

1) What factors determine whether a call is a local or non-local call?

Whether a call is local or not should not depend on the geographic area of the caller or called party. The Commission has consistently held that the assignment of the NXX determines whether the call is local.

a) How should the term “physically located” be defined?

“Physically located” could mean any physical presence in the local or adjacent calling areas, by a “customer”. However, because of the structure of Section 304(9) of the Act, the definition seems to refer only to customers who receive calls in the same geographic area as the caller’s exchange or an adjacent exchange. (See 1(b).)

b) How should the term “called party” be defined?

A carrier should not be allowed to define “called party: for its own purposes. This is evidenced by the fact that the Legislature specifically referred to and relied on the Commission’s definition of local calling area and adjacent local calling area as announced in Cases U-12515 and U-12528. Those cases rejected the argument that “the originating carrier should be permitted to define the extended local exchange.” It follows that the Legislature did not intend for a carrier to define what a “called party” is.

Called Party indicates the individual, or entity that the originating caller has dialed. This definition would apply to traditional PSTN connections, or emerging VOIP connections where the connection is converted from TDM to IP transport before being delivered to the called party.

2) How widespread is the use of VNXX in Michigan?

VNXX is used by both National and Michigan based Internet providers, and has allowed ISPs to provide statewide, competitive Internet access to Michigan consumers. The ISPs are organizing an association for the purposes of an accurate assessment of VNXX usage in Michigan. Based on 304(9) and VNXX diagrams provided by Verizon, the following categories of VNXX use should be included in any survey of usage:

a) Traditional FX:

A called party in Grand Rapids is not physically located in the same local or adjacent calling area as the originating caller in Muskegon so this call would be considered non-local.

Assuming switched instead of dedicated transport this also applies to remote call forwarding service. A Customer in Muskegon forwards their phone to a Grand Rapids number. A second customer in Muskegon calls the forwarded number. The call is forwarded to Grand Rapids where the call is answered outside of the Muskegon local or adjacent calling area. Since the called party is not located in the Muskegon or adjacent calling areas the call would be considered non-local.

b) Toll-Free Call:

While a toll-free call may not fit the definition on a non-local call, toll-free calls should be included in any survey of VNXX usage since they involve calls from parties outside the geographic area of the called party as described in 304(9).

c) ILEC PRI to ISP Arrangement:

An ISP customer in Muskegon calls a local Muskegon number, which is transported by an ILEC over, dedicated facilities to the ISP data center in Grand Rapids where it terminates in ISP equipment in Grand Rapids. Since the ISP Grand Rapids data center is not within the Muskegon local or adjacent calling area this call would be considered a non-local call under 304(9).

d) ISP VNXX Call:

An ISP customer in Muskegon calls a local VNXX number which is transported to a CLEC collocation center in Grand Rapids where it terminates in ISP equipment in Grand Rapids so this call would be considered non-local. If the CLEC were to transport and terminate the call in the Muskegon local or adjacent calling area the call would be considered local under 304(9).

A fifth scenario was discussed where the LEC terminating the VNXX call provided all transport of the call out of the local calling area to the remote calling area where it is terminated. These calls would still be non-local by these definitions.

3) Can VNXX calls be tracked?

a) Notification

Customers have traditionally used dialing of a call without the long distance prefix of 1+NPA to make non-local calls. If a call is not within the local calling area the customer receives a notification that they must dial 1+NPA to complete the call. Recent policy changes have allowed minute caps on calling from smaller LECs to adjacent calling areas. Once the caps are exceeded, calls dialed as a seven-digit local call are treated as non-local and billed per minute. Once customer were aware of the policy they are still able to make dialing decision based on the adjacent NXX being called.

If 304(9) is implemented in carrier tariffs NPA-NXX no longer becomes the definition of a local call. VNXXs assigned to LEC are not continuous block of numbers that will be able to be defined as local or non-local. A block of ten DIDs could be assigned to an enterprise customer with PRI ISDN service physically located in the Muskegon calling area, the next DID could be assigned to an ISP customer in the LEC's Grand Rapids Collocation, while the next is a standard POTS customer in Muskegon. A customer calling any number within this block may be subject to charges for non-local calling without their knowledge.

How should the customer be notified of these charges before they are incurred? Written pre-notification would be insufficient due to sheer volumes, and potential changes of status from local to non-local and back depending on the physical location of the called party.

b) Administrative burdens

i) Inter-Carrier Burdens

Carriers would need to notify the originating carrier of the physical location of the called party for each call exchanged. The carrier must be able to verify the location of their customer for this notification. The location of the customer may vary based on services used by the customer. Examples of problematic services are VOIP, remote call forwarding, and follow me call routing services.

ii) Carrier and MPSC burdens

Carriers will need to notify consumers of potential charges either before or after the charges are incurred. Customers receiving charges for calls that have been considered local and that they have no way of classifying as local or non-local will result in complaints and disputes that will need to be resolved.

b) LNP issues/complications, and

Numbers that have been ported from traditional ILEC NXX blocks that are defined as non-local calls will add extra confusion for consumers. Instead of only affecting CLEC VNXXs, traditional local NXX calls may be classified non-local depending on the physical location of the called party.

c) Accounting method for tracking VNNX calls

Current accounting methods will not work to handle a non NPA-NXX based solution.

4) Would there be an effect on emerging technologies if VNXX is eliminated? For example such as on:

a) VOIP

VOIP providers would need to be able to track the physical location of their subscriber in order to report back the physical location to their PSTN provider. This issue is being addressed in E-911 requirements. Most providers complaint with VOIP E-911 place the responsibility of reporting physical location on the individual customer. There is no way for the VOIP provider to verify whether the VOIP adapter is at the customer reported location.

b) Cellular

The Act seems to suggest that cellular calls do not fall within the jurisdiction of the Commission (Sec. 401) however, Section 401 only precludes Commission jurisdiction over cellular calls "except as otherwise provided by law." Section 304(9) is a more recent enactment than Section 401, and it only seeks to regulate calls for the purposes of identifying what is a local call. Moreover, a landline customer who calls a cellular customer will still see that call counted in the number of outgoing calls considered as "primary basic local exchange service" under Section 102(y) of the Act. Therefore, the ISPs contend that traffic originating from regulated landline customers to cellular customers outside of their NXX geographical area should be considered non-local calls under 304(9).

c) Ability of a customer to take a phone number with them everywhere

Instead of a number a customer can take with them everywhere, the real concern is a phone number that can follow a customer everywhere. Applications like VOIP, remote call forwarding and follow-me call routing could be classified as non-local call under 304(9) if an incoming call is completed outside the geographic area of the called number. In the case of follow-me call routing it is possible to simultaneously ring multiple numbers to find a customer. If one of the ringing numbers is within the local calling area and one is outside the calling area how and when will the call be rated?

d) Broadband.

The major impact of the elimination of VNXX on broadband relates to VOIP (See a, above).