

ORIGINAL

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Global NAPs South, Inc.
Petition for Arbitration Pursuant
To 47 U.S.C. §252(b) of Interconnection
Rates, Terms and Conditions with
ALLTEL Florida, Inc.

Docket No. 011354-TP
Filed: January 9, 2003

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AMENDED PREHEARING STATEMENT
OF GLOBAL NAPS SOUTH, INC.

Pursuant to Order No. PSC-02-1312-PCO-TP and Rule 28-106.209, Global NAPs South, Inc. files this Amended Prehearing Statement.

A. APPEARANCES:

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By Pro Hac Vice
Director - Regulatory Affairs
Global NAPs, Inc.
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On behalf of Global NAPs South, Inc., Petitioner

B. WITNESSES:

Dr. Lee L. Selwyn
William J. Rooney

These are the witnesses identified at this time who may be called. To the extent that other witnesses become known or available as discovery continues, the right to call additional witnesses is reserved.

C. EXHIBITS:

Exhibit __ (LLS-1) Technical Qualifications and Professional Experience

AUS ___
CAF ___
CMP ___
COM 3
CTR ___
ECR ___
GCL ___
OPC ___
MMS ___
SEC 1
OTH ___

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FPSC-BUREAU OF RECORDS

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- Exhibit __ (LLS-2) “The Triumph of Light”, Scientific American, (January, 2001)
- Exhibit ___(LLS-3) Workpapers Supporting Transport Distance and Cost Calculations
- Exhibit ___(LLS-4) Efficient InterCarrier Compensation Mechanisms for the Emerging Competitive Environment (August, 2001)

D. STATEMENT OF BASIC POSITION:

Alltel proposes burdensome terms and conditions which are designed to (1) retain its monopoly revenue streams (2) preclude economically viable competition and (3) deny consumers deserved benefits. It does so under the guise of claiming “rural exemption”, but continuation of such classification only insures Alltel of its insular status in spite of the congressional mandate to “promote” competition.

In contrast to other jurisdictions, such as New York, where the Commission found that Global’s competitive FX offering via non-geographically correlated NXXs can provide real alternatives and competitive benefits, especially to those in rural areas, Alltel proposes that its Florida consumers remain its loyal, and exclusive, subjects. Alltel’s fiefdom should not be allowed to continue, but instead, should be opened to competition just as other Florida ILEC’s service territories have been opened. Alltel’s claim that it is a small carrier is belied by its capitalization. Alltel should be properly viewed as a part of a national telecommunications conglomerate, rather than an isolated independent.

E. STATEMENT OF ISSUES AND POSITIONS:

D-G. ISSUES AND POSITIONS:

Issue 1

- (a) **Should ALLTEL be required to establish an Interconnection Point outside of its network?**
- (b) **If ALLTEL should be required to establish an Interconnection Point outside of its network, should ALLTEL be exempt from this requirement pursuant to §251(f)(1) or should this requirement be suspended or modified pursuant to §251(f)(2)?**
- (c) **If ALLTEL is required to establish an Interconnection Point outside of its network, should each Party be responsible for the costs associated with transporting traffic to the interconnection point or points outside of ALLTEL’s network on each party’s respective side of the Interconnection Point?**
- (d) **If each party should be responsible for the costs associated with transporting traffic to the interconnection point or points outside of ALLTEL’s network,**

should ALLTEL be exempt from this requirement pursuant to §251(f)(1) or should this requirement be suspended or modified pursuant to §251(f)(2)?

ISSUE 1:

Sub Issue 1(A) The issue is not whether or not Alltel should be required to interconnect at more than one point in a LATA with Alltel *outside of its network*, but is perhaps best understood as (1) whether an interconnection with Alltel when made outside of its serving area is sufficient for exchanging traffic, and (2) is Global required to interconnect at more than one point in a LATA in which Alltel provides service.

When Alltel uses BellSouth tandem and/or transport facilities, Global should be able to interconnect with it at any technically feasible point on these facilities. A likely point of interconnection, for example, might be the BellSouth tandem. Although Alltel does not own such facilities, it has made such facilities an integral part of its network. This is similarly the case when Global leases facilities from other carriers. Although leased fiber routes are not owned by Global in the strict sense, these leased facilities are considered to be part of the Global network. As such, ownership, per se, should not be a determining factor when Alltel uses other carrier's facilities. These facilities may indeed be the most efficient point of interconnection available between the two carriers and should not be rejected on the basis of title to the facilities when Alltel has constructive ownership.

