COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

In the Matter of	)	
Global NAPs, Inc.	)	
Petition for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Verizon New England Inc. d/b/a Verizon Massachusetts f/k/a New England Telephone and Telegraph Company d/b/a Bell Atlantic-Massachusetts	)	D.T.E. 02-45

DIRECT TESTIMONY
OF TERRY HAYNES ON BEHALF OF
VERIZON MASSACHUSETTS

September 10, 2002

TABLE OF CONTENTS

I. WITNESS BACKGROUND AND OVERVIEW

Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND POSITION WITH VERIZON.

A. My name is Terry Haynes. My current business address is 600 Hidden Ridge, Irving, Texas 75015. I am a manager in Verizon's State Regulatory Policy and Planning Group. I am testifying here on behalf of Verizon Massachusetts ("Verizon").

Q. PLEASE DESCRIBE YOUR EDUCATIONAL AND PROFESSIONAL BACKGROUND.

A. I received a Bachelor of Arts Degree in Philosophy from the University of South Carolina in 1973. Since 1979, I have been employed by Verizon and its predecessor companies. I have held positions in Operations, Technology Planning, Service Fulfillment and State and Federal Regulatory Matters.

Q. PLEASE DESCRIBE THE PURPOSE OF YOUR TESTIMONY.

A. The purpose of my testimony is to address Issues 3 and 4 that Global NAPs, Inc. ("GNAPs") identified in its Petition for Arbitration,, including the disputed contract language associated with those issues. Below is a chart of the issues and contract sections that I cover:

Issue No.	Statement of Issue	Contract Sections Identified by GNAPs as Disputed and Related to Issue	Contract Sections Cited by GNAPs As Disputed But That Are Unrelated to Issue
Issue 3	"Should Verizon's Local Calling Area Boundaries be Imposed on GNAPs or May GNAPs Broadly Define its Own Local Calling Areas?"	Verizon Redline Glossary §§ 2.34, 2.48, 2.57, 2.76, 2.78, 2.84, 2.92; Verizon Redline Interconnection Attachment §§ 6.2, 7.3.4[1]	Verizon Redline Glossary § 2.78; Verizon Redline Interconnection Attachment §§ 2, 7.1, 13.3
Issue 4	"Can GNAPs Assign to Its Customers NXX Codes That are 'Homed' in a Central Office Switch Outside of the Local Calling Area in Which the Customer Resides?"	Verizon Redline Glossary §§ 2.34, 2.48, 2.57, 2.76, 2.78, 2.84, 2.92; Verizon Redline Interconnection Attachment § 6.2	Verizon Redline Glossary §§ 2.72-2.74, 2.78; Verizon Redline Interconnection Attachment §§ 9.2.1, 13.3

Q. PLEASE SUMMARIZE YOUR TESTIMONY.

A. With respect to Issue 3, the parties should remain free to determine their own retail local calling areas, but Verizon's tariffed local calling areas should continue to be the basis for defining intercarrier compensation obligations. Verizon's position is entirely consistent with the Department's previous rulings on this issue.[2] GNAPs' position is not.

[1] GNAPs' Arbitration Petition ("GNAPs' Petition") appears to contain numbering errors and my testimony with respect to Issues 3 and 4 assumes that GNAPs' references to Glossary Sections 2.47, 2.56, 2.77, 2.83 and 2.91 were intended to refer to the disputed language in Glossary Sections 2.48, 2.57, 2.76, 2.84, and 2.92 respectively.

[2] *See Consolidated Petitions of New England Telephone and Telegraph Company d/b/a NYNEX, Teleport Communications Group, Inc., Brooks Fiber Communications, AT&T Communications of New England, Inc., MCI Communications Company, and Sprint Communications Company, L.P., pursuant to Section 252(b) of the Telecommunications Act of 1996, for arbitration of interconnection agreements between NYNEX and the aforementioned companies*, Order on Motion by TCG for Reconsideration, D.P.U. 96-73/74, 96-75, 96-80/81, 96-83, 96-94 (Phase 2-B) (Phase 4-B), at 9 (May 2, 1997) ("*Consolidated Arbitrations Phase 4-B Order*") (rejecting proposal of TCG nearly identical to that of GNAPs' proposal for Issue 3 in this case and deciding as a policy issue that in arbitrations pursuant to Section 252(b) of the Telecommunications Act of 1996, the incumbent's local calling areas shall govern calling areas for purposes of intercarrier compensation); see also *Investigation by the Department of Telecommunications and Energy on its own motion to determine the need for new area codes in Eastern Massachusetts and whether measures could be implemented to conserve exchange codes within Eastern*

(continued…)

With respect to Issue 4, Verizon does not propose any contract language that would stop GNAPs from assigning telephone numbers to end users located outside of the rate center to which those numbers are homed. Rather, Verizon's proposed contract language ensures that GNAPs cannot impermissibly alter the appropriate intercarrier compensation due by virtue of GNAPs' assignment of "virtual NXX" codes. Because GNAPs' virtual NXX traffic is not local in nature, access charges should continue to apply to this traffic, rather than reciprocal compensation.

II. ISSUE 3: LOCAL CALLING AREAS USED FOR RECIPROCAL COMPENSATION

Q. WHERE ARE LOCAL CALLING AREAS DEFINED?

A. The "local calling area" for an ILEC's retail customers is defined in its local exchange tariffs which are approved by the state commission. A CLEC has the opportunity to differentiate its service by establishing different retail local calling areas that differ from the ILEC and other CLECs.

Q. WHAT SHOULD BE THE BASIS FOR DETERMINING INTERCARRIER COMPENSATION OBLIGATIONS?

A. The Department should apply Verizon's local calling areas, consistent with its decision in the *Consolidated Arbitrations Phase 4-B Order* and as reflected in Verizon's Tariffs,[3] as

---

Massachusetts, Order to Close Investigation, D.T.E. 98-38 (Jan. 24, 2002) ("RCC Order") (recognizing complexities and rate increases associated with implementing consolidated rate centers).

[3] *See e.g.*, Verizon's M.D.T.E. Tariff No. 10, Part A, § 6 (setting forth local calling areas).

the demarcation for differentiating local and toll calls for the purpose of applying intercarrier compensation.

Q. WHAT DOES GNAPS PROPOSE?

A. GNAPs seeks to impose its definitions of local calling areas upon Verizon for purposes of intercarrier compensation. GNAPs' proposal is openly designed to allow it to avoid paying access charges on as much traffic as possible – on all traffic originated by a GNAPs customer within the LATA and perhaps even the nation. GNAPs' proposal has huge repercussions on Verizon's ability to collect toll and access revenues that are a important source of contribution to local rates. As the Department has recognized, such a proposal would undermine the policy decisions the Department made in developing the existing primary calling area ("PCA") framework.[4] GNAPs also gives no reason why, the Department should depart from its policy decision in the Consolidated Arbitrations Phase 4-B Order that an arbitration intended to address an interconnection agreement between two parties are not the proper forum to consider changing Verizon's local calling areas.

GNAPs' proposal is most clearly set forth in GNAPs' proposed definitions of (i) "Reciprocal Compensation Traffic," Verizon Redline Glossary § 2.76, (ii) "Extended Local Calling Scope Arrangement," Verizon Redline Glossary § 2.34, and (iii) "Measured Internet Traffic," Verizon Redline Glossary § 2.57. As an extension of this proposal, GNAPs proposes to define "IXC (Interexchange Carrier)," Verizon Redline Glossary § 2.48, "Toll Traffic," Verizon Redline Glossary § 2.91, and "Switched

Exchange Access Service" Verizon Redline Glossary § 2.84, by reference to whether the party providing the service imposes a toll charge or not. In its Petition for Arbitration, GNAPs includes citations to various contract sections that are wholly unrelated to the issues GNAPs raised (Verizon Redline Glossary §§ 2.72-2.74, 2.76; Verizon Redline Interconnection Attachment §§ 9.2.1, 13.3). I have reviewed GNAPs' Petition but find no justification for GNAPs' disputed language. Verizon witness William Munsell nevertheless briefly addresses why the Department should order inclusion of Verizon's proposal associated with these unrelated, but disputed, contract sections.

Q. DO YOU AGREE WITH THE PRINCIPLE THAT GNAPS SHOULD BE ALLOWED TO OFFER CUSTOMERS COMPETITIVE ALTERNATIVES TO VERIZON'S LOCAL CALLING AREAS?

