

1 to its point of interconnection with the terminating carrier.”<sup>9</sup> In other words,  
2 as I’ve already explained, the POI also serves as the IP (using Verizon’s  
3 terminology). The FCC has explained the basis of requiring each LEC to  
4 bear this cost:

5 In essence, the originating carrier holds itself out as  
6 being capable of transmitting a telephone call to any  
7 end user, and *is responsible for paying the cost of*  
8 *delivering the call to the network of the co-carrier*  
9 *who will then terminate the call. Under the*  
10 *Commission’s regulations, the cost of the facilities*  
11 *used to deliver this traffic is the originating carrier’s*  
12 *responsibility, because these facilities are part of the*  
13 *originating carrier’s network. The originating carrier*  
14 *recovers the costs of these facilities through the rates*  
15 *it charges its own customers for making calls. This*  
16 *regime represents “rules of the road” under which all*  
17 *carriers operate, and which make it possible for one*  
18 *company’s customer to call any other customer even*  
19 *if that customer is served by another telephone*  
20 *company.*<sup>10</sup>

21  
22 Verizon’s obligation to deliver its originating traffic to US LEC’s IP  
23 is not conditioned on US LEC establishing the collocated IPs Verizon is  
24 trying to require through its contract proposals. As such, we believe  
25 Verizon’s transport penalty proposal is inconsistent with FCC rules.

26 **Q: ARE YOU AWARE OF A RECENT FCC WIRELINE COMPETITION**

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<sup>9</sup> *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, Notice of Proposed Rulemaking, FCC 01-132, ¶ 70 (rel. April 27, 2001) (“*Intercarrier Compensation NPRM*”).

<sup>10</sup> *TSR Wireless, LLC v. US West Communications, Inc.*, File Nos. E-98-13, E-98-15, E-98-16, E-98-17, E-98-18m Memorandum Opinion and Order, FCC 00-194, ¶34 (rel. June 1, 2000) (“*TSR Wireless*”). (emphasis added) (footnotes omitted), *aff’d*, *Quest Corp. et al. v. FCC et al.*, 252 F.3d 462 (D.C. Cir. 2001).

1           **BUREAU       ARBITRATION       ORDER       ADDRESSING**  
2           **INTERCONNECTION ISSUES?**

3           A:     Yes. In decision released on July 17, 2002, the FCC’s Wireline Competition  
4           Bureau (“Wireline Bureau”) stepped into the shoes of the Virginia State  
5           Commission to arbitrate interconnection disputes between Verizon and three  
6           ALECs: AT&T, Cox Communications and MCI WorldCom. As such, the  
7           Wireline Bureau had to interpret and apply Sections 251 and 252 of the Act  
8           and the FCC’s implementing regulations to the positions of the parties, just  
9           as this Commission must do.

10          **Q:     DID THE WIRELINE BUREAU ADDRESS INTERCONNECTION**  
11          **ISSUES SIMILAR TO THOSE THAT THE PARTIES ARE**  
12          **ARBITRATING IN THIS PROCEEDING?**

13          A:     Yes, it did. The Wireline Bureau reviewed Verizon’s VGRIPs  
14          proposal—which is substantially similar to the proposal at issue here—and  
15          proposals by the three ALECs involved in the arbitration. The Wireline  
16          Bureau described those proposals, and ultimately rejected Verizon’s VGRIPs  
17          proposal. The FCC Bureau stated its rationale for rejecting Verizon’s  
18          proposal as follows:

19                     Under Verizon’s proposed language, the competitive  
20                     LEC’s financial responsibility for the further transport  
21                     of Verizon’s traffic to the competitive LEC’s point of  
22                     interconnection and onto the competitive LEC’s  
23                     network would begin at the Verizon-designated  
24                     competitive LEC IP, rather than the point of  
25                     interconnection. By contrast, under the petitioners’



1 proposals, each party would bear the cost of  
2 delivering its originating traffic to the point of inter-  
3 connection designated by the competitive LEC. The  
4 petitioners' proposals, therefore, are more consistent  
5 with the Commission's rules for Section 251(b)(5)  
6 traffic, which prohibit any LEC from charging any  
7 other carrier for traffic originating on that LEC's  
8 network; they are also more consistent with the right  
9 of competitive LECs to interconnect at any  
10 technically feasible point.<sup>11</sup>

11  
12 Based on this description, I believe that the FCC Bureau considered an ALEC  
13 proposal similar to the one that US LEC has offered in this proceeding.

14 **Q: DID THE WIRELINE BUREAU ADDRESS A CLAIM LIKE US**  
15 **LEC'S THAT VERIZON IS FINANCIALLY RESPONSIBLE FOR**  
16 **DELIVERING ITS TRAFFIC TO US LEC'S NETWORK?**

17 A: Yes. The Order states that under current FCC rules, "all LECs are obligated  
18 to bear the cost of delivering traffic originating on their networks to  
19 interconnecting LECs' networks for termination."<sup>12</sup> The Order goes on to  
20 explain that this means "Verizon must pay petitioners for transporting  
21 Verizon-originated traffic from the place where petitioners interconnect with  
22 Verizon's network to the petitioner's network" in cases where the petitioner

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<sup>11</sup> *Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration*, CC Docket Nos. 00-218 *et al.*, Memorandum Opinion and Order, DA 02-1731, ¶¶ 53 (Wireline Competition Bureau, rel. July 17, 2002) ("*FCC Arbitration Order*").

<sup>12</sup> *FCC Arbitration Order* at ¶ 67.

1 provides that facility.<sup>13</sup> I believe this supports US LEC's position.

2 **Q: WHY DOES US LEC OBJECT TO ESTABLISHING AN IP TO PICK**  
3 **UP VERIZON'S TRAFFIC AT EACH US LEC COLLOCATION**  
4 **ARRANGEMENT AT A VERIZON END OFFICE?**

5 A: If Verizon were allowed to identify US LEC-IPs for delivery of Verizon's  
6 originating traffic to US LEC and require US LEC to build or buy facilities  
7 to reach those IPs, it would be able to disadvantage US LEC and impose  
8 additional and unwarranted costs on new entrants. In effect, by requiring US  
9 LEC to move its IP to Verizon's end office, Verizon is again abdicating its  
10 responsibility to transport its own customers' traffic to the IP selected by US  
11 LEC. Indeed, if Verizon were allowed such discretion, it could force ALECs  
12 essentially to duplicate the incumbent's network. The costs of  
13 interconnecting two networks arises in part from the differences between the  
14 two networks. If the Commission were to adopt Verizon's proposal, it would  
15 have to ignore the fact that Verizon, through its chosen network design,  
16 contributes to the cost of interconnecting two different networks. Adopting  
17 Verizon's proposal would also favor Verizon's network design by imposing  
18 all the costs of interconnecting two different networks on the new entrant.  
19 Such a result is not in the public interest and would impede the development  
20 of competition.

