

**RUTLEDGE, ECENIA, PURNELL & HOFFMAN**

PROFESSIONAL ASSOCIATION  
ATTORNEYS AND COUNSELORS AT LAW

STEPHEN A. ECENIA  
RICHARD M. ELLIS  
KENNETH A. HOFFMAN  
THOMAS W. KONRAD  
MICHAEL G. MAIDA  
MARTIN P. McDONNELL  
J. STEPHEN MENTON

POST OFFICE BOX 551, 32302-0551  
215 SOUTH MONROE STREET, SUITE 420  
TALLAHASSEE, FLORIDA 32301-1841

TELEPHONE (850) 681-6788  
TELECOPIER (850) 681-6515

R. DAVID PRESCOTT  
HAROLD F. X. PURNELL  
MARSHA E. RULE  
GARY R. RUTLEDGE  
GOVERNMENTAL CONSULTANTS  
MARGARET A. MENDUNI  
M. LANE STEPHENS

September 30, 2002

Ms. Blanca S. Bayo, Director  
Commission Clerk and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Betty Easley Conference Center, Room 110  
Tallahassee, Florida 32399-0850

**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 following documents:

1. Original and fifteen copies of US LEC's Prehearing Statement; and
2. A disk containing a copy of the Prehearing Statement in Word Perfect 6.0.

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

MPM/rl  
Enclosures  
cc: Parties of Record

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**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 ) Docket No. 020412-TP  
Communications Act of 1934, as amended )  
By the Telecommunications Act of 1996 ) Filed: September 30, 2002  
\_\_\_\_\_)

**PREHEARING STATEMENT OF  
US LEC OF FLORIDA INC.**

Pursuant to Order No. PSC-02-0993-PCO-TP issued July 23, 2002, US LEC of Florida Inc.

(hereinafter referred to as "US LEC") hereby files its Prehearing Statement.

**APPEARANCES**

Kenneth A. Hoffman, Esq.  
Martin P. McDonnell, Esq.  
Rutledge, Ecenia, Purnell & Hoffman, P.A.  
P. O. Box 551  
Tallahassee, FL 32302  
(850) 681-6788 (Telephone)  
(850) 681-6515 (Telecopier)

Richard M. Rindler, Esq.  
Michael L. Shor, Esq.  
Swidler Berlin Shereff Friedman, LLP  
3000 K Street, N.W., Suite 300  
Washington, D.C. 20007  
(202) 424-7500 (Telephone)  
(202) 424-7643 (Facsimile)

On behalf of US LEC of Florida Inc.

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compensation for Virtual NXX and FX traffic be based on the geographical location of the calling and called parties and be subject to access charges, and held that Verizon has offered no viable alternative to the current system, where carriers rate calls for purposes of intercarrier compensation by comparing the originating and terminating NPA/NXX codes.

Further, if the FCC's Internet Order is vacated or reversed on appeal, US LEC submits the that FCC's current interim rate structure should remain intact for the life of the interconnection agreement. Finally, US LEC recognizes that Verizon may seek proposed changes to tariffed charges during the term of the agreement, but contractual, non-tariffed charges must remain fixed for the term of the agreement, unless changed by order of the Commission.

#### **D. ISSUES**

**Issue A: What is the Commission's jurisdiction in this matter?**

**US LEC:** The Commission has jurisdiction over US LEC's petition pursuant to Section 252 of the federal Telecommunications Act (the "Act") and Sections 364.161 and 364.162, Florida Statutes. US LEC's petition was timely filed within 160 days of the date upon which the parties commenced negotiations for an interconnection agreement for the State of Florida.

**Issue 1: Is US LEC permitted to select a single interconnection (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?**

**US LEC:** Yes. Pursuant to federal law, and as recently confirmed in this Commission's Order on Reciprocal Compensation issued September 10, 2002, in generic docket no. 000075-TP, US LEC has the right to choose a single IP per LATA at any technically feasible point. The FCC has determined that the originating carrier - - here, Verizon - - has the obligation to bear the cost of delivering its originating traffic to the IP selected by US LEC. Verizon's "Virtual Geographically Relevant Interconnection Points" proposal unlawfully shifts those financial obligations and imposes other financial penalties onto US LEC and is inconsistent with federal law.

**Issue 2:** If US LEC establishes its own collocation site at a Verizon end office, can Verizon request US LEC to designate that site as a US LEC IP and impose additional charges on US LEC if US LEC declines that request?

US LEC: No. Under 47 U.S.C. §251(c)(2)(B), Verizon must provide US LEC interconnection at any technically feasible point *selected by US LEC*. Therefore, Verizon cannot require US LEC to designate any site as a US LEC IP, including US LEC's own collocation site.

**Issue 3:** Is US LEC entitled to reciprocal compensation for terminating and/or delivering "Voice Information Services" traffic?

US LEC: Yes. The traffic that Verizon now seeks to define as Voice Information Services traffic fits completely within the definition of reciprocal compensation traffic that is eligible for reciprocal compensation under the agreement.

