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September 30, 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. 020412-TP
Petition for arbitration of unresolved issues in negotiation of interconnection
agreement with Verizon Florida Inc. by US LEC of Florida Inc.

AUS ___ Dear Ms. Bayo:
CAF ___
CMP ___
COM 3 Please find enclosed for filing an original and 15 copies of Verizon Florida Inc.'s
CTR ___ Prehearing Statement in the above matter. Also enclosed is a diskette with a copy of
ECR ___ the Prehearing Statement in Word format. Service has been made as indicated on
GCL ___ the Certificate of Service. If there are any questions regarding this matter, please
OPC ___ contact me at 813-483-2617.
MMS ___
SEC I
OTH ___ Sincerely,


Kimberly Caswell

KC:tas
Enclosures

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**BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for arbitration of unresolved)	Docket No. 020412-TP
issues in negotiation of interconnection)	Filed: September 30, 2002
agreement with Verizon Florida Inc. by)	
US LEC of Florida Inc.)	
_____)	

VERIZON FLORIDA INC.'S PREHEARING STATEMENT

Verizon Florida Inc. ("Verizon") files its Prehearing Statement in accordance with Order number PSC-02-0993-PCO-TP in this docket and Commission Rule 25-22.038.

A. Witnesses

Verizon's witnesses in this proceeding and the issues to which they will testify are as follows:

William Munsell: Issues 1 and 2

Terry Haynes: Issue 6

B. Exhibits

Verizon will introduce the following exhibits:

1. Ex. TH-1, attached to witness Haynes's Direct Testimony.
2. Ex. WM-1, attached to witness Munsell's Rebuttal Testimony.
3. Ex. VZ-1: Map of Florida showing LATA boundaries
4. Ex. VZ-2: Transcript of Pennsylvania Hearing
5. Ex. VZ-3: Transcript of Maryland Hearing
6. Ex. VZ-4: US LEC Florida Local Exchange Price List
7. Ex. VZ-5: Pages from Local Services section of US LEC's website

DOCUMENT NUMBER 020412-TP

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Verizon reserves the right to introduce additional exhibits at the hearing including, but not limited to, schematic local calling area diagrams during cross examination, or other appropriate points.

C. Verizon's Basic Position

In this interconnection agreement arbitration, the Commission should reject US LEC of Florida Inc.'s ("US LEC") proposed language for the new interconnection agreement between US LEC and Verizon. Instead, the Commission should adopt Verizon's proposed language and order that language to be included in the final interconnection agreement that will result from this arbitration.

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

I & II: Verizon's proposed language should be adopted, because it is consistent with applicable law and sound public policy to require an ALEC to bear the cost of transporting local traffic to the point of interconnection of the two parties' networks, if that point is located outside of the local calling area where the call originates. In contrast, US LEC's language would require Verizon to bear costs, without receiving compensation, that are caused by US LEC's chosen network architecture and that Verizon would not bear but for US LEC's choices.

III: The parties have agreed that, consistent with federal law, reciprocal compensation does not apply to "interstate or intrastate exchange access, information access, or exchange services for such access." Therefore, Voice Information Services traffic should not be subject to reciprocal compensation to the extent it fits within that definition. Because US LEC's position that Voice Information Services traffic can never

be “interstate or intrastate exchange access, information access, or exchange services for such access” is contrary to federal law, Verizon’s proposed language should be adopted.

IV: Verizon’s proposed language requiring US LEC to establish separate trunks to deliver to Verizon any Voice Information Services traffic for which the Voice Information Services provider seeks to bill the calling party a distinct charge should be adopted. Separate trunking is essential to ensure proper control of end user billing for such traffic.

V: The Commission should adopt Verizon’s proposed neutral, *accurate*, and readily understandable term – “receives” – for use in the agreement to describe the broad class of traffic that local carriers may exchange. In contrast, US LEC’s claim that “terminating” should be used instead is based on the premise – which is contrary to nearly 20 years of FCC decisions – that US LEC terminates all of the reciprocal compensation traffic it receives from Verizon.