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<sup>13</sup> *FCC Arbitration Order* at ¶ 68.

1       **Q:    WHAT ACTION DO YOU RECOMMEND THE COMMISSION**  
2       **TAKE?**

3       **A:**    Because Verizon has not met its burden of showing that it qualifies for an  
4       exception to the POI/default IP rules of the road, the Commission should find  
5       that US LEC has the right to maintain its chosen IP(s) in each LATA, and, at  
6       US LEC’s option, its current interconnection method. The Commission  
7       should reject Verizon ’s attempts to mandate the location of IPs (whether  
8       physical or virtual) and the method of interconnection and reject Verizon’s  
9       transport penalty proposal.

10       **ISSUES 3 AND 4 (GLOSSARY, SECTION 2.75; ADDITIONAL SERVICES**  
11       **ATTACHMENT, SECTIONS 5.1 AND 5.3; INTERCONNECTION**  
12       **ATTACHMENT, SECTION 7.3.7)**

13       **Q:    PLEASE DESCRIBE THE ISSUES IN DISPUTE.**

14       **A:**    First, in Issue No. 3, Verizon seeks to define an entire category of traffic as  
15       a class of service that it wants the Commission to exclude from the parties’  
16       reciprocal compensation obligations. Verizon first defines “Voice  
17       Information Services Traffic” as a class of traffic that “provides [i] recorded  
18       voice announcement information or [ii] a vocal discussion program open to  
19       the public.” Further, Verizon attempts to utilize this definition—which lacks  
20       a sound basis in law or fact—in Section 7.37 of the Interconnection  
21       Attachment, to exclude the defined class of traffic from its reciprocal  
22       compensation obligations.

1                   Second, with respect to Issue No. 4, if US LEC's customers want to  
2 call Voice Information Services connected to Verizon South's network, then  
3 Verizon seeks to require US LEC to provide, at its own expense, a separate,  
4 dedicated, trunk to carry that traffic.

5       **Q:   WHAT IS US LEC'S POSITION ON ISSUE NO. 3?**

6       A:   As with its efforts to eliminate reciprocal compensation for calls to ISPs, it  
7 appears that Verizon's real thrust here is to deprive US LEC of compensation  
8 for providing a valuable service to Verizon customers. In US LEC's view,  
9 the categories of traffic that Verizon now wants to define as Voice  
10 Information Services Traffic fit completely the definition of "Reciprocal  
11 Compensation Traffic" that is the basis for the parties' reciprocal  
12 compensation obligations.

13       **Q:   PLEASE EXPLAIN.**

14       A:   "Reciprocal Compensation Traffic" is defined in the proposed agreement as  
15 "Telecommunications traffic originated by a Customer of one Party on that  
16 Party's network and terminated to a Customer of the other Party on that other  
17 Party's network, except for Telecommunications traffic that is interstate or  
18 intrastate Exchange Access, Information Access, or exchange services for  
19 Exchange Access or Information Access."

20                   The categories of traffic included in the definition of "Voice  
21 Information Services Traffic" fit this definition: Whether the call is a  
22 "recorded voice announcement information" or "a vocal discussion program

1 open to the public,” it is originated by a customer of one party on that party’s  
2 network and is terminated by a customer of the other party on that party’s  
3 network.

4 At the same time, the traffic at issue can not be characterized as  
5 interstate or intrastate Exchange Access, Information Access, or exchange  
6 services for Exchange Access or Information Access. In short, there does not  
7 appear to be any basis to exclude what Verizon South has defined as “Voice  
8 Information Services Traffic” and, as such, the parties should be required to  
9 compensate each other for exchanging and terminating such traffic.

10 **Q: ARE THERE ANY TECHNICAL PROBLEMS THAT WOULD ARISE**  
11 **IF THE COMMISSION ADOPTS VERIZON’S POSITION?**

12 A: Yes, there are. As far as I know, there is no technically feasible, cost-  
13 effective way to segregate so-called “Voice Information Services Traffic”  
14 from other traffic that is eligible for reciprocal compensation, and Verizon  
15 has never offered US LEC any proposals for how it believes this can be  
16 accomplished. In addition, this is the same problem that plagues Verizon in  
17 its drive to eliminate reciprocal compensation for calls to ISPs: the traffic is  
18 indistinguishable from all other locally dialed traffic sent over local trunk  
19 groups. Unlike intra- or interLATA toll traffic, which clearly is disting-  
20 uishable, calls to “Voice Information Service Providers” are indistinguishable  
21 from all other local traffic.

22 The only apparent way to segregate the traffic is to program switches

1 to “flag” calls to an identified database of providers. This is expensive and  
2 often inaccurate, because it is not always possible to identify every single  
3 number that might be assigned to a Voice Information Service Provider.

4 It also is intrusive. It would force US LEC, and every other ALEC,  
5 to inquire into the proposed business plans of all customers so as to identify  
6 those who intend to offer “Voice Information Services”. It also would slow  
7 the operation of US LEC’s switches significantly because it would force the  
8 switch to add additional steps in the process of handling every call.

9 Finally, even assuming the technical issues regarding the call  
10 processing can be overcome, Verizon’s proposal ignores privacy concerns  
11 that customers may raise about sharing information about their business with  
12 other companies.

13 **Q: HOW SHOULD THE COMMISSION RESOLVE ISSUE NO. 3?**

14 A: First, US LEC believes that the Commission should reject entirely Verizon’s  
15 request to separately identify and define “Voice Information Services Traffic”  
16 as a separate category of traffic. In that regard, Section 2.75 of the Glossary  
17 should be eliminated from the Agreement. Second, those sections which  
18 purport to exclude “Voice Information Services Traffic” from the parties’  
19 reciprocal compensation obligations should be eliminated as well.

