

DT 00-054

DT 00-223

**INDEPENDENT TELEPHONE COMPANIES AND COMPETITIVE  
LOCAL EXCHANGE CARRIERS - LOCAL CALLING AREAS**

**INVESTIGATION INTO WHETHER CERTAIN CALLS ARE LOCAL**

**Order on Status Conference Adopting New Procedural Schedule**

**O R D E R    N O.    23,927**

**March 8, 2002**

**APPEARANCES:** Donald W. Boecke, Esquire, for Verizon New Hampshire; Frederick J. Coolbroth, Esquire, Devine, Millimet & Branch, for Granite State Telephone, Inc., Merrimack County Telephone Company, Wilton/Hollis Telephone Company, Inc., Northland Telephone Company of Maine, Inc., Dunbarton Telephone Company, Inc., Bretton Woods Company, Inc., Dixville Telephone Company, and JSI;; Joseph G. Donahue, Esquire, for Union Telephone Company; Michael C. Reed for TDS Telecom; Michael W. Fleming, Esquire, for BayRing Communications; Scott Sawyer, Esquire, for Conversent Communications; John O. Postl, Esquire, for Global NAPs; Stacy Parker for AT&T Broadband; William J. Lehman, Esquire, for Worldcom; Douglas S. Denny-Brown, Esquire, for RNK Telecom; Randy Meacham for KMC Telecom; Anne Ross, Esquire, of the Office of Consumer Advocate, for Residential Ratepayers; and Lynmarie C. Cusack, Esquire, for the Staff of the New Hampshire Public Utilities Commission.

**I.    BACKGROUND AND PROCEDURAL HISTORY**

The New Hampshire Public Utilities Commission (Commission) opened Docket Nos. DT 00-054 and DT 00-223 on March 15, 2000, and October 6, 2000, respectively, to investigate issues related to local calling in New Hampshire. The Order of Notice issued in Docket No. DT 00-223 consolidated many of the issues in the two dockets for the purpose of conserving and focusing Commission resources. It

was anticipated that once the common issues were resolved, Docket No. DT 00-054 could proceed more efficiently.

Hearings were scheduled for April 11-13, 2001; however, the Parties and Staff, by letter dated April 9, 2001, requested a postponement of the hearings to explore settlement discussions. On April 10, 2001, the Commission issued a Secretarial Letter postponing the hearings, determining that the postponement of the hearings to allow settlement discussions would promote the orderly and efficient conduct of the proceeding.

By Fall of 2001, it was evident to Staff and the Parties that a settlement would not be forthcoming. On November 13, 2001, a group of ILECs, represented by Devine, Millimet & Branch, filed a request for Status Conference in both dockets. No party objected to the motion and, on November 29, 2001, the Commission issued Order No. 23,849 granting the motion and scheduling a Status Conference which was held at the Commission on January 16, 2002. The Status Conference was followed by a Technical Session to determine a Procedural Schedule with respect to these dockets.

## **II. POSITIONS OF THE PARTIES AND STAFF**

### **A. Verizon New Hampshire**

Verizon New Hampshire (Verizon) believes that the primary issue for consideration before this Commission is the proper characterization of traffic for the purpose of retail billing to the end-user and, more importantly, for purposes of carrier-to-carrier compensation. Verizon's position is that the proper characterization of this traffic turns on a comparison of the originating caller's rate center, or the local calling area, and the terminating location of that call. According to Verizon, any call that does not terminate within the local service calling area of the originating call is properly characterized as toll or interexchange.

### **B. Independents Represented by Devine, Millimet**

The Independent Telephone Companies represented by Devine Millimet & Branch first address the issue of compensation for internet-bound calls. They believe that the FCC has adequately addressed the issue of internet-bound traffic, leaving little for this Commission to regulate as it relates to the independent telephone companies and the CLECs.

Regarding the issue of local calling areas, the ILECs understand that CLECs are not required, in terms of how they bill their own customers, to use ILEC local calling

areas. However, a conflict arises when one party to the call is an ILEC customer. It is the ILECs' view that CLECS may not charge the ILEC customer a toll rate for calls within an ILEC local calling area. According to the ILECs, calls made within an ILEC local calling areas may only be charged in accordance with Section 410 of the Commission Administrative Rules, and actions on the part of a CLEC that effectively change the ILEC local calling area are not permitted. Counsel for the independents posits that, as a general proposition, the configuration of local calling areas should not be a mechanism for ILEC customers to be required to subsidize CLEC transport.

The ILECs also believe the Commission should put an end to the use of virtual NXX calls. They believe that NXXs result from the misuse of the Central Office Code Assignment Guidelines. ILECs allege that in many instances the CLEC involved does not, in fact, serve customers in the rate center to which telephone numbers are assigned, which raises the issue of whether CLEC authority to serve that rate center may have expired pursuant to RSA 374:27. Additionally, Virtual NXX use results in the misreading of ILEC toll calls as local, creating an unfair cost appropriation to the ILECs, by which: (1) the ILEC winds up bearing the transport costs; (2) the ILEC does not receive access revenue as it believes it should;

and (3) the ILEC may be required to pay reciprocal compensation. The ILECs believe that to the extent virtual NXX use produces lower prices to CLEC customers, it does so through regulatory arbitrage and improper transfer of costs.