Global NAPs should not be required to provide more than one point of interconnection per LATA. Any order to the contrary would be inconsistent with 47 U.S.C. §251(c)(2) and 47 C.F.R. 51.305(a)(2).

Sub Issue 1(B) The Rural Exemption should be modified or suspended in order to accommodate efficient interconnection between the parties. Efficient interconnection facilitates the exchange of traffic and promotes competition, consistent with the goals of the *Act*. Such competition is especially needed in Alltel's service territories where there appears to be a lack of competitive pressures with the consequence that customers are denied choice and lower prices that the advent of competition can provide.

Sub Issue 1(C) Each carrier should be financially responsible for carriage of traffic on its respective side of this/these point(s) of interconnection. This is consistent with 47 C.F.R. 51.703(b) and this Commission's interpretation of federal law as determined in Docket 00005-TP.

Sub Issue 1(D) The Rural Exemption should be modified or suspended in order to accommodate efficient interconnection between the parties. Efficient

interconnection facilitates the exchange of traffic and promotes competition, consistent with the goals of the *Act*. Such competition is especially needed in Alltel's service territories where there appears to be a lack of competitive pressures with the consequence that customers are denied choice and lower prices that the advent of competition can provide.

Issue 2

- (a) **Should ALLTEL be required to establish an Interconnection Point at GNAPs' designation within ALLTEL's network within a LATA?**
- (b) **If ALLTEL should be required to establish an Interconnection Point at GNAPs' designation within ALLTEL's network within a LATA, should ALLTEL be exempt from this requirement pursuant to §251(f)(1) or should this requirement be suspended or modified pursuant to §251(f)(2)?**
- (c) **If ALLTEL is required to establish an Interconnection Point at GNAPs' designation within ALLTEL's network within a LATA, should each Party be responsible for the costs associated with transporting traffic to the interconnection point or points outside of ALLTEL's network on each party's respective side of the Interconnection Point?**
- (d) **If each party should be responsible for the costs associated with transporting traffic to the interconnection point or points within ALLTEL's network within a LATA, should ALLTEL be exempt from this requirement pursuant to §251(f)(1) or should this requirement be suspended or modified pursuant to §251(f)(2)?**

ISSUE 2:

Sub Issue 2(A) Global NAPs should not be required to provide more than one point of interconnection per LATA. Any order to the contrary would be inconsistent with 47 U.S.C. §251(c)(2) and 47 C.F.R. 51.305(a)(2). I would also direct the Commission's attention to the recent decision by the FCC's Wireline Bureau for interpretation of federal law concerning this issue. See ¶52 of the Memorandum Order and Opinion, *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 No. 00-218; *Petition of Cox Virginia Telecom, 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 Arbitration*, CC Docket No. 00-249; *Petition of AT&T Communications of Virginia, 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., CC Docket No. 00-218, DA 02-1731 (Re. July 17, 2002) (“*Virginia Order*”).

Sub Issue 2(B) The Rural Exemption should be modified or suspended in order to accommodate efficient interconnection between the parties. Efficient interconnection facilitates the exchange of traffic and promotes competition, consistent with the goals of the *Act*. Such competition is especially needed in Alltel’s service territories where there appears to be a lack of competitive pressures with the consequence that customers are denied choice and lower prices that the advent of competition can provide.

Sub Issue 1(C) Each carrier should be financially responsible for carriage of traffic on its respective side of this/these point(s) of interconnection. This is consistent with 47 C.F.R. 51.703(b) and this Commission’s interpretation of federal law as determined in Docket 00005-TP.

Sub Issue 1(D) The Rural Exemption should be modified or suspended in order to accommodate efficient interconnection between the parties. Efficient interconnection facilitates the exchange of traffic and promotes competition, consistent with the goals of the *Act*. Such competition is especially needed in Alltel’s service territories where there appears to be a lack of competitive pressures with the consequence that customers are denied choice and lower prices that the advent of competition can provide.