20 **Q: WHAT IS US LEC’S POSITION ON ISSUE NO. 4?**

21 A: Verizon’s proposal—to force US LEC to construct a dedicated facility for the  
22 delivery of calls from its customers to Voice Information Service Providers

1 served by Verizon—would impose significant costs on US LEC without any  
2 showing, first, that such a dedicated facility even is necessary or, second, that  
3 the amount of traffic generated by US LEC’s customers and destined for  
4 Voice Information Services connected to Verizon’s network is sufficiently  
5 large as to warrant a separate trunk.

6 Moreover, as I discussed above in connection with Issue No. 3, even  
7 if Verizon could demonstrate a need for a separate trunk—which it cannot  
8 do—it still would put US LEC in the position of trying to segregate traffic  
9 which it simply cannot identify through any technically feasible, cost  
10 effective means. Also as before, this would slow the operation of US LEC’s  
11 switch as it would have to identify calls destined for a Verizon South-served  
12 Voice Information Services Provider, separate those calls from all other  
13 traffic destined for Verizon’s customers, and then send that traffic down a  
14 dedicated trunk.

15 **Q: WHAT IS VERIZON’S POSITION?**

16 A: As I understand it, Verizon contends that it needs a separate trunk for billing  
17 purposes. That may or may not be so, but Verizon should address its billing  
18 concerns on its own network, not by imposing the requirement for separate  
19 trunking on US LEC. If Verizon wants to measure the traffic, it can probably  
20 find a way to do so which does not involve imposing any costs on US LEC.  
21 That would accomplish Verizon’s goal without requiring US LEC to go to  
22 the expense of putting in a separate, dedicated trunk.

1       **Q:    HOW SHOULD THE COMMISSION RESOLVE THIS ISSUE?**

2       A.    The Commission should adopt US LEC’s position and direct that Section 5.3  
3           of the Additional Services Attachment to the Agreement should be deleted.

4       **ISSUE 5: (GLOSSARY, SECTION 2.56; INTERCONNECTION**  
5       **ATTACHMENT, SECTIONS 2.1.2, 8.5.2, AND 8.5.3)**

6       **Q:    PLEASE DESCRIBE THE DISPUTE AT ISSUE HERE.**

7       A:    Historically, as well as currently, when it comes to billing, measuring and  
8           engineering purposes, traffic is referred to as either originating or  
9           terminating. Thus, in any call, there is an originating party served by an  
10          originating carrier and a terminating party served by a terminating carrier.  
11          Against this long-standing, historical backdrop, Verizon seeks to interject the  
12          entirely new concept of a “receiving party”. Verizon does not define the term  
13          “receiving party” and US LEC is concerned that Verizon will use the concept  
14          of a “receiving party” to escape some of its compensation obligations, which  
15          are grounded in the traditional ‘originating party—terminating party’  
16          designations.

17       **Q:    WHAT IS US LEC’S POSITION ON THIS ISSUE?**

18       A:    Verizon has not provided any reasonable explanation for its sudden desire to  
19           shift from the traditional “terminating party” designation to the as yet  
20           undefined “receiving party.” US LEC sees no need to disrupt the historic  
21           framework that has governed the transport, exchange and billing of traffic for  
22           decades.



1       **Q: DOES THE AGREEMENT USE EITHER “TERMINATING PARTY”**  
2       **OR “RECEIVING PARTY” CONSISTENTLY THROUGHOUT?**

3       A: No, it does not. For example, in section 7.2, the parties agree that they will  
4       compensate each other for the “transport and termination” of Reciprocal  
5       Compensation Traffic. In turn, “Reciprocal Compensation” is defined with  
6       respect to the “transport and termination” of “Reciprocal Compensation  
7       Traffic”, which, itself, is defined with reference to traffic that is “terminated  
8       on the other Party’s Network.”

9               In contrast, in Sections 2.16 of the Glossary and 8.5.2 and 8.5.3 of the  
10       Interconnection Attachment dealing with the definition of an “IP”  
11       (Interconnection Point), Verizon abandons the “terminating party”  
12       designation and, instead, refers to traffic delivered to the “receiving party”  
13       and provides no valid reason why, in these limited sections, the term  
14       “receiving party” should replace the more standard “terminating party”.  
15       Similarly, Section 2.56 of the Glossary refers to the “receiving party”, not the  
16       “terminating party” when defining Measured Internet Traffic.

17       **Q: WHY DOES THIS INCONSISTENCY CONCERN US LEC?**

18       A: In the first place, Verizon has offered no satisfactory explanation for the  
19       distinction between “receiving” and “terminating”. In the absence of such an  
20       explanation, US LEC is not willing to abandon decades of precedence in  
21       engineering, measuring and billing for traffic.

22               Second, the Commission will recall that in several enforcement

1 actions and arbitration proceedings, Verizon, among other incumbents,  
2 argued that it had no obligation to compensate ALECs for calls to ISPs  
3 because the traffic did not “terminate” there. US LEC and other ALECs  
4 argued differently and the Commission decided on several occasions that, for  
5 purposes of reciprocal compensation, calls to ISPs would be treated as local  
6 and viewed as terminating at the ISP.

7 Third, the FCC assumed exclusive jurisdiction over ISP-bound traffic  
8 in its April 2001 Internet Order and that Order sets forth the terms and  
9 conditions under which the parties will compensate each other for ISP-bound  
10 traffic. However, the United States Court of Appeals for the District of  
11 Columbia recently remanded that Order to the FCC, while leaving in place  
12 the interim compensation framework that it established. In the event that  
13 compensation framework is later overturned or vacated by the Court of  
14 Appeals, then jurisdiction over ISP-bound traffic could, at least for some  
15 period of time, revert to the Commission. In that instance, US LEC believes  
16 Verizon would seize on the “receiving party” designation in the Agreement  
17 and contend that US LEC is not entitled to any compensation for ISP-bound  
18 traffic because US LEC has conceded that the traffic does not terminate at the  
19 ISP; rather, it is simply “received” there. In order to avoid that result, US  
20 LEC believes that the agreement should refer consistently to the “terminating  
21 party” for all purposes—establishing an IP, measuring traffic, billing for  
22 traffic and paying for traffic.