A. Yes. As the Department ruled in its *Consolidated Arbitrations Phase 4-B Order,* CLECs are permitted to determine their own outward-dialing calling scopes in the retail service offerings to their end-user customers. As the Department also determined, however, this ability does not mean that a CLEC can arbitrarily expand the local dialing scope of an ILEC customer with a service that resembles 1-800 inward dialing, at least without appropriate compensation to the ILEC handling the traffic. Of course, if GNAPs were to actually operate as a true local carrier (which it does not appear to do), like other local carriers in Massachusetts, GNAPs should not be able to use its local calling areas as a means to avoid having to provide intraLATA presubscription and presubscription for interLATA long distance calls as well.

[4] *See Consolidated Arbitrations Phase 4-B Order* at 8 (noting that changing Verizon's local calling areas is a policy issue that must be viewed forum that would take into account impacts on the existing PCA framework).

Q. WHAT DO YOU MEAN WHEN YOU SAY GNAPS DOES NOT APPEAR TO BE OPERATING AS A TRUE LOCAL CARRIER?

A. Local carriers generally have product offerings that appeal to a broad base of residence and business customers. This is not and has not been the case with GNAPs in Massachusetts. For example, for the usage month of June 2002, GNAPs' customers attracted **379,745,455** minutes of use from Verizon's customers while GNAPs sent Verizon only **1,764** minutes, a ratio of **215,275 : 1** GNAPs has been *billing Verizon* an average of *over three-hundred and seventy million minutes* per month equivalent to almost *3 billion minutes* so far this year. Verizon has had a great deal of experience with GNAPs in other states as well. Indeed, GNAPs' customer base in those other states appears to be largely limited to ISPs and perhaps some other set of customers that have a high volume of incoming calling and very little outgoing calling. This very limited focus causes me to view them in a different light than a typical local carrier.

For example, in New York, GNAPs appears to have few if any local customers for whom it assigns a telephone number in a rate center that corresponds to the actual end user customer's location. GNAPs' customers have only 80 or so phone numbers in Verizon's New York directories and those numbers appear to be associated with data modems. According to GNAPs' New York PSC No. 1 tariff, GNAPs only offers two services; frame relay and Primary Rate ISDN. Frame Relay is a packet switched data service offering and is not at issue here. Primary Rate ISDN appears to be the only public switched service that GNAPs offers in New York, and it is clearly the platform GNAPs uses to connect to its internet service provider customers. The volume between Verizon and is also overwhelmingly unidirectional, as in Massachusetts. For example, of traffic exchanged between Verizon and GNAPs in August of 2002, 99.984% was from Verizon to GNAPs and only .016% was from GNAPs to Verizon. This equates to 1 minute of use from GNAPs to Verizon for every 6,210 minutes of use from Verizon to GNAPs. Finally, to the best of my knowledge, GNAPs does not hold itself out to the public as a local service provider inasmuch as it does not take advantage of the free 1/8 page listing that Verizon offers all local service providers in its New York telephone directories**.**

Given GNAPs' history elsewhere, it is not at all clear to me that GNAPs will be operating as a true "local carrier" in Massachusetts.

Q. WHAT WOULD BE THE IMPLICATIONS IF GNAPS' PROPOSAL WERE ACCEPTED?

A. As I previously noted, GNAPs seeks to impose its retail local calling areas on Verizon for purposes of LEC to LEC intercarrier compensation. The Department and Verizon both recognize that the local exchange carrier for the originating end user controls the dialing rules and the billing rates for that end user. GNAPs may offer its customers all local calls, no local calls, or any calling plan in accordance with Department Orders and applicable law. GNAPs' proposal, however, impermissibly intermixes retail and wholesale concepts in an attempt to unilaterally redefine Verizon's local calling areas. Specifically, GNAPs seeks to define whether or not a particular call is subject to reciprocal compensation based on whether the originating carrier assesses toll charges on the customer originating the call. If GNAPs were permitted to define local/toll calls in this manner, the local/toll calling concept that is linked to Verizon's rate centers, and that is embodied in its tariffs and interconnection agreements, would eventually be rendered meaningless. GNAPs may define the entire state as a local calling area for its own retail customers, but it cannot, by doing so, deprive Verizon of its tariffed access charges. The Department has established local calling areas and access rates as a matter of public policy and such policies should not be circumvented merely by GNAPs' declaration that toll calls are local. Verizon is not at liberty under Department regulation to simply change its tariffed local calling areas, as approved by the Department, through private negotiations.

No CLEC should be permitted to game the system by unilaterally declaring traffic as "local" in order to obtain reciprocal compensation from Verizon that it would not otherwise be entitled to receive. Specifically, GNAPs should not be able to obliterate the local calling areas specifically defined in Verizon's tariffs in order to transform what normally would be considered an access call (for which it would *pay* access charges to Verizon) into a local call (for which it would *bill* reciprocal compensation to Verizon). By seeking revisions to the parties' draft interconnection agreement that would define intercarrier compensation based on GNAPs' retail local calling areas, GNAPs seeks to achieve just that outcome.

In short, GNAPs' proposal seeks to eliminate the existing access regime for interexchange calls and to manipulate local interconnection into a windfall for GNAPs at the expense of Massachusetts customers. This problem is further exacerbated with a CLEC like GNAPs because of GNAPs' overwhelming focus on ISPs and other customers with incoming call volumes which cause Verizon to incur toll-like transport costs for which it does not get end-user toll revenues. The result of GNAPs' proposal would be that GNAPs would unfairly benefit at Verizon's expense. As recognized by the Maryland Public Service Commission, allowing CLECs to claim their own local calling areas for intercarrier compensation purposes would lead to chaos.[5] Also, GNAPs claims that this allows for new competitive offerings are disingenuously false. The local calling areas GNAPs offers its retail customers on an outgoing basis is purely theoretical as the customers GNAPs targets originate little or no traffic. But by establishing the principle, coupled with its use of VNXXs to make toll calls appear as local, cheats Verizon out of access compensation.

Q. WHAT PRINCIPAL CONSIDERATIONS SHOULD GUIDE THE DEPARTMENT'S RULING ON THE LOCAL CALLING AREA FOR PURPOSES OF DETERMINING INTERCARRIER COMPENSATION OBLIGATIONS?

A. The interconnection agreement's designation of the local calling area for intercarrier compensation purposes must: (1) avoid undermining the advancement and preservation of universal service, (2) be competitively neutral, (3) be administratively easy to implement, and (4) focus on the end user. Continued use of Verizon's Department-approved local calling areas to define intercarrier compensation obligations serves these objectives. In contrast, none of these objectives will be met if the Department adopts GNAPs' proposal to allow the originating carrier to define the local calling area for intercarrier compensation purposes.

[5] *Matter of Application of MFS Intelenet*, Order No. 72348 (MD P.S.C. Dec. 28, 1995)("Use of alternative exchange boundaries would require a massive restructuring of Maryland's exchanges.").

Q. HAVE OTHER STATE COMMISSIONS RULED ON GNAPS' LOCAL CALLING AREA PROPOSAL?

A. Yes. The New York Public Service Commission and the Public Utilities Commission of the State of California recently ruled in Verizon's favor on this issue in arbitrations between Verizon and GNAPs. Specifically, the New York Commission held that "Allowing GNAPs to establish geographically large local dialing areas, which also have the effect of eliminating Verizon's entitlement to access charges and increase its obligation to pay reciprocal compensation, could amount to a Verizon subsidy of GNAPs operations."[6] Likewise, in its final decision on this issue, the California Commission stated "It is not our intent in this arbitration to disrupt the local and intraLATA calling paradigm adopted by this Commission. And we have no intention of making a decision in an arbitration proceeding that would have the net result of abolishing intraLATA calling."[7] I address this latter point in detail in my discussion of Issue 4.

The Ohio Public Utilities Commission also recently rejected GNAPs' proposal to circumvent the existing access charge regime through its unilateral definition of local calling areas in an arbitration between Verizon and GNAPs in that state.[8] In a similar arbitration between GNAPs, Ameritech and Sprint, the Ohio Commission expressly held

---

[6] *Petition of Global NAPs, Inc., Pursuant to Section 252(b) of the Telecommunications Act of 1996, for Arbitration to Establish an Intercarrier Agreement with Verizon New York Inc.*, Order Resolving Arbitration Issues, New York Public Service Commission Case No. 02-C-0006 (May 24, 2002) at 12 ("*New York Verizon/GNAPs Arbitration Order*").

[7] *California Verizon/GNAPs Final Decision* at 24.