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

US LEC: No. There is no reasonable basis to require US LEC to provide, at its own expense, a separate, dedicated trunk to carry that traffic. Verizon's proposal would impose significant costs on US LEC without showing, first, that such a dedicated facility even is necessary or, second, that the amount of Voice Information Services traffic generated by US LEC's customers is sufficiently large as to warrant a separate trunk.

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

US LEC: The term "terminating party" should be employed, consistent with the plain language of Section 251(b)(5) and other sections of the agreement. For billing, measuring and engineering purposes, traffic is referred to as either originating or terminating. Thus, for any call under the agreement, there is an originating party served by an originating carrier and a terminating party served by a terminating carrier.

**Issue 6(A):** Should the parties pay reciprocal compensation for calls that originate in one local calling area and are delivered to a customer located in a different local calling area, if the NXX of the called number is associated

**with the same local calling area as the NXX of the calling number?**

US LEC: Yes. The determination of whether a call is rated as local or toll for purposes of reciprocal compensation is based upon the NPA/NXX codes of the originating and terminating numbers. This practice should be maintained so that calls between an originating and terminating NPA/NXX associated with the same local calling area should continue to be rated as local. There is no viable method in place for replacing this practice with one focused on the originating and terminating points of the call.

**Issue 6(B): Should the originating carrier be able to charge originating access on the traffic described in Issue 6(a)?**

US LEC: No. Carriers should not be allowed to charge originating access for calls if the customers assigned the NPA/NXX's are located outside of the local calling area to which the NXX is homed. The FCC recently rejected Verizon's request that virtual NXX and FX traffic be subject to access charges and determined that carriers are entitled to receive reciprocal compensation to cover the costs of terminating FX and VFX calls.

**Issue 7: What compensation framework should govern the parties exchange 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?**

US LEC: In the event the interim compensation framework of the Internet Order ultimately is vacated or reversed on appeal, the parties should continue to compensate each other at the rates set forth in the FCC's Internet Order, but waive any other terms and conditions of that Order (e.g., the growth caps and new market restrictions).

**Issue 8: Under what circumstances, if any, should tariffed charges which take effect after the agreement become effective, take precedence over non-tariffed charges previously established in the agreement for the same or similar services or facilities?**

US LEC: Although tariffed charges may change during the term of the agreement due to changes in applicable tariffs, non-tariffed charges must remain fixed for the term of the agreement unless changed pursuant to a valid Commission order. A carrier should not have the unbridled discretion to modify its rates at will, particularly with respect to those rates that have been agreed to and which are reflected in the parties interconnection agreement.

**E. STIPULATED ISSUES**

None.

**F. ALL PENDING MOTIONS OR OTHER MATTERS US LEC SEEKS ACTION UPON**

None.

**G. US LEC'S PENDING REQUESTS OR CLAIMS FOR CONFIDENTIALITY**

None.

**H. ANY REQUIREMENTS SET FORTH IN THIS ORDER THAT CANNOT BE COMPLIED WITH, AND THE REASONS THEREFOR**

None.

**I. ANY DECISION OR PENDING DECISION OF THE FCC OR ANY COURT THAT HAS OR MAY EITHER PREEMPT OR OTHERWISE IMPACT THE COMMISSION'S ABILITY TO RESOLVE ANY OF THE ISSUES PRESENTED OR THE RELIEF IN THIS MATTER**

None.

**J. OBJECTIONS TO A WITNESS' QUALIFICATIONS AS AN EXPERT**

None.

RESPECTFULLY SUBMITTED this 30th day of September, 2002.

Respectfully submitted,



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Kenneth A. Hoffman, Esq.  
Martin P. McDonnell, Esq.  
Rutledge, Ecenia, Purnell & Hoffman, P.A.  
P. O. Box 551  
Tallahassee, FL 32302  
(850) 681-6788 (Telephone)  
(850) 681-6515 (Telecopier)

- and -

Richard M. Rindler, Esq.  
Michael L. Shor, Esq.  
Swidler Berlin Shereff Friedman, LLP  
3000 K Street, N.W., Suite 300  
Washington, D.C. 20007  
(202) 424-7500 (Telephone)  
(202) 424-7643 (Facsimile)

Attorneys for US LEC of Florida Inc.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing was served on the following individuals by U.S. Mail this 30th day of September, 2002.

Kimberly Caswell  
Verizon Florida, Inc.  
P.O. Box 110  
FLTC0007  
Tampa, FL 33601-0110

Aaron M. Panner, Esq.  
Scott H. Angstreich, Esq.  
Kellogg, Huber, Hansen, Todd & Evans, P.L.L.C.  
1615 M Street, N.W., Suite 400  
Washington, DC 20036

Adam Teitzman, Esq.  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Room 370  
Tallahassee, Florida 32399-0855

  
\_\_\_\_\_  
MARTIN P. MCDONNELL, ESQ.