1       **Q:    HOW SHOULD THE COMMISSION RESOLVE THIS ISSUE?**

2       A:    The Commission should accept US LEC’s position and direct that all  
3            references in the Agreement to a party that is terminating traffic should refer  
4            to that party as the “terminating party”. Further, all references to the party  
5            “receiving” traffic or to the “receiving party” should refer instead to the party  
6            “terminating” traffic and to the “terminating party”.

7       **ISSUE 6 (GLOSSARY, SECTION 2.56; INTERCONNECTION**  
8       **ATTACHMENT, SECTION 7.2)**

9       **Q:    PLEASE BRIEFLY DESCRIBE THE DISPUTE ON THIS POINT.**

10      A:    There are really two issues in dispute under this single heading. First, US  
11            LEC urges the Commission to find that Verizon is obligated to pay  
12            intercarrier compensation for all calls originated by Verizon customers to US  
13            LEC line numbers with “NXX” codes associated with the calling party’s  
14            local calling area. Calls are conventionally rated and routed throughout the  
15            U.S. telephone industry based upon the NXX codes of the originating and  
16            terminating numbers. US LEC submits that there is no reason to deviate  
17            from that convention now. These calls are routed to the interconnection  
18            point or POI for local traffic and handed off just as any other local call would  
19            be. This practice should be continued such that calls between an originating  
20            and terminating NXX associated with the same local calling area are rated  
21            and routed as local.

22                    The second issue in dispute is whether Verizon should be allowed to

1 impose per-minute originating switched access charges for carrying such  
2 calls to the parties' POI. As this Commission is well aware, according to  
3 FCC Rules and Orders, access charges cannot be imposed on locally dialed  
4 calls, such as are at issue here. Under any scenario, the only costs Verizon  
5 incurs are the transport and switching charges required to bring traffic to the  
6 interconnection point between Verizon and US LEC. These costs do not  
7 change based upon the location of US LEC's customers, so there is no  
8 economic justification for treating these calls differently from any other  
9 locally dialed call. Further, it would be inconsistent and anti-competitive to  
10 allow Verizon to evade its intercarrier compensation obligations and, at the  
11 same time, to charge US LEC originating switched access charges for calls  
12 going to a particular NXX code. Not only would Verizon double-recover for  
13 carrying such traffic (through local rates and access charges), but it would be  
14 compensated for costs it does not even incur and would be given a free ride  
15 on US LEC's network. Each of the issues, when considered individually,  
16 would put new entrants such as US LEC at an extreme disadvantage in the  
17 marketplace if Verizon were to prevail. Taken together, the requirement to  
18 pay Verizon access charges on local calls, and being deprived the opportunity  
19 to recover any expenses for terminating calls for Verizon, would be a  
20 devastating blow to US LEC in its bid to offer competitive local exchange  
21 service in Florida.

22 **Q: WHAT IS VERIZON'S POSITION ON THIS ISSUE?**

1       A:     Verizon argues for overturning the historical system I describe above,  
2             complaining that it should not be required to pay intercarrier compensation  
3             even though a call would be rated and billed to end-users as local by  
4             comparing the NXX codes of the originating and terminating numbers.  
5             Further, Verizon argues that it should be able to charge originating access  
6             charges for all calls to an NXX if customers with that NXX are physically  
7             located outside the local calling area. Verizon provides no evidence that such  
8             calls increase its costs as compared to other local calls in any way such that  
9             additional or different cost recovery is justified. Verizon also fails to show  
10            that changing this historical system as it suggests would provide any benefits  
11            to the public interest. In contrast, maintaining the existing system will  
12            provide significant benefits to consumers and would be consistent with the  
13            goal of increasing competitive offerings for consumers in Florida.

14       **Q.     WHAT ADDITIONAL ARGUMENTS DOES VERIZON MAKE IN**  
15            **ALLEGED SUPPORT OF ITS POSITION?**

16       A.     In its Response, Verizon claims that the Staff Recommendation in Docket No.  
17             000075-TP resolved the disputed virtual NXX code issues between the parties.  
18             Verizon states that because the Commission found that virtual NXX traffic is not  
19             local traffic, no reciprocal compensation is payable on such traffic.

20       **Q.     DO YOU AGREE WITH VERIZON'S CLAIMS?**

21       A.     No, I do not. US LEC acknowledges that the Staff Recommendation  
22             suggested that calls to virtual NXX customers located outside of the local

1 calling area to which the NXX is assigned should not be considered local  
2 calls. We disagree with this finding and I will explain why US LEC urges  
3 the Commission to depart from it when it evaluates the merits of our dispute  
4 with Verizon.

5 In addition, I strenuously disagree with Verizon's claim that the Staff  
6 Recommendation settles the issue of what compensation mechanism is  
7 payable on virtual NXX traffic. Verizon's representation that the Staff  
8 Recommendation establishes that such calls are not eligible for reciprocal  
9 compensation is simply incorrect. In fact, the Staff Recommendation  
10 explicitly states that because the record before it did not include the factual  
11 information necessary to make an assessment about whether reciprocal  
12 compensation or access charges should apply to virtual NXX traffic, this  
13 issue is "better left for parties to negotiate in individual interconnection  
14 agreements."<sup>14</sup> The Commission has not resolved the issue of whether  
15 reciprocal compensation is payable on such traffic, and has been asked to do  
16 so by US LEC in this proceeding.

17 **Q: BEFORE TURNING TO THE SUBSTANCE OF THE DISPUTE,**  
18 **WHAT ARE NXX CODES?**

19 **A:** NXX codes are the fourth through sixth digits of a ten-digit telephone  
20 number. For example, in the main telephone number for the Commission,

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<sup>14</sup> Staff Recommendation at 96.

1 (850) 413-6100, the NXX code is “413”.

2 **Q: HOW ARE CUSTOMERS ASSIGNED AN NXX CODE?**

3 A: Carriers, like US LEC and Verizon, request and are assigned blocks of  
4 telephone numbers by the numbering administrator. The carriers then assign  
5 numbers to their customers as requested.