Additionally, the ILECs point out that use of virtual NXXs encourages inefficient use of network configurations, resulting in wasted telephone numbers and encourages services, such as e-fax, which contributes to the early exhaust of the state's only area code. Finally, it was pointed out that one reason for the status conference request in these dockets was that Verizon advised the ILECs that it intended to begin billing for transport and transit services. The ILECs believe that those charges may only be imposed through appropriate agreement or tariffs and should not simply be unilaterally imposed by Verizon.

**C. Union Telephone**

Union Telephone generally concurred with the statement presented on behalf of the ILECs.

**D. RNK Telecom**

RNK first stated that it agreed with the ILECs that the jurisdiction of ISP traffic lies with the FCC. However, RNK does not agree that there is a significant numbering shortage due to the use of virtual NXX, that the system that

has been implemented has resolved that issue, and that if a problem remains a 500 numbering system would be an option RNK would be willing to consider.

Additionally, RNK believes that local calls made to local numbers, rated and tariffed as such, should be charged as local calls. RNK goes on to state that although rate centers are currently geographically tied, that technology and policy is based in the past and today's technology more than adequately supports the use of remote switches and switches serving several different rate centers.

RNK supports the argument that it should not be the CLECs that pay the charge for originating transport, but believes that the burden lies with the ILECS since it is ILEC traffic, under the current rules, that is originating the call.

**E. BayRing**

BayRing agrees with the ILECs that the recent FCC order resolves the issue of compensation for ISP traffic. However, BayRing also believes that the same FCC order resolves the virtual NXX issue because virtual NXX is used predominantly for ISP-bound traffic and the FCC made no distinction between locally originated ISP-bound calls and ISP-bound calls to virtual NXX numbers. BayRing points out

DT 00-054  
DT 00-223

-7-

that position was adopted in Ohio in the Allegiance  
arbitration.

BayRing suggests, based on a study it did when the issue arose, that the volume of traffic that is originated by customers of ILECs and routed through Verizon then terminated by a CLEC is minuscule. Finally, BayRing believes that the moratorium that addresses the issues should be made permanent.

**F. Conversent**

Conversent proposes that the Commission adopt a rule stating, generally, that ICOs are responsible for bringing their traffic to CLECs, and that CLECs are responsible for bringing their traffic to the ICOs, and that neither party will charge reciprocal compensation or access charges for terminating the traffic. If, however, the traffic exceeds a specified threshold amount or that the traffic was predominantly one way, then those parties involved should negotiate an equitable arrangement. Finally, Conversent asserts that using Verizon's tandem transit service would be the most economical for all parties and the cost would be minimal.

**G. Global NAPs**

Global NAPs agrees with the comments of both BayRing and Conversent and believes that traffic is minimal and that Verizon's tandem transit traffic would be the most economical. Global NAPs also believes that there should be a threshold



level and, if exceeded, the parties should negotiate a different compensation mechanism for exchange of traffic. Global NAPs also believes that the moratorium that is in effect be continued.

**H. OCA**

The OCA does not have, at the this time, a specific position on the appropriate costs and services that should be available. The OCA seeks an opportunity for discovery.

**I. Staff**

Staff took no position on how to treat any particular traffic but noted that the scope of the docket had not changed from question (A) found in Order No. 23,595 dated December 6, 2000. Staff suggested, notwithstanding other Parties comments, that VNXX should be considered in the docket before the Commission. Staff indicated that VNXX is an appropriate tool for number conservation.

**III. PROCEDURAL SCHEDULE**

Following the Status Conference, the Parties and Staff met in a Technical Session to discuss a procedural schedule for the continuation of these dockets. The following schedule was agreed upon and recommended to the Commission by letter from Staff dated January 28, 2002.

Initial Glossary of Terms Prepared by Verizon	02/01/02
Staff and Parties Revisions and Additions to Glossary of Terms	02/08/02
Conference Call re Glossary of Terms	02/13/02
Staff and Parties Supplemental Testimony	02/15/02
Staff and Parties Data Requests	02/22/02
Staff and Parties Data Responses	03/08/02
Staff and Parties Rebuttal Testimony	03/29/02
Hearing on the Merits	04/15-17/02

**IV. COMMISSION ANALYSIS**

We have reviewed the schedule presented and believe it is appropriate to achieve a complete record in this docket. We, therefore, adopt the schedule as submitted.

**Based upon the foregoing, it is hereby**

**ORDERED,** the procedural schedule for remainder of docket DT 00-223 is approved.

By order of the Public Utilities Commission of New  
Hampshire this eighth day of March, 2002.

---

Thomas B. Getz  
Chairman

Susan S. Geiger  
Commissioner

Nancy Brockway  
Commissioner

Attested by:

---

Debra A. Howland  
Executive Director & Secretary