VI: (A) The parties’ obligation to pay reciprocal compensation should be based on the physical location of the called party, rather than on the NPA-NXX code of the dialed number. US LEC’s proposal – which would require Verizon to pay reciprocal compensation for a call even if the called party lived in another local calling area or another state – is contrary to this Commission’s ruling in Docket 000075-TP, federal law, and sound public policy. **(B)** US LEC should pay access charges when Verizon originates Virtual NXX interexchange traffic because Verizon is providing an originating access service in that situation for which it should be compensated.

VII: US LEC's effort to impose terms to govern inter-carrier compensation for Internet-bound traffic, in the event that the current federal rule is vacated, should be rejected because it has no basis in law. Instead, in the event the law changes, the parties' obligations should be governed by the agreed-to change-of-law language.

VIII: Verizon's proposal with respect to tariffed charges should be adopted. Under Verizon's proposal, only tariffs that this Commission or the FCC has allowed to go into effect would supersede a rate contained in the agreement. In contrast, US LEC hopes, by its proposed language, to gain the benefit of rate *reductions* due to tariff changes without facing any risk that other charges will increase under applicable, approved tariffs.

D., E., F. Verizon's Specific Positions

Verizon believes some of the issues identified for resolution in this arbitration – namely, issues 1, 2, and 6 – are mixed questions of fact, law, and policy. Verizon believes that the remaining issues – namely, 3, 4, 5, 7, and 9 – involve no disputed issues of fact and, instead, are issues of law.

Issue 1: Is US LEC permitted to select a single Interconnection Point (“IP”) per Local Access and Transport Area (“LATA”), to select the interconnection method, and to require Verizon to bear the financial responsibility to deliver its originating traffic to the IP chosen by US LEC?

Issue 2: Should Verizon be permitted to force US LEC to designate its collocation site at a Verizon end office as the US LEC-IP where Verizon will deliver its traffic?

Verizon's position: Issues 1 and 2 concern the allocation of the costs that result from US LEC's chosen network architecture. The Commission should adopt Verizon's proposal because, consistent with federal law and sound public policy, it fairly allocates the costs that are caused by US LEC's decision to serve customers throughout a LATA

from a single switch. In contrast, US LEC's proposal would require Verizon to bear the cost of transporting local calls outside of the local calling area where the call originates, even though Verizon receives no compensation for this transport, and would not perform this transport but for US LEC's chosen network architecture. Yet, while Verizon would not be compensated, US LEC can and does receive compensation from its customers for transporting calls between the POI and a distant local calling area. Finally, US LEC's proposed language must be rejected in any event, because it is contrary to federal law: it would obligate Verizon to transport traffic to US LEC's network, rather than to the point of interconnection, which is located on Verizon's network.

Verizon's witness William Munsell will address the factual and policy issues presented by these two issues.

Issue 3: Is US LEC entitled to reciprocal compensation for terminating "Voice Information Services" traffic?

Verizon's position: Because the parties have already agreed that their reciprocal compensation obligations should track federal law – under which reciprocal compensation does not apply to "interstate or intrastate exchange access, information access, or exchange services for such access," 47 C.F.R. § 51.701(b)(1) – the only question raised here is whether Voice Information Services traffic falls within those categories. Although US LEC's claims that Voice Information Services traffic can never constitute "interstate or intrastate exchange access, information access, or exchange services for such access," that is incorrect as a matter of law. Such traffic is destined for an information service provider and otherwise meets the definition of information

access, as interpreted by the FCC. For these reasons, Verizon's proposal should be adopted.

Issue 4: Should US LEC be required to provide dedicated trunking at its own expense for Voice Information Service traffic that originates on its network for delivery to Voice Information Service providers served by Verizon?

