



Merit Network, Inc.  
1000 Oakbrook, Suite 200  
Ann Arbor, Michigan 48104-6794

Phone: 734-764-9430  
Fax: 312-873-4180  
<http://www.merit.edu/>

Andy Rosenzweig  
*Manager, Member Outreach*  
andyr@merit.edu

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Mr. Orjiakor Isiogu  
Michigan Public Service Commission  
6545 Mercantile Way  
Lansing, MI 48911-5990

Dear Mr. Isiogu:

On behalf of Merit Network, Inc., I wish to comment on the issue of Virtual NXX as discussed and documented by the Virtual NXX workgroup convened under 2005 PA 235.

Merit Network, Inc. is a not-for-profit, 501(c)(3), organization founded in 1966. Merit is governed by twelve of Michigan's four-year public universities. We operate a regional IP network in Michigan that provides dedicated Internet attachments and dialup access to the Internet for those member universities as well as over 250 affiliated organizations in education, research, government and community service. Merit's mission is to develop and provide advanced networking services to the research and education community, to initiate and facilitate collaboration, and provide knowledge and technology transfer through outreach.

Through our networking activities, Merit is a significant consumer of telecommunication services in Michigan. We purchase a wide range of services and circuit types from many providers, including both incumbent and competitive carriers. For many years Merit has operated a dialup network with very broad Statewide reach. We currently offer over 170 access numbers, providing local call access in a very high percentage of the State.

We are deeply concerned by the implications of Section 304(9) of Act 235 for Michigan telecommunication consumers and for businesses that provide services that rely on telephony. Virtual NXX has been part of the telecommunication fabric in Michigan—and nationwide—for over ten years, and many services rely upon the availability and stability of this feature. We believe the abrupt and significant changes allowed by the legislation would be harmful to these services, raise prices and reduce choice for consumers, and harm Michigan's competitive status.

Please take for example Merit's experience in providing dialup Internet services for Michigan's educational community. Our ability to build and sustain the broad reach of our dialup network is directly attributable to the services and products that emerged from the competitive market spawned by the Telecommunications Act of 1996. Traditionally, providing dialup services in a particular local market required physically locating dialup and network equipment within that market. Covering a large number of markets required having equipment in each of them. That meant that costs were high because of the duplication of equipment and connectivity. It also meant that ISPs were reluctant to serve areas with lower population densities; thus many areas lacked competition or even a single local provider. When competitive carriers launched Virtual NXX services, they made it possible for ISPs to serve many areas from a single location, allowing both vast savings in equipment deployment and the ability to serve new

areas. In Merit's case, we were able to move from having equipment in almost 100 locations to currently fewer than ten. I believe that at least half of our current access numbers are in locations that we would be economically unable to serve without VNXX. Finally, the ability to serve many areas from centralized locations has allowed us to drastically reduce prices to our organizational customers.

The effect Virtual NXX has had on our ability to serve lower-density areas cannot be overstated, and the same is true for any Internet service provider, whether local, regional or national. Virtual NXX is the key enabling technology that has brought reasonably priced, competitive Internet access to rural areas. If the concept of Virtual NXX were to be eliminated, or its implementation significantly altered, the results would be very predictable: ISPs that currently offer service in remote areas would immediately reconsider the economics and drop service in areas with lower subscription. Companies in the many other industries that use VNXX would likewise reconsider their operation in lower-density areas.

We endorse the reasoning and recommendations made in the "Proposed VNXX Report" submitted to the workgroup on March 31, 2006 by Telnet Worldwide, Inc., Pac-West Telecomm, Inc., and Level 3 Communications, Inc. In particular, we underscore the following points:

- As presently implemented in Michigan, Virtual NXX is wholly consistent with national and State telecommunication policy and case law.
- While the legislation fundamentally is meant to address an issue of reciprocal compensation between phone carriers for ISP-directed calls, it addresses that issue indirectly and in a way that threatens other services with wide adoption and usefulness.
- Customers in rural areas, most likely to be served by VNXX-based products, would experience a reduction in available services and an increase in price.
- Implementation of the changes implied by Section 304(9) of Act 235 would put Michigan out of step with other states, making it a less desirable service area for national and regional providers.
- The Federal Communications Commission is in the best position to review the reciprocal compensation issues and set a reasonable policy that accommodates the needs of telcos and consumers and provides a consistent set of rules nationwide. It is evident that the FCC intends to address this issue.

We reiterate our support for the conclusions and recommendations in the proposed VNXX report authored by TelNet Worldwide, et al, including their proposed amendment of Section 304(9) of Act 235. We believe that amendment would allow the continuation of services that are important to Michigan's economy; ensure that Michigan's telecommunication policies do not degrade economic activity; and ensure that rural communities do not experience a regrettable reduction in service availability.

Please accept these comments, make them available to the workgroup, and consider them as the workgroup prepares its final report to the legislature. I am available to provide additional information or input.

Respectfully,

<signed>

Andy Rosenzweig  
Member Outreach Manager  
Merit Network, Inc.