[8] *In the Matter of the Petition of Global NAPs Inc. for Arbitration Pursuant to Section 252(b) Of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Verizon North Inc.*, Public Utilities Commission of Ohio Case No. 02-876-TP-ARB, Arbitration Award (Sep. 5, 2002) at 11 ("*Ohio GNAPs Verizon Arbitration Award*").

that customer calls that originate or terminate outside an ILEC's local calling area are toll or interexchange calls and compensation is based on the originating or terminating party's access charge.[9]

Finally, the State of Illinois Commerce Commission went one step further in its own recently concluded arbitration proceeding between GNAPs and Ameritech, and rejected altogether GNAPs' request that it be allowed to define its own local calling area – apparently, even for its own customers.[10] The Illinois Commission ruled that for purposes of intercarrier compensation, GNAPs should be required to use the existing Commission-approved Ameritech local calling area as the controlling boundary for assessing toll or local charges.[11]

Q. HAVE ANY OTHER STATE COMMISSIONS REJECTED PROPOSALS LIKE GNAPS' PROPOSAL?

A. Yes. The Texas Public Utility Commission has declined to adopt the originating carrier's local calling area for purposes of intercarrier compensation because it correctly

---

[9]*See In the Matter of the Petition of Global NAPs, Inc. for Arbitration of Interconnection Rates, Terms, and Conditions and Related Arrangements with United Telephone Company of Ohio d/b/a Sprint*, Case No. 01-2811-TP-ARB and *In the Matter of the Petition of Global NAPs, Inc. for Arbitration of Interconnection Rates, Terms and Conditions and Related Arrangements with Ameritech Ohio*, Case No. 01-3096-TP-ARB, Panel Arbitration Report (March 28, 2002) at 13 ("*Ohio Panel Arbitration Report*"). I note that the full Ohio Commission subsequently adopted the Ohio Panel Arbitration Report just over a month later after the parties' filed exceptions. Notably, GNAPs never filed exceptions to the Panel's resolution of Arbitration Issue 3. *See In the Matter of the Petition of Global NAPs, Inc. for Arbitration of Interconnection Rates, Terms, and Conditions and Related Arrangements with United Telephone Company of Ohio d/b/a Sprint*, Case No. 01-2811-TP-ARB and *In the Matter of the Petition of Global NAPs, Inc. for Arbitration of Interconnection Rates, Terms and Conditions and Related Arrangements with Ameritech Ohio*, Case No. 01-3096-TP-ARB, at 11 (May 9, 2002) ("*Ohio GNAPs Ameritech Arbitration Order*").

[10]*See Global NAPs Inc. Petition for Arbitration Pursuant to Section 252 of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Illinois Bell Company d/b/a Ameritech*, Case No. 01-0786, Arbitration Decision (May 14, 2002) at 12 ("*Illinois GNAPs Arbitration Order*").

[11]*Id.*

understood the harmful policy consequences of doing so.[12] Specifically, the Texas Public Utility Commission rejected the LATA-wide intercarrier compensation approach (proposed there by AT&T), holding that the ILEC's mandatory local calling areas were the appropriate basis for determining intercarrier compensation obligations. The Texas Commission correctly observed that the LATA-wide proposal implicated ILEC access revenue streams and had "ramifications on rates for other types of calls, such as intraLATA toll calls."[13]

Q. IS GNAPS' PROPOSAL ALLOWING IT TO UNILATERALLY DEFINE AWAY ACCESS CHARGES IN FAVOR OF RECIPROCAL COMPENSATION COMPETITIVELY NEUTRAL?

A. No. GNAPs' proposal puts Verizon and the IXCs at a competitive disadvantage with regard to intraLATA toll calling. GNAPs' proposal would deem calls within the entire LATA as "local" calls subject to reciprocal compensation. But an intraLATA call that involves an IXC would still be subject to access compensation rules. Verizon would, likewise, be subject to access compensation rules when it handles toll calls based on the Department's price floor requirements. Applying different intercarrier compensation rules to the same type of calls would give GNAPs a significant, artificial competitive advantage in pricing its intraLATA calls versus pricing based on the cost structures that the IXC and Verizon (through price floors) face.

---

[12] *See Proceeding to Examine Reciprocal Compensation Pursuant to Section 252 of the Federal Telecomm. Act of 1996*, Arbitration Award, Tex. P.U.C. Docket No. 21982, 2000 Tex. PUC Lexis 95; 203 P.U.R. 4th 419 (2000).

[13] *Id*.

Q: BUT YOU SAID BEFORE THAT GNAPS ORIGINATES LITTLE OR NO TRAFFIC. WHY DOES THIS CONCERN VERIZON?

A. It is true that at present, GNAPs originates little traffic. However, GNAPs could change its business plan during the term of this agreement. In addition, the Department would be setting an incorrect and inappropriate precedent by adopting GNAPs' proposal. Other CLECs that do originate substantial traffic would be able to adopt the GNAPs agreement under section 252(i) of the Act, immediately giving rise to the financial and administrative consequences I will describe below.

Q. PLEASE EXPLAIN FURTHER HOW ACCESS CHARGES ARE ASSESSED ON INTRALATA CALLS TODAY.

A. Consistent with its state access tariff, Verizon applies access charges to traffic that is destined to terminate outside the tariffed local calling area of the originating caller. For example, with interexchange, intraLATA calls carried by IXCs, the IXC pays the originating ILEC an originating access charge (the major components of which are an end-office switching charge, a transport charge, an interconnection charge and a tandem switching charge when applicable) and the IXC pays the terminating ILEC a similar series of terminating access charges.

Q. DO THESE SAME ACCESS CHARGE STRUCTURES APPLY WHEN A CLEC (RATHER THAN AN ILEC) ORIGINATES OR TERMINATES AN IXC'S INTEREXCHANGE, INTRALATA CALL?

A. Yes, access charges were developed to address compensation between all local exchange carriers and IXCs when those carriers collaborate to complete long distance calls. Like Verizon, a CLEC may bill the IXC access charges for whichever end of the call it handles (originating or terminating). The following depicts the various end-user charges and intercompany charges for interexchange, intraLATA calls that occur under today's set of rules:

Table 1

Compensation Between (1) ILECs or CLECs and (2) IXCs When They Collaborate to Complete IntraLATA Toll Calls

(Current Rules)

ILEC or CLEC	**IXC**	**LEC OR CLEC**
Originating Call		Terminating Call
Charges the IXC for originating access	Charges the end-user for toll service	Charges the IXC for terminating access

Q. WHAT HAPPENS TODAY WHEN THERE IS NO IXC INVOLVED, AND THE ILEC AND CLEC COLLABORATE TO COMPLETE AN INTRALATA TOLL CALL?

A. When an ILEC and a CLEC collaborate to complete an intraLATA toll call (excluding toll free services such as 800/888), the following compensation flows apply:

Table 2
Compensation Between ILECs and CLECs When They Collaborate to Complete IntraLATA Toll Calls
(Current Rules)

ILEC Originating Call	**CLEC Terminating Call**
Charges the end-user for toll service	Charges the ILEC for terminating access
CLEC Originating Call	**LEC Terminating Call**
Charges the end-user for toll service	Charges the CLEC for terminating access

Q. IF A VERIZON CUSTOMER THAT IS PRESUBSCRIBED TO VERIZON FOR INTRALATA LONG DISTANCE MAKES A TOLL CALL TO ANOTHER VERIZON CUSTOMER, DOES VERIZON PAY ACCESS CHARGES?

A. Since the total call is handled by Verizon, there is no explicit payment of access charges. However, Verizon is subject to Department-imposed price floors which require that the relevant access charges be reflected in Verizon's retail charges

Q. WILL GNAPS' PROPOSAL CREATE NEW ARBITRAGE OPPORTUNITIES?

A. Yes. GNAPs' approach enhances its opportunities to arbitrage Verizon's existing rate structures. Notice that when ILECs or CLECs collaborate with an IXC to complete long-distance calls under the LATA-wide (state-wide) approach, the inter-company compensation with the IXC would be the same as it is now:

<u>Table 3</u>

Compensation Between (1) ILECs or CLECs and (2) IXCs When They Collaborate to Complete IntraLATA Toll Calls
(LATA-wide Reciprocal Compensation Scenario)

ILEC or CLEC <u>Originating Call</u>	**IXC**	**LEC OR CLEC** <u>Terminating Call</u>
Charges the IXC for originating access	Charges the end-user for toll service	Charges the IXC for terminating access

Under GNAPs' proposed scenario, when GNAPs originates a call to a Verizon end-user that was previously an intraLATA toll call (excluding toll free services such as 800/888), terminating access charges would be replaced with a reciprocal compensation charge (which is significantly less than access charges). However, GNAPs proposes that when Verizon originates the same call, GNAPs could collect access charges:

<u>Table 4</u>

Compensation Between GNAPs and Verizon When They Collaborate to Complete IntraLATA Toll Calls
(GNAPs' Proposal To Use Originating Carrier's Calling Area For Intercarrier Compensation)

<u>GNAPs Originating Call</u>	**<u>Verizon Terminating Call</u>**
Charges the end-user a flat, monthly rate	Charges GNAPs the reciprocal compensation rate
<u>Verizon Originating Call</u>	**<u>GNAPs Terminating Call</u>**
Charges the end-user for toll service	Charges Verizon for terminating access

The point is that competitive neutrality must be evaluated by looking at *all* the participants in the marketplace, not just a selected few. GNAPs' "originating carrier" reciprocal compensation approach ignores this simple fact. It would confer upon itself an artificial cost advantage, and nothing about GNAPs' proposal is competitively neutral.