Verizon's position: This issue does not pertain to reciprocal compensation, but instead concerns the routing of traffic, such as 915 and 976 traffic, for which a Voice Information Services provider imposes a separate charge on the calling party. Such traffic raises special concerns, because where a carrier provides billing service to a Voice Information Services provider subscriber, it must be able to accurately bill such traffic, and block delivery of such traffic where there is no mechanism for billing the calling party – where, for example, there is no agreement between the originating carrier and the carrier serving the information services provider for end-user billing. US LEC has no legitimate basis for objecting to Verizon's proposed separate trunking requirement, because US LEC does not permit its customers to place such calls.

Issue 5: Should the term "terminating party" or the term "receiving party" be employed for purposes of traffic measurement and billing over interconnection trunks.

Verizon's position: The traffic that competing local telephone companies exchange with one another includes both conventional local traffic and traffic bound for information service providers, including traffic bound for Internet service providers ("ISP"). Although the parties agree that the receiving carrier terminates conventional local voice traffic, Verizon maintains – and an unbroken string of nearly two decades of FCC precedent confirms – that the receiving carrier does not "terminate" traffic delivered to ISPs and other information service providers. The Commission need not rule here on whether a receiving carrier terminates any particular class of traffic. Rather, the point is that US

LEC's claim that all the reciprocal compensation traffic that the parties exchange is terminated by them is incorrect. Therefore, the Commission should adopt Verizon's proposed term – "receiving party" – which is a neutral, *accurate*, and readily understandable term, rather than US LEC's proposed term.

Issue 6: (A) Should the parties be obligated to compensate each other for calls to numbers with NXX codes associated with the same local calling area? (B) Should Verizon be able to charge originating access to US LEC on calls going to a particular NXX code if the customer assigned the NXX is located outside of the local calling area associated with that NXX code?

Verizon's position: This Commission has squarely ruled, in Docket 000075-TP, that "calls terminated to end users outside the local calling area in which their NPA/NXXs are homed are not local calls for purposes of intercarrier compensation." Moreover, the Commission has explicitly held that this ruling "creates a default for determining intercarrier compensation." Verizon's position – that Virtual FX calls should be subject to access charges, not reciprocal compensation – is consistent with the Commission's ruling; US LEC's position is inconsistent. Moreover, Verizon's position, but not US LEC's, is consistent with federal law and sound competition policy. US LEC is seeking to reap a windfall by forcing Verizon to subsidize the toll-free service that US LEC provides its ISP customers. That result would turn sound regulatory policy on its head.

Verizon's witness Terry Haynes will address the factual and policy issues presented by this issue.

Issue 7: What compensation framework should govern the parties' exchange and termination of ISP-bound traffic in the event the interim compensation framework set forth in the FCC's Internet Order is vacated or reversed on appeal?

Verizon's position: In the event that federal law changes, the parties' change of law provision requires the parties' obligations to conform to that change. As this Commission has previously recognized, there is no need – let alone any basis in federal

law – for this Commission to impose a regime to apply in that eventuality that is not currently mandated by federal law and that may never be consistent with federal law. In any event, US LEC's proposed provision, if applied, would lead to the wrong result. Although the D.C. Circuit remanded the *ISP Remand Order* for additional explanation, it explicitly decided that the order should continue to govern parties' obligations. Accordingly, US LEC continues to be subject to all the rules promulgated in the *ISP Remand Order*. Yet, under US LEC's proposed provision, certain of the FCC's rules would have been eliminated by virtue of the D.C. Circuit's decision to remand the FCC's order, notwithstanding the court's explicit determination that those rules should remain in effect pending further proceedings on remand.

Issue 8: Should Verizon be permitted to change its non-tariffed charges during the term of the agreement, or must such charges remain fixed for the entire term?