6 **Q: HOW IS THE RATING OF CALLS IMPACTED BY THE NUMBERS**  
7 **ASSIGNED TO CUSTOMERS?**

8 A: Standard industry procedure provides that each NXX code is associated with  
9 a particular rate center within a local calling area.<sup>15</sup> (A single rate center may  
10 have more than one NXX code, but each code is assigned to one and only one  
11 rate center.) This uniquely identifies the end office switch serving the NXX  
12 code, so that each carrier that is routing a call knows which end office switch  
13 to send the call to. However, it is not uncommon for NXX codes to be  
14 assigned to customers who are not physically located in the local calling area  
15 where the NXX is “homed,” and the Staff Recommendation does not prohibit  
16 this practice. When an ILEC provides this arrangement, it typically is called  
17 foreign exchange or FX service. This type of arrangement also may be  
18 referred to as “Virtual NXX” because the customer assigned the telephone  
19 number has a “virtual” presence in the calling area associated with that NXX.  
20 Calls to these customers are still routed to the end office switch associated

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<sup>15</sup> A rate center is a geographic location with specific vertical and horizontal coordinates used for determining mileage, for rating local or toll calls.

1 with the NXX code, but then are routed within the terminating carrier's  
2 network to the called party's actual physical location.

3 **Q: WHY WOULD CARRIERS OR THEIR CUSTOMERS WANT A**  
4 **VIRTUAL NXX CODE?**

5 **A:** Customers want to use virtual NXX codes because it allows them to take  
6 advantage of state-of-the-art, currently available technologies to allow  
7 consumers to reach their businesses without having the disincentive of a toll  
8 call. It also allows businesses and organizations to provide service in other  
9 areas before they actually have facilities or offices in those areas. Absent  
10 such calling plans, consumers would have to wait for carriers to build out  
11 their networks – which could take years and millions of dollars. For instance,  
12 so-called virtual NXX arrangements enable ISPs, among other customers, to  
13 offer local dial-up numbers throughout Florida, including in more isolated,  
14 rural, areas of the State. Access to the Internet is affordable and readily  
15 available in all areas of the state because these NXX arrangements allow ISPs  
16 to establish a small number of points of presence (“POPs”) that can be  
17 reached by dialing a local number regardless of the physical location of the  
18 Internet subscriber. Rural small businesses especially benefit from low-cost  
19 Internet access and increasingly depend on such access to remain  
20 competitive. Thus, taking advantage of state-of-the-art technologies through  
21 virtual NXX arrangements allows affordable Internet access, particularly in  
22 isolated and rural areas, and this not only benefits Florida's consumers but



1 also promotes economic development.

2 Other organizations, such as the Florida State government, may also  
3 want to make use of virtual NXX arrangements to allow residents to contact  
4 state agencies – which may actually reside in Tampa, Tallahassee, or Miami  
5 – without incurring the cost of a toll call. Such an arrangement would allow  
6 the state to provide services in rural areas without building or renting space  
7 in those localities and without relocating employees.

8 Carriers use virtual NXX codes because they allow them to respond  
9 to customer demand through the use of new and innovative services. In 1997  
10 and 1998, there was considerable discussion about the benefits to be expected  
11 from competition in the local exchange market. Some of the more important  
12 expected benefits were that competition would drive competitors to develop  
13 and utilize networks efficiently in order to gain competitive advantages, by  
14 allowing them to serve customers at lower cost. Verizon’s proposal would  
15 constitute an artificial impediment to this natural progression of a developing  
16 competitive market, and would deny Florida residents the associated  
17 benefits.

18 **Q: IS THIS NXX CODE ISSUE SIMPLY AN ASPECT OF THE ISP**  
19 **COMPENSATION ISSUE?**

20 **A:** No. Although many ISPs do use virtual NXX arrangements, these services  
21 are also used by other businesses and organizations that want to maintain a  
22 local telephone number in some community where they do not have a

1 physical presence. This issue therefore affects ordinary local voice telephone  
2 calls as well as ISP traffic.

3 **Q: IS IT UNLAWFUL OR AGAINST ANY RULES FOR ALECS TO**  
4 **PROVIDE VIRTUAL NXX'S TO THEIR CUSTOMERS?**

5 **A:** No. As the Staff Recommendation recognizes, the use of virtual NXX codes  
6 is not unlawful or in any other way improper. Verizon, itself, provides  
7 several virtual NXX services, such as FX service, to its customers, including  
8 ISPs. Indeed, nobody complained about such uses of NXX codes until  
9 ALECs had some success in attracting ISP customers and the ILECs began  
10 looking for ways to avoid compensating them for serving and terminating  
11 calls to ISPs.

12 **Q: PLEASE DESCRIBE THE IMPACT OF VERIZON'S PROPOSED**  
13 **LANGUAGE WITH RESPECT TO THE CUSTOMER'S PHYSICAL**  
14 **LOCATION IN MORE DETAIL.**

15 **A:** The language proposed by Verizon and endorsed in the Staff  
16 Recommendation—determining the rating of a call by reference to the actual  
17 end points, not by reference to the NXXs of the calling and called  
18 parties—would have at least three significant negative impacts in Florida.  
19 First, if the Commission adopted Verizon's proposed language, Verizon  
20 would be able to evade its intercarrier compensation arrangements for a  
21 particular class of traffic. Second, and contrary to one of the fundamental  
22 goals of the 1996 Act, Verizon's proposed language would have a negative

1 impact on the competitive deployment of affordable dial-up Internet services  
2 in Florida, and on businesses that simply want an affordable way for their  
3 distant customers to reach them. This negative impact would result from the  
4 increase in costs to both consumers and providers under Verizon's proposal.  
5 Finally, Verizon's proposed language would give Verizon a competitive  
6 advantage over US LEC in the ISP market. It is for these reasons that US  
7 LEC disagrees with the Staff Recommendation's finding that calls should be  
8 rated based on the end points of the particular calls.

9 **Q: HOW WOULD VERIZON EVADE ITS INTERCARRIER COMPEN-**  
10 **SATION OBLIGATIONS TO US LEC BY LIMITING**  
11 **COMPENSATION TO CALLS TERMINATING TO A CUSTOMER**  
12 **WITH A PHYSICAL PRESENCE IN THE SAME LOCAL CALLING**  
13 **AREA AS THE ORIGINATING CALLER?**

14 A: Deviating from the historical practice of rating a call based upon the NXX  
15 codes of the originating and terminating number would give Verizon the  
16 ability to arbitrarily re-classify local calls as toll calls. This is because under  
17 Verizon's proposed language, it would be nearly impossible and much more  
18 economically burdensome for US LEC (or any other ALEC in a similar  
19 situation) to utilize virtual NXXs in the provision of service to its customers.