Q. WOULD USING THE ORIGINATING CARRIER'S RETAIL LOCAL CALLING AREA TO DEFINE LOCAL CALLING AREA FOR RECIPROCAL COMPENSATION PURPOSES FAVOR GNAPS OVER VERIZON?

A. Yes. This approach is administratively infeasible and fraught with irrational outcomes. It could enable GNAPs to pay lower reciprocal compensation rates for outbound traffic, to receive higher access rates for inbound traffic, or even a combination of the two, exacerbating the problems identified in relation to LATA-wide reciprocal compensation.

A simple example will prove the unacceptable nature of this proposal. Plymouth and Framingham are not in the same Department-approved Verizon local calling area. But under the originating carrier scenario, they could be in the same GNAPs local calling area. In that situation, when a Verizon Plymouth subscriber calls a GNAPs Framingham subscriber, Verizon would be required to pay GNAPs access to terminate the call. However, under this hypothetical situation, when a GNAPs customer in Framingham calls a Verizon customer in Plymouth, GNAPs avoids paying Verizon's terminating access charges and instead pays only the lower reciprocal compensation rate. Thus, for identical calls between Plymouth and Framingham, GNAPs would collect a higher rate for calls from Verizon customers, but pay a lower rate for calls originated by its customers. The inequity of basing intercarrier compensation on the originating carrier's local calling areas is obvious. Like the LATA-wide compensation plan, this plan is not competitively neutral and would encourage gaming of the system.

Using the above situation to illustrate how GNAPs could game the intercarrier compensation system, assume that GNAPs markets outbound calling services. GNAPs could establish a large "local" calling area for its retail customers, and would, under this misguided proposal, pay the lower reciprocal compensation rate for calls that would otherwise be subject to terminating access charges. But GNAPs might instead choose to market inbound calling services. In that case, it would charge higher terminating access rates for its inbound traffic – for calls between the same local exchange carriers and the same geographic points to which it pays the lower reciprocal compensation rate.

The direction of the call should play no part in the determining how intercarrier compensation should be assessed.

Q. PLEASE COMMENT ON THE ADMINISTRATIVE PROBLEMS ASSOCIATED WITH USING THE ORIGINATING CARRIER'S RETAIL LOCAL CALLING AREA FOR INTERCARRIER COMPENSATION PURPOSES.

A. Allowing the originating carrier to define the local calling area for intercarrier compensation purposes would be administratively infeasible. Each CLEC interconnecting with Verizon could have its own originating local calling area, or multiple local calling options; given their regulatory freedom, these CLECs may change their calling areas any time virtually at will. Not only the ILECs – but also every CLEC – would have to attempt to track these changes and build and maintain billing tables to implement each local calling area and associated reciprocal compensation application. Administration is even further complicated if one assumes that local calling areas may extend within or beyond LATA and state boundaries.

For reasons of equity and practicality, a uniform standard must be used to determine whether a call is subject to the payment of reciprocal compensation or access charges. As decided by the Department in its *Consolidated Arbitrations Phase 4-B Order*, that standard has been and should continue to be whether the call originates and terminates within Verizon's local calling area; it brings the highest degree of competitive neutrality among ILECs, IXCs, and CLECs when assessing access or reciprocal compensation.

Q. IF THE DEPARTMENT REJECTS GNAPS' PROPOSAL TO BASE INTERCARRIER COMPENSATION ON THE ORIGINATING CARRIER'S RETAIL LOCAL CALLING AREA, WILL GNAPS NEVERTHELESS BE FREE TO ESTABLISH LOCAL CALLING AREAS THAT DIFFER FROM VERIZON'S FOR RETAIL PURPOSES?

A. Yes. As the Department has said, all carriers are free to determine their own retail calling areas. Continuing to use existing local/toll conventions to determine intercarrier compensation obligations will not affect GNAPs' ability to define its own retail local calling areas in any manner it wishes.

Q. DOES THE FACT THAT GNAPS OFFERS A FLAT, MONTHLY RATE FOR A DEFINED GEOGRAPHIC AREA MAKE GNAPS' OFFERING A "LOCAL" OFFERING?

A. No. GNAPs' self-proclaimed "local calling area" is nothing more than a flat-rated toll service.

III. ISSUE 4: VIRTUAL NXX

Q. BEFORE DISCUSSING THE VIRTUAL NXX ISSUE BETWEEN THE PARTIES, PLEASE DEFINE THE TERMS RELEVANT TO THE DISCUSSION.

A. Several terms and concepts discussed in my testimony, though commonly used, are often misapplied or misunderstood. As a foundation for understanding the virtual NXX discussion, I use the following definitions:

> An "**exchange**" is a geographical unit established for the administration of telephone communications in a specified area, consisting of one or more central offices together with the associated plant used in furnishing communications within that area.

> An "**exchange area**" is the territory served by an exchange.

> A "**rate center**" is a specified location (identified by a vertical and horizontal coordinate) within an exchange area, from which mileage measurements are determined for the application of toll rates and private line interexchange mileage rates.

> An "**NPA**," commonly known as an "area code," is a three-digit code that occupies the first three (also called "A, B and C") positions in the 10-digit number format that applies throughout the North American Numbering Plan ("NANP") Area, which includes all of the United States, Canada, and the Caribbean islands. There are two kinds of NPAs: those that correspond to discrete geographic areas

within the NANP Area, and those used for services with attributes, functionalities, or requirements that transcend specific geographic boundaries (such as NPAs in the N00 format, *e.g.,* 800, 500, etc.).[14]

An "**exchange code**" is a three-digit code – also known as an "NXX," an "NXX code," a "central office code" or a "CO code" – that occupies the second three ("D, E and F") positions in the 10-digit number format that applies throughout the NANP Area.[15] Exchange codes are generally assigned to specific geographic areas. However, some exchange codes are non-geographic, such as "N11" codes (411, 911, etc.) and "special codes" such as "555." An exchange code that is geographic is assigned to an exchange located, as previously mentioned, within an area code.

When a four-digit line number ("XXXX") is added to the NPA and exchange code, it completes the 10-digit number format used in the NANP Area and identifies a specific customer located in a specific exchange and specific state (or portion of a state, for those states with multiple NPAs). This 10-digit number is also known as a customer's unique telephone number or "address."[16]

Q. WHY IS A CUSTOMER'S 10-DIGIT ADDRESS SIGNIFICANT?

---

[14] *See* "NPA" in the *Glossary of the "Central Office Code (NXX) Assignment Guidelines,"* INC 95-0407-008, April 11, 2000.

[15] *See id.*, "exchange code."

[16] *See id.*, "NANP."

A. A customer's telephone number or address serves two separate but related functions: proper call routing and rating. Each exchange code or NXX within an NPA is typically assigned to ***both a switch***, identified by the Common Language Location Identifier ("CLLI"), ***and a rate center***. As a result, telephone numbers provide the network with specific information (*i.e.*, the called party's end office switch) necessary to route calls correctly to their intended destinations. At the same time, telephone numbers traditionally also have identified the exchanges of both the originating caller and the called party to provide for the proper rating of calls – *i.e.*, the determination of whether and how much the calling party should be billed for a call.

Q. CAN YOU EXPLAIN THE BASIC PRINCIPLES GOVERNING THE MANNER IN WHICH CUSTOMERS ARE CHARGED FOR THE CALLS THAT THEY MAKE?

A. Yes. One basic principle is the distinction between local calls and toll calls. The basic telephone exchange service rate typically includes the ability to make a certain number of calls within a confined geographic area at modest or no additional charge. This confined geographic area consists of the customer's "home" exchange area and additional surrounding exchanges, together designated as the customer's "local calling area." Calls outside the local calling area, with limited exceptions noted in the paragraph below, are subject to an additional charge, referred to as a "toll" or Message Telecommunications Service ("MTS") charge. Toll service is generally priced at higher rates, on a usage-sensitive basis, than local calling.

