

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter, on the Commission's)
own motion, to commence a)
proceeding for the purpose of)
resolving issues surrounding)
virtual NXX.)

Case No. U-14683

**Summary of Positions of TelNet and Pac-West
on first four issues on 12/20/05 issues list of VNXX workgroup
(January 3, 2006)**

- Issue 1) *What factors determine whether a call is a local or non-local call?*
a) *How should the term "physically located" be defined?*
b) *How should the term "called party" be defined?*

Response:

The issue of what factors should determine whether or not a call is local was litigated in 1999. At that time, the Commission's Staff recognized that "calls are traditionally rated on the basis of the NXX." See Bierman v CenturyTel, Case No. U-11821, Order dated April 12, 1999, page 4. The Commission rejected the concept that the geographic location of the parties determined the nature of the call. Since 1999, the Commission has consistently upheld the proposition that local calls are determined on the basis of NXX codes.

From a practical perspective, the NXX is the only code presently available to identify the nature of the call. There is no comparable means of identifying calls by their physical location. Thus, determining whether a call is a local call by the physical location of the calling parties, besides being unwise, is not feasible. As discussed in Issue 3, the geographic location of NXX codes cannot be tracked.

- a) The term "physically located" only needs to be defined if local calls are to be determined on the basis of physical location. Federal law permits CLECs to have only one point of interconnection in a LATA. To require a CLEC to have switching equipment in every exchange to which it wishes terminate a call, would make meaningless the rights granted to CLECs by the Federal government and limit a CLEC's ability to bring implement new and innovative technologies.. If, however, Michigan wishes to require customers to be "physically located" in an exchange in order to have an NXX phone number

associated with that exchange, physical location should be minimally defined. For example, an address should suffice.

- b) “Called party” should be defined as the entity who is assigned the phone number that is being called.

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

Response:

Section 304(9) defines as “the assignment of a telephone number to customers that are not physically located in the exchange to which the NXX is assigned.” This definition would encompass VOIP calls, traditional FX service and a variety of other types of calls. Pay-at-the-pump gas stations that read credit cards at the pump, ATMs, alarm systems, and fax-to-email are examples of services that use VNXX. Most dial-up ISPs rely upon VNXX services. VNXX services are offered to ISPs by both CLECs and ILECs. VNXX is very widespread.

Issue 3) *Can VNXX calls be tracked?*

- a) *notification;*
- b) *administrative burdens;*
- c) *LNP issues/complications, and*
- d) *accounting method for tracking VNXX calls*

Response:

The originating carrier cannot determine the geographic location of the called party. The originating carrier only knows the location of the terminating carrier’s switch in which the NXX code resides. Once originating carrier delivers the call to the switch of the terminating carrier, the originating carrier does not know where the terminating carrier ultimately delivers the call.

- a) In the Bierman case, the Commission discussed the issue of how customers could be notified when calls to a local NXX would be carried outside the exchange and thereby would be rated as toll calls. The Commission rejected an argument by CenturyTel that customers could be advised , stating:

“[CenturyTel’s] argument means that [CenturyTel] would have to determine on a number-by-number basis which of the telephone numbers in the Monroe Exchange would be treated as local, its directory (and directory assistance) would have to be kept current with that information, customers would have to periodically consult that list or risk paying toll charges, and CenturyTel would be able to change the status of a number only as often as it published a new directory. The proposal is entirely unworkable . . .” Bierman, pp 7 to 8.

- b) The administration burden of notifying customers that certain phone numbers associated with the local exchange were VNXX phone numbers would be overwhelming, and as indicated in the above Commission's finding, "unworkable."
- c) The Federal Rules permitting landline phone numbers to be LNP'ed to wireless phones and vice versa would further complicate the establishment of any system to track calls based on the geographic location of the called party. There is no consistency between the local exchange areas of wireless carriers and the local exchange areas of wireline carriers.
- d) No current accounting system for VNXX calls exists. It is doubtful that an accounting system could be devised for VOIP calls.

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

- a) *VOIP;*
- b) *Cellular;*
- c) *Ability of a customer to take a phone number with them everywhere, and*
- d) *Broadband.*

Response:

Elimination of VNXX would be an arbitrary restriction. The essence of restrictions are to restrict. By definition, emerging technologies would be restricted and required to operate within the parameters of a limiting system. One of the primary goals of the Federal Act is promote new and innovative technology. This goal would be significantly impeded if phone numbers in Michigan for wireline providers were required to be restricted to geographic areas. Arbitrary and artificial limits should not be placed on technology.

- a) An essential and extraordinary feature of VOIP is that phone numbers are not restricted to geographic exchanges. The elimination of VNXX would significantly impact VOIP providers.
- b) If cellular providers are subject to Section 304(9), the elimination of VNXX would significantly impact cellular providers.
- c) The prohibition of VNXX would prevent the development of a service that would allow subscribers to take their phone number with them anywhere.
- d) Broadband technology does not utilize phone numbers so any effect that the elimination of VNXX might have on broadband technology would be indirect.