20 As discussed above, Virtual NXXs are used by carriers to provide a  
21 local number to customers in calling areas in which the customer is not  
22 physically located. If the Commission adopts Verizon's language and allows

1 Verizon to avoid rating calls based on the NXX of the originating and  
2 terminating numbers, calls to “virtual NXX” customers would effectively be  
3 reclassified as toll calls (at least in the intercarrier environment, if not in the  
4 retail environment), and Verizon would no longer be obligated to  
5 compensate US LEC for terminating what for decades have been rated as  
6 simple local calls.

7 **Q. DID THE WIRELINE BUREAU ADDRESS FX ARRANGEMENTS IN**  
8 **ITS RECENT ARBITRATION DECISION?**

9 **A.** Yes. Verizon and the ALECs involved in the arbitration all addressed the  
10 issue of whether calls to FX numbers would be entitled to reciprocal  
11 compensation. It is apparent that Verizon made precisely the same arguments  
12 to the FCC that its affiliate, Verizon Florida makes here. In its conclusion,  
13 the Wireline Bureau rejected Verizon’s arguments entirely, stating as follows:

14 We agree with the petitioners that Verizon has offered no  
15 viable alternative to the current system, under which carriers  
16 rate calls by comparing the originating and terminating NPA-  
17 NXX codes. We therefore accept the petitioners’ proposed  
18 language and reject Verizon’s language that would rate calls  
19 according to their geographical end points. Verizon concedes  
20 that NPA-NXX rating is the established compensation  
21 mechanism not only for itself, but industry-wide. The parties  
22 all agree that rating calls by their geographical starting and  
23 ending points raises billing and technical issues that have no  
24 concrete, workable solutions at this time.<sup>16</sup>

25  
26 **Q: IN ADDITION TO COMPENSATION CONCERNS, YOU HAD**

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<sup>16</sup> *FCC Arbitration Order* at ¶ 301.

1           **MENTIONED THAT VERIZON WOULD CHARGE ORIGINATING**  
2           **ACCESS ON EVERY “VIRTUAL NXX” CALL. DO THE COSTS**  
3           **INCURRED BY VERIZON SOUTH IN ORIGINATING SUCH A**  
4           **CALL JUSTIFY THIS ADDITIONAL CHARGE?**

5           **A:**    No. First, as mentioned elsewhere in my testimony, LECs are not allowed  
6           to impose access charges upon local traffic. Nevertheless, and despite this  
7           specific prohibition, there is no additional cost incurred by Verizon when a  
8           virtual NXX is provided to a ALEC customer, because Verizon carries the  
9           call the same distance (to the IP) and incurs the same costs (in terms of local  
10          interconnection facilities used) regardless of the physical location of the  
11          “virtual NXX” customer. Verizon’s obligations and costs are therefore the  
12          same in delivering a call originated by one of its customers, regardless of  
13          whether the call terminates at a so-called “virtual” or “physical” NXX behind  
14          the ALEC switch.

15          **Q:    DOES THE USE OF VIRTUAL NXX CODES IMPACT THE**  
16          **HANDLING OR PROCESSING OF A CALL TO A US LEC**  
17          **CUSTOMER?**

18          **A:**    No. Verizon would always be responsible for carrying the call to the IP on  
19          its own network and then paying US LEC to transport and terminate the call  
20          from that point. The use of a virtual NXX does not impact Verizon’s financial  
21          and/or operational responsibilities such that it should be able to avoid  
22          compensating US LEC or collect additional compensation. Indeed, US

1 LEC's customer has a presence in the local calling area of the originating  
2 caller; it is a virtual presence, not a physical one, but the way the call is  
3 handled is the same from Verizon's perspective.

4 **Q: EVEN IF ONE WERE TO OVERLOOK THE FACT THAT VERIZON**  
5 **INCURS NO ADDITIONAL COST IN ORIGINATING VIRTUAL**  
6 **NXX CALLS, DO YOU THINK ACCESS CHARGES WOULD**  
7 **PROVIDE AN APPROPRIATE MEANS OF COST RECOVERY FOR**  
8 **THIS TRAFFIC?**

9 **A:** Not at all. Setting aside the fact that intercarrier compensation for local  
10 traffic is governed by the reciprocal compensation rules of the FCC,<sup>17</sup> and  
11 that access charges are imposed on traffic other than local traffic, access  
12 charges are not cost-based, and it has been federal and state policy in recent  
13 years to drive access charges down to forward-looking economic cost. It  
14 makes no sense to impose an out-dated compensation regime on an artificial  
15 category of traffic. At a time when regulators and the industry are looking  
16 to move to more competitive market models by eliminating implicit subsidies  
17 in telecommunications rates and intercarrier payments, it would seem  
18 contrary to that movement to suddenly foist originating switched access  
19 charges on a certain type of local traffic. The costs of originating this traffic

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<sup>17</sup> FCC Rule 51.703(b) states, "A LEC may not assess charges on any other telecommunications carrier for local telecommunications traffic that originates on the LEC's network."

1 do not differ from any other local call, and thus there is absolutely no  
2 economic or policy justification for imposing switched access charges on US  
3 LEC for traffic originated by Verizon customers.

4 **Q: IS VERIZON COMPENSATED FOR CARRYING THE TRAFFIC**  
5 **ORIGINATED BY ITS CUSTOMERS TO THE US LEC IP?**

6 A: Yes, it is. The FCC's *TSR Order* is directly on point. The pertinent language  
7 with respect to Verizon's compensation is as follows:

8 According to Defendants, the *Local Competition*  
9 *Order's* regulatory regime, which requires carriers to  
10 pay for facilities used to deliver their originating  
11 traffic to their co-carriers, represents a physical  
12 occupation of Defendants property without just  
13 compensation, in violation of the Takings Clause of  
14 the Constitution. We disagree. *The Local*  
15 *Competition Order requires a carrier to pay the cost*  
16 *of facilities used to deliver traffic originated by that*  
17 *carrier to the network of its co-carrier, who then*  
18 *terminates that traffic and bills the originating carrier*  
19 *for termination compensation. In essence, the*  
20 *originating carrier holds itself out as being capable of*  
21 *transmitting a telephone call to any end user, and is*  
22 *responsible for paying the cost of delivering the call*  
23 *to the network of the co-carrier who will then*  
24 *terminate the call. Under the Commission's*  
25 *regulations, the cost of the facilities used to deliver*  
26 *this traffic is the originating carrier's responsibility,*  
27 *because these facilities are part of the originating*  
28 *carrier's network. The originating carrier recovers*  
29 *the costs of these facilities through the rates it*  
30 *charges its own customers for making calls. This*  
31 *regime represents "rules of the road" under which all*  
32 *carriers operate, and which make it possible for one*  
33 *company's customer to call any other customer even*  
34 *if that customer is served by another telephone*

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company.<sup>18</sup>

By this reasoning, US LEC should not have to pay Verizon for Verizon-originated traffic from the local calling area to US LEC's IP.