Verizon's position: In general, the pricing provisions of Verizon's agreements within a particular state are uniform, reflecting the generally applicable rates set by regulators in appropriate adversary proceedings. For this reason, it is both fair and consistent with the 1996 Act's requirement that charges for services provided to ALECs should be non-discriminatory that, if the generally applicable charges for a particular service change, the charges under the agreement should change along with them. By providing that applicable tariffs and other charges that are mandated or approved by the FCC or this Commission should supersede any charges set forth in the agreement, Verizon's proposed language gives effect to the letter and the spirit of these non-discrimination provisions. In contrast, US LEC hopes, by its proposed language, to gain the benefit of rate *reductions* due to tariff changes without facing any risk that other charges will increase under applicable, approved tariffs.

G. Stipulated Issues

The parties have settled issue 9.

H. Pending Matters

Verizon is unaware of any pending matters.

I. Pending Requests or Claims for Confidentiality

There are no pending confidentiality claims or requests in this case.

J. Procedural Requirements

To the best of its knowledge, Verizon can comply with all requirements set forth in the procedural order in this arbitration.

K. Relevant FCC and Court Decisions

Verizon identifies the following FCC or court decisions that may preempt or otherwise affect the Commission's ability to resolve the issues presented or relief requested in this matter:


- *AT&T Corp. v. Bell Atlantic-Pennsylvania*, 14 FCC Rcd 556 (1998), *recon. denied*, 15 FCC Rcd 7467 (2000).
- First Report and Order, *Access Charge Reform*, 12 FCC Rcd 15982 (1997).
- First Report and Order, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 11 FCC Rcd 15499 (1996) (subsequent history omitted).
- *MCI Telecomms. Corp. v. Bell Atlantic Pa.*, 271 F.3d 491 (3d Cir. 2001).
- Memorandum Opinion and Order, *Application by SBC Communications Inc., et al., Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services In Texas*, 15 FCC Rcd 18354 (2000).
- Memorandum Opinion and Order, *Application of Verizon Pennsylvania Inc., et al. for Authorization To Provide In-Region, InterLATA Services in Pennsylvania*, 16 FCC Rcd 17419 (2001).

- Memorandum Opinion and Order, *GTE Tel. Operating Cos.; GTOC Tariff No. 1; GTOC Transmittal No. 1148*, 13 FCC Rcd 22466 (1998).
- Memorandum Opinion and Order, *Joint Application of BellSouth Corporation, et al., for Provision of In-Region, InterLATA Services in Georgia and Louisiana*, 17 FCC Rcd 9018 (2002).
- Memorandum Opinion and Order, *MTS and WATS Market Structure*, 97 F.C.C.2d 682 (1983).
- Memorandum Opinion and Order, *Petition for Emergency Relief and Declaratory Ruling Filed by BellSouth Corporation*, 7 FCC Rcd 1619 (1992).
- Memorandum Opinion and Order, *Petition of Nevada Bell*, 16 FCC Rcd 19255 (2001).
- Memorandum Opinion and Order, *Teleconnect Co. v. Bell Telephone Co.*, 10 FCC Rcd 1626 (1995).
- Order, *Amendments of Part 69 of the Commission's Rules Relating to Enhanced Service Providers*, 3 FCC Rcd 2631 (1988).
- Order on Remand, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 16 FCC Rcd 9151 (2001) ("*ISP Remand Order*"), remanded, *WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002).
- Order on Review, *Mountain Communications, Inc. v. Qwest Communications International, Inc.*, File No. EB-00-MD-017, 2002 WL 1677642 (rel. July 25, 2002).
- *United States v. AT&T*, 552 F. Supp. 131 (D.D.C. 1982).
- *US West Communications, Inc. v. Jennings*, No. 99-16247, 2002 WL 31102838 (9th Cir. Sept. 23, 2002).

L. Objections to Expert Witness Qualifications

US LEC has not identified any expert witnesses.

Respectfully submitted on September 30, 2002.


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that copies of Verizon Florida Inc.'s Prehearing Statement in Docket No. 020412-TP were sent via U.S. mail on September 30, 2002 to the parties on the attached list.



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