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IDAHO PUBLIC  
UTILITIES COMMISSION

The Verizon logo, featuring a red checkmark above the word "verizon" in a bold, sans-serif font.

17933 N.W. Evergreen Parkway  
P.O. Box 1100  
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October 31, 2002

Jean D. Jewell  
Secretary  
Idaho Public Utilities Commission  
472 West Washington  
Boise, ID 83702-0074

Dear Ms. Jewell:

Re: **CASE NO. GNR-T-02-16**

Enclosed for filing is an original and seven copies of Verizon's comments in Case No. GNR-T-02-16.

If you have any questions concerning this matter, please contact Dean Randall at (503) 629-2285.

Sincerely,

A handwritten signature in cursive script that reads "Dean Randall".

*for* Allan T. Thoms  
Vice President – Public Policy and External Affairs

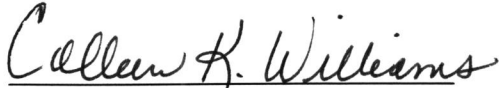
ATT:ckw  
Enclosure

c: Service List

CERTIFICATE OF SERVICE

I hereby certify that I have mailed a copy of Verizon Northwest Inc.'s comments in Idaho PUC Docket No. GNR-T-02-16 to all parties of record at the addresses indicated on service list by delivering a copy by U.S. mail postage paid.

DATED this 31st day of October, 2002.



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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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IN THE MATTER OF THE PETITION OF )  
POTLATCH TELEPHONE COMPANY, )  
CENTURYTEL OF IDAHO, INC., )  
CENTURYTEL OF THE GEM STATE, AND )  
THE IDAHO TELEPHONE ASSOCIATION )  
FOR A DECLARATORY ORDER )  
PROHIBITING THE USE OF "VIRTUAL" )  
NXX CALLING. )

IDAHO PUBLIC  
UTILITIES COMMISSION  
CASE NO. CNB T-02-16

COMMENTS OF VERIZON NORTHWEST, INC.

Verizon Northwest Inc. (Verizon) submits these comments pursuant to the Commission's Notice of Modified Procedure dates October 4, 2002.

Verizon agrees with the Petitioners. As they explain in their petition, "virtual" NXX arrangements are unlawful and are contrary to public policy because they are nothing more than a type of regulatory arbitrage that undermines local and intraLATA toll competition. When a CLEC assigns a customer a telephone number that is not associated with the customer's actual physical location, the CLEC prevents the originating carrier (usually an ILEC such as Verizon) from charging *its own customer* for what would ordinarily be a toll call. In other words, through its telephone number assignment practices, the CLEC deliberately redraws *its competitors'* local calling areas to deprive those carriers of toll charges. The CLEC also evades paying the originating carrier access charges. The CLECs offering VNXX arrangements thus compete not on the basis of the quality and efficiency of their services, but on their intentional manipulation of the intercarrier compensation and billing systems to unfairly (and unlawfully) shift costs to other carriers.

The FCC explained the significant public policy concerns with such cost-shifting schemes in its *ISP Remand Order*.<sup>1</sup> There, the FCC explained that CLEC attempts to treat interstate ISP-bound calls as “local” calls distorted the market:

Thus carriers have every incentive to compete, not on basis of quality and efficiency, but on the basis of their ability to shift costs to other carriers, a troubling distortion that prevents market forces from distributing limited investment resources to their most efficient uses. . . .

[I]t is conceivable that a carrier could serve an ISP free of charge and recover all of its costs from originating carriers. This result distorts competition by subsidizing one type of service at the expense of others.<sup>2</sup>

The FCC’s analysis of ISP traffic applies with equal force to VNXX traffic. Here, as there, CLECs’ attempt to earn windfall profits by manipulating rules and treating toll calls as local calls.

Verizon will not repeat the Petitioners’ arguments here; instead, Verizon will supplement the petition on two points. First, the FCC’s “end to end” approach to intercarrier compensation, which the petition discusses on page 2, began long before the FCC’s *Order on Remand* in 2001. In fact, for many years, the FCC has ruled that geography (not telephone number assignment) determines intercarrier compensation.<sup>3</sup> Second, many state commissions that have considered the nature of VNXX traffic have concluded that such traffic is *not* “local” in nature. For example, the Florida Public

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<sup>1</sup> Order on Remand and Report and Order, Implementation of the Local Competition Provisions in the Telecommunications Act of 1996; Intercarrier Compensation for ISP-Bound Traffic, FCC 01-131, 16 FCC Rcd 9151 (2001) (“ISP Remand Order”).

<sup>2</sup> *Id.* ¶¶ 4-5.

<sup>3</sup> Federal law is clear that it is the actual geographic location of the calling and called party that determines intercarrier compensation. *E.g.*, *AT&T Corp. v. Bell Atlantic-Pennsylvania*, 14 FCC Rcd 556 (1998), *recon. denied*, 15 FCC Rcd 7467 (2000) (rejecting use of assigned NPA-NXX in place of actual geographic end points of a call for purposes of determining the appropriate intercarrier compensation); *Mountain Communications, Inc. v. Qwest Communications Int’l, Inc.*, File No. EB-00-MD-017, FCC 02-220, 2002 WL 1677642, ¶ 6 (rel. July 25, 2002) (“*Mountain Communications*”), *aff’g* Memorandum Opinion and Order, *Mountain Communications, Inc. v. Qwest Communications Int’l, Inc.*, 17 FCC Rcd 2091 (2002).