A second industry pricing convention is the principle that, generally, the calling party pays to complete a call – with no charge levied on the called party. There are a few exceptions, such as where a called party agrees to pay toll charges in lieu of applying those rates on the calling party (*e.g.*, 800/877/888-type "toll-free" service, "collect" and third-party billing, and FX services).

Q. HOW DOES THE TELEPHONE NUMBER OR ADDRESS PLAY A ROLE IN RATING AN INDIVIDUAL CALL?

A. Local exchange carriers' ("LECs'") retail tariffs and billing systems use the NXX codes of the calling and called parties to ascertain the originating and terminating rate centers/exchange areas of the call. This information, in turn, is used to properly rate the call for purposes of billing the calling party. If the rate center/exchange area of the called party, as determined by the called number's NXX code, is included in the originating subscriber's local calling area, then the call is established as a local call. If the rate center/exchange area of the called party – again determined by the NXX code of the called number – is outside the local calling area of the caller, then the call is determined to be toll. Thus, the rate centers of calling and called parties, as expressed in the unique NXX codes typically assigned to each rate center/exchange area, enable LECs to properly rate calls as either local or toll.

Q. WHAT IS VIRTUAL FX SERVICE, AND WHAT IS A VIRTUAL NXX?

A. A CLEC establishes virtual FX service whenever it assigns a customer a telephone number with an NXX code designated by the carrier for a rate center/exchange area other than the one in which its customer is physically located, such an NXX is called a virtual NXX. Indeed, the carrier may obtain an entire exchange code solely for the purpose of designating it for a rate center/exchange area in which the carrier has no customers of its own, or facilities to serve customers of its own. Instead, the exchange code is used by the carrier for the sole purpose of assigning telephone numbers to its end users physically located in exchanges other than the one to which the code was assigned.

Q. HOW DOES THE EXISTENCE OF SO-CALLED VIRTUAL FX SERVICE AFFECT EITHER THE ROUTING OR RATING OF TELEPHONE CALLS?

A. A CLEC's assignment of numbers to end users not physically located in the exchange area associated with that NXX does ***not*** affect the routing of the call from the caller to the called party. The ILEC's network recognizes the carrier-assigned NXX code and routes the call to that carrier's switch for delivery by the carrier to its end user, the called party.

The NXX assignment does, however, affect the rating of the call. The CLEC typically assigns virtual NXX codes to its customers that are expected to receive a high volume of incoming calls from ILEC customers within the exchange of that NXX, and the CLEC's virtual NXX arrangement allows such calls to be made without Verizon recognizing that it should impose a toll charge on the calling party. In one common arrangement, a CLEC allows an ISP to collocate with its switch, and then assigns that ISP telephone numbers associated with every local calling area within a broad geographic area (frequently a LATA). The ISP would then be able to offer all of its subscribers a locally rated access number without having to establish more than a single physical presence in that geographic area. If the ISP had been assigned an NXX associated with the calling area in which it is located, many of those calls would be rated as toll calls.

Q. COULD YOU PROVIDE AN EXAMPLE OF HOW VERIZON USES NXX CODES TO BILL APPROPRIATELY FOR TOLL CALLS?

A. Yes. To aid the Department in its understanding of how CLECs typically assign virtual NXX codes to avoid toll charges I have attached as Exhibit 1 to my testimony a diagram graphically illustrating three typical call scenarios along the a Plymouth to Framingham toll route. The first scenario depicts a typical toll call originated from a Verizon end user in Plymouth and terminated to a Verizon end user in Framingham. In this scenario, the Verizon switch in Plymouth compares the NXX code in the originating end user's telephone number to the NXX code in the terminating end user's telephone number. The switch recognizes that the NXX codes do not correspond to the same rate center and it generates a toll record that Verizon's billing systems translate into a toll charge appearing to the originating caller's telephone bill. The originating caller pays the telephone bill thus compensating Verizon appropriately for the call.

In the second scenario on the diagram, I depict a typical Verizon FX arrangement. Here, Verizon's same Plymouth end user calls the same Verizon Framingham end user. However, in this case, the diagram depicts that the terminating end user has purchased FX service from Verizon. When a Framingham user purchases FX service from Verizon, it specifies the exchange from which it desires the FX service to be provided. In this case, the Framingham user has requested FX service from Plymouth. To provision that service, Verizon assigns the Framingham user a telephone number containing the NXX code normally associated with the Plymouth rate center. That way, when the Plymouth end user dials the telephone number corresponding to the Framingham end user, the Plymouth switch recognizes the telephone number as a local Plymouth number, switches the call to the dialed line card in the Plymouth switch, and does not generate a toll record. The Plymouth end user thus does not receive a toll charge for that particular call. Importantly however, the Framingham user compensates Verizon for transporting that call to its location outside the Plymouth exchange via the charge associated with the FX service. The net effect of the Verizon-FX arrangement, much like a 1-800 service, is to shift the burden of the charges associated with the call from the originating end user to the terminating end user. However just as with the first example, the customer receiving the service pays for the service, and Verizon is compensated for the services it performs in transporting and completing the call.

The third example in the diagram depicts a typical CLEC virtual NXX assignment designed to avoid application of all toll or access charges. This example shows that, while Verizon provides essentially the same services as in the previous examples, it receives no compensation whatsoever. In fact, according to GNAPs' proposal, not only would Verizon perform almost all of the work in completing the call but it would pay GNAPs reciprocal compensation for the privilege. This third example again uses the exact same Plymouth to Framingham toll route. However, this time, rather than calling a Verizon end user in Framingham, the Verizon Plymouth end user calls a GNAPs end user in Framingham. Similar to the second example I mentioned, the Plymouth switch does not generate a toll record because the number assigned by GNAPs to its Framingham end user contains an NXX code that the Local Exchange Routing Guide ("LERG") specifies is assigned to the Plymouth rate center. As such the Verizon switch associates the NXX code with end users physically located within the Plymouth rate center. As in the first two examples, Verizon's network then transports the call all the way to Framingham, a distance of approximately sixty miles. Only when the call reaches Framingham does Verizon's network hand the call over to GNAPs network. GNAPs then bills Verizon for what GNAPs deems a "local" call. However, the call is no more "local" than the call in the first two examples. The only difference is that Verizon performs most of the work in completing the call but rather than receiving compensation either from the originating or terminating end user, it receives a reciprocal compensation bill from GNAPs.

Q. HAVE NXX CODES TRADITIONALLY BEEN USED TO GOVERN INTER-CARRIER COMPENSATION?

A. No. To the extent that GNAPs makes this argument, it is confusing the rating of calls for the purpose of assessing end-user charges and the treatment of calls for intercarrier compensation purposes. Before the widespread introduction of local competition following the adoption of the 1996 Act, the most important type of intercarrier compensation was the access charges that interLATA long distance carriers paid to local telephone companies. Such intercarrier compensation has always been governed by the originating and terminating points of the end-to-end call, not the NPA-NXX of the calling and called party.

For example, AT&T has offered customers interLATA FX service, described by the FCC as one "which connects a subscriber ordinarily served by a local (or 'home') end office to a distant (or 'foreign') end office through a dedicated line from the subscriber's premises to the home end office, and then to the distant end office."[17] An airline with a reservation office in Atlanta could provide customers in Charleston a locally rated number, but all calls would still be routed to Atlanta. The FCC ruled, in that situation, that AT&T was required to pay access charges for the Charleston end of that call – even though the call was locally rated for the caller, because AT&T was still using access service to complete an interLATA call to the called party.[18] The fact that the calling party and the called party were assigned NPA-NXX's in the same local calling area was totally irrelevant to the proper treatment of the call for intercarrier compensation purposes.

Another example is "Feature Group A" access – one method that IXCs use to gain access to the local exchange. In that arrangement, the caller first dials a seven-digit number to reach the IXC, and then dials a password and the called party's area code and number to complete the call. Notwithstanding this dialing sequence, the service the LEC provides is considered *interstate* access service, not a separate local call, and the IXC must pay access charges.

Q. DOES THE PRINCIPLE THAT INTERCARRIER COMPENSATION IS GOVERNED BY THE ORIGINATING AND TERMINATING POINTS OF

[17] *AT&T Corp. v. Bell Atlantic-Pennsylvania*, 14 FCC Rcd 556, 587, ¶ 71 (1998) ("*AT&T v. BA-PA*"), *reconsideration denied*, 15 FCC Rcd 7467 (2000).

[18] *Id.* at 590, ¶ 80.

THE END-TO-END COMMUNICATION APPLICABLE TO RECIPROCAL COMPENSATION?