**Q: THIS QUOTE SAYS THAT VERIZON WOULD RECOVER ITS COSTS THROUGH THE RATES IT CHARGES ITS OWN CUSTOMERS. DO LOCAL RATES COVER THE COST OF CARRYING THIS TRAFFIC TO THE IP?**

**A:** The FCC has clearly stated that Verizon's rates cover these costs. This does not just refer to Verizon's basic local rates. Local revenues include not only the basic local rate, but other revenues from subscriber line charges, vertical services (i.e., call waiting, call forwarding, anonymous call rejection and other star code features), universal service surcharges, extended area service charges and contribution from access charges for intraLATA and interLATA toll.

**Q: IT APPEARS THAT YOU HAVE PLACED SPECIAL EMPHASIS ON THE NEGATIVE IMPACTS ON RURAL AREAS OF THE STATE ASSOCIATED WITH THE ADOPTION OF VERIZON'S POSITION. WHY WOULD RURAL AREAS BE PARTICULARLY IMPACTED?**

**A:** One of the most significant advantages of incumbency is the ubiquitous network of the ILEC. For the most part, this network was bought and paid

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<sup>18</sup> *TSR Wireless*, at 34.



1 for by Verizon customers over time, and Verizon had rates approved by the  
2 Commission that would allow it to recover its costs of network deployment.  
3 Providers such as US LEC are in some cases constrained from offering  
4 services on a widespread basis because they do not have the advantage of  
5 having the ratepayer financed ubiquitous network that Verizon does.  
6 Therefore, market entry is often confined to the more densely populated  
7 areas. The intercarrier compensation for virtual NXX service as proposed by  
8 US LEC in this arbitration would help to equalize these inherent inequities,  
9 at least for some customers, by allowing US LEC to offer service state-wide,  
10 even to the more lightly populated areas of Florida. Without this competitive  
11 equalization, US LEC would only be able to reach such areas at some point  
12 in the future, if at all, thereby denying rural residents and businesses the  
13 benefits of competition.

14 These comments should not be construed as US LEC asking for  
15 special treatment because we are a new competitor. Indeed, US LEC's  
16 position, supported by the economic and technical arguments I have put forth  
17 above, would be just as compelling if US LEC were an ILEC. I only raise  
18 the competitive ramification issue here to illustrate the negative impact of  
19 adopting Verizon's proposed language.

20 **Q. ARE THERE ANY OTHER REASONS WHY THE COMMISSION**  
21 **SHOULD FIND THAT CALLS SHOULD CONTINUE TO BE RATED**  
22 **AS LOCAL OR TOLL BASED ON THE NXX CODES OF THE**

1                   **CALLING AND CALLED PARTIES?**

2           A.     Yes. There are numerous technical reasons why the Commission should find  
3                   that calls should continue to be rated as local or toll calls based on the NXX  
4                   codes of the originating and terminating parties rather than on the end points  
5                   of the call. First, there is no practical, cost-effective way for the parties to  
6                   segregate the disputed traffic from other locally dialed traffic: calls dialed to  
7                   a number assigned a “virtual NXX” are indistinguishable from all other  
8                   locally dialed traffic sent over local trunk groups. If Verizon were to prevail,  
9                   US LEC would be required to expend the considerable effort and absorb the  
10                  cost associated with developing a program to separate the calls so that  
11                  compensation invoices submitted to Verizon do not include both types of  
12                  calls.

13                         Second, implementing Verizon’s proposal would be unjustifiably  
14                         burdensome, expensive, and disruptive. Because it has always been standard  
15                         industry procedure for carriers to use NXX codes as rate center identifiers,  
16                         the software in the ILEC and ALEC switches and billing systems looks at the  
17                         NXXs of the calling and called parties to determine whether a call is to be  
18                         rated and billed as local or toll. Adoption of Verizon’s position would require  
19                         US LEC to devote considerable effort and resources to undo the automated  
20                         billing systems which have served as the basis for the design of modern  
21                         switches and to maintain and assure the accuracy of a costly and burdensome  
22                         alternative tracking system. Verizon’s proposal would likewise necessitate

1 the difficult and expensive step of requiring both parties to establish different  
2 ratings for a single telephone number; one set for end user purposes, the other  
3 for compensation purposes. Verizon has not addressed these serious  
4 considerations, and the Commission should evaluate them when determining  
5 whether a departure from industry practice is warranted.

6 **Q: HOW SHOULD THE COMMISSION RESOLVE THIS ISSUE?**

7 A: US LEC asks the Commission to conclude here that calls within a LATA  
8 originated by Verizon customers and delivered to US LEC's virtual NXX  
9 customers are to be considered local and subject to reciprocal compensation.

10 **ISSUE 8 (INTERCONNECTION ATTACHMENT, SECTIONS 8.1 AND 8.1.1;**  
11 **GENERAL TERMS AND CONDITIONS, SECTION 50.2)**

12  
13 **Q: PLEASE EXPLAIN THE NATURE OF THE PARTIES'**  
14 **DISAGREEMENT ABOUT COMPENSATION FOR TERMINATING**  
15 **ISP-BOUND TRAFFIC.**

16 A: It addresses the compensation framework that the parties should utilize in the  
17 event the interim compensation framework in the FCC's *ISP Remand Order*  
18 is vacated or reversed on appeal.