Service Commission recently held that “calls terminated to end users outside the local calling area in which their NPA/NXXs are homed are not local calls for purposes of intercarrier compensation.”<sup>4</sup> The Florida PSC additionally concluded that “intercarrier compensation for [Virtual FX] calls shall be based upon the end points of the particular calls” – that is, where the call physically originates and physically terminates – and not on the NPA/NXXs assigned to the calling and called parties.<sup>5</sup>

In addition to the Florida PSC, the overwhelming majority of state commissions to consider whether reciprocal compensation is due on VNXX traffic have correctly concluded that it is not, because that traffic does not physically terminate in the same local calling area in which it originates. These state commissions include Connecticut,<sup>6</sup> Illinois,<sup>7</sup> Texas,<sup>8</sup> South Carolina,<sup>9</sup> Tennessee,<sup>10</sup> Georgia,<sup>11</sup> Maine,<sup>12</sup> Missouri,<sup>13</sup> and

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<sup>4</sup> Order on Reciprocal Compensation, *Investigation into appropriate methods to compensate carriers for exchange of traffic subject to Section 251(b)(5) of the Telecommunications Act of 1996*, Docket No. 00075-TP, Order No. PSC-02-1248-FOF-TP (Sept. 10, 2002 Fla. PSC).

<sup>5</sup> *Id.*

<sup>6</sup> Draft Decision, *Investigation of the Payment of Mutual Compensation for Local Calls Carried Over Foreign Exchange Service Facilities*, Docket No. 01-01-29, at un-numbered p. 21 (Conn. D.P.U.C. Mar. 19, 2001) (“The purpose of mutual compensation is to compensate the carrier for the cost of terminating a local call and since these calls are not local, they will not be eligible for mutual compensation.”) (emphasis added).

<sup>7</sup> Arbitration Decision, *TDS Metrocom, Inc., Petition for Arbitration of Interconnection Rates, Terms, and Conditions and Related Arrangements with Illinois Bell Telephone Co. d/b/a Ameritech-Illinois Pursuant to Section 252(b) of the Telecommunications Act of 1996*, Docket No. 01-0338, at 48 (Ill. Comm. Comm’n Aug. 8, 2001) (“*Illinois VFX Order*”); Arbitration Decision, *Level 3 Communications, Inc. Petition for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Illinois Bell Telephone Company d/b/a Ameritech Illinois*, Docket No. 00-0332 (Ill. Comm. Comm’n Aug. 30, 2001).


<sup>8</sup> Revised Arbitration Award, *Proceeding to Examine Reciprocal Compensation Pursuant to Section 252 of the Federal Telecommunications Act of 1996*, Docket No. 21982, at 18 (Tex. Pub. Util. Comm’n 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).

<sup>9</sup> Order on Arbitration, *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*, Docket No. 2000-516-C, at 7 (S.C. Pub. Serv. Comm’n 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.”). See also Order on Arbitration, *Petition of US LEC of South Carolina for Arbitration of an Interconnection Agreement with Verizon South Inc.*, Docket No. 2002-181-C, at 18-19 (Pub. Serv. Comm’n Aug. 20, 2002).

Ohio.<sup>14</sup> And as the Illinois Commerce Commission recently explained, the issue is not even a close one because, by definition, VNXX traffic “does not originate and terminate in the same local rate center and therefore, as a matter of law, cannot be subject to reciprocal compensation.”<sup>15</sup>

In sum, Verizon supports the petition, and urges the Commission to either prohibit VNXX arrangements or require VNXX calls to be treated as interexchange calls.

Respectfully submitted,

  
for Allan T. Thoms  
Vice President – Public Policy & External Affairs

DATED: October 31, 2002

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<sup>10</sup> Order, *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*, Docket No. 99-00948, at 42-44 (Tenn. Pub. Serv. Comm’n June 25, 2001).

<sup>11</sup> Final Order, *Generic Proceeding of Point of Interconnection and Virtual FX Issues*, Docket No. 13542-U, at 10-12 (G.A. Pub. Serv. Comm’n July 23, 2001) (“The Commission finds that reciprocal compensation is not due for Virtual FX traffic.”).

<sup>12</sup> Order Requiring Reclamation of NXX Codes and Special ISP Rates by ILECs, and Order Disapproving Proposed Service, *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 (Me. Pub. Serv. Comm’n June 30, 2000) (finding VFX an interexchange service, not a local exchange service).

<sup>13</sup> Arbitration Order, *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*, Case No. TO-2001-455, at 31 (Mo. Pub. Serv. Comm’n. June 7, 2001) (finding VFX traffic “not classified as a local call”).

<sup>14</sup> Arbitration Award, *Petition of Global NAPs for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Verizon North Inc.*, Case No. 02-876-TP-ARB (Ohio PUC September 5, 2002).

<sup>15</sup> *Illinois VFX Order* at 48.