A. Yes. The FCC has always held that reciprocal compensation does not apply to interexchange traffic, whether interstate or intrastate, but only to traffic that remains within a single local calling area, a fact the Department expressly recognized in its MediaOne/Greater Media Arbitration Order.[19] The FCC confirmed this in its April 2001 *ISP Remand Order*,[20] when it ruled that reciprocal compensation does not apply to "exchange access, information exchange access, or exchange services for such access."[21] As the FCC has made clear, this includes all "provision of exchange services for the purpose of originating or terminating interexchange telecommunications."[22] Whether a particular call is interexchange does not depend on the telephone number, it depends on whether the call remains within the local calling area or travels outside it.

Q. IS IT IMPROPER FOR GNAPS TO ASSIGN VIRTUAL NXX CODES TO ITS CUSTOMERS?

A. GNAPs' ability to assign telephone numbers to its customers in any way that is consistent with regulatory requirements is not at issue here. Rather, Verizon wants to ensure that

---

[19] *See Petitions of MediaOne Telecommunications of Massachusetts, Inc. and New England Telephone and Telegraph Company d/b/a Bell Atlantic-Massachusetts for arbitration, pursuant to Section 252(b) of the Telecommunications Act of 1996 to establish an interconnection agreement*, D.T.E. 99-42/43, 99-52 at 40-41, order issued August 25, 1999 (noting that transport and termination costs within a local service area are covered by reciprocal compensation rates but that "traffic originating or terminating outside of the applicable local area would be subject to interstate and intrastate access charges").

[20] Order on Remand and Report and Order, *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, 16 FCC Rcd 9151 (2001), *remanded*, *WorldCom, Inc. v. FCC*, 288 F.3d 429 (D.C. Cir. 2002). Although the D.C. Circuit remanded the *ISP Remand Order* to permit the FCC to clarify its reading, it left the order in place as governing federal law. *See WorldCom*, 288 F.3d at 434.

[21] 47 C.F.R. § 51.701(b)(1).

the parties' agreement does not require payment of reciprocal compensation for any interexchange traffic, including virtual FX calls. Such calls are not subject to reciprocal compensation under the FCC's current rules.

Q. DO YOU HAVE ANY OTHER CONCERNS ABOUT VIRTUAL NXX TRAFFIC?

A. Yes. Another concern is related to interconnection architecture. In this proceeding, GNAPs is insisting that it has a right to interconnect with Verizon at any point within a LATA and require Verizon to bear the cost of transporting traffic to that point of interconnection.

The use of virtual NXXs by CLECs makes calls appear local that are actually toll service from the Verizon customer's physical location to the CLEC customer's physical location, thereby denying Verizon the opportunity to collect just compensation for the transport it provides to the CLECs on the call. When an ILEC's customer initiates a call to a CLEC virtual NXX, the ILEC's switch sees the NXX code as being assigned to the exchange area/rate center of the originating caller or to an exchange area within the originating caller's local calling area and, therefore, does not rate the call as a toll call. In fact, the call is delivered by the CLEC to its end user located ***outside*** the local calling area of the originating customer, and toll charges properly apply and would be assessed save for the assignment of virtual NXX codes. The CLEC, however, does not terminate the call within the local calling area of the originating caller. Rather, the CLEC simply takes the

[22] 16 FCC Rcd at 9158, ¶ 37 n.65.

traffic delivered to its switch and delivers the calls to its virtual FX subscriber, often located in the same exchange as its switch – if not physically collocated with the CLEC at its switch.

In short, the CLEC gets a free ride for interexchange traffic on the ILEC's interoffice network. Verizon incurs essentially all of the transport costs, yet is denied an opportunity to recover its costs either from its originating subscriber or from the CLEC. There can be little doubt why some CLECs have embraced virtual FX service to the exclusion of other service arrangements. This concern is particularly acute in Massachusetts where the Department has not adopted Verizon's proposal to use geographically relevant interconnection points. As a result, GNAPs will likely attempt to use virtual NXX codes to require Verizon to transport traffic from the four corners of each Massachusetts LATA to GNAPs' single point of interconnection at Verizon's expense. In so doing, GNAPs will be able to market LATA-wide inbound calling to its customers without bearing any of the expense of transporting such calls.

Q. IS GNAPS PROVIDING VERIZON'S CUSTOMERS A VALUABLE SERVICE THROUGH VIRTUAL NXX ARRANGEMENTS?

A. No. By providing a virtual NXX arrangement, GNAPs is giving its own customers the ability to receive locally rated calls from end-users located in a different local calling area – much like a toll-free 800 service. CLECs have heavily marketed virtual FX arrangements and are compensated by their customers for providing this functionality. Although I do not know what GNAPs charges its customers for this service in

Massachusetts, I know of a CLEC in Pennsylvania that charges its customers many hundreds of dollars a month for this service.

In short, GNAPs is providing a service to its customers for which it can charge competitive market rates. It is being compensated by its own customers for the receipt of these calls, just as an ILEC is compensated for providing a customer a traditional FX arrangement, and just as a long-distance carrier is compensated for providing a customer a toll-free number. It does not make sense and it is not sound regulatory policy to require the carrier for the calling party to bear the costs of this toll arrangement. That is however, what GNAPs is seeking to achieve.

Q. IT SOUNDS LIKE VERIZON IS PROVIDING GNAPS' CUSTOMERS A VALUABLE SERVICE. DO YOU AGREE?

A. Yes. Verizon is providing the service of originating the call for transport to the called party's carrier. By definition, in a virtual NXX arrangement, a subscriber is willing to pay its carrier for a "virtual presence" in a distant exchange. The ability to receive calls from that exchange – calls originated on Verizon's network – is therefore valuable to GNAPs' subscriber. And, of course, GNAPs is able to offer that service only by virtue of Verizon's network – GNAPs may have no facilities at all in the relevant local calling area.

Q. DO YOU AGREE WITH GNAPS' CLAIM THAT VIRTUAL NXX CODES ALLOW CUSTOMERS TO TAKE ADVANTAGE OF STATE-OF-THE ART TECHNOLOGY?

A. No. Virtual FX service is hardly a state-of-the-art technology and is certainly not necessary to provide customers toll-free calling. Telephone companies have been offering toll-free service for decades. The fact is that the CLEC number assignment causes originating ILECs like Verizon to treat the call at the originating switch as a local call for end-user billing and switch routing purposes. This is much like how Verizon would transport a toll call or an originating access call – existing services for which Verizon would be compensated by the originating toll user or the interexchange access customer, respectively. The only thing that is "new" here is the scheme to manipulate intercarrier transport and compensation in a manner to shift the costs of providing this toll-free number service to the originating ILEC. There is no aspect of the virtual NXX service that can be considered new or state-of-the-art from a technology perspective.

Q. WOULD ENFORCING THE FCC'S RECIPROCAL COMPENSATION RULES WITH RESPECT TO VIRTUAL FX OR VIRTUAL NXX FX TRAFFIC WOULD IMPEDE COMPETITION?

A. No. Enforcing the FCC's rules will promote competition, not impede it. GNAPs will remain free to market its virtual NXX service and receive whatever compensation for that service that its end-users are willing to pay. But Verizon should not be required to subsidize that service by paying reciprocal compensation on traffic that is interexchange. In other words, Verizon should not have to defray the costs of providing this service to end-users who are located outside the exchange. Enforcing the rules will simply prevent GNAPs from exploiting a potentially lucrative regulatory arbitrage opportunity, to the detriment of competition. In fact, VNXX may have the effect of discouraging competition by making it economically unattractive to service end users who originate calls on which reciprocal compensation must be paid.

Q. WOULD VERIZON'S POSITION RESTRICT GNAPS' ABILITY TO OFFER THIS SERVICE OR REDUCE THE UTILITY OF THE SERVICE TO GNAPS' CUSTOMERS?

A. No. GNAPs could offer the service, and it would continue to provide the same benefits to GNAPs' customers. But GNAPs could not collect reciprocal compensation for such traffic, compensation to which it has no right under the FCC's rules.

Q. IS VERIZON CLAIMING ACCESS CHARGES FOR THIS TRAFFIC?

A. The parties' agreement makes clear that access charges are governed by their intrastate and interstate access tariffs, so the issue is not in dispute in this proceeding. That said, it is clear that GNAPs should pay originating access charges for this traffic, because it is a type of toll-free interexchange traffic. Even though a Verizon customer is placing an interexchange call, Verizon cannot impose toll charges because of the way in which GNAPs has assigned telephone numbers to its customers. Instead, GNAPs receives compensation from *its* customer. There is nothing necessarily wrong with that, but GNAPs should compensate Verizon for this originating access service. Access charges have always been applied to toll-free traffic arrangements. In addition, I note that if the virtual NXX customer were located in another LATA and another state from the calling party, *interstate* access charges would apply – even though the call would be rated as local for the calling party.