ISSUE 3:

(a) **Should ALLTEL’s local calling area boundaries be the basis for distinguishing between when reciprocal compensation (i.e., local) versus exchange access compensation (intraLATA switched access) apply?**

(b) **If ALLTEL’s local calling area boundaries should not be the basis for distinguishing between when reciprocal compensation (i.e., local) versus exchange access compensation (intraLATA switched access) applies, should ALLTEL be exempt from this requirement pursuant to §251(f)(1) or should this requirement be suspended or modified pursuant to §251(f)(2)?**

Sub Issue 3(A) Global NAPs should not have its retail local calling areas limited by Alltel’s retail or wholesale local calling areas. Instead, the size of local calling areas should be subject to competition. In order to effect such competition and eliminate economic constraints related to the ILEC’s local calling area definitions, all intra-LATA traffic exchanged between GNAPs and Alltel should be treated as cost-based “local” compensation under §251(b)(5), and should not be subject to intrastate access charges.

Sub Issue 3(B) The Rural Exemption should be modified or suspended in order to promote competition, consistent with the goals of the *Act*. Such competition is especially needed in Alltel's service territories where there appears to be a lack of competitive pressures with the consequence that customers are denied choice and lower prices that the advent of competition can provide.

ISSUE 4:

- (a) **Should GNAPs be able to assign to its customers NXX codes that are rate centered in a central office switch serving a local calling area which is outside that in which the customer is located?**
- (b) **If GNAPs should be able to assign to its customers NXX codes that are rate centered in a central office switch serving a local calling area which is outside that in which the customer is located, should ALLTEL be exempt from this requirement pursuant to §251(f)(1) or should any aspects of this requirement be suspended or modified pursuant to §251(f)(2)?**

Sub Issue 4(A) Global NAPs should be allowed to use an assignment of NXX codes to provide competitive FX service because there is no longer a nexus necessary between assignment of NXX codes and geography.

Sub Issue 4(B) The Rural Exemption should be modified or suspended in order to promote competition, consistent with the goals of the *Act*. Such competition is especially needed in Alltel's service territories where there appears to be a lack of competitive pressures with the consequence that customers are denied choice and lower prices that the advent of competition can provide. The provision of service through non-geographically correlated NXX codes is a method by which Global can provide competitive FX service with ALLTEL.

ISSUE 5:

Should explicit language be included in the agreement which specifically provides for renegotiations if there is a change in the law regarding whether ISP-bound calls are local traffic and subject to reciprocal compensation under 47 U.S.C. §251(b)(5)?

Alltel should provide for a reservation of rights by the parties pending the anticipated decision from the remanded ISP decision by the FCC. The distinction between this issue and changes in law generally is the knowledge that the FCC is currently revisiting the issue.

Issue 6:

Should explicit language as proposed by GNAPs be included with respect to “litigation costs” and “penalties”?

Yes. There is no reason to not include specific language with respect to litigation costs and penalties. This is common among contracting parties and will tend to reduce the desire of parties to litigate. Instead, the provisions will provide an incentive to negotiate differences in contract interpretation and application of various provisions.

F. STATEMENT OF WITNESS RESPONSIBILITIES:

Dr. Lee L. Selwyn will be responsible for all issues with the exception of the reservations of rights and requested change of law provision relating to the remanded ISP decision by the FCC.

G. QUESTIONS OF FACT AND LAW:

Although the Order requests separate statements regarding factual vs. legal questions, as noted from the above delineation of the issues, these are often intertwined.

I. STIPULATED ISSUES:

None at this time.

J. PENDING MOTIONS:

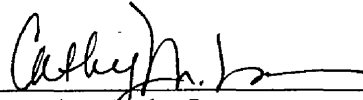
Global NAPs South, Inc. has none, including any motion requesting confidentiality.

K. NOTICE OF FEDERAL PREEMPTION:

Global NAPs South respectfully submits that all intercarrier compensation issues regarding information access traffic have been declared to be subject to the sole and exclusive jurisdiction of the Federal Communications Commission. Global shall provide legal argument(s) in its brief regarding the extent that other federal and state law impact the ability of the Florida PSC to make a decision, or in any way be determined to be relevant legal authority to the issues before the Commission.

L. OTHER MATTERS:

None at this time.



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CERTIFICATE OF SERVICE

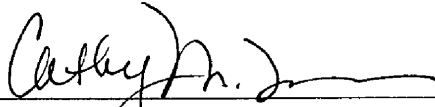
I HEREBY CERTIFY that a true and correct copy of the foregoing has been served by hand delivery to those with an asterisk * and by U.S. Mail to all others on the following list this 9th day of January, 2003:

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