19 **Q: WHAT IS US LEC'S POSITION WITH RESPECT TO**  
20 **COMPENSATION FOR ISP-BOUND TRAFFIC IN THE EVENT THE**  
21 **INTERIM COMPENSATION FRAMEWORK IN THE FCC'S *ISP***  
22 ***REMAND ORDER* IS VACATED OR SET ASIDE?**

23 A: In the interests of certainty and stability, and in order to avoid expensive and

1 time-consuming negotiations and litigation, US LEC advised Verizon that  
2 in the event the interim compensation framework of the FCC's *ISP Remand*  
3 *Order* is set aside, reversed, or remanded, it is willing to forego the  
4 opportunity to be compensated at state rates and, instead, has proposed that  
5 the parties accept the rate structure—but not the limitations on growth and  
6 new markets—set forth in the *ISP Remand Order* for the balance of the term  
7 of the Agreement, or until the FCC imposes a permanent rate structure  
8 governing that traffic.

9 **Q: HOW DID VERIZON RESPOND TO US LEC'S OFFER?**

10 A: Verizon declined US LEC's offer of compromise and will not address the  
11 issue in the Agreement at all. Evidently, Verizon prefers instead to engage  
12 in lengthy negotiations and, possibly extensive litigation, with US LEC in  
13 order to fix obligations that can, and should be addressed at this stage of the  
14 proceeding.

15 **Q: HOW DOES US LEC PROPOSE TO MODIFY THE AGREEMENT?**

16 A: US LEC proposes to modify Section 8.1 of the Interconnection Attachment  
17 to provide that the parties will be governed by the FCC's Internet Order and  
18 the rate framework set forth therein. Similarly, US LEC added Section 8.1.1  
19 to provide that if that Internet Order is reversed, set aside or vacated on  
20 appeal, the parties will continue to compensate each other for exchanging  
21 Internet Traffic using the rate structure in that Order, but without applying the  
22 growth caps or new market limitations that no longer would be applicable in

1 the event of a reversal.

2 Finally, US LEC proposed a modification to Section 50.2 of the  
3 General Terms and Conditions to preclude Verizon from terminating  
4 payments to US LEC for ISP-bound traffic if the Internet Order is reversed.  
5 As Section 50.2 was written by Verizon , it would have allowed Verizon to  
6 terminate any provision of the Agreement that provides for the payment by  
7 Verizon to US LEC of compensation related to traffic, including, but not  
8 limited to, Reciprocal Compensation and other types of compensation for  
9 termination of traffic delivered by Verizon to US LEC. Then, if Verizon  
10 chose to exercise that right of termination, it would have forced the Parties  
11 to negotiate appropriate substitute provisions for compensation related to  
12 traffic. Section 50.2 further provided that if, within sixty (60) days after  
13 Verizon's notice of termination, the Parties are unable to agree in writing  
14 upon mutually acceptable substitute provisions for compensation related to  
15 traffic, either Party may submit their disagreement to dispute resolution in  
16 accordance with Section 14 of this Agreement.

17 **Q: HOW SHOULD THE COMMISSION RESOLVE THIS ISSUE?**

18 A: US LEC submits that the proposed compromise—a certain rate structure  
19 guaranteed for the life of the contract—is a vastly superior alternative and  
20 should be adopted by the Commission. As such, the Commission should  
21 adopt US LEC's modifications to Sections 50.2 and 8.1 and accept US LEC's  
22 addition of section 8.1.1.



1 services it obtains from Verizon and does not believe that Verizon should be  
2 permitted to modify its non-tariffed rates at will. With regard to any rates  
3 that the parties have negotiated and incorporated into the parties'  
4 interconnection agreement, the rates should remain fixed for the term of the  
5 agreement. It would be anticompetitive and detrimental to US LEC if  
6 Verizon had the unfettered ability and sole discretion to modify its non-  
7 tariffed rates. No justification exists for a pricing approach that puts US LEC  
8 at Verizon's mercy and potentially subjects US LEC to an endless array of  
9 rate changes which are likely to increase US LEC's costs of doing business  
10 with Verizon .

11 **Q: DOES US LEC TAKE THE POSITION THAT NONE OF THE RATES**  
12 **MAY BE MODIFIED DURING THE LIFE OF THE PARTIES'**  
13 **AGREEMENT?**

14 A: No. US LEC acknowledges that tariffed rates may be altered during the term  
15 of the agreement due to changes in applicable tariffs where the parties have  
16 agreed that tariffed rates will apply to the particular rate element or service  
17 in question, and that changes in Applicable Law may result in rate  
18 modifications. However, US LEC objects to Verizon's effort to maintain the  
19 unilateral authority to change its non-tariffed rates at will, and these rates  
20 should remain fixed unless the Applicable Law provisions of the parties'  
21 agreement apply. Verizon should not be permitted to exercise the unlimited  
22 ability to make subsequent modifications to rates that the parties have already

1           agreed to.

2           **Q.    WAS THIS ISSUE ADDRESSED BY THE WIRELINE BUREAU IN**  
3           **ITS RECENT ARBITRATION DECISION?**

4           A.    Yes; in that case, Verizon argued, as it does here, for the right to supercede  
5           any price by filing a subsequent tariff. WorldCom pointed out that, among  
6           other problems, permitting Verizon to supercede negotiated prices with  
7           subsequent tariffs shifts the burden of proof from Verizon (which has the  
8           burden of proving reasonableness of its rates in a negotiated interconnection  
9           agreement) to an ALEC (which must prove that a filed tariff should be  
10          rejected).<sup>19</sup>

11                   The Wireline Bureau “reject[ed] Verizon’s proposed language  
12           because it would allow for tariffed rates to replace automatically the rates  
13           arbitrated in this proceeding. Thus, rates approved or allowed to go into  
14           effect by the Virginia Commission would supercede rates arbitrated under the  
15           federal Act.”<sup>20</sup> Instead, the FCC adopted WorldCom’s language that would  
16           permit tariff revisions that “materially and adversely” affect the negotiated  
17           terms of the agreement to become effective only upon the parties’ written  
18           consent or upon the affirmative order of the Virginia Commission.<sup>21</sup>

19          **Q.    HOW SHOULD THE COMMISSION RESOLVE THIS ISSUE?**

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<sup>19</sup> *FCC Arbitration Order* at ¶ 592.

<sup>20</sup> *Id.* at ¶ 600.

<sup>21</sup> *Id.* at ¶ 590.



1 A. Following the lead of the FCC Wireline Bureau, the Commission should  
2 adopt US LEC's proposed language on Issue 9.

3 **Q: DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

4 A: Yes.