Q. BUT GNAPS APPEARS TO CLAIM THAT VERIZON'S COSTS DO NOT JUSTIFY SUCH CHARGES.

A. If GNAPs uses a Verizon access service, as it does in the "virtual FX" arrangements at issue here, it should pay the tariffed rates, which have been approved by state and federal regulators. And, in any event, the only issue actually presented here is whether Verizon should pay GNAPs when Verizon originates an interexchange call that GNAPs delivers to its customer and for which GNAPs is compensated by its customer. The FCC's rules, decades of consistent regulatory policy, and sound economics all dictate the same answer – Verizon should not be required to pay reciprocal compensation on this traffic.

Q. HAVE OTHER STATE COMMISSIONS RULED ON GNAPS' VIRTUAL NXX PROPOSAL?

A. Yes. As referenced in regard to Issue 3 above, GNAPs, Ameritech, and Sprint recently concluded an arbitration proceeding in Ohio. The Ohio Arbitration Panel rejected GNAPs' virtual NXX proposal outright, siding with the ILECs:

> Consistent with the Commission's award in 01-724, to the extent that a non-ISP bound call to a customer utilizing virtual NXX service provided by either Ameritech, Sprint, or GNAPs, originates and terminates within Ameritech's or Sprint's local calling territory as revised to reflect EAS, the call is considered local and reciprocal compensation is due. ***To the extent that the call to a customer utilizing virtual NXX service originates or terminates outside of Ameritech's or Sprint's local calling area as revised to reflect EAS, the call is considered toll or interexchange and compensation is based on the originating or terminating party's access charges***.[23]

[23] *Ohio Panel Arbitration Report* at 13 (emphasis added). The Ohio Commission subsequently adopted the Ohio Panel Arbitration Report in its entirety on May 9, 2002. *Ohio GNAPs Ameritech Arbitration Order* at 11.

The Ohio Commission reached this same conclusion on Issue 4 in the GNAPs Verizon arbitration in that state.[24]

Q. HAVE ANY OTHER STATE COMMISSIONS REJECTED VIRTUAL NXX PROPOSALS LIKE GNAPS' PROPOSAL?

A. Yes, the vast majority of state commissions that have addressed the issue have rejected precisely what GNAPs is proposing here. They include Florida,[25] Pennsylvania,[26] Texas,[27] South Carolina,[28] Tennessee,[29] Georgia,[30] Maine,[31] and Missouri.[32]

---

[24] *Ohio Verizon/GNAPs Arbitration Panel Report* at 9-10; *Ohio GNAPs Verizon Arbitration Award*.

[25] *See* Staff Memorandum, Investigation into Appropriate Methods to Compensate Carriers for Exchange Carriers for Exchange of Traffic Subject to Section 251 of the Telecommunications Act of 1996, Docket No. 000075-TP ("Reciprocal Compensation recommendation"), at 68, 71 (Nov. 21, 2001), approved at Agenda Conference (Dec. 5, 2001).

[26] *See Re Petition of Focal Communications Corporation of Pennsylvania for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement With Bell Atlantic-Pennsylvania, Inc.*. PA PUC Docket No. A-310630F0002, Opinion and Order (Jan. 24, 2001) at 10-11 ("*Focal Order II*") (citing *Application of MFS Intelenet of Pennsylvania, Inc.*, Docket No. A-310203F0002, *Application of TCG Pittsburgh*, Docket No. A-310213F0002, *Application of MCI Metro Access Transmission Services, Inc.*, Docket No. A-310236F0002, *Application of Eastern Telelogic Corp*., Docket No. A-310258F0002, Opinion and Order, Pennsylvania Utility Commission, at 19 (adopted July 18, 1996) ("*MFS II Order*"). *See also Petition of Focal Communications Corporation of Pennsylvania For Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Bell-Atlantic-Pennsylvania, Inc.*, Docket No. A-310630F0002 at 43 n.67 (*"Focal Order I")* (adopted August 17, 2000) ("[A]ny abuse by Focal in assigning telephone numbers to customers using NXX codes that do not correspond to the rate centers in which the customers' premises are physically located" … "will be deemed as a direct violation of this Order and our *MFS II Order* and will be subject to Civil Penalties for Violations under Section 3301 of the Public Utility Code, 66 Pa. C.S. § 3301.").

[27] *Proceeding to Examine Reciprocal Compensation Pursuant to Section 252 of the Federal Telecommunications Act of 1996*, Revised Arbitration Award, Docket No. 21982 at 18 (Tex. P.U.C. Aug. 31, 2000) (finding FX-type traffic "not eligible for reciprocal compensation" to the extent it does not terminate within a mandatory local calling scope).

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

Indeed, several of them already have decided that access charges apply to the virtual NXX calls that GNAPs would like to have the Department approve here. They include Ohio,[33] Tennessee,[34]South Carolina,[35] and Georgia.[36]

Q. ARE YOU AWARE OF ANY STATE COMMISSIONS THAT HAVE ADDRESSED THE VNXX ISSUE?

A. Yes. For example, the Pennsylvania Commission has required CLECs to assign its customers "telephone numbers with NXX codes that correspond to the rate centers in

---

[29]*In re Petition for Arbitration of the Interconnection Agreement Between BellSouth Telecommunications, Inc. and Intermedia Communications, Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Tennessee PSC Docket No. 99-00948, at 42-44 (June 25, 2001) ("BellSouth/Intermedia Arbitration Order").

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

[31]Public Utility Commission Investigation into Use of Central Offices Codes (NXXs) by New England Fiber Communications, LLC d/b/a/ Brooks Fiber Docket No. 98-758, Order Requiring Reclamation of NXX Codes and Special ISP Rates by ILECs, and Order Disapproving Proposed Service (June 30, 2000) (finding VFX an interexchange service, not a local exchange service).

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

[33]*Ohio GNAPs/Ameritech/Sprint Arbitration Order* at 8, 11("To the extent that the call to a customer utilizing virtual NXX service originates or terminates outside of Ameritech's or Sprint's local calling area, as revised to reflect EAS, the Panel stated that the call is considered toll or interexchange. Compensation is based on the originating or terminating party's access charges. . . .The Commission agrees with the Panel's recommendation for issue 4.")

[34]BellSouth/Intermedia Arbitration Order at 44 ("calls to an NPA/NXX in a local calling area outside the local calling area where the NPA/NXX is homed shall be treated as intrastate, interexchange toll traffic for purposes of intercarrier compensation and, therefore, are subject to access charges.")

[35]Adelphia Arbitration Order at 13 ("[T]he Commission concludes that originating access charges are the appropriate compensation rate. Without the "virtual NXX" designation, the traffic would be toll traffic.")

[36]Georgia Generic Proceeding at 11 ("Application of an end-to-end analysis to Virtual FX calls focuses on this traffic travelling [sic] between local calling areas, and leads to a conclusion that reciprocal compensation is not due for these calls . . .The conclusion that access charges are due for Virtual FX is not inconsistent with the Commission's previous decisions in cases involving calls to internet service providers ("ISPs").")

which the customers' premises are physically located."[37] That Commission had explained its rationale as follows:

> [E]ach CLEC must comply with BA-PA's local calling areas. This is imperative to avoid customer confusion and to clearly and fairly prescribe the boundaries for the termination of a local call and the incurrence of a transport or termination charge, as opposed to termination of a toll call in which case an access charge would be assessed.[38]

To cite another example, on June 30, 2000, the Maine Public Utility Commission ordered a CLEC, Brooks Fiber, to return 54 NXX codes which it was using in a "virtual NXX" capacity and rejected Brooks' proposed "virtual NXX" service. The Commission found that Brooks had no facilities deployed in any of the locations to which the 54 NXX codes were nominally assigned. As such, it rejected Brooks' arguments that it was using the codes to provide local service, and concluded that Brooks' activities had "nothing to do with local competition."[39] It found that Brooks' "extravagant" use of the 54 codes "solely for the rating of interexchange traffic" was patently unreasonable from the standpoint of number conservation.[40] The Commission further observed that Brooks' likely reason for attempting to implement an "FX-like" service, instead of a permissible 800 or equivalent service, was Brooks' "hope that it might avoid paying Bell Atlantic for the interexchange transport service provided by Bell Atlantic."[41]

---

[37] Opinion and Order, *Petition of Focal Communications Corp. of Pennsylvania for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Bell Atlantic-Pennsylvania, Inc.*, Docket No. A-310630F0002, at 10-11 (Pa. PUC Jan. 29, 2001).

[38] MFS II Order at 19.

[39] *Investigation Into Use of Central Office Codes (NXXs) by New England Fiber Comm., LLC d/b/a Brooks Fiber, etc., Order Requiring Reclamation of NXX Codes and Disapproving Proposed Service,* Docket Nos. 98-758 & 99-593, at 13, Tab 1 (Maine PUC June 30, 2000).

[40] *Id.* at 16.

[41] *Id.* at 12.

Q. DOES THE FCC'S *ISP REMAND ORDER* ALLEVIATE VERIZON'S CONCERNS WITH VFX?

A. No. The FCC's *ISP Remand Order* addresses only termination rates, and only with regard to Internet-bound traffic. It does not resolve lost toll revenue and transport cost issues associated with virtual NXX assignments. As I previously explained, these issues are not limited to Internet-bound traffic and are not directly related to termination rates. Virtual NXX assignment shifts transport costs to Verizon and makes toll calls to which toll charges properly apply appear as though they are local calls. This issue is also currently being considered in the FCC's Intercarrier Compensation NPRM.

Q. THE FCC'S WIRELINE COMPETITION BUREAU RECENTLY ISSUED AN OPINION IN AN INTERCONNECTION ARBITRATION ON RECIPROCAL COMPENSATION WITH RESPECT TO NPA-NXX CODES.[42] DO YOU HAVE ANY COMMENT ON THAT ORDER?

A. Yes. The Bureau did not rule that reciprocal compensation is required for virtual FX traffic. Rather, what the Bureau said, considering the evidence in that particular proceeding, was that paying reciprocal compensation based on the physical location of the calling party and the called party – as Verizon proposes here – would raise "billing and technical issues that have no concrete, workable solutions at this time."[43] The

[42]*See* Memorandum Opinion and Order, *In the Matter of 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*., DA 02-1731 (rel. July 17, 2002) ("*Virginia Arbitration Order*").

[43]*Id.* ¶ 301.

Bureau's decision was based on the perceived practical difficulty of accurately tracking and billing FX and virtual FX traffic as non-local traffic for reciprocal compensation purposes. But billing reciprocal compensation based on the geographic location of the calling party and the called party poses no significant practical problem. In fact, Verizon has already identified concrete, workable solutions to ensure that FX and virtual FX traffic is properly treated as interexchange traffic for reciprocal compensation and access charge billing purposes, even though such calls are rated as local to the calling party.

Q. WOULD YOU DESCRIBE THE MANNER IN WHICH VERIZON EXCLUDES FX TRAFFIC AND FX-LIKE TRAFFIC FROM RECIPROCAL COMPENSATION BILLING?

A. Yes, but first I would like to offer a bit of background. Verizon's billing system, for purposes of billing reciprocal compensation, was designed to compare the NPA-NXX codes of the calling party and the called party to determine whether a call is in fact local. That is a reasonable method, because the volume of CLEC originated traffic sent to a FX number on Verizon's network – for which that method would not yield a correct answer from the point of view of intercarrier compensation billing – is very small. Based on a traffic study Verizon performed in Florida, such traffic makes up less than one-half of one percent of the CLEC originated traffic delivered to Verizon for termination to its customers.

However, since the advent of local competition, the assumption that a customer's assigned NPA-NXX code most likely corresponds to the customer's physical location is often not a valid assumption in the case of traffic delivered to CLECs. To the contrary, the volume of locally rated interexchange traffic being delivered to some CLECs makes up a significant percentage of the traffic delivered to those CLECs. In fact, in Massachusetts, a substantial percent of the traffic that Verizon delivers to GNAPs is Virtual FX traffic.

To deal with this issue, Verizon has recently taken steps to develop methods to measure the volume of CLEC traffic terminated to Verizon FX numbers. Verizon conducted a study to identify those calls that were originated by CLEC customers and terminated to Verizon FX numbers. The study simply matched call records for calls from facility-based CLECs to a list of telephone numbers that Verizon assigned to FX service lines. This study provided Verizon with a means of estimating the access revenue to which CLECs would be entitled for CLEC-originated calls terminated to Verizon FX numbers. At the same time, Verizon considered what approach would be required to properly account for traffic originated by Verizon customers that terminated on CLEC virtual FX numbers. Two options were identified. One option would be for the CLEC to conduct a study, similar to the one performed by Verizon, to quantify the number of Verizon customer originated minutes that were delivered to the CLEC virtual FX numbers. The other option would be for the CLEC to notify Verizon of the numbers it has assigned as virtual FX numbers. In this scenario, Verizon would modify its traffic data collection system to capture all traffic delivered to the NPA-NXXs associated with the virtual FX numbers. A data query could then be run to identify what portion of the traffic delivered to the NPA-NXXs was actually virtual FX traffic. A billing adjustment would then be entered into each Party's billing system to properly account for the Verizon traffic delivered to the CLEC virtual FX numbers. Verizon is prepared to work with GNAPs to implement one of these options so that traffic can be properly billed.

Q. GNAPS SEEMS TO ALLEGE THAT ITS VIRTUAL NXX SERVICE IS JUST LIKE VERIZON'S TRADITIONAL FOREIGN EXCHANGE ("FX") SERVICE (GNAPs' PETITION AT 23). IS VERIZON'S FX SERVICE JUST LIKE GNAPs' VIRTUAL NXX ARRANGEMENT?

A. No. As even the FCC recognized in the *Virginia Arbitration Order,* while the two services are functionally alike, the similarity ends there.[44] Verizon's FX service is a toll substitute service. It is a private line service designed so that a calling party in the "foreign" exchange may place to the FX customer, located outside the caller's local calling area, what ***appears*** to be a local call. As discussed earlier, if FX service were truly a local call, the called party would not be subject to additional charges. The called party (the FX subscriber), however, agrees to pay (on a flat-rate basis) additional charges which the calling party would otherwise have to pay to transport the call beyond the caller's local calling area to the exchange where the FX customer's premises are located. FX Service has been in existence for decades as a way for a customer to give the appearance of a presence in another local calling area – for example, in the local calling area of its potential customers for an FX business customer. The FX customer does so by subscribing to basic exchange service from the "foreign" switch and having its calls from that local calling area transported over a private line, ***which it also pays for***, from the

[44] *Virginia Arbitration Order* at 141, ¶ 287.

distant local calling area to its own premises. En route, the call is transported through the FX customer's own end office where it is connected, without being switched, to the customer's local loop.

When CLECs provide virtual NXX service, however, the ILEC handling the virtual NXX traffic is not compensated for its transport of calls to a rate center which is outside the normal local calling scope. Unlike real FX service, moreover, virtual NXX does not use lines dedicated to a customer for transporting the call between rate centers and forces the originating carrier to bear the financial burden of the terminating caller's decision to provide a virtual NXX service. Instead, it tricks Verizon's billing systems into "rating" the call as local, rather than toll. In addition, for FX service, the end user customer compensates Verizon for the ability to receive calls from only *one* other rate center. If a customer chose to have FX service from all of the rate centers within a LATA, his total monthly FX charges would be correspondingly much greater (in order to compensate Verizon for transporting the traffic outside of the local calling area from across the LATA).

It is important to note that Verizon's FX Service was not devised as a way to avoid transport costs and to collect reciprocal compensation. But some CLECs do use virtual NXX virtual NXX/FX numbers to make calls appear local both to the Verizon customer placing the call and to Verizon, the carrier originating the call for its customer. And because the call appears local to Verizon, based on the CLEC customer's NXX code, the CLEC declares the call local and bills Verizon reciprocal compensation. However, it is

Verizon, not the CLEC, that is transporting the call from the caller's local calling area (the "foreign" exchange) to the CLEC's switch – transport for which Verizon is not compensated. From there, the CLEC simply hands off the call to the virtual FX customer usually collocated with the CLEC, and proceeds to bill Verizon for reciprocal compensation, as if the call were local.

Q. DOES VERIZON'S PROPOSAL PROVIDE FOR FAIR COMPENSATION ASSOCIATED WITH "VIRTUAL NXX" RELATIVE TO VERIZON'S FX SERVICE?

A. Yes. As I have explained, there are very real differences in these services. However, GNAPs may choose to use a virtual NXX approach, compensating Verizon pursuant to applicable access charges for the interexchange transport. GNAPs alternatively may choose to use a Verizon FX service through which GNAPs would be financially responsible for establishing dedicated transport facilities between exchanges.

Q. PLEASE SUMMARIZE VERIZON'S RECOMMENDATION TO THE DEPARTMENT ON THIS ISSUE.

A. The Department should rule that virtual NXX calls originating and terminating outside an ILEC's local calling area are toll or interexchange calls and are subject to the originating or terminating party's access charges.

Q. DOES THIS CONCLUDE YOUR TESTIMONY?